

**Airports Economic Regulatory Authority of India**

**Order No. 08/2010-11**

**AERA Building,  
Administrative Complex,  
Safdarjung Airport,  
New Delhi 110003**

**Date of Order: 20<sup>th</sup> October, 2010  
Date of Issue: 11<sup>th</sup> November, 2010**

**In the matter of Economic Regulation of Air Navigation Services - Regulatory  
Philosophy and Approach**

**1. BACKGROUND**

- 1.1 Pursuant to enactment of the "The Airports Economic Regulatory Authority of India Act, 2008" (hereinafter referred as the 'Act') and establishment of the Airports Economic Regulatory Authority (hereinafter referred as the 'Authority'), the Authority is to perform the following functions in respect of major airports:
- to determine the tariff for the aeronautical services;
  - to determine the amount of the development fees in respect of major airports;
  - to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934; and
  - to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf.
- 1.2 As per Section 2 (a) of the Act, any service provided "for navigation, surveillance and supportive communication thereto for air traffic management" are aeronautical services. These services are commonly understood as "Air Navigation Services" (ANS).
- 1.3 As per sec 2(f) of the Act "civil enclave" means an area, if any allotted at an airport belonging to any armed force of the union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;
- 1.4 Under the Chicago Convention, 1944, the management of airspace is a sovereign function. In terms of Section 12 (2) of the Airports Authority of India Act, 1994, this function is statutorily assigned to the Airports Authority of India (AAI). Thus, in India, the provision of ANS, in civil airspace, is solely the responsibility of AAI. AAI provides ANS at all civil airports, including major airports irrespective of the ownership of such airports.



- 1.5 To ensure transparency in the process leading up to the framing of appropriate procedures/ systems for economic regulations, including the terms and conditions for determination of tariff, the Authority issued a White Paper on 'Regulatory Objectives and Philosophy in Economic Regulation of Airports and Air Navigation Services' ('White Paper') on 22<sup>nd</sup> December 2009. The Authority considered various views and opinions submitted in response to the White Paper and prepared a Consultation Paper (No. 3/2009-10 on 26<sup>th</sup> February 2010 ) listing out the major issues impacting formulation of its regulatory philosophy and approach and laying out its rationale for the positions / approach it was minded to take.
- 1.6 The Authority, on careful perusal of all the submissions, views and opinions expressed by stakeholders, issued an Order (Order No.04/2010-11, dated 30.06.2010) laying down its philosophy and approach for economic regulation of Air Navigation Services.

## 2. **APPLICABILITY OF REGULATORY APPROACH**

- 2.1 The Consultation Paper dated 26.02.2010 had also highlighted that the position discussed therein may not apply, ipso facto, to the two Civil Enclaves (at present, Goa and Pune) under the regulatory ambit of the Authority. Appropriate views in respect of the said Civil Enclaves would need to be taken by the Authority with the representation of the Ministry of Defence in accordance with the provisions of sub-section (1) of Section 4 of the Act.
- 2.2 Accordingly, the Authority, with representation of the Ministry of Defence has considered the issue and has decided that the approach laid down in Order No.04/2010-11 dated 30.06.2010 for economic regulation of air navigation services may be adopted for the Civil Enclaves of Pune and Goa as well.
- 2.3 Further, the approach so adopted may be operationalised through the Draft Tariff Determination Guidelines in respect of the aforesaid services, issued for stakeholder consultation vide Consultation Paper No. 4/2010-11 dated 28.06.2010. The Draft Guidelines would be finalised separately for the Civil Enclaves, after taking into account special considerations, if any, relating to the Civil Enclaves as may be required to be considered. A Consultation Paper on these lines is being issued separately.

### **ORDER**

3. Ordered accordingly.

By the Order of and in the name of the Authority

  
(Sandeep Prakash)  
Secretary

To,  
The Airports Authority of India  
Rajiv Gandhi Bhawan  
Safdarjung Airport  
New Delhi – 110 003  
(Through : Shri V.P.Agrawal, Chairman)

