

[F.No. AERA /20011 /AO-G/2010-11]

Consultation Paper No.14/2010-11



Airports Economic Regulatory Authority of India

**Economic Regulation of Services Provided by
Airport Operators - Interim arrangement for
the Control Period commencing 1st April, 2011**

New Delhi: 1st March, 2011

**AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003**

Pursuant to enactment of the “The Airports Economic Regulatory Authority of India Act, 2008” (hereinafter referred as the ‘Act’) and establishment of the Airports Economic Regulatory Authority (hereinafter referred as the ‘Authority’), the Authority is to perform the following functions in respect of major airports:

- (a) to determine the tariff for the aeronautical services;
- (b) to determine the amount of the development fees in respect of major airports;
- (c) to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934; and
- (d) to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf.

2.1 As per Section 2 (a) of the Act, any service provided inter alia “for the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport”; “for ground safety services at an airport”; “for ground handling services relating to aircraft, passengers and cargo at an airport”; “for the cargo facility at an airport”; and “for supplying fuel to the aircraft at an airport” are aeronautical services.

2.2 The Authority’s mandate to determine the tariff for aeronautical services; to determine the rate of the Development Fee (DF) including User Development Fee (UDF); and to determine the amount of Passenger Service Fee (PSF), in respect of major airports, has been suitably incorporated in the Airports Authority of India Act, 1994, and the Aircraft Rules, 1937, as well.

2.3 To ensure transparency in the process leading up to the framing of appropriate procedures/systems for economic regulation, as required in terms of the Act, the Authority issued a White Paper on ‘Regulatory Objectives and Philosophy in Economic Regulation of Airports and Air Navigation Services’ (‘White Paper’) on 22nd December 2009, highlighting various issues relating to economic regulation of airports; air navigation services; and cargo, ground handling and fuel supply services. The White Paper provided stakeholders an opportunity to consider the issues highlighted therein and submit evidence-based feedback, comments and suggestions. The Authority received 28 submissions in response to the White Paper. The submissions were put up on the Authority’s website for general information.

2.4 The Authority considered the views and opinions submitted in response to the White Paper and prepared a Consultation Paper listing out the major issues impacting formulation of its regulatory philosophy and approach and laying out its rationale for the positions/ approach it was minded to take. The Consultation Paper (No. 3/2009-10) was issued on 26th February 2010 with the intention of providing a further opportunity to stakeholders to make relevant submissions to the Authority before the Regulatory Philosophy and Approach was finalized. On 16th March 2010 the Authority convened a consultation meeting with the stakeholders to elicit their views in person. The Authority

received 21 written submissions containing suggestions and comments in respect to the Consultation Paper from stakeholders. These suggestions and comments together with the minutes of the meeting held on 16th March 2010 were uploaded on the Authority's website (<http://aera.gov.in>). The Authority also received two further submissions from APAO on the consultation protocol and the cost of equity.

3. After detailed consideration of the matter and stakeholder responses, the Authority had finalized its regulatory approach and general framework for determination of tariffs for determination of tariffs for the aeronautical services provided by the airport operators, vide the Order (No.13/2010-11) issued on 12.01.2011. The Order stated that the Authority proposes to operationalise the regulatory philosophy and approach through detailed guidelines, which shall be issued separately for stakeholder consultation before being finalised.

4. The Authority had, thereafter, issued the Draft of the "Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011" for stakeholder consultation vide Consultation Paper No. 13/2010-11 dated 02.02.2011. All stakeholders were requested to submit their written evidence based feedback/ comments and suggestions latest by 22.02.2011. A stakeholder consultation meeting was also held on 14.2.2011. The minutes of the stakeholder meeting have also been uploaded on the AERA website.

5. The Authority after careful consideration of the submissions made by various stakeholders suitably modified the Draft Guidelines issued for stakeholder consultation on 02.02.2011. Accordingly, the Authority issued the Order No.14/2010-11 dated 28.02.2011, vide which the stakeholder responses have been disposed off. The final Guidelines, titled "Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Airport Operators), Guidelines, 2011", have also been issued as Direction No.05/2010-11 on 28.02.2011.

6.1 As per the Guidelines issued by the Authority:

- (i) The first Control period shall commence from 1st April 2011.
- (ii) All Airport Operator(s) shall, within four months of the date of issue of the Guidelines i.e., 28.02.2011, submit to the Authority for its consideration, a Multi Year Tariff Proposal (MYTP) for the first Control Period in the form and manner specified in the Guidelines. Accordingly, the cutoff date for submission of the MYTP is 01.07.2011
- (iii) After issuance of the Multi Year Tariff Order (MYTO), the concerned Airport Operator(s) shall submit to the Authority its Annual Tariff Proposal(s) which for the first Tariff Year of the first Control Period shall be submitted within 60 days of the issue of the MYTO.
- (iv) The Authority shall, after due consideration of the Annual Tariff Proposal and stakeholder consultations thereon, make an Annual Tariff Order for a Tariff Year, which shall become effective 30 days from the date of issue of such Annual Tariff Order.

6.2 Therefore, in the nature of the timelines specified in the Guidelines, it would not be possible to determine the tariff in respect of any of the major airports before 01.04.2011.

6.3.1 The Authority has in the Guidelines stated that these guidelines shall be applicable to the Indira Gandhi International Airport, New Delhi, Chhatrapati Shivaji International Airport, Mumbai in such form and manner as the Authority may by a separate order determine.

6.3.2 Further, appropriate views in respect of the said Civil Enclaves at Pune and Goa, will need to be taken by the Authority with the representation of the Ministry of Defence in accordance with the provisions of sub-section (1) of Section 4 of the Act, on a case to case basis.

6.3.3 As such, these Guidelines, as of now, are applicable only in respect of the major airports at Ahmedabad, Bengaluru, Chennai, Cochin, Calicut, Guwahati Hyderabad, Jaipur, Kolkata and Trivandrum

7. In view of the above, in order to avoid any regulatory vacuum in respect of the tariffs being levied at the 10 major airports (as referred to in paragraph 6.3.3 above), the Authority proposes to permit the concerned airport operators to continue charging the tariffs for all aeronautical services provided by them, at the existing approved rates (as on 28.02.2011), in the interim period, i.e. from 01.04.2011 and upto the date the new tariff, as may be approved by the Authority, after following the process indicated in the Guidelines become effective.

8. The Authority solicits feedback, comments and suggestions from stakeholders on the proposal contained in paragraph 7 above. Comments/submissions may please be furnished to the Authority, **latest by 15th March, 2010** at the following address:

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