



MIAL/CEO/242

29th February 2012

The Secretary,
Airports Economic Regulatory Authority,
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi – 110 003

Madam,

Subject: Consultation Paper No. 32/2011-12, Determination of Aeronautical Tariff in respect of IGI Airport, New Delhi for the 1st Regulatory Period (01.04.2009 – 31.03.2014) ("Consultation Paper")

This is with reference to the above mentioned Consultation Paper. APAO has submitted a detailed response to AERA on the same and we place our reliance upon the same. We would like to make following additional submissions as below:

1. 10% Increase In Base Airport Charges

We note from **Para 33** of the Consultation Paper that with regards to 10% increase in Base Airport Charges on the commencement of 4th year and every year thereafter, Authority has concluded that on co-joint reading and harmonious construction of the provisions of Schedule 6 of State Support Agreement (SSA), it is found that *"from the 4th year onwards, tariff will be set by the Authority / GOI as per principles set out in Schedule 1 subject to the condition that, at the least, the nominal increase of 10% of the Base Airport Charges permitted during the third year, as incentive, will continue to be available to the JVC"*, which means, according to our understanding is that, aeronautical charges from 4th year onwards shall be minimum 110% of the Base Airport Charges.

2. Revenues from Sub-contracting / Joint Ventures

It is noted from **Para 371** of the Consultation Paper that Authority has proposed to consider the non-aeronautical revenues in respect of DIAL as the non-aeronautical revenues that DIAL has actually received from the JVs and not the total revenues of JVs. We are in agreement with the approach of the Authority which is in consonance with the clarification provided by AAI during the bidding process of Delhi and Mumbai Airports privatisation. Copy of relevant question no. 998 and answer is enclosed for your ready reference as **Annexure 1**. Any position contrary to the above will not be in line with the basis of bidding for Delhi and Mumbai Airports.



Mumbai International Airport Pvt Ltd
Chhatrapati Shivali International Airport
1st Floor, Terminal 1B, Santacruz (E), Mumbai 400 099, India
T +91 22 6685 2200 F +91 22 6685 2059
www.csia.in

Cont...2

ENERGY
AIRPORTS
TRANSPORTATION
REALTY
HOSPITALITY
LIFE SCIENCES

....2....

3. Fuel Throughput Charges

We further note from **Para 385** of the Consultation Paper that DIAL, in its submission, has mentioned that they have treated Fuel Throughput Charges (FTC) as aeronautical since the issue of treatment of FTC as aeronautical is sub-judice with the Appellate Authority and appropriate modification in the tariff determination may please be made in the event of a contrary decision of the Appellate Authority in this matter. We firmly believe that FTC is non-aeronautical revenue in the hands of airport operators as it is a concession fee received from oil companies for allowing them to carry out their business at the airport and reflects the value of concession granted and no aeronautical services are being provided by the Airport operator in this regard. ICAO policies also very clearly support this view that revenues from concessions granted to oil companies to supply aviation fuel and lubricants are, *inter-alia*, to be treated as revenue from non-aeronautical services, even though such arrangements may apply to such activities which may themselves be considered to be of an aeronautical nature. Further, Authority itself has decided in **Para 401** of the Consultation Paper that concession fee received by DIAL from ITP service provider may be treated as non-aeronautical revenues in the hands of DIAL since, in the subject case, DIAL does not provide the ITP service themselves and these are provided by the concessionaires though ITP services are aeronautical services in terms of Section 2(a) of the Airports Economic Regulatory Authority of India Act, 2008. This position of Authority very clearly substantiates our view that while fuelling of an aircraft may be aeronautical service, which is provided by the oil companies and not by airport operators, concession fee, i.e. FTC, received by the airport operators from the oil companies is a non-aeronautical revenue in the hands of the airport operator.

4. Demurrage

We observe that demurrage charges, being in the nature of rental for space occupied, are being treated as revenue from cargo. In this respect, MIAL has already elicited, in the past, its view that demurrage revenue is not part of cargo revenue.

5. CUTE Counter Charges

No service is being provided by airport operator to passengers while charging for counters. This collection is like any other collection towards rentals, hence of non-aeronautical nature. ICAO also very clearly mentions that space rentals from airlines for offices etc. are non-aeronautical in nature while airlines might be providing services which are aeronautical in nature.

6. Treatment of Bad Debts

Authority's view that bad debts will not be allowed as expenditure seems to be not correct, as in



Mumbai International Airport Pvt Ltd
Chhatrapati Shivaji International Airport
1st Floor, Terminal 1B, Santacruz (E), Mumbai 400 099, India
T +91 22 6685 2200 F +91 22 6685 2059
www.csia.in

Cont...3
ENERGY
AIRPORTS
TRANSPORTATION
REALTY
HOSPITALITY
LIFE SCIENCES



....3....

any business, bad debts are treated as expense. Even under Income Tax Act, 1961, bad debts are allowed to be written off while computing taxable income. In the present scenario of financial turbulence, in spite of best efforts, some debts may become bad and should be allowed as expenditure because the same was considered as revenue earlier.

Further, under the provisions of Operation, Management and Development Agreement (OMDA), bad debts written off are allowed to be adjusted from the Revenue while calculating the Annual Fee payable to Airports Authority of India. Considering the above, we would request the Authority that bad debts actually written off should be allowed as part of operating cost.

7. Truing up of Taxes

Under **Para 460(e)** of the Consultation Paper there is no clarity about truing up of taxes especially local taxes/ levies which might be imposed on services provided by airport operator. Authority needs to consider the same.

Absence of any comment by MIAL on any issue pertaining to the Consultation Paper under reference should not be construed to be acceptance of MIAL on such issue in the Consultation Paper. Further, this is without prejudice to our rights to raise any issue or deal with any issue independent of the aforesaid Consultation Paper.

Thanking you,

Yours sincerely,
For Mumbai International Airport Pvt. Ltd.


(B.K. Jain)
Chief Executive Officer

Encl: a/a



Mumbai International Airport Pvt Ltd
Chhatrapati Shivaji International Airport
1st Floor, Terminal 1B, Santacruz (E), Mumbai 400 099, India
T +91 22 6685 2200 F +91 22 6685 2059
www.csia.in

ENERGY
AIRPORTS
TRANSPORTATION
REALTY
HOSPITALITY
LIFE SCIENCES

998	<p>Please let us know whether in Inflation - x model the 30% share of Revenue from Revenue Share Assets links to JVC's share of revenue from those assets? Suppose JVC gives a contract to third party for Duty Free Shop. In such a case, would JVC need to consider 30% of revenue from duty free shop or 30% of revenue occurring to JVC from duty free shops to be deemed as the revenue to be generated from Aeronautical Services.</p>	<p>The revenue shared in the regulated till from the Revenue Share Assets will be 30% of the revenue accruing to the JVC from such assets. Thus, in case of a contract given to a third party concessionaire for a duty free shop, 30% of the revenue accruing to the JVC on account of such concession shall be shared in the regulated till and not 30% of the revenue from the duty free shop</p>
-----	--	--