

Delhi International Airport Limited  
(Formerly known as Delhi International Airport (P) Limited)

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20/7/18

Ref. No. : DIAL/2018-19/ Regulatory/ 786

Date: 19<sup>th</sup> July 2018

भारतीय विमानपत्तन आर्थिक विनियामक प्राधिकरण  
साफदरजंग एयरपोर्ट, नई दिल्ली-110003

प्राप्त  
डायरी नं०: 12632  
तारीख: 19/07/18

To,

The Secretary,

Airport Economic Regulatory Authority,

AERA building, Administrative Complex,

Safdurjung Airport,

New Delhi 110003

8  
20/7  
An. Sankar /

**Subject:** Consultation Paper no 06/2018-19 In the matter of Determination of Aeronautical Tariffs in respect of Indira Gandhi International Airport, Delhi with respect to Base Airport Charges (BAC), for the Second Control Period (01.04.2014 to 31.03.2019)

**Reference:** Your e-mail dated 22<sup>nd</sup> June 2009 seeking DIAL's views on various stakeholders responses

Dear Ma'am,

We write with reference to the response received from stakeholders on the captioned consultation paper. DIAL's views with regard to the response are for the following are attached herewith for the consideration of the Authority:

1. Air India
2. Business Aircraft Operators Association
3. IATA
4. Federation of Indian Airlines
5. India Oil Corporation Limited
6. Hindustan Petroleum Corporation Limited



/DelhiAirport



@DelhiAirport



/DelAirport



/DelhiAirport

Further, the responses from MIAL, Assocham India, Air Travellers Association and APAO are in support of the consultation paper and merit no response from DIAL.

Yours faithfully,

For Delhi International Airport Ltd.



K Narayan Rao

Director

**Annexure 1: DIAL's views on Air India's response**

This is with reference to the response received from AI on the captioned consultation paper vide letter no. DF/HQ/18/16. DIAL's view with regard to the response are as below:

Air India's Comments	DIAL's view
<p><b><u>X-Ray Baggage Charges</u></b></p> <p>Reference Annexure-5 regarding the proposed tariffs, it is observed that even though there is a slight reduction in Landing charges, Parking charges and CUTE counter charges are proposed to be made nil but due to the proposed X-Ray Baggage charges, there is over all increase in tariff for international Flights amounting to approx. RS.6000 to RS.6500 per flight for wide bodied aircraft resulting in approx. annual increase of Rs. 5.05 Crores in Aero charges at Delhi.</p>	<p>The proposal of AERA to implement BAC+10% of BAC as per schedule 6 of the SSA is an assurance given to DIAL by the Central Government. It is also equally important that the airport should sustain and maintain service levels, safety and security for which it is necessary for DIAL to have BAC+10% of BAC as minimum aeronautical charge. Hence the objection that it results in an increase of certain charges is no ground for objecting to the same.</p>
<p><b><u>X-Ray Baggage Charges</u></b></p> <p>Moreover in Annexure -5 applicable tariffs for Only B-747 and DC-10 type of aircraft (wide body aircraft) have been specified due to which there is no clarity of applicable charges for international operations with other types of aircraft. Air India and its subsidiary AI Express operates to various international destinations with other types of aircraft having different seating capacity such as B-737, A- 319, A-320 and A-321 etc. for which the applicable rates have not been specified</p>	<p>The specified charges are considered as a part of the Schedule 8 of the SSA with a permitted increase of 10%. The x-ray baggage tariff for international flights primarily differentiates between the turnaround flights and transit flights. However, some of the wide body aircrafts have been mentioned in the categorization of aircraft type for turnaround flights. However, with time the type of aircrafts have evolved and many variants have entered the competitive market including wide body and narrow body.</p> <p>In order to preserve the sanctity of the Schedule 8 of the SSA and to bring in the clarity, the tariff may be considered as follows in case of x-ray charges to be charged for international flights:</p> <ol style="list-style-type: none"> <li>1. USD 209.55 for all wide body (Code D, Code E and Code F) turnaround flights</li> <li>2. USD 149.33 for all narrow body turnaround flights (Code C) and all transit flights</li> </ol> <p>The above may be considered by the Authority for clarification in the rate card applicable for implementation of the tariff equivalent to BAC+10% of BAC.</p>
<p>Kindly refer to Ministry of Civil Aviation order no.AV13028/001/2009-AS dated 16.04.2010 as per which the operator shall not charge the</p>	<p>DIAL is eligible in any year during the term for the minimum aeronautical charges equivalent to BAC+10% as per Clause 2, Schedule 6 of SSA. In terms of the</p>



Air India's Comments	DIAL's view
<p>airlines for the security screening of the Baggage. (Copy Annexed). More over as per clause 3.3 .5 of the SSA the JVC (DIAL) shall be responsible for procuring and maintaining at its own cost all security systems and equipment.</p> <p>Considering the above aspects, kindly review the proposed X-Ray Baggage charges as demand from other airport operators to implement X-Ray Baggage charges will have substantial financial impact for the airline.</p>	<p>contractual rights the minimum aeronautical charges should be as per Schedule 8 which is the Base Airport Charges (BAC), increased by 10% of BAC any time during the term of the concession. The Schedule 8 of the SSA which is the Base Airport Charges (BAC) as per the concession includes the x-ray baggage charges along with other charges. The recovery of BAC+10% of BAC is not linked to any capital or revenue related recoveries.</p> <p>Based on the circular referred by AI, DIAL stopped charging x-ray charges due to the baggage screening equipment cost was recovered through PSF (SC). However, the Ministry of Civil Aviation vide order dated 18.02.2014 has directed all airports that the PSF (SC) fund is only for expenditure on deployment of CISF and other security forces at the airport. Since April 2014, DIAL has been incurring all security capital expenditure and maintenance of all security related assets by itself and not from PSF (SC). AERA has also clarified this position in the consultation paper.</p> <p>In view of the above DIAL is eligible to recover the x-ray baggage charges in terms of Clause 2 of Schedule 6 read with Schedule 8 of the SSA.</p>
<p>Reference para 3.11 of the Consultation paper approximately Rs.5200 Crores excess collected by DIAL needs to be adjusted from ARR for the third &amp; fourth control period.</p>	<p>DIAL is in the process of expansion of the existing terminals, landside and airside infrastructure, to meet the growing traffic needs. In order to achieve the target, DIAL has envisaged a capital expenditure plan of ~Rs. 8,000 Crore excluding IDC and EDC. As a result of substantial capital expenditure the tariffs are likely to be higher than the current tariffs and would also take care of any under / over-recovery. Considering the situation DIAL requests AERA to consider any excess collection, if any, during the 3<sup>rd</sup> and / or the 4<sup>th</sup> control period.</p> <p>The issue therefore, is related to determination of the tariff for the third control period by the Authority.</p>

Air India's Comments	DIAL's view
<p>Kindly consider the fact that the excess collected by DIAL also includes excess charges in Landing, parking, gate counter charges etc. which were collected from the airlines. The adjustment of RS.5200 Crores in the third and fourth control period will result in huge benefit to the new airlines though they have not contributed to the excess amount collected by DIAL. It is therefore submitted that while fixing the tariffs this aspect may please be considered and the airlines who have shouldered the burden of the excess amount collected may be compensated by way of discounts in tariffs in proportion to the excess amount collected from them.</p>	<p>The situation of excess / short recovery gets trued up in the subsequent control period is a well laid principle and practiced by the Authority. It is always the principles of the authority that users of subsequent control periods will have to bear the prevailing tariff. This issue has also clarified by the TDSAT vide order dated 23<sup>rd</sup> April 2018</p>
<p>In order to encourage more flight operations from the airport some of the international airport operators offer volume based discounts to their domestic carriers. We request introduction of such an incentive scheme at Delhi Airport also.</p>	<p>No Comments.</p>



**Annexure 2: DIAL's views on Business Aircraft Operators Association's response**

This is with reference to the response received from BAOA on the captioned consultation paper. DIAL's view with regard to the response are as below:

S.No.	BAOA's Response	DIAL's View
1	SSA was signed in 2005, much before enactment of AERA in December 2008. Therefore, in matters of conflict between Agreement (SSA) and Statute (AERA), the provisions of AERA Act should take precedent. Further AERA Act Para 13(a)(iv) mandates authority to determine aeronautical charges in a manner to ensure economic and viable operations of major airports. The latter clause (Para 13(a)(vi)) should not over-ride the more important preceding clause in the Act. The main objective is the economic viability of the operations. The part of Agreement (SSA) to be honoured should only relate to clauses on the 'Term of Lease' and 'Master Development Plan' etc. Any issue relating to determination of aeronautical charges at the airport have to be under exclusive domain of AERA Act and, not SSA.	It is pertinent to mention here that the AERA Act 2008, where the Authority draws its power to determine the aeronautical tariff itself preserves the concession offered by the Central Government under section 13 (1) (a) (vi). Hence the Authority has to consider the provisions of the OMDA / State Support Agreement (SSA), the concession offered by the Central Government to DIAL, while determining the tariff for DIAL. The TDSAT also in its order 23 <sup>rd</sup> April 2018, has laid emphasis to honor the concession agreement.
2	The definite reason of BAC+10% being there in the SSA <b>Schedule 6 in 2005 was due to AERA Act</b> yet to be enacted. The aim was to provide the required 'comfort zone' to the airport operator pending enactment of AERA. Further, the subsequent AERA Order 40/2015-16 had not only provided that comfort through AAR calculation, but also gave airport operator FROR of 16% on equity at para 26.19 of the Order. Interim relief, as per Schedule 6 of SSA, was rightly provided by MoCA by authorising 10% increase BAC on 16 Feb 2009. Later, with FROR of 16% being provided through precise calculation of aeronautical charges to ensure economic viability of airport operations. Therefore, Clause 2 of Schedule 6 (SSA) becomes irrelevant for determining aeronautical charges at DIAL. AERA has already considered	The right granted to DIAL in Clause 2 of Schedule 6 of the SSA is a sovereign assurance given by the Government of India to DIAL for the entire duration of the Term and not solely for the period till when AERA has not been formed as sought to be made out. The same is also evident from Clause 2 of Schedule 6 of the SSA which reads as follows: <i>"From the commencement of the fourth (4<sup>th</sup>) year after the Effective Date and for every year thereafter for the remainder of the Term, <u>Economic Regulatory Authority/GOI (as the case may be)</u> will set the Aeronautical Charges...."</i> (Emphasis added)  In view of the above, it is evident that Clause 2 of Schedule 6 of the SSA mandates not only the GOI but also the AERA once it has come into

S.No.	BAOA's Response	DIAL's View
	this Clause at paras 26.20 & 26.21 of Order 40/2015-16.	<p>existence to allow DIAL to collect aeronautical charges as per Schedule 6.</p> <p>The increase allowed by MoCA on 16<sup>th</sup> February 2009 was given for the third year of operations in terms of the Clause 1 of Schedule 6 of SSA. However, Clause 2 of Schedule 6 of SSA enshrines a contractual right to maintain a minimum aeronautical charge equivalent to BAC +10% of BAC in any year during the term of the concession.</p> <p>As regard to the referred para no 26.21 of Order 40 / 2015-16 the matter in contention was an automatic increase of 10% year on year, which was decided therein by the Authority. The present issue relates BAC + 10% of BAC (one time) to be the minimum aeronautical charges in any year during the term of the concession period, which has not been dealt with by the Authority before the issuance of the consultation paper no.6 of 2018-19. Hence, the para no. 26.20 and 26.21 referred from the Order no 40 / 2015-16 are not relevant to the consultation paper in contention.</p>
3	<p>.....</p> <p>Pending issue of this much awaited AERA order, Authority is requested to completely abolish FTC all airports in line with provisions of AERA Act. ....</p>	<p><b>Tariff charges are determined for each airport separately with varying charges. Abolishing the FTC across all airports is not a matter of contention in the current consultation paper.</b></p>
4	<p>It is submitted that allowing 10% arbitrary increase in BAC, through mention of Schedule 6 of SSA, would undo the painstaking efforts undertaken since 2005 to set up an Airport Economic Regulatory Authority (AERA) for independently and efficiently regulating aeronautical charges at major airports in India. In this regard, Authority is requested to refer to 'Introduction' and 'Statement of Objects and Reasons', given at the very beginning of AERA Act 2008. In view of the objectives of Clause 2 of Schedule 6 of SSA being taken care specifically through AERA Act para 13(a)(iv), the implementation of SSA's clause would result in unfair benefit</p>	<p>The issue of eligibility has been dealt in the submissions made hereinabove at S.No. 1&amp; 2 above.</p> <p>There is no arbitrary increase of 10% of BAC but in fact it is a contractual right enshrined under the schedule 6 of SSA.</p> <p>In addition to the foregoing, DIAL submits that the issue of applicability of BAC+10% of BAC need to be allowed by the AERA in terms of Schedule 6 of SSA once the determined by AERA under Section 13 of the AERA Act falls below the BAC+10% of BAC in any year during the term.</p>

S.No.	BAOA's Response	DIAL's View
	being given to airport operator at a public airport.	As such, the submission made by BAOA that the implementation of BAC+10% of BAC would undo the setting up of an independent regulator are erroneous and without any substance.



**Annexure 3: DIAL's views on IATA's response**

This is with reference to the response received from IATA on the captioned consultation paper. DIAL's view with regard to the response are as below:

IATA's Response	DIAL's view
<p>Firstly, we express again our strong concern that the ability of AERA to carry out its role of regulating airport tariffs is being curtailed by unjustified conditions in a concession contract. The tariffs currently applicable at DEL reflect the proper assessment of AERA on what are the reasonable costs for providing the services (including justified adjustments for true-ups). Applying minimum tariffs that have no relation to AERA's assessment undermines the main purpose of the existence of the regulator</p>	<p>It is pertinent to mention here that the AERA Act 2008, where the Authority draws its power to determine the aeronautical tariff itself preserves the concession offered by the Central Government under section 13(1)(a)(vi). Hence the Authority has rightly considered the provisions of the OMDA / State Support Agreement (SSA), the concession offered by the Central Government to DIAL, while determining the tariff/allowing BAC+10% of BAC for DIAL.</p> <p>The above view that AERA has to honour the OMDA and SSA has also been upheld by TDSAT in its order dated 23<sup>rd</sup> April 2018 in the matter of DIAL's appeal no 10 of 2012.</p>
<p>Having said that, we understand AERA's interpretation that Schedule 6 Clause 2 of the concession agreement allows for a minimum level of charges (Base Airport Charges plus a one-time increase of 10%, henceforth referred to as 'BAC+10%') and that these should be made available to the concessionaire.</p>	<p>DIAL is of the view that the minimum level of BAC+10% of BAC is preserved for the term of the concession in terms of the Clause 2 Schedule 6 of SSA read with Schedule 8 of SSA.</p>
<p>However, there is one matter we want to highlight for AERA's consideration. As AERA rightly pointed out, the fuel throughput charge (FTC) was not part of the BAC and therefore this situation gives AERA some discretion on how to set this particular charge.</p> <p>If AERA were to use a historical price, it would be more appropriate to use the 2006 level (which is when the SSA was signed, and the year that was used as the basis for the BAC) and not the one applicable in 2009, which was substantially higher and hence favoured by the airport for obvious reasons</p>	<p>DIAL has requested to apply the minimum charges of Base Airport Charges (BAC) plus 10% of BAC as per schedule 6 of the SSA. FTC is a separate charge in addition to the charges given in Schedule 8 of the SSA, it is further submitted that on the applicability of Base Airport Charges (Schedule 8) +10%, DIAL should be allowed to charge FTC on the same basis as was prevalent at the time when Base Airport Charges were levied by AAI at the IGI Airport, i.e., the rate which would be negotiated between DIAL and the oil companies.</p> <p>It is submitted that even in terms of the reply issued by AAI to the pre-bid queries during the bidding of the works for the IGI Airport, it is evident that at that time AAI was charging FTC at the rate negotiated between itself and the oil companies and it was also clarified that pursuant to the bidding, the airport operator would be</p>

IATA's Response	DIAL's view
	<p>entitled to charge FTC at the rate negotiated between itself and the oil companies.</p> <p>In this regard we refer to our request dated 19<sup>th</sup> July 2018 wherein we have requested AERA to allow DIAL FTC at the currently prevailing rate of Rs.688.17 per KL negotiated and agreed between DIAL and the oil companies</p>
<p>Since: - the fuel throughput charge was not included in the BAC,</p> <p>- the charge is not cost related (IATA has long argued it should not exist unless there is a cost justification for it), and</p> <p>- the application of the proposals unjustifiably increase DEL's revenues by around Rs. 103 crore compared to the application of AERA Order No. 40/2015-16 (as per appendix 4 of the consultation document),</p>	<p>In this regard we would like to submit to AERA that the AAI has been charging the Fuel Throughput charges in addition to charges mentioned in Schedule 8 of SSA at the time of handing over of Airport to DIAL.</p> <p>DIAL continued to charge the FTP from the take-over of airport, initially on agreed rates with the oil companies and then as approved by AERA. FTC is a separate charge in addition to the charges given in Schedule 8 of the SSA, it is further submitted that on the applicability of Base Airport Charges (Schedule 8) +10%, DIAL should be allowed to charge FTC on the same basis as was prevalent at the time when Base Airport Charges were levied by AAI at the IGI Airport, i.e., the rate which would be negotiated between DIAL and the oil companies.</p> <p>It is submitted that even in terms of the reply issued by AAI to the pre-bid queries during the bidding of the works for the IGI Airport, it is evident that at that time AAI was charging FTC at the rate negotiated between itself and the oil companies and it was also clarified that pursuant to the bidding, the airport operator would be entitled to charge FTC at the rate negotiated between itself and the oil companies.</p> <p>In this regard we refer to our request dated 19<sup>th</sup> July 2018 wherein we have requested AERA to allow DIAL FTC at the currently prevailing rate of Rs.688.17 per KL negotiated and agreed between DIAL and the oil companies</p>
<p>AERA could adjust the FTC to an extent that nets off the unjustified additional revenue created from the application of 'BAC+10%' in order to match the resultant revenue with the amount obtained through applying AERA Order No. 40/2015-16. Applying an FTC rate of Rs. 131.75 per KL would serve this purpose.</p>	<p>As explained in the previous responses above the BAC+10% of BAC is a concession right accorded to DIAL by the Central Government through Schedule 6 read with Schedule 8 of SSA. Hence the question of equating the revenues determined as per order no 40/2015-16 with that of BAC+10% of BAC does not arise.</p>



IATA's Response	DIAL's view
	Suggestion of IATA to limit the BAC+10% of BAC and FTC to match the ARR as determined vide order no.40/2015-16 is contrary to the mandate of Schedule 6 read with Schedule 8 of SSA and therefore does not hold any merit and has to be rejected.
With regards to the over-recovery by DIAL leading up to July 2017 estimated at Rs 5200 Crores, IATA implores AERA to resolve this aspect soonest by applying true-up in the third control period at the latest and not to accept the prospect of doing so in the fourth control period	DIAL is in the process of expansion of the existing terminals, landside and airside infrastructure, to meet the growing traffic needs. In order to achieve the target, DIAL has envisaged a capital expenditure plan of ~Rs. 8000 Crore excluding IDC and EDC. As a result of substantial capital expenditure the tariffs are likely to be higher than the current tariffs and would also take care of any under / over-recovery. Considering the situation DIAL requests AERA to consider excess collection, if any, during the 3 <sup>rd</sup> and / or the 4 <sup>th</sup> control periods as part of tariff determination without linking the excess recovery with the present consultation paper on BAC plus 10% of BAC.



**Annexure 4: DIAL's views on FIA's response**

This is with reference to the response received from FIA on the captioned consultation paper. We have considered the major issues raised by FIA in its response. DIAL's view with regard to the issues are as below:

Issues raised by FIA	DIAL's View
<p>FIA has raised the contention that the proposal of AERA in the Consultation Paper is contrary to the decision of the Appellate Tribunal in Judgment dated 23.04.2018 passed in Appeal No. 10/2012 filed by DIAL challenging the first tariff order. It has been contended that the decision of AERA on the issue of BAC has been upheld by the Appellate Tribunal and that the present Consultation Paper seeks to overturn the said decision of AERA.</p>	<p>It is pertinent to mention here that the matter in appeal before the Appellate Tribunal in the Appeal no. 10 / 2012 filed by DIAL was for an automatic increase of 10% of BAC year on year. The decision of the Authority that DIAL was not entitled for year on year increase was considered in the first control period order and second control period order which was also upheld by TDSAT in the first control period order.</p> <p>The consultation paper in contention is only for Base Airport Charge +10% of BAC (one time) as the minimum aeronautical charges in any year during the term of the concession. The issue of BAC+10% of BAC as minimum aeronautical charge has never been dealt with by the Authority before the issuance of the consultation paper no 06/2018-19.</p>
<p>FIA has contended that while exercising its powers, the AERA is obliged to ensure transparency by holding due consultations and providing reasonable opportunity to make submissions. FIA has also contended that AERA must ensure that all the documents on which it is relying are made available to the stakeholders and that the principles of natural justice and transparency must be followed scrupulously.</p>	<p>DIAL has no comments. The Authority may kindly respond if required.</p>
<p>FIA has contended that AERA has not supported its reasoning for allowing BAC+10% and that any proposed increase in tariff has to be viewed holistically, including the impact of the excess aeronautical charges collected till 06.07.2017.</p>	<p>FIA while raising the stated contention, has not taken into account the scheme of the State Support Agreement (SSA) as well as the mandate of Section 13(1)(a)(vi) of the AERA Act. Schedule 6 of the SSA mandates in unequivocal terms that the calculation of Aeronautical Charges at IGI Airport need to be done in accordance with Schedule 1 of the SSA. It is pertinent to mention here that in terms of the Clause 2 of Schedule 6 of the SSA, the aeronautical charges so calculated in terms of Schedule 1, falls below the Base Airport Charges (BAC) + 10% of BAC then the BAC+10% of BAC would be applicable.</p>



Issues raised by FIA	DIAL's View
	<p>Further, in terms of Section 13(1)(a)(vi) of the AERA Act, AERA while determining the tariff in any year has to take into account the Concessions granted by the Central Government. The same has also been upheld by the Appellate Tribunal vide its judgment dated 23.04.2018 wherein it has categorically been held that the contractual obligations of the parties should be honoured, unless there is an explicit provision in the statute overriding the agreement. However, there is no such explicit provision in the statute empowering the Statutory Authority to ignore such existing rights.</p> <p>It is submitted that the sole precursor to the applicability of BAC+10% of BAC is that the aeronautical charges as calculated under Schedule 1 of the SSA are below the BAC+10% of BAC which are charges not requiring any determination and are already fixed and stated in Schedule 8 of the SSA.</p> <p>Further, the issue of over/under recovery of aeronautical charges, if any, is a matter to be dealt with as part of the process of tariff determination for the next control period which is an independent exercise of the applicability of BAC in contention.</p>
<p>FIA has also raised the contention that DIAL has not produced any report or document in support of the fact that the Aeronautical Charges fixed by AERA for the Second Control Period have fallen below the BAC.</p>	<p>The exercise of comparison of the aeronautical charges to the BAC is an objective exercise involving numerical comparison and does not require any subjective analysis.</p> <p>It is also pertinent to note that while raising the aforementioned objection, FIA has not produced any report or document contrary to the finding of the AERA that the aeronautical charges as determined for the Second Control Period are lower than the BAC.</p>
<p>FIA has also contended that prudence check is an intrinsic and essential part of the process of tariff determination and therefore, the expenditure incurred by DIAL should have been examined by AERA before making the proposal for applicability of BAC.</p>	<p>As already stated above, the applicability of BAC is an independent exercise and mutually exclusive from the process of determination of tariff under Section 13 of the AERA Act. Therefore, the principles need to be followed by AERA for determination of tariff have no application to the question of applicability of BAC+10% of BAC, as the latter only arises once the tariff has been determined and is found to be lower than the BAC+10% of BAC as given in Schedule 8 of the SSA.</p>



Issues raised by FIA	DIAL's View
	<p>It is a matter of fact that the tariff as determined by AERA for the Second Control Period which is presently applicable at IGI Airport is lower than the BAC and therefore, as per the mandate of Clause 3.1.1 and Schedule 6 of the SSA, BAC+10% of BAC should be made applicable at the IGI Airport as proposed by AERA in the Consultation Paper.</p>
<p>It has been contended by FIA that the projections of DIAL have been accepted by AERA without due evaluation and that AERA has erred in accepting DIAL's contention that the aeronautical charges fixed by AERA for the Second Control Period have fallen below the BAC without conducting an evaluation as to its accuracy and impact analysis. It has also been contended that DIAL has collected more than what is due to it and therefore, the proposal for BAC+10% would be detrimental to the airlines and the passengers who would have to bear the burden of increase in BAC over and above an exorbitant tariff.</p>	<p>The aforementioned contention of FIA is factually incorrect as can also be seen from the Consultation Paper. It is submitted that AERA has done an independent comparative analysis of the tariff as per the aeronautical charges calculated in terms of Schedule 1 of the SSA and the BAC as given in Schedule 8 of the SSA and the same is also reflected in Para 3.8 of the consultation paper as well as Annexure 4 of the Consultation Paper. As such, it is incorrect to suggest that AERA has blindly relied upon the submissions made by DIAL. Further, it is reiterated that the FIA has failed to independently show that the contention of DIAL that the tariff calculated by AERA for the second control period is not lower than the BAC+10% of BAC. As such, FIA is merely trying to discredit DIAL without any basis.</p>
<p>FIA has contended that the applicability of BAC shall have an adverse impact on the airlines and the passengers and therefore, the same should not be granted by the AERA. FIA has also contended that DIAL has over recovered and therefore, BAC is no longer required to be implemented by AERA. Further, FIA has resisted the implementation of the BAC on the ground that the same shall be an added burden on the airlines and passengers and therefore, would inhibit the ability of airlines to raise their fares. Further, FIA has contended that BAC cannot be used for funding the gap of the airport operator and that the same should be bridged through debt financing, subsidy by Government or additional equity. FIA has also suggested that since, a lot of expenditure has been undertaken to rectify the infrastructure which was handed over to DIAL by AAI and therefore, AAI should reduce the revenue share so that the burden on passengers can be reduced.</p>	<p>It is submitted that the BAC+10% of BAC is a concession right which has been granted to DIAL in case the tariff determined under Schedule 1 of the SSA falls below the said minimum level of BAC+10% of BAC. As such, applicability of the minimum charges mentioned in Schedule 8 of the SSA is a sovereign assurance granted by the Government of India to DIAL and the same has to be honoured regardless of any extraneous considerations.</p> <p>It is also submitted that the contention of FIA that AERA by allowing the BAC is making the airport operator to fund the gap is factually incorrect. It is submitted that the implementation of BAC+10% of BAC has been sought by DIAL and proposed by AERA not for the financing of any funding gap but is towards aeronautical charges, the collection of which is the sovereign right granted to DIAL under the Operation, Management and Development Agreement (OMDA) and the SSA.</p>



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**Annexure 5: DIAL's views on IOCL's response**

This is with reference to the response received from IOCL on the captioned consultation paper vide letter no. DF/HQ/18/16. DIAL's view with regard to the response are as below:

IOCL's Comments	DIAL's view
Indian Oil has no comments to offer on rate proposed by AERA. However, we would like to submit that the order of revision of Fuel Throughput Charges may only be released on prospective basis	No comments.

**Annexure 6: DIAL's views on HPCL's response**

This is with reference to the response received from HPCL on the captioned consultation paper vide letter no. DF/HQ/18/16. DIAL's view with regard to the response are as below:

HPCL's Comments	DIAL's view
We shall abide by the decision taken by AERA. Fuel Throughput Charges should be approved on prospective basis	No comments.