Federation of Indian Airlines
E-166, Upper Ground Floor,
Kalkaji,
New Delhi - 110019.
Website: www.fiaindia.in

MOST URGENT

14 July, 2021

To,
The Chairperson,
Airports Economic Regulatory Authority of India,
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 Cochin International Airport, Cochin for the Third Control Period (1 April, 2021 to 31 March, 2026)

Ref: 1. AERA Consultation Paper No. 08/2021-22 dated 15 June, 2021; and
2. AERA stakeholder consultation (virtual) meeting dated 30 June, 2021.

Dear Sir,

We, Federation of Indian Airlines (**FIA**), write in response to the Consultation paper No. 08/2021-22 dated 15 June, 2021 issued by the Airports Economic Regulatory Authority of India (**AERA**) in the matter of determination of aeronautical tariffs in respect of Cochin International Airport, Cochin (**COK**) for the Third Control Period (1 April, 2021 to 31 March, 2026) ('**Consultation Paper**') and Annual Tariff Proposal/Tariff Card (**Tariff Card**) submitted by Cochin International Airport Limited (**CIAL**) vide AERA Public Notice No. 07/2021-22 dated 22 June, 2021.

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

The Consultation Paper read with Tariff Card, inter alia, propose an increase/hike in the aeronautical tariffs at COK as follows:

(i) Landing Charges and other aeronautical charges at annual escalation rate in the range of 5% to 9%, and Cargo tariff in the range of 25% to 35%, w.e.f. 1.4.2022; and

(ii) Introduction of User Development Fee (UDF) after merging with existing PSF (FC).

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, in view of below.

Sir, as you would be aware that due to the impact of the second (major) wave of COVID-19 as experienced across India, the airlines have again started witnessing a sharp decline in the demand for air travel since March, 2021 and this being coupled with the government restrictions on fare & capacity on inter/intra State travel as applicable ('**Government Restrictions**') is preventing airlines from generating adequate passenger revenue to survive. Under this current 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% of the pre COVID-19 capacity and the passenger traffic at around 30% 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. 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 and Tariff Card, as applicable, under **Annex – A**. 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
Associate Director

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

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Annex – A

Comments on Consultation Paper and Tariff Card

S. No.	Para	Particulars	Comments/Submission
1.	4.5.9	True Up of 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. FIA submits 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 60 years and aprons have it for as long as 99 years. FIA submits that the useful life of terminal building for Kannur and Cochin airports have been considered sixty (60) years by AERA.
2.	4.6.11 – 4.6.14	True up of Fair Rate of Return	FIA submits that as the matter on 'Fair Rate of Return' on Refundable Security Deposit (**RSD**) is presently sub-judice, AERA should not provide any return on RSD.
3.	4.	True up of Non - Aeronautical Revenue	FIA requests AERA to conduct an independent expert study on the Non-Aeronautical Revenues, in accordance with the Airports Economic Regulatory Authority of India Act, 2008, as amended (**AERA Act**). Without prejudice to the above, AERA to ensure no adjustments are proposed to non-aeronautical revenue which is not dependent on traffic but are derived from agreements with concessionaires.
4.	4.10.4	True up of Aeronautical Revenue	AERA to kindly clarify the actual method of true up applied for aeronautical revenue, in view of the following para: "..The Authority had also ordered to true up revenue on actuals while determining tariff for the 3rd Control Period. <u>However, CIAL has considered a higher rate (37%) for projection of landing charge for FY 21</u>".
5.	5	Traffic	While FIA appreciates that AERA has considered industry inputs/reports on traffic from agencies like IATA and ICAO, FIA requests AERA to conduct an independent expert study for traffic assessment, in accordance with the AERA Act.

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6.	6.2	Analysis of RAB & Capital Expenditure	FIA submits that all only essential capital expenditures (from a safety compliance perspective) should be approved by AERA for the Third Control Period and the non-essential capital expenditures should be deferred to the next control period. Further, in case CIAL wants to make capital expenditure, then it should be at no additional expense to the airlines until the project is completed and put for use by airlines. Without prejudice to the above, AERA should not permit any deviations of costs from the Normative Order No. 07/2016-17 "In the matter of normative approach to building blocks in economic regulation of major airports – capital costs reg." dated 13.06.2016 (Normative Order).
7.	6.2.76	Depreciation	(i) Terminal Building FIA submits that on a review of 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 60 years and aprons have it for as long as 99 years.** FIA submits that the useful life of terminal building for Kannur and Cochin airports have been considered 60 years by AERA and therefore AERA should lay down 60 years for the Terminal Building as is practiced by some of the developed aviation ecosystem. (ii) Residential Building FIA submits that as per Sl. No. 8 of Annexure - I of the AERA's Order 35/2017-18 "In the matter of determination of useful life of Airport Assets" dated 12.01.2018, residential buildings have a prescribed useful life of 30/60 years. It is pertinent to note here that unlike in case of terminal buildings where option of 30 or 60 years is to be evaluated by Airport Operator, the election of 30 years or 60 years is case of residential buildings is not to be evaluated by Airport Operator but is to be derived from provisions of Companies Act. FIA submits that Part C of Schedule II of Companies Act 2013 prescribes useful life of Buildings (other than factory buildings) having Reinforced Concrete Cement (RCC) frame structure to be 60 years. It is very unlikely that residential buildings will not be built on RCC Frame structure.

			FIA submits that residential buildings should be depreciated over a period of 60 years and not 30 years. In view of (i) and (ii) above, FIA submits that AERA should consider the useful life of Residential building and Terminal Building as 60 years as envisaged in Order 35/2017-18 read with Schedule II of Companies Act 2013, as applicable, and revise the amount of depreciation accordingly.
8.	7	Fair Rate of Return	FIA appreciate AERA has considered a lower FRoR of 11.63 % for the Third Control Period and has conducted an independent study in relation to cost of equity. However, it may be noted that such fixed/ assured return favors 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 CIAL 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 FRoR by capping the returns to a maximum of three (3)%.
9.	8.	Cost of land	FIA recommends that no returns may be provided for investment in land by CIAL in view of the fact that Land value does not depreciate.
10.	9	Operating Expenses	We are not aware whether CIAL has taken cost cutting measures including renegotiations of all the cost items, on its profit and loss account. It may be noted that cost incurred by CIAL impacts airlines, as such cost is passed through or borne by the airlines by way of aeronautical tariffs. AERA may advise CIAL to rationalize/re-negotiate all the cost/expenditure items or heads including 'Employee expenses', as deemed fit. Further, no escalations should be permitted under these items or heads.

11.	10.2.14	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; and 2. 'Royalty' is in the nature of market access fee, charged by the services providers under various headings. These charges are passed on to the airlines by the service providers. The rates of royalty at some of the airports, including CIAL are as high as forty six (46)%. 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.
12.	3.1.2	Methodology for Tariff Determination – Hybrid Till Vs. Single Till	FIA submits that as per para 3.1.2 of the Consultation Paper, it is stated that the AERA shall determine tariffs for CoK using the Hybrid Till model. It is to be noted that FIA has from time to time advocated the application of a Single Till model across the airports in India. FIA submits that AERA should adopt Single Till basis the following legal framework being: 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) Taken into account 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 taking into account standards followed by several international airports (United Kingdom, Australia, Ireland and South Africa) and prescribed by ICAO. 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 'Single Till' approach is that if the consumers/passengers are offered cheaper air-fares on account of lower airport charges, the volume of passengers is bound to increase leading to more foot-fall 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 taken into account by the AERA.
13.	14	Aeronautical Tariff /Tariff Card	(i) <u>Overall Tariff</u> AERA is requested to review the suggestions/comments on the regulatory building blocks as mentioned under Annex – A, which is likely to reduce the ARR requirements of CIAL. This will further ensure the lowering of tariff, which will be beneficial to passengers and airlines. (ii) <u>User Development Fee</u> (a) FIA submits that exemptions from levy of UDF should be in line with the directions/guidelines given by Ministry of Civil Aviation and Directorate General of Civil Aviation. (b) Collection Charges - The Consultation Papers state "To be eligible to claim collection charges, the airlines should have no overdue on any account with CIAL." FIA humbly submits that since 'Collection Charges' are primarily for rendering of service of collection of UDF as part of ticket, and does not have any correlation with payment of utilities/rentals to the airport operators, it should be treated on a stand-alone basis and not held back on account of any other overdues in favour of the airport operator.