



# THE AIR CARGO AGENTS ASSOCIATION OF INDIA

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## Southern Regional Committee

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1822/Secy/10  
26/11/10

ACAAI-SRC

23<sup>RD</sup> November,2010

Shri Sandeep Prakash,  
Secretary,  
Airports Economic Regulatory Authority of India,  
AERA Building,  
Administrative Complex,  
Safdarjung Complex,  
New Delhi 110 003.

Handwritten signature and date: 26/11/10

AGM (ADS)

Handwritten initials and date: 26/11/10

Sub: Revision of TSP Charges at Chennai.  
Ref: AERA Consultation Paper 10/ 2010-11

We thank you for this opportunity to share our views in the tariff fixing exercise and are confident that the role of AERA will change the dynamics for the better.

Air Cargo Agents Association of India (ACAAI) was instrumental for inclusion of cargo in the AERA Bill as the initial draft was surprisingly silent of cargo facilities. Appearing before the Parliamentary Committee as witness we stressed the need for inclusion of cargo in scope of AERA and are happy that as a result of our submission Trade & Industry will derive the benefits of a regulated economy.

To move over to proposal put forth by AERA in their Consultation Paper our submissions are:

1. For the past few decades it has been the practice of Airport Authority of India to call a few stakeholders, present a proposal for enhancing the tariff and irrespective of the acceptance or otherwise of the participants proceed with increase,
2. Such increases invariably would be implemented with very little notice period and there are instances when the revision was introduced with few days of notifying.
3. It had never been the practice of AAI to circulate detailed and reasoned proposal listing out various heads of operations, type of expenses, investments, ROI, ROC along with justification and quantum of increase.

4. These tariff revision meetings never offered an opportunity for the users to study the proposals, debate the suggestion and arrive at an acceptable increase.
5. AAI would always thrust their views on the Trade & Industry irrespective of the reasonableness or the lack of it of their proposal.
6. With the creation of AERA users in general and ACAAI in particular was relieved that the days of such arbitrary and unscientific fixation of tariff are over.
7. It is unfortunate that AERA has decided to follow the trend set by AAI by proposing an ad hoc 5% increase in cargo related tariff though there is no pressing need for immediate revision of rates.
8. It is our submission that resorting to across the board application of any tariff is a mark of non application of mind and without specifics.
9. Any revision should be scientific and backed with authoritative data.
10. We have studied the proposal put forth by AAI and find that the exercise is bereft of a serious effort to justify seeking an increase.
11. AERA is a regulatory authority with AAI on one side and the users on the other with a clear cut role to balance both sides.
12. The present proposal of AAI for an increase is the first challenge to AERA on tariff fixation exercise.
13. Hence even at the cost of delay AERA can undertake a thorough study of the revision sought, interact with users associations and finalise the revision of rates as there is no need for an adhoc increase.
14. AERA has made the following observations in Para 4.2 of Consultation Paper 10:

*a) The Authority's approach in respect of Cargo Services wherever such services are provided by the airport operator itself, has not yet been finalized. Therefore, any determination at this stage would have to be on an ad hoc basis only.*

*b) AAI has been charging uniform rates for Cargo Services at its airports. Such rates have been fixed by them, in the past, after stakeholder consultation. In the present case also AAI has proposed revision in charges broadly in accordance with the past practice.*

*c) AAI has invested Rs. 165 crores and Rs. 96 crores at Chennai airport and Kolkata airport respectively. The operating expenditure (for entire airport including cargo units) have increased by more than 12.43% during 2009-10 over 2008-09 at airport, against which 5% increase only has been requested.*

*d) The actual operating expenses at Chennai Airport for year 2008-09 and 2009-10 are Rs. 192.91 crores and Rs. 216.88 crores, respectively and at Kolkata airport it is Rs. 163.77 crores and Rs. 182.31 crores, respectively. However, separate expenditure figures for cargo units at Chennai and Kolkata airports are not furnished.*

*e) At the time of recent revision of UDF in respect of Hyderabad airport, based on CSO data, it was ascertained that the WPI has increased @ 5.33% on CAGR basis. The 5% increase proposed by AAI, is less than the rate ascertained.*

*f) The revision of handling charges at cargo were proposed after holding stakeholder consultation and 5% revision proposed is based on the consensus reached at the meeting with the representatives of FFAAI and FIEO. AAI has stated that ACAAI did not participate in the meeting inspite of the clarifications given to them that AAI will seek approval of the AERA for revision of the rates.*

g) AAI has highlighted that the revision of cargo handling charges is due from 01.04.2010 and any delay in approval will lead to consequential loss of revenue to AAI, since it cannot be implemented with retrospective effect.

h) At Chennai airport, AAI is not the sole custodian, Air India is also a competitor. However, at Kolkata airport, AAI is the sole custodian.

i) AAI have requested that the cargo handling charges be revised @ 5% at Chennai and Kolkata airport during 2010-11 and 2011-12. It is proposed that the ad-hoc revision be applicable w.e.f. 01.12.2010 and be reviewed at final tariff determination for Chennai and Kolkata airport.

It is our responsibility to share our views on some of the observations which are enumerated below:

Point (b) – It never used to be a consultation but was always intimation after the revision is finalised.

Point (c) – It is our understanding that about 35% of the revenue of Chennai Airport is through cargo. Investment of Rs. 165 Crores from the funds allotted for the modernization of Chennai Airport is far below the revenue contribution from cargo activities. Though this may be treated as a policy issue, Chennai Air Cargo facility has recorded the highest growth in the country for the past 5 years despite no drastic improvement of the facilities. Increased tariff is not the only approach to tackle operating expenditure and we are not sure if AAI shared any information on their efforts to scale down operating expenditure. In fact in tariff fixation if operating expenses were to be considered as an ingredient, then it should be supported by efforts to control. Otherwise every operational expense can easily be passed on to the user. Hence this in our opinion cannot be a factor for revision of tariff.

Point ( f) ACAAI expressed reservation as it is our understanding that once a regulatory authority is in place ( which in this case is AERA), it curtails the role of the regulated to directly interact with the users on tariff fixation. AAI responsibility is to submit its proposal to the regulator AERA, the regulator will in turn circulate the proposal to the stakeholders, solicit their views, compile the entire details and call for a joint meeting of all concerned to finalise the revision. In the very first of opportunity after creating AERA as this was not followed ACAAI expressed reservation. If AAI were to hold meetings, finalise rate revision with stakeholders and make AERA an authority to announce such changes then the very purpose of a regulator is defeated.

Point ( g) - We are of the view that there would not a revenue loss if the revision is deferred which could be tested by AERA from the balance sheet of AAI Chennai.

Over and above what is stated it is also our understanding that in a tariff fixing exercise the regulated should provide details like:

1. Investments proposed,
2. Expected return on investments,
3. Capital investments,
4. Return of capitals,
5. Operating expenses,
6. Expansion plans,
7. Impact of expansions,....

Such data would be shared with the users and then a joint meeting will be held to finalise the revision.

Also a regulator has a right to attach conditionalities and performance bench marks along with tariff.

As of date neither benchmarking of any performance nor any conditionalities to bind AAI for non performance exists.

Right from flight touch down to ultimate, physical removal of cargo AAI should be provided with a time frame for completion of each and every activity and for every failure by the custodian that leads to delay in clearance of cargo there should be accountability (including financial) on the part of AAI.


While there are penal provisions thrust on the users (storage, demurrage, etc), there is no accountability on the custodian for failures as all financial liabilities are passed on to the users.

Till conditionalities and bench marks become an integral part of the tariff there should not be any tinkering with the rates.

Our last hope is AERA and are confident that our views will be accorded due attention that it deserves.

Thanking you

Yours faithfully

  
N.Sivasubramaniam  
Chairman  
ACAAI  
Southern Regional Committee

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1825/Scg/1

11/2010

Yashwant S. Bhawe Esq

Chairperson

Airport Economic Regulatory Authority of India

New Delhi

Dear Sir,

*Handwritten:* 26/11/2010  
Scg (AERA)

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*Proposal of Airport Authority of India for revision of Cargo Tariff at Chennai and Kolkata Airports*

We refer to the letter dated 19<sup>th</sup> November 2010 addressed to us by Airport Authority of India which was received by us on 22<sup>nd</sup> November 2010) barely three days away from our Annual convention in Bangalore where all office bearers of ACAAI are currently completely pre-occupied.

Notwithstanding the above, looking to the gravity of the situation, on behalf of ACAAI I have to address you as under.

At the outset, AAI unfortunately did not disclose in their letter that AERA has, in your Consultation Paper 10-2010 dated 11-11-2010 sought the reaction of concerned/affected parties before implementing the proposal as highlighted above. While AERA has consistently acted fairly, AAI seems to employ every method possible to thwart ACAAI's legitimate concerns.

Fortunately, we have gone through your said consultation paper. We observe as follows:

During AERA's meeting held on 26-8-2010, after due consideration of AAI's request for ad hoc increase of 5%, you found their reasons unconvincing and in terms of para 2.3 you returned the proposal to AAI to furnish you the details.

In the paper AERA specifically referred to the concerns voiced by ACAAI as well as ASSOCHAM which go to the very root of AAI's authority to seek the said increase, once AERA has been constituted.

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26/11/10

On 7-9-10 AAI once again submitted the same proposal to AERA without any details and again citing the earlier basis for seeking the increase.

AERA again returned the proposal to AAI.

On 24-9-2010 AAI resubmitted the proposal citing purported details. These were found unacceptable by AERA who by their letter of m8-10-2010 sought specific details from AAI to justify the increase.

On 18-10-2010 AAI informed AERA that it was unable to provide the details as required by AERA, in order to justify its proposal.

We now specifically refer to para 4 of your paper. It categorically states that as far back as on 30-7-2010 AERA had concluded that "AERA's approval to economic regulation for cargo services is yet to be decided" (emphasis supplied). It has also been stated there that compelling reasons must be furnished for any proposal for ad hoc increase in the schedule of cargo charges.

We take serious exception to the contents of para 4.2 (f) of your consultation paper. We submit that to the best of our knowledge at no time did AAI give any clarification to ACAAI that the proposed increase in charges would be subject to approval by AERA. In fact the converse is true, which is why we have been agitation the matter. We again enclose a copy of our letter dated 16-4-2010 addressed to AAI which will demonstrate that we challenge their perceived authority to increase the charges. We reiterate that we did not attend AAI's meetings because we truly believe that that they have no authority to call this meeting. Our stand has been fully vindicated by the contents of your consultation paper under reference.

In fact the letter dated 19-11-2010 under reference from AAI for the first time suggests that AERA's approval was mandated. This justifies our stand in the matter.

We would have thought that the above categorical admissions would be sufficient material for AERA to reject AAI's unjustified and non-detailed proposal for increase.

We are truly dismayed to note that AERA, suddenly does a *volte face in paragraph 4.2(i)* where after concluding that AAI has provided no details, you have nevertheless, under the authority vested in you in terms of Section 13(1)(a) of the AERA Act, decided to grant AAI's proposal for ad hoc increase of 5% over the existing schedule of charges for Chennai and Kolkota airports. No reasons have been cited whatsoever for arriving at this decision.

We earnestly request AERA not to succumb to this unwarranted pressure from AAI. We respectfully submit, that in view of your own consultation paper, read with correspondence exchanged on the subject between ACAAI, AAI and AERA, you will find it very difficult to justify your decision before any Court of Law or other appropriate forum. It is not necessary to remind AERA that while it has the authority to grant an ad hoc increase, this power is always coupled with responsibility. AAI is cleverly



trying to “shoot from AERA’s shoulders” by putting the ball in the court of AERA in as much as in the event of litigation, it will be AERA that will be required to bear the brunt. You will kindly agree that this is completely avoidable.

We attach as an annexure our compelling commercial reasons why this proposed ad hoc increase as suggested must not be implemented

In view of the foregoing, we humbly reiterate to AERA to please put on hold the proposal as set out in the consultation paper under reference. Now that you are in the picture, ACAAI strongly recommends that AERA call a meeting of concerned and affected parties where the entire matter can be discussed threadbare before any decision is arrived at.

We sincerely hope that you will not escalate this matter further by giving in to AAI’s unjustified proposal. Despite the above, if AERA still goes ahead and grants the proposal on an ad hoc basis, ACAAI will be left with no other alternative but to challenge the decision in the appropriate High Courts. We are confident of and have full faith in the wiser counsel of Airports Economic Regulatory Authority of India.

Yours faithfully,

For The Air Cargo Agents Association of India

J Krishnan-President.

## ANNEXURE I

Chennai air cargo complex is the only major airport (other being Kolkotta) being run by Airports Authority of India.

The legacy of apathy and side stepping responsibility and refusing to implement Corrective measure to ensure user comfort continues from the yesteryears when AAI was a monopoly across India.

- 1) Any Charge levied and collected must be inextricably come with a committed performance that Justified the charges and levies. The users at Chennai have been made to pay the tariff without any commitment to performance. To illustrate this serious lapse we attach as Annexures minutes of the Cargo Facilitation Committee Minutes where a sanitised form of the trade grievances are recorded. These minutes starting from the years 2000 to current year underscores the core issue of inconsistent and arbitrary performance from the Custodian to Trade. While ACCAI is not against reasonable tariff to cope with with increased cost of operations and capital for augmenting infrastructure, this proposal is seriously fawed in As much as no committed performance guaranttes are incorporarated and redressel Mechanism if such agreed performance standards are not kept up.
- 2) The very system of calculating the free period of 72 hours ( unfortunately at Chennai it is 3 calender days starting from the time of flight touchdown is seriously flawed. Any cargo arriving on an aircraft needs to be unloaded from the aircraft and brought To the complex cargo receiving area, devanned and stored in designated area before The importer gets any access to clear the same. Currently the flight check in and capturing the Data on the system of the custodian takes anything between 12-36 hours effectively curtailing The free period available to the trade to clear the goods. This also acts as an indirect incentive to the custodian to turn a blind eye to the inefficiencies to the cargo check in process as these delays directly translates to higher revenue for the custodian by way of demurrages. ACAAI requests that AERA must clearly prescribe that the free period must be reckoned only after the Initial check in and data capturing is completed by the custodian as the trade exercises no Control over the initial receiving process og cargoes from the airlines and must not bear any financial burden for the inefficiencies in the process.
- 4) We also need to highlight the disconnect that prevails between the two ground handling agents at Chennai -- AAI and Air India. Lack of co ordination often leads to the cargoes arriving on flights of airlines handled by Air India face serious delays before the custodian AAI accepts the cargoes and conflict of interest in AAI as Custodian and Ground handler inhibits closer co ordination between the two. AERA needs to take cognizance of this dysfunctional reality and prescribe minimum performance standards that must be adhered by the two ground handlers. This is the first step to ensure timely performance to deposit the cargoes with the custodian and place it at the disposal of the trade for clearance.



5) Scientific storage of cargoes to ensure their safety and access is another area of concern we wish to represent to AERA. Traceability of cargoes ranges from few hours to few days resulting in avoidable confusion and altercation between the users and the custodians. It is now an unwritten law at Chennai air cargo complex that the users need to enter the warehouse to identify their cargoes and then point out the same to the custodian staff to produce for customs examination or delivery. Customs examined cargoes are not returned to their originally designated locations resulting in further aggravation at the time of taking delivery. Many unhealthy practices have also crept in due to this inefficiency and trade harbours a serious doubt that this may be by design to extract rent.

6) Serious shortage of appropriate equipment and man power is the next issue that erodes the efficiency at Chennai Airport. The entire man power is out sourced to private agencies and the lowest competitive bidder is awarded the contract to carry out the operations in the cargo complex. The contractor over the years always faulted in providing the requisite manpower as he is more interested in maximising his profits rather than to provide the service as per his contractual obligations. AERA may summon records of the various penalties being levied on such contractors and black listing done over the past 6 years to understand this malice. In this process the interest of the trade is given the go by and delays and inefficient practices abound.

AERA must ensure that scientific datum is established for manpower and equipment requirements at the Cargo Complex keeping in mind the increasing weight of the unit parcels and any man power outsourcing must only be based on this datum as prescribed by AERA. Independent audit of the performance of the outsourced agencies is also an imperative as sometimes the nexus developed between the officers of the principals and the contractors very often results in stone walling the criticism non performance and camouflaging the inefficiencies.

Once again the interest of the users suffers and cost of using the terminal increases manifold.

7) The Commissioner of customs at Chennai Airport in response to the persistent criticism of the trade had set up a committee of the various constituents to study the individual activities involved in the function at the cargo complex right from the arrival of an airport to the final delivery of the cargoes. We attach a copy of the findings of this group. We are pained to report that even this performance levels has not been achieved leave alone any improvement made to the process. (SIVA pl fill in the year ...

8) Damages to cargo post arrival due to rash and unscientific handling, especially by the forklift operators is another serious inefficiency that needs to be brought to your attention. Shortage of mechanised equipment is compounded by the lack of appropriate equipment to carefully handle the cargoes. I enclose a recent letter written to the Airport Director on the damages suffered to cargoes post arrival at the cargo complex. It is imperative that professionally trained operators need to be deployed to operate the forklift and cranes and periodic recurrent training imparted on safe handling of the valuable cargoes. Punctured cartons and pallets is all too common a sight at the Chennai cargo complex. The tariff charges to the trade also includes revision of forklift services.

9) I enclose a new report that appeared in the daily DECCAN CHRONICLE that highlights the difficult working environment currently prevailing at the Chennai Air Cargo Complex.

10) Levy of parking charges for vehicles entering to unload export cargoes must be waived as in Mumbai and Delhi cargo complexes as this is an unjustified levy. No car arriving at a departure/arrival terminal is charged for setting down or picking up a passenger. This is a cost to the exporters/importers.

ACAAI strongly submits that performance parameters need to be discussed with the user associations and agreement reached between the ground handlers, custodians and also penal provisions for any shortcomings in these agreed performance guidelines must be established before any proposal for tariff increase is taken up for consideration. The trade in Chennai currently feel that they are short-changed by the AAI with regards to the price they pay and the service they receive.

