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Federation of Indian Airlines

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May 11, 2010

Shri Sandeep Prakash
Secretary
Airport Economic Regulatory Authority of India
Room No.58, Rajiv Gandhi Bhawan,
New Delhi-110003

Secretary - on leave

OSD-11
11.5.10

Subject: Preliminary Submissions of Federation of Indian Airlines (FIA): Consultation Paper No. 3/2010-11 dated 27.04.2010: Re. Levy User Development Fee at Sardar Vallabhbhai Patel International Airport, Ahmedabad"

Dear Sir,

The Federation of Indian Airlines a key Stakeholder under AERA Act commend the initiatives taken by the Govt. to modernize airports across the country, the sources of funding to meet the Capital outlay should take into consideration the following -

With Airline financials always under constant pressure from all quarters including constant struggle with the surmounting operational cost and fierce competition both in the domestic and international segments, any such new levy will depress the already depressed yields leading to operational unsustainability.

The upward revised completion cost of the project along with the assumptions involved in deriving the proposed UDF is higher than the capital outlay incurred to build the new terminal, necessitating revision in quantum of recovery. Therefore, whatever UDF eventually gets implemented must be computed in order to reduce the per pax impact.

We therefore request you to kindly take note of the submissions enclosed for your kind attention and fix tariff in line with the need of the hour.

FIA is hereby placing on record the following response submitted which has been arrived solely from discussions, deliberations and past experiences for the consideration by the authority.

Thanking you,

With best regards,

Nirmal Singh



FEDERATION OF INDIAN AIRLINES

1. The members of FIA are hereby placing on record their preliminary submissions on the Consultation Paper No. 3/2010-11 issued by the Authority with respect to the proposal to approve, on an ad-hoc basis, the levy of User Development Fee ("UDF") at the Sardar Vallabhbhai Patel International Airport, Ahmedabad @ Rs. 110/- per embarking domestic passenger and @ Rs. 415/- per embarking international passenger (exclusive of statutory levies, if any), with effect from the date of commissioning of the New Terminal Building. The said UDF is stated to be derived from/based on the data for a period of 10 years. It is also proposed that this ad-hoc determination has to be reviewed at the stage of tariff determination for the first cycle and thereafter at such intervals as the Authority may decide.

2. It necessary to refer to the scope and the context of the present proceedings while making the present submissions to assist the Authority.

SCOPE AND CONTEXT OF THE CONSULTATION

3. On 01.01.2009, the Airport Economic Regulatory Authority of India Act, 2008 (AERA Act) was brought into force - other than Chapters 3 & 6 which were brought into effect on 01.09.2009. The Authority was established on 12.05.2009 to perform the functions vested under the AERA Act, including:-

- (a) Determination of tariff for aeronautical services in respect of 'major airports';
- (b) Determination of the amount of development fees in respect of 'major airports';
- (c) Determination of the amount of the passenger service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934

As such, ever since, tariff determination falls within the exclusive domain and jurisdiction of the Authority.

4. It appears from the Consultation paper, that on 09.01.2007, the construction of the

New International Terminal Building ("*New Terminal*") at Ahmedabad Airport ("*the Project*") was approved by the Central Government, at an estimated cost of Rs.290.92 crores, comprising :-

- (a) Phase I : Rs.195.92 crores, and
- (b) Phase II : Rs.95 crores.

5. On 24.12.2009, Airports Authority of India (AAI) submitted an application before the Authority seeking the levy of User Development Fee (UDF), with one of two options:-

- (a) Either at the rate of Rs.270 per embarking domestic passenger and @ Rs. 1000/- per embarking international passenger for a period of 10 years.
- (b) Alternately, at the rate of Rs.150/- per embarking domestic passenger and @ Rs. 755/- per embarking international passenger for a 15 year period.

6. This claim for imposition of UDF was based on the following premise and assumptions:-

- (a) The likely completion cost of the Project is now revised upwards to Rs.296.37 crores. This cost is stated to, inter alia, include the cost of aero-bridges, travellerator, apron, taxi-link, car-park and approach-road, inter-connectivity between the international and domestic terminals etc.
- (b) The New Terminal is likely to be commissioned during May, 2010.
- (c) In order to make the project viable and to attain a reasonable rate of return the levy of UDF is imperative, considering the projections in respect of traffic (passenger & Aircraft movements), aeronautical revenue, expenditure (except interest on borrowings).
- (d) AAI has arrived at this number on the basis of the following assumptions:

- (i) A Weighted Average Cost of Capital of 12%;
- (ii) Hybrid-till with 30% non aeronautical revenue for the UDF determination;
- (iii) Corporate tax at the standard rate of 33.99%;
- (iv) Discount of 12% to determine the NPV of Target Revenue; and
- (v) Levy of Service Tax on the UDF and have proposed the rates inclusive of Service Tax.

7. After examining the submissions and projections of AAI, this Authority has reworked the proposal for a 10 year period and 15 year period as under:-

UDF per embarking Passenger	Domestic	International
Net for 10 year period (Rs)	Rs 111/- (say Rs.110/-)	Rs 411/- (say Rs.415/-)
Net for 15 year period (Rs)	Rs40/-	Rs199/-

8. The Authority has clearly stated that it proposes to:-
- (a) Approve the proposal of levy of UDF at the SVP International Airport, Ahmedabad at the rate of Rs. 111 per embarking domestic passenger and Rs. 415 per embarking international passenger (exclusive of statutory levies, if any) **on ad-hoc basis**, with effect from the date of commissioning of the New Terminal Building, based on the figures for a period of 10 years.
 - (b) Review this ad-hoc determination would be reviewed at the stage of tariff-determination for the first cycle and thereafter at such intervals as the Authority may decide.

SUBMISSIONS

9. In this context, the members of FIA deem it necessary to place the following preliminary submissions for consideration of the Authority, while reserving their rights to supplement, substantiate and add to these.

10. At the outset, it is submitted that UDF is levied to recover the incremental capital expenditure only when it becomes imperative and necessary to permit levy of UDF. The draft guidelines issued by the Ministry of Civil Aviation, as referred to in the consultation paper, noted that levy of UDF was to be considered only in cases and years where the target revenue of a major airport was projected to fall short of the admissible expenditure. In this respect, the members of FIA are not aware of the fact as to whether:-

- (a) The AAI has unambiguously established to the satisfaction of the Authority that there is a shortfall in the target revenue and the admissible expenditure; or
- (b) The consultation proceeds merely on the basis of the averment by AAI that viability of the airports is in question if it is not permitted to recover the UDF.

11. It is submitted that it is the duty of the AAI to arrange for and meet its capital expenditure and it has to reasonably justify its claim for levy of UDF including as to why there was a shortfall. The passengers cannot be burdened to meet the capital expenditure requirements of AAI as a matter of course.

12. As is clear from the perusal of the Consultation paper, AAI has submitted that the incremental capital expenditure is of the order of Rs. 296 Crores. Based on growth targets indicated in the consultation paper, the recovery works out to be Rs. 313 Crores. The underlying basis and calculations are set out in the table placed as **Attachment-1** to these submissions, which clearly shows that

- (a) Total UDF for the embarking domestic and international passengers in the 10 years would Rs. 611.01 Crores.

- (b) The NPV calculated @12% would be 313.60 as against the 296 crores, which is has been sought to be recovered by AAI.

13. It is noteworthy that the Airports are already recovering various levies and charges for aeronautical and non-aeronautical services (including landing, parking and other charges) which must be accounted for before any capex gap is arrived at to justify the levy of UDF recoverable from the domestic and international passengers.

14. As such, it would appear that the recovery of the Rs. 110 per embarking domestic passenger and Rs. 415 per embarking international passenger is unjustifiable and excessive which would unnecessarily burden the passengers to give undeserved and undue profits to the AAI. It is further submitted that if all the factors including the amounts recovered towards the landing, parking and other charges are taken into account, there is a scope of reduction in the levy of UDF being proposed by the Authority at SVP International Airport at Ahmedabad by minimum Rs. 15.

15. It is submitted that the members of FIA are not aware as to whether the AAI has provided the above details and these need to be considered before the Authority decides to approve the proposals of AAI.

16. It is further submitted that the principles of natural justice and transparency of regulatory authorities warrant that the material and evidence produced by AAI to seek the levy and the rate of UDF must be shared with all stakeholders during the present consultation with an opportunity to examine and rebut any averment therein. As such, the Members of FIA request that Hon'ble Authority to:-

- (a) Make a copy of all material and evidence produced by AAI to justify levy of UDF (including the rate of UDF and duration of the levy) available to them;

- (b) Grant them adequate time to examine the said documents/material and an opportunity to comment upon and object to the same, including filing of further submissions; and
- (c) Conduct a hearing before deciding as to
 - (i) whether UDF ought to be levied upon and recovered from the domestic and international passengers for usage of the Sardar Vallabhbhai Patel International Airport, Ahmedabad;
 - (ii) rate of UDF to be so levied;
 - (iii) economic principles for determining the UDF to be so imposed, to ensure that the passenger are not put to underserved financial burden and that AAI does not recover higher than justifiable amount of subsidy through UDF; and
 - (iv) duration for the levy including principles and basis for audit and review of the levy.