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# Mumbai International Airport Pvt Ltd

MIAL/PR/29

The Secretary  
Airports Economic Regulatory Authority of India,  
Rajiv Gandhi Bhawan,  
New Delhi – 110 003.

1051/secy/10  
12/5/10

10<sup>th</sup> May, 2010

Sir,

**Sub : MIAL comments on the feedback received from Blue Dart, NACIL, FIEO, FIA, IATA and Voice of AERA Consultation Paper regarding 10% increase in aeronautical charges at CSIA.**

**Ref : AERA Letter No. F.No.AERA/20010/MIAL-AC/2009-10/47 dated 6<sup>th</sup> May, 2010.**

This is with reference to above AERA letter requesting MIAL for comments on the feedback received from various stakeholders on the above referred AERA Consultation Paper.

In general, comments made by all the stakeholders are without any substance and, as expected, amount to simply taking position that MIAL should not get its due increase.

MIAL has already replied to AERA Consultation Paper No.1/2010-11 F.No.AERA/20010/MIAL-AC/2009 dated 12<sup>th</sup> April, 2010 vide its letter No. MIAL/PR/10 dated 19<sup>th</sup> April, 2010 and would like to reiterate as follows:-

State Support Agreement (SSA) is a sacrosanct agreement based on which bids were submitted for privatisation of Mumbai airport. Schedule 6 of SSA clearly lays down roadmap for determination of charges. It says, first 2 years there will be no increase, commencing 3<sup>rd</sup> year a nominal increase of 10% on Base Airport Charges will be given, which unfortunately was sanctioned to MIAL by MoCA from January 2009 instead of May 2008. Schedule 6 further stipulates that in case of constitution of AERA, charges in 4<sup>th</sup> year onwards will be decided by AERA keeping in view principles of tariff determination laid out in Schedule – 1. As AERA is in the process of formulation of guidelines and tariff principles, no formal tariff application can be made by MIAL hence it requested MoCA, which subsequently transferred request of MIAL to AERA, for 10% increase over Base Airport Charges.

Secretary - on leave  
OSD - 12/12.5.10

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Actual increase may be more than 10% looking into investment, traffic, etc. In later part of operation of airport with increase in non-aeronautical revenue even there may be reduction in airport charges. However, this reduction will also be subject to promised increase of 10% i.e. if reduction of 55% is calculated as per tariff principles applicable reduction should be 45% (+10% - 55%).

Arguments about tariff getting doubled in 7 years are not relevant as depending upon investment and non-aeronautical revenue, charges may double much before 7 years or the same may not double if there is substantial increase in non-aeronautical revenue, 30% of which is utilized in cross-subsidisation.

Since various issues have been raised, though without substance, by the stakeholders, replies to the issues raised are enclosed as **Annexure 1** to this letter.

We hope this meets your requirement and request the Authority to review its proposed decision.

Thanking you,

Yours sincerely,  
**For Mumbai international Airport Private Limited**

  
(R.K.Jain)  
President

Encl: as above



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**Annexure 1**

**1. Blue Dart Aviation Limited (BDAL):**

- a) **BDAL comment:** An automatic year over year increase of 10 % in aeronautical charges, tantamount to a doubling of rates in seven years regardless of costs incurred by the airport operator, is not warranted.

**MIAL reply:** The 10 % increase is as per the provisions of the SSA.

- b) **BDAL comment:** Prior to any further increase in aeronautical charges, existing charges should first be rationalized by AERA as they have been arrived at without the participation of all stakeholders.

**MIAL reply:** The existing tariffs need to be realigned based on the operating cost and capital expenditure incurred by MIAL at CSIA. Once the regulatory framework is in place the necessary consultation with the participation of stakeholders will take place.

- c) **BDAL comment:** Such arbitrary increases in charges would place an undue financial burden on embattled airlines in the country that are already struggling to cope with a host of high cost heads and are attempting to emerge from one of the most challenging years in aviation history.

**MIAL reply:** The increase in tariff is as per the provisions of the SSA and is vital for the commercial viability of the airport. We recognize that the airlines are facing financial hardship but this cannot be a reason to deny the airport the increase in tariff which is as per the SSA.

**2. NACIL:**

- a) **NACIL comment:** An increase of 10 % every year from the commencement of the 4<sup>th</sup> year onwards, would mean that the GOI have agreed to a doubling of Airport Charges in about 7 years time irrespective of the actual determination in terms of principles set out in Schedule 1

**MIAL reply:** The 10 % increase is on the Base Airport Charges and not a cumulative year on year increase. Taking into account the huge capital expenditure, the increase in tariff once the new terminal is commissioned will be even higher. AERA is in the process of finalising the tariff regulations, the airport operators will submit a detailed tariff proposal along with various cost and revenue heads after AERA finalises the regulations. The 10 % increase in airport charges as requested by MIAL is a contractual obligation and needs to be adhered.

- b) **NACIL comment:** In our view, increase in charges as desired by MIAL would not be in the best interest of the growth of traffic in India as this will place burden on the airline operators.

**MIAL reply:** The increase in airport charges requested by MIAL is as per the provision of the SSA. The increase in charges is essential for the commercial viability of the airports. In our opinion any increase in airport charges will not have a noticeable impact on the air traffic.

- c) **NACIL comment:** MIAL was granted a 10 % increase in airport charges in December 2008 which was not justified.

**MIAL reply:** The 10 % increase in tariff granted to MIAL in January 2009 was as per the SSA and was an incentive for completion of the Mandatory Capital Projects at CSIA.

- d) **NACIL comment:** Airport operators need to establish benchmarks and only on its achievement should they be permitted to revise the aeronautical charges.

**MIAL reply:** AERA is in the process of finalizing the regulatory framework and the issue of benchmarking needs to be discussed at that time.

- e) **NACIL comment:** It is clearly mentioned in clause 3, schedule 6 of the SSA that the revised rates by AAI were not to be considered for revising calculation of the aeronautical charges. Since an increase of 10 % has already been approved by the GOI after the completion of 2 years, no further increase in the rates should be applied from 03.05.2009 for MIAL.

**MIAL reply:** M/s. NACIL's interpretation of Clause 3 of Schedule 6 may be incorrect. The above clause only means that the Base Airport Charges for calculation of 10 % increase will remain same irrespective any subsequent revision of the airport charges by AAI.

- f) **NACIL comment:** If escalation in airport charges is guaranteed year over year at predetermined percentage, it negates the economic concept of tariff determination. Similarly it does not offer a scope to analyse individual cost heads vis-à-vis services rendered by the Airport Operators.

**MIAL reply:** In the absence of tariff regulations, conduct of business rules and as per the provisions of Schedule 6 of SSA we are of the opinion that the 10 % increase in airport charges needs to be sanctioned. A detailed tariff filling with revenue & expenditure details will be done by the Airport Operators once the regulatory framework in place.

- g) **NACIL comment:** Details of debt financing of MIAL should be made available in greater detail and need to establish the sources / acquisition of funds.

**MIAL reply:** MIAL will furnish its financing and other details once AERA finalises the tariff regulations and other regulatory framework.

- h) **NACIL comment:** All airlines continue to be not financially viable and therefore there should be no increase in the airport charges for atleast another two years.

**MIAL reply:** M/s. NACIL's contentions that since the airlines are not financially viable, the airport charges should not be increased are preposterous. While we appreciate the concern however the airports cannot be pushed into financial distress because of the performance of the airlines.

### 3. Federation of Indian Export Organisations (FIEO):

**FIEO comment:** An automatic increase of 10 % in the airport charges prevalent during the third year upon commencement of the fourth year and every year thereafter is not warranted as per the schedule 6 of SSA.

**MIAL reply:** As per the provisions of the SSA, MIAL is eligible for a 10 % increase in the airport charges and in our opinion the provisions in the SSA are very clear and unambiguous.

**4. Federation of Indian Airlines (FIA):**

- a) **FIA comment:** From the reading of the SSA, it clear that there is no automatic 10 % increase in aeronautical charges particularly after the first two years.

**MIAL reply:** In our opinion the Clause 2 of Schedule 6 to the SSA clearly provides for 10 % increase over the base airport charges from the fourth year and every year thereafter.

- b) **FIA comment:** For subsequent years the Base Airport Charges as fixed with a 10 5 increase will always be available throughout the concession period, which effectively means if cross subsidization from non aero revenue makes the aero charges lower than the Base Airport Charges considered with a 10 % increase, then the Base Airport Charges as indicated in the SSA with 10 % increase will prevail.

**MIAL reply:** We agree with M/s. FIA that the 10 % increase will always be available throughout the concession period irrespective of the amount of cross-subsidisation from non-aeronautical revenues and the resulting airport charges.

- c) **FIA comment:** It is relevant to note there is no justification/ reason given by DIAI to ask for the 10 % increase and instead it has sought to misinterpret the provisions of the SSA to claim said increase.

**MIAL reply:** In our opinion the 10 % increase is as per the provisions of the SSA and there is no misinterpretation of the said clause. Our contention is based on the advice received from our legal consultants.

**5. IATA:**

**IATA comment:** IATA views that aeronautical charges have to be set in relation to costs in line with ICAO's principle of cost related charging. An automatic increase should not be allowed under any circumstances as that would imply a disregard for the cost considerations and would be a clear violation of ICAO's principles.

**MIAL reply:** We agree with IATA's view that airport charges are to be set in relation to the cost and as per the ICAO's principle of cost relatedness. However IATA needs to appreciate that the 10 % increase is as per the provisions of the SSA. Further once the regulatory framework is in place, each airport operator will submit a detailed proposal for tariff determination.