Federation of Indian Airlines
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Website: www.fiaindia.in

MOST URGENT

30 July 2021

To,
The Chairperson,
Airports Economic Regulatory Authority,
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi – 110003.

Kind Attention: Shri. B.S. Bhullar, IAS

Sub: In the matter of determination of aeronautical tariffs in respect of Rajiv Gandhi International Airport, Shamshabad, Hyderabad for the Third Control Period (1 April, 2021 to 31 March, 2026)

Ref: 1. AERA Consultation Paper No. 11/2021-22 dated 2 July, 2021; and
2. AERA stakeholder consultation (virtual) meeting dated 16 July, 2021.

Dear Sir,

We, Federation of Indian Airlines (**FIA**), write in response to the Consultation paper No. 11/2021-22 dated 2 July, 2021 issued by the Airports Economic Regulatory Authority of India (**AERA**) in the matter of determination of aeronautical tariffs of Rajiv Gandhi International Airport, Shamshabad, Hyderabad (**HYD**) for the Third Control Period (1 April, 2021 to 31 March, 2026) ('**Consultation Paper**') and related Annual Tariff Proposal/Tariff Card (**Tariff Card**) submitted by GMR Hyderabad International Airport Limited (**HIAL**) vide AERA Public Notice No. 16/2021-22 dated 10 July, 2021.

At the outset, FIA would like to express our sincere gratitude to AERA for inviting stakeholder comments on the Consultation Paper, and further acknowledging the impact of COVID-19 on the aviation sector.

The Consultation Paper read with Tariff Card, inter alia, proposes an increase/hike in the aeronautical tariff at HYD as mentioned under **Annex – A**.

In this regard, FIA humbly requests AERA to not implement any increase in the aeronautical tariff in the Third Control Period and defer any increase in the same to the subsequent control period, given the adverse financial impact of COVID-19 on airlines.

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Sir, as you would be aware, due to the impact of the second (major) wave of COVID-19 as experienced across India since March, 2021 the airlines have again started witnessing a sharp decline in the demand for air travel. This being coupled with the government restrictions on fare & capacity and further on inter/intra state travel, as applicable ('**Government Restrictions**') is preventing airlines from generating adequate passenger revenue to sustain operations. In such a \scenario, the airlines continue to incur high operational costs on account of higher airport charges and taxes, and this has aggravated the imbalance in the cash flow position and is adversely impacting the gradual financial recovery of the airlines.

At present, the airline operations are barely at 35 - 44% of the pre COVID-19 capacity and the passenger traffic at around 30 - 48% of pre COVID – 19 levels. As per industry estimates issued by IATA and CAPA, airlines are likely to undergo losses of USD 8.0 billion for the FY 2020-21 and 2021-22 and it may take 2-3 years for airline operations to reach the pre COVID-19 level, in terms of number of flights and passengers. Also, with limited financial support from the Government, airlines are constrained to implement severe cost control measures to sustain its operations.

In the given circumstances, it is imperative that AERA does not take any steps, including by way of increase in aeronautical tariff, during the Third Control Period, which precipitates any further adverse financial impact on the airlines.

Without prejudice to the above, and as desired by AERA, please find attached FIA's recommendations/ comments on the Consultation Paper, under **Annex – B**.

We hope that your good self will positively consider such recommendations/ comments as it will help in achieving the affordability and sustainability of the airline, which is also outlined as a key objective in the National Civil Aviation Policy, 2016.

Thanking you,

Yours sincerely,

For and on behalf of **Federation of Indian Airlines**

Ujjwal Dey

UJJWAL DEY
Associate Director

Copy to:
Director (P&S Tariff), Airports Economic Regulatory Authority of India (**AERA**)

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Annex – A

Increase in Aeronautical Tariff

Particulars	Existing Tariff		Proposal by HIAL				
	MT	Existing	Oct 21 Mar 22	2022-23	2023-24	2024-25	2025-26
Landing Charges - DOM - Per MT (INR)	Up to 100	188	282	304	426	447	469
Year on Year % Increase			50%	8%	40%	5%	5%
Variance Base year 2021			50%	62%	127%	138%	149%
Landing Charges - INT'L - Per MT (INR)	Up to 100	251	401	433	606	636	668
Year on Year % Increase			60%	8%	40%	5%	5%
Variance Base year 2021			60%	73%	141%	153%	166%
Parking Charges - DOM & INT - Per Hour/MT (INR)	Up to 100	4.1	14	14	15	16	17
Year on Year % Increase			241%	0%	7%	7%	6%
Variance Base year 2021			241%	241%	266%	290%	315%
UDF - Domestic (INR)	Per Dep. Pax	281	608	636	665	696	728
Year on Year % Increase			116%	5%	5%	5%	5%
Variance Base year 2021			116%	126%	137%	148%	159%
UDF - International (INR)	Per Dep. Pax	393	1300	1350	1700	2000	2200
Year on Year % Increase			231%	4%	26%	18%	10%
Variance Base year 2021			231%	244%	333%	409%	460%

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Annex – B

Comments on Consultation Paper and Tariff Card

S. No.	Para	Particulars	Comments/Submission
1.	2.2	**True Up of Pre-Control Period**	FIA submits that AERA was established by the Central Government through its Notification dated 12.05.2009. Further, Chapter 3 of the Airports Economic Regulatory Authority of India Act, 2008, as amended (**AERA Act**) which stipulates the powers and functions vested in the AERA *inter alia* including determination of Aeronautical Tariff, was notified on 01.09.2009. Accordingly, AERA cannot retrospectively determine the HIAL's Aeronautical Tariff when the aeronautical tariff for the period prior to its formation was being determined by the Ministry of Civil Aviation (MoCA) on an *ad hoc* basis. Without prejudice to the above, it is submitted that passengers/airlines travelling cannot be burdened unnecessarily on account of the losses suffered by the HIAL prior to the First Control Period. It is a settled position of law that: (a) future consumers cannot be burdened with additional costs as there is no reason why they should bear the brunt; and (b) the regulatory authority is required to take into consideration the efficient working of a utility as also the interests of the consumers while deciding the claims of the utilities. AERA being a creation of the statute is duty bound to balance the interest of all the stakeholders and consumers in terms of the AERA Act. In view of the above, FIA requested AERA to kindly disregard/exclude claims of pre-control period losses claimed by HIAL. Without prejudice to the above, it may be noted that true up of pre-control, if considered by AERA, should be done on a 'Single Till'.

2.	4	**True Up of Second Control Period**	FIA submits that as per Table 63 of the Consultation Paper, it appears that on the true up of the Pre-Control Period, First Control Period and Second Control Period, HIAL has made an over-recovery of INR 498.47 Cr. In view of the above, FIA submits that AERA and HIAL should undertake appropriate measures to ensure that there are no/minimal cases of over recovery, which will assist in lowering the burden of tariff on airlines/passengers. While FIA appreciates that independent studies have been conducted by AERA on capital expansion, asset allocation, Operating Expenditure/O&M expenses, FIA submits that such studies should be undertaken prior to commencement of each 'Control Period' to minimise any large variations in projections and to ensure suitable benchmarking of costs.
3.	5	**Traffic**	FIA requests AERA to conduct an independent study for traffic assessment, in accordance with the AERA Act.
4.	6.2.1 – 6.2.32	**Analysis of RAB & Capital Expenditure**	FIA appreciates that considering the reduced traffic owing to COVID-19, AERA has rationalised the capital expenditure and excluded certain proposed additions by HIAL to RAB. FIA acknowledges AERA's decision to reduce 1% of the project cost from ARR/Target Revenue, as re-adjustment, in case any capex project is not capitalized by HIAL as per capitalization schedule approved in the tariff order. This approach is in line with the decision of Hon'ble TDSAT judgement dated 16 December, 2020 applicable for Bangalore International Airport Limited (BIAL). FIA submits that in the current scenario post COVID-19, all non-essential capital expenditure should be put on hold or deferred, and only such capital expenditure deemed critical from a safety or security compliance perspective may be undertaken by HIAL. Further, as mentioned in para 6.2.17 of the Consultation Paper, FIA will await HIAL to complete the process of stakeholder consultation (by way of AUCC meetings) for capital expenditure projects for the Third Control Period.

			In case HIAL wants to undertake any capital expenditure, then it needs to be ensured that no additional expense is borne by the airlines until the project is completed and put for use to the airlines/passengers. Further, FIA requests AERA to conduct an independent study for allocation of assets in the Third Control Period.
5.	6.2.34	**Depreciation**	FIA submits that AERA should consider the useful life of Building including Terminal Building as sixty (60) years as envisaged in AERA Order No. 35/2017-18 read with Schedule II of Companies Act 2013, as applicable, and revise the amount of depreciation accordingly. It is pertinent to note that useful life of assets at various international airports like London Heathrow, Sydney airport and Amsterdam airport indicated that terminal buildings have useful life of as long as sixty (60) years and aprons have it for as long as ninety-nine (99) years. FIA submits that the useful life of terminal building for Kannur and Cochin airports have been considered sixty (60) years by AERA. AERA should prescribe sixty (60) years for the 'Building' including 'Terminal Building as' is practiced by some of the developed aviation ecosystem In view of the above, we request the above recommendations are taken into account for all Control Periods at HIAL.
6.	7	**Operating Expenses**	While FIA appreciates that AERA has undertaken an independent study for Operating Expenditure/ Operations & Maintenance expenses for the Second Control Period, AERA may undertake a similar independent study for the Third Control Period. Without prejudice to the above: 1. AERA may advise HIAL to rationalize/re-negotiate all the cost/expenditure items or heads, as deemed fit. Further, no escalations should be permitted under these items or heads.

			In particular, increase in manpower requirements of HIAL allowed by AERA from FY 23 (refer para 7.2.5) appears to be not in line with the increase in outsourced manpower allowed only from FY 24 (para 7.2.37). Accordingly, it is requested that AERA review the HIAL's overall manpower requirements (including outsourced) and costs keeping in view projected usage of terminal building and passenger traffic. 2. Expenses on account of CSR may be excluded in line with previous decisions by AERA, w.e.f. First Control Period. 3. AERA to clarify whether any detailed assessment on working capital facility interest has been conducted. FIA submits that an allowance of working capital interest would result in an artificial increase in the total operating expenditure and thereby have an adverse impact of increasing the tariff. Accordingly, AERA is requested to undertake a detailed assessment for allowing such interest.
7.	8	**Non-Aeronautical Revenue**	FIA submits AERA to conduct an independent study on the Non-Aeronautical Revenues, in accordance with AERA Act. Without prejudice to the above, FIA submits that: 1. Increase in non-aeronautical revenue is a function of passenger traffic growth, inflationary increase and real increase/escalations in contract rates. AERA to ensure no adjustments are proposed to non-aeronautical revenue which is not dependent on traffic but are derived from agreements with concessionaires. 2. 'Royalty' is in the nature of market access fee, charged **(by any name or description)** by the services providers under various headings.

8.	9		These charges are passed on to the airlines by the service providers**, without any underlying services.** The rate of royalty at HIAL is up to approx. 24%. It may be pertinent to note that market access fee by any name or description is not practiced in most of the global economies, including European Union, Australia etc. In view of the above, we urge AERA to abolish such royalty which may be included in any of the cost items - aeronautical and non -aeronautical; and 3. Para 8.2.19 and Para 8.1.20/21 – FIA welcomes AERA's decision to treat revenue from Cargo services as 'aeronautical'. Further, FIA also welcomes engagement of new and additional cargo/independent service providers (ISP) at HYD, which will ensure competition and provide options to users/airlines for cargo. In this regard, AERA is requested to kindly: **(a)** undertake relevant independent studies for determination of maximum rate/tariff for cargo to be charged by ISP of cargo at HYD and **(b)** ensure that maximum rates/tariff for cargo as determined by AERA, are kept competitive keeping in view the traffic volume of cargo.
8.	9	**Weighted Average Cost of Capital (WACC)/Fair Rate of Return (FRoR)**	FIA appreciates that the AERA has conducted an independent study on Cost of Equity. However, it is observed that WACC/FRoR has increased from 10.84% in the Second Control Period to 12.12% in the Third Control Period. FIA submits that fixed/ assured return favours the airport operators, and creates an imbalance against the airline, which are already suffering from huge losses and bear the adverse financial impact through higher tariffs. Further, due to such fixed / assured returns, service providers like HIAL have no incentive to look for the productivity improvement or ways of increasing efficiencies or take steps to drastically reduce costs as they are fully covered for all the costs plus their returns.

			Such a scenario may result in inefficiencies and higher costs, which are ultimately borne by the airlines. In the present scenario any assured return on investment (i.e., return on investment after the income tax), in excess of three (3) %, i.e., being at par with bank fixed deposits, will be onerous for the airlines. In view of the above, AERA is requested to immediately review WACC/FRoR by capping the returns to a maximum of three (3)% w.e.f. First Control Period.
9.	1.2.3	**Methodology for Tariff Determination – Hybrid Till Vs. Single Till**	FIA submits that in the Consultation Paper, it is stated that the AERA shall determine tariffs for using the 30% Hybrid Till model including for true ups as applicable. It is to be noted that from time-to-time FIA has advocated the application of a Single Till model across the airports in India. FIA submits that AERA should adopt Single Till basis across all Control Periods, including by way of true up, in view of the following legal framework: In the Single Till Order, AERA has strongly made a case in favor of the determination of tariff on the basis of 'Single Till'. It is noteworthy that the AERA has, inter alia, in its Single Till Order: (i) Comprehensively evaluated the economic model and realities of the airport – both capital and revenue elements. (ii) Considered the legislative intent behind Section 13(1)(a)(v) of the AERA Act. (iii) Concluded that the 'Single Till' is the most appropriate for the economic regulation of major airports in India. (iv) The criteria for determining tariff after considering standards followed by several international airports (United Kingdom, Australia, Ireland and South Africa) and prescribed by ICAO.

			Further, AERA in its AERA Guidelines (Clause 4.3) has followed the 'Single Till' approach while laying down the procedure for determination of ARR for Regulated Services. The fundamental reasoning behind the 'Single Till' approach is that if the consumers/passengers are offered cheaper airfares on account of lower airport charges, the volume of passengers is bound to increase leading to more footfall and probability of higher non-aeronautical revenue. The benefit of such non aeronautical revenue should be passed on to consumers/passengers and that can be assured only by way of lower aeronautical charges. It is a productive chain reaction which needs to be considered by the AERA.
10.	13.	**Aggregate Revenue Requirement/Aeronautical Tariff and Shrinkage in Control Period**	**(i) <u>Overall Tariff/ARR</u>** AERA is requested to review the suggestions/comments on the regulatory building blocks as mentioned under Annex – B, which is likely to reduce the ARR of HIAL. This will further ensure the lowering of tariff including UDF, which will be beneficial to passengers and airlines. **(ii) <u>Collection Charges</u>** With regards to the entitlement of the collection charge of Rs. 5 per departing passenger, FIA submits that instead of the same being conditional upon all dues, interest of dues, and other charges being paid within the due date, the entitlement should be against HIAL having received the undisputed invoiced UDF amount with the applicable due date. **(iii) <u>Shrinkage in Control Period</u>** FIA submits that the Hon'ble TDSAT Order dated 16 December, 2020 for BIAL stated as follows: *'100…However, there is substance in this grievance and AERA will do well to ensure that if delay is caused by the Airport operator, its consequences should not fall upon the users.*

			Tariff orders should be prepared well in time so that the burden of recovery is spread over the entire period for which the order is passed...' In view of the above, AERA is requested to ensure that airlines/passengers are not burdened in view of the apparent shrinkage in the period of recovery of the aeronautical tariff from passengers/airlines, as the AERA Tariff Order for HIAL's Third Control Period will now be issued after the commencement of the Control Period i.e. 1 April, 2021.