[F.No. AERA /20010 /HIAL-UDF/2009-10/Vol-II]
Airports Economic Regulatory Authority of India
Order No. 06/2010-11

AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi -110 003

Date of Order: 26th October, 2010
Date of Issue: 26th October ,2010

In the matter of Revision of User Development Fee (UDF) at Rajiv Gandhi International Airport, Hyderabad (HIAL)

GMR Hyderabad International Airport Limited (HIAL) is a joint venture company promoted by the GMR Group (63%) in partnership with Government of India through Airports Authority of India (AAI-13%), Government of Andhra Pradesh (13%) and Malaysia Airports Holdings Berhad (11%). The Company was incorporated to design, finance, build, operate and maintain a world class Greenfield airport at Shamshabad, Hyderabad. The project is based on the Public Private Partnership (PPP) model and is structured on a Build, Own, Operate and Transfer (BOOT) basis. The airport was commissioned in March 2008 with initial capacity of 12 million passengers per annum (MPPA) and 100,000 tons of cargo handling capacity per annum.

2.1 A Concession Agreement (CA) for development, construction, operation and maintenance of the Hyderabad Airport, was entered into between Government of India through the Ministry of Civil Aviation and HIAL, on 20.12.2004. As per Schedule 6 of the CA :

> *"HIAL will be allowed to levy UDF w.e.f. Airport opening Date, duly increased in the subsequent years with inflation index as set out hereunder from embarking domestic and international passengers, for the provision of passenger amenities, services and facilities* and the UDF will be *"used for the development, management, maintenance, operation and expansion of the facilities at the Airport."*

2.2 Based on the provisions in the CA and the application made in this behalf by HIAL, the Ministry of Civil Aviation allowed a levy of UDF @ Rs.1000/- (inclusive of taxes) per international departing passenger w.e.f. 23.04.2008 and @Rs. 375/- (inclusive of taxes) per departing domestic passenger w.e.f 18.08.2008 (vide letters No.AV.20015/03/2003-AAI dated 28.02.2008 and No.AV.20036/28/2004-AAI (Vol.IV) dated 18.08.2008 respectively), on adhoc basis. **The existing rates of UDF excluding the service tax component work out to Rs.340/-per departing domestic passenger and Rs.907/- per departing international passenger.**

2.3 HIAL, vide their letter no. GHIAL/UDF/Domestic/04/2008 dated 01.09.2008, had submitted that in their original business plan furnished to the Ministry, the average UDF amount was arrived @ Rs.725/- per passenger for both international and domestic passengers and since the UDF for international passengers was approved for Rs.1000/- by the Ministry, the corresponding amount for domestic passengers should be Rs.600/- so as to be in consonance with their business plan. HIAL submitted that in the meanwhile, they had started collecting the provisionally approved domestic UDF @ Rs.375/- departing passenger, under protest. HIAL also stated that as a result of the lower UDF approved for domestic passengers, they were incurring a substantial loss of Rs.16 crores per month.

3.1 Pursuant to the enactment of the "The Airports Economic Regulatory Authority of India Act, 2008" (the 'Act') on 05.12.2008, the establishment of the Airports Economic Regulatory Authority (the 'Authority') on 12.05.2009, and the notification of the powers and functions of the Authority w.e.f 01.09.2009 the Ministry of Civil Aviation, in October'09 transferred the subject issue for the Authority's consideration, along with copies of relevant extracts of files and correspondences.

3.2 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.

3.3 The actual annual passenger throughput at Hyderabad airport during 2009-10 was 65,12,913, which is in excess of 1.5 million passengers per annum (mppa). Hence, Hyderabad International Airport is a "major airport" as defined in clause (i) of Section 2 of the Act. As per 2009-10 traffic statistics, the international passengers comprised 26.35% and the domestic passengers comprised 73.65% of the total passenger throughput.

3.4 Further, in terms of Sec 13 (1) (b) of the Act, Authority shall, inter alia, determine the amount of development fees in respect of major airports. Furthermore, Rule 89 of the Aircraft Rules, 1937, provides that the licensee (of an aerodrome) may levy and collect at a major airport the User Development Fee at such rates as may be determined under clause (b) of sub-section (1) of Section 13 of the Act.

3.5 Rule 89 of the Aircraft Rules, 1937 prescribes:

" *User Development Fee — The licensee may* *(a) Levy and collect at a major airport the User Development Fees at such rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008;*

(b) levy and collect at any other airport the User Development Fees at such rate as the Central Government may specify."

However, no methodology has been prescribed in the Aircraft Rules for determining the rate of UDF.

3.6 The draft guidelines issued by the Ministry of Civil Aviation noted that levy of UDF was to be considered only in cases and years where the target revenue of a major airport was projected to fall short of the admissible expenditure. Hon'ble High Court of Kerala, in its judgment in the case of **Commissioner of Central Excise Vs. Cochin International Airport Ltd. [2009 (16) S.T.R. 401 (Ker.)],** has noted that the purpose of UDF "is to augment revenue". Thus, UDF may be taken as a revenue enhancing measure to ensure economic viability of the airport operations. The Authority, in the Consultation Paper No03/2009-10 has noted that with respect to airports' tariff proposals to be submitted to the Authority, the Authority will require that: *" The User Development Fee is proposed as a revenue head to be allowed in specific case upon due consideration."*

3.7 Keeping in view the above, the Authority has been determining the rate of UDF so as to ensure that the airport operator is able to obtain return on the regulated asset base at a fair rate, over the relevant period.

4.1 HIAL vide their letter Ref: GHIAL/F&A/UDF/2009-10/2 dated 02.08.2009 addressed to the Ministry, had requested for upward revision of UDF as under:

a) If 28.54% hike in Landing, Housing and Parking Charges is allowed:
Domestic UDF @ Rs.450/-plus taxes and International UDF @ Rs.2840/-plus taxes.

b) If 28.54% hike in Landing, Housing and Parking Charges is not allowed:
Domestic UDF @ Rs.450/-plus taxes and International UDF @ Rs.2918/-plus taxes.

4.2 The aforesaid request was transferred by the Ministry for the Authority's consideration in October, 2009. Upon scrutiny of the application, Authority, observed that the auditor's certificate for classification of assets was not available and the methodology of calculation of UDF was not clear. The Authority, vide its letter no.AERA/20010/ HIAL-DUF/2009-10 dated 09.12.2009, requested HIAL to furnish the above information at the earliest.

4.3 In accordance with the decision taken in the meeting held with Airport Operators on 03.12.2009, the Authority referred the UDF proposal of HIAL to the consortium led by M/s.Pricewaterhouse Coopers Pvt Ltd (PWCPL) for immediate scrutiny and advise. Additional information was also sought from HIAL.

4.4 The additional information sought for the determination of UDF was furnished by HIAL and the same was shared with PWCPL. A number of meetings were also held in January-February, 2010 in this regard where PWCPL briefed about different scenarios on the basis of assumptions made on:

a. Till to be adopted

b. Return of Equity

c. Traffic forecast

d. Treatment of additional capital investment (of Rs.442 crores undertaken by HIAL at the project implementation stage)

4.5 It was specifically observed that the Ministry of Civil Aviation earlier had approved the proposal of HIAL for additional investment to the tune of Rs.442 crores (at the project execution stage) subject to the following conditions:

a. It will not require any additional contribution from stakeholders;

b. There will not be any additional liability to the user. No additional UDF will be considered on this account;

c. All the works may be taken through competitive bidding process.

4.6 However, before the Authority could take a view in the matter through stakeholder consultation, HIAL, vide letter no nil dated 12.02.2010, requested that the case may not be processed further at that juncture.

5. Subsequently, the Ministry vide its letter No.AV.20014/003/2006-AAI dated 09.08.2010, conveyed that the conditions imposed by the Ministry vide its letter of even no. dated 02.04.2008 on the investment of Rs.442 crores at Hyderabad Airport stand withdrawn.

6.1 HIAL vide its letter dated 18.08.2010, submitted an application for revision in UDF seeking approval of the Authority for revised rates of Rs.500/- per departing domestic passenger and Rs.2825/- per departing international passenger, w.e.f. 01.09.2010, excluding service tax. HIAL stated that the UDF proposed by them has been worked out on single till basis and has been calculated for five years including last two completed years. In short, HIAL has requested that over a five year period UDF should be adequate to give them a fair rate of return on their asset base. HIAL also furnished clarifications vide emails dated 08.09.2010; 13.9.2010; 15.09.2010, 18.09.2010, 21.09.2010 and 22.09.2010 in response to the queries raised by the Authority.

6.2 HIAL has worked out the proposal on single till basis. It has been calculated based on the figures furnished for a period of 5 years (FY 2008-09 to FY 2012-13). It has stated that the revenues from Cargo, Ground handling and Fuel throughput charges have been classified under aeronautical revenue whereas the rental revenues from Cargo, Ground handling and Fuel farm have been treated as non-aeronautical. HIAL has justified the treatment considering that the rental revenue in general is non-aero revenue and rentals are derived from provision of infrastructure unrelated to nature of underlying business.

6.3 HIAL has also furnished an auditors certificate in connection with the agreed upon procedures, concepts and principles behind the bifurcation of assets and operating expenditure in to Aeronautical and Non-Aeronautical.

6.4 The proposal is based on the following further assumptions (as made by HIAL):

(i) A 10% increase in landing and parking charges, year on year, over the regulatory period;

(ii) Charge of Rs.4000 per landing for aircrafts with capacity of less than 80 seats;

(iii) Reduce the discount of 15% on landing and parking charges for domestic scheduled airlines, if payment is made within credit period of 15 days, to 2%.

6.5 In the clarification dated 13.09.2010, HIAL has, inter-alia, stated that:

(i) A hotel asset existing in the books of account of HIAL has been demerged through a 100% owned subsidiary namely GMR Hotels & Resorts Ltd. The capital cost of the hotel has not been assumed in the asset base. Revenues and cost of the same have been excluded from the projections of HIAL.

(ii) As per scheme of demerger, an amount of Rs.110 crores was treated as equity investment of HIAL in the subsidiary whereas an amount of Rs.140 crores was considered as unsecured loan extended by HIAL.

(iii) The unsecured loan of Rs.140 crores is considered as received from the subsidiary and repaid to the existing lenders during the year 2010-11.

(iv) There is no land cost associated with the hotel. However, HIAL will charge a lease rent of Rs. 35 per sq. mtr. per month for the land occupied by the hotel (i.e. 7.03 acres).

(v) The total project cost of HIAL including hotel is Rs.2920 crores, which consists of Rs.2120 crores loan and Rs.800 crores equity and quasi equity. The bifurcation of equity and loans is as follows:

Equity and Loans	Rs in Crs.
Equity	378
Interest Free Loan from GoAP	315
Advance Development Fund Grant	107
Total Equity	**800**
Term Loan 2005	960
Term Loan 2007	718
Additional Term Loan required	442
Total Debt	**2120**

(vi) Concession fee (payable @ 4% after 10 years) is an expense for each financial year and the same is accounted for on accrual basis as per the accounting standards.

(vii) The inflation figures in the original proposal dated 18.08.2010 have been changed to correct factual errors, as pointed out by the Authority. The new WPI increase comes to 5.33% pa which has been incorporated in the revised calculation.

(viii) Dividends in general do not form part of the core activity (airport operations) of the airport operator and should not be included in tariff calculation. Telecom Disputes Settlement and Appellate Tribunal (TDSAT) has in an Order dated 30.08.2007 held that dividends do not constitute part of Adjusted Gross Receipt (AGR).

(ix) LPH charges have been taken as per existing rates for the year 2010-11 and the 10% escalation has been considered, year on year, starting from 2011-12.

(x) The reduced discount of 2% on domestic LPH has been considered w.e.f. 01.11.2010.

(xi) Similarly, a landing charge of Rs.4000/- per landing for aircraft with less than 80 seats has been considered w.e.f. 01.11.2010.

(xii) The revenue share from the Cargo has been considered as aeronautical revenue whereas Rs. 5.77 crores without any escalation has been considered as rental revenues and considered as Non Aeronautical revenue.

Based on the above HIAL revised the proposal and requested for approval for levy of UDF at the revised rates of Rs.500/- per domestic departing domestic passenger and Rs.2987/- per departing international passenger, exclusive of service tax, w.e.f. 01.11.2010.

7. The Authority took note of the following:

(i) The Authority has not yet taken a final position in respect of economic regulation of airports. Therefore, the tariff determination in respect of the Hyderabad International Airport would take time. In the interim, the revenue enhancement through UDF could be considered, on an ad-hoc basis. In case this is not considered, the target revenue could be higher at the time of tariff determination.

(ii) The assumption made by HIAL, for a year on year, 10% increase in aeronautical charges cannot be considered, at present, as it would tantamount to the Authority's approval for such revision in aeronautical charges. The Authority, in due course, would be required to prescribe aeronautical tariff for the regulatory period of five years and this may or may not translate into year on year increase of 10%.

(iii) As regards, the levy of Rs.4000/- landing charges proposed to be charged on aircrafts with less than 80 seats, it is observed that such aircrafts are fully exempted from payment of landing charges, as per present practice, even though the landing charge is leviable according to weight based rates. Therefore, the proposal to withdraw the exemption and instead levy a charge of Rs.4000/- per landing is in effect reduction in 100% discount (or exemption) to the level proposed. As such, this is a purely commercial decision of the airport operator subject of course to the condition that the charge proposed (i.e., fixed rate of Rs.4000/-) is within the weight based rates. Authority does not wish to be a party to this decision.

(iv) As regards, the reduction in discount for payments made within the credit period, from 15% to 2%, it is again a purely commercial decision of HIAL.

(v) The nature and quantum of discounts is essentially a commercial decision of HIAL. Further, in the present case, HIAL has indicated that the discounts are proposed to be reduced w.e.f. 01.11.2010. The additional revenue on account of such reduced discounts can be, accordingly, considered towards target revenue calculation.

8. In the light of the position noted in para 7 above, the submissions made by HIAL, along with the workings were examined by the Authority.

9.1 **Regulatory Asset Based (RAB) -** HIAL has indicated that it has taken the fixed assets values from its fixed asset register. Further, it has also indicated that allocations to the Regulatory Asset Base (RAB) have been made based on avoidable cost principle. A detailed concept note certified by Statutory Auditors, has been furnished. According to HIAL, depreciation has been considered as per the rates prescribed in Companies Act, 1956. HIAL has stated that a technical assessment of the assets has been undertaken to get the useful life of assets and the same shall be submitted at time of final tariff approval.

For the present, the value of initial RAB of Rs.2173.60 crores, as submitted by HIAL has been considered. The Weighted Average SLM depreciation rate calculated from HIAL submission works out to around 4.65%.

9.2 **Weighted Average Cost of Capital (WACC) -** HIAL, has taken the cost of equity of 24% in the calculation (as per the assessment made by M/s. Jacob Consultancy). For cost of debt, HIAL has considered the same as per actual borrowing rate for the year 2010-11 which is projected @ 11% for the year as rate is floating in nature. HIAL have not considered any return on the Interest Free Loan. Further, the Advance Development Fund Grant has been removed from the WACC calculation as well as from the RAB.

It is to be observed that in the Consultation Paper No. 03/2009-10 dated 26.02.2010, the Authority has indicated that for determining WACC :

(i) It will consider cost of debt on actual basis; and
(ii) Cost of equity would be determined on CAPM basis.

Since, in the present case, the actual cost of debt for 2008-09 and 2009-10 is available and it can be reasonably estimated for 2010-11, 2011-12 and 2010-13, the same has been taken for calculation of UDF. As regards cost of equity, the HIAL is not a listed company. Therefore, beta (β) in case of HIAL is not readily available nor can it be easily determined. In the circumstances, following approach could be considered for the present:

(i) It is observed that the Government of Andhra Pradesh has, in the State Support Agreement, assured HIAL that the Interest Free Loan shall be adjusted pro-rata if required as a result of change to the Project Cost and so as to maintain equity interval rate of return at 18.33% (clause 2.3(b) of the agreement). Hence, it could be inferred that a equity return of 18.33% has been assured to HIAL. The cost of equity, therefore, could be taken as 18.33% for ad-hoc determination.

(ii) In respect of HIAL's request for revision in UDF so as to, inter-alia, ensure fair rate of return for the previous period (i.e., 2008-09 and 2009-10), it can be argued that the same would tantamount to retrospective revision in the rate of UDF that too broadly for a period (i.e., upto 01.09.2009) when the regulatory powers of the Authority had not been notified. On the other hand, it is to be observed that UDF is a revenue enhancing measure and the rate thereof is so determined so as to ensure a fair return to the airport operator on the RAB. Therefore, in a case where the operator has not been able to obtain a fair return on RAB and has in fact incurred loss, despite UDF, it is evident that UDF rate earlier determined was insufficient. In such a situation, it would be reasonable to so revise the rate of UDF, prospectively, so that the operator is able to obtain at least the minimum assured return for the entire period under consideration. The latter view is in consonance with one of the objectives that the Authority is minded to set for itself, i.e., ensuring viability of the airport.

Based on the above, the WACC was calculated as under:

Year	2008-09	2009-10	2010-11	2011-12	2012-13
WACC	9.42%	9.71%	9.65%	9.89%	9.86%

9.3 **Traffic Projections** – The traffic projections made by HIAL are based on a study made by the Madras School of Economics. The base case estimate of traffic has been projected as follows:

- 5 years average CAGR of 6.40% increase in Domestic Pax Traffic
- 5 years average CAGR of 7.60% increase in International Pax Traffic
- 5 years average CAGR of 5.42% increase in Domestic ATMs
- 5 years average CAGR of 6.31% increase in International ATMs

The Authority observed that the detailed assumptions and specifically the independent variables are not available and that the forecast made for the current year 2010-11 do not match with the actual traffic witnessed till now. Hence, it is not possible to accept the forecast made by HIAL, for the present. In view of this, the forecast for 2010-11, 2011-12 and 2012-13 could be as follows:

- 13.1% based on 10 year national average for Domestic Passenger Traffic
- 11.4% based on 10 year national average for International Passenger Traffic
- 12% based on passenger and ATM growth regression analysis for Domestic ATM Traffic
- 12% based on passenger and ATM growth regression analysis for International ATM Traffic
- 8.3% based on 10 year national average for Domestic Cargo Traffic
- 8.9% based on 10 year national average for International Cargo Traffic

9.4 **Revenue:**

9.4.1 **Aeronautical Revenue:**

(a) **Landing & Parking Charges**:

- A 10% increase in landing and parking charges year on year has been considered by HIAL in their proposal.
- Current discount of 15% prevailing as on date for Domestic Scheduled Landing has not been considered by HIAL. Instead HIAL has proposed to reduce the discount on all landing and parking charges for all domestic Scheduled Airlines paying within 15 days from the date of invoice to 2%. For the purpose of calculation HIAL has presumed that only 50% of customers will be availing this discount.
- Landing charges for aircrafts with less than 80 seat is currently exempted for Domestic Landing, will be charged Rs. 4,000.

As stated in para 7 (ii) above, no year on year increase in landing, parking or housing charges is being considered, presently. Further, keeping in view the position indicated in para 7 (iii), (iv) and (v), the additional revenues estimated on account of reduced discounts are being accepted.

(b) **Passenger Service Fee (PSF)**: Present charge of Rs.70 per departing passenger (towards facilitation component) remains unchanged.

(c) **Current UDF:** The current UDF net of Service Tax @ Rs. 340/- for domestic passenger and @ Rs.907/- for international passengers has been taken by HIAL for calculations/estimates up to 31.10.2010. The revised UDF is assumed to be applicable from 1st November 2010 and upto 31st March 2013.

(d) **Cargo:** Revenue share from the Cargo has been considered as aeronautical revenue.

(e) **Ground Handling**: Revenue share has been considered as aeronautical revenue.

(f) **Common Infrastructure Charges**: Rs. 70 domestic with PBB, Rs. 48 Domestic without PBB, Rs. 110 International per departing pax as aeronautical charge, remains unchanged.

(g) **Fuel Farm**: Revenue from Fuel Throughput Charges has been considered @ Rs. 670/kl.

(h) **Dividend** - As indicated in para 6.5 (viii) above, HIAL has stated that the dividend should not be included in tariff calculation and has submitted an extract of an Order passed by TDSAT to support the same. While giving the extract from the TDSAT Order, HIAL has not provided the citation thereof. The Authority is informed that the issue of computation of gross revenue as well as adjusted gross revenue has been deliberated upon by TDSAT in more than one judgement. For example, in the judgement given on 26th August, 2008 (Petition No. 129(c) of 2007) in the case of Tata Sky Ltd. Vs Government of India and TRAI), TDSAT has dealt with the issue of income arising from activities other than those for which a particular licence was granted under Section 4 of Indian Telegraph Act. Based on the power derived by the Government of India to grant a particular licence (Telecom or DTH), TDSAT had passed the relevant Order holding that the income from activities of licensee which are not part of the licensed activities cannot be included in gross income for purposes of calculating licence fee. It is thus clear that the TDSAT has held that the income generated out of non-licensed activities should not be taken as part of the gross revenue as Government has privilege only over the licensed activities, in view of the provisions of the Section 4 of the Indian Telegraph Act. In the case of airports, however, the legislature has specifically provided that while determining the tariff for aeronautical services, "**the revenue received from services other than aeronautical services**" has to be taken into consideration. Since the UDF is being determined so as to ensure a fair return on RAB (after taking into consideration the revenue received from aeronautical and non-aeronautical services), it would only be reasonable to include the dividend income in the revenues of HIAL.

(i) **Land Lease Rental from Hotel subsidiary** – HIAL charges a lease rent @ Rs.35/- per square meter per month from the hotel subsidiary in respect of 7.03 acres of land. But this has not been included in the revenues by HIAL. It is observed that while hotel asset has been excluded from the RAB the Authority has not taken a final view on the treatment to be given to the exclusion from RAB of such lands. Therefore, pending a decision of the Authority regarding final status of this land, the lease rental is being considered for UDF determination purposes.

9.4.2 Non Aeronautical Revenue:

(a) **Retail**-Considered, for the present, as per HIAL's submission which they have indicated as based on respective contracts

(b) **Duty Free**-Concession for operating the Duty Free is managed by M/s.HDFR Limited (100% subsidiary of HIAL). Based on arrangement, the revenue share is considered by HIAL at 14% on Gross Sales for the first year (2010-11) and 15% for second year and 16% of Gross Sales thereafter. This is being considered for the present.

(c) **Office Space**- Considered as per respective agreements as indicated in HIAL's submission, for the present.

(d) **Food & Beverage**-Considered as per respective contracts as indicated in HIAL's submission, for the present.

(e) **Cargo Rentals**- As indicated in HIAL's submission, Rs. 5.77 crores without any escalation has been considered as rental revenues based on signed agreement, for the present.

(f) **Ground Handling**: Rental income considered as per HIAL's submission, for the present.

(g) **Fuel Infrastructure Recovery** - has been considered as indicated in HIAL's submission at the prevailing rate without escalation, for the present.

Considering that the current exercise is for ad-hoc determination of the UDF, the assumptions and submissions made by HIAL in respect of the non-aeronautical revenue at (a) to (g) above, are being accepted for the present. Further, since, the UDF is being determined on single till basis, the bifurcation of revenue streams into aero and non-aero does not impact the determination.

9.5 Operating Cost:

(a) **Salaries**: HIAL has stated that the real increase in salaries has been taken at 6% pa and inflation @ 7.80% pa. However, as stated in para 6.5 (vii) above, the WPI increase has been subsequently corrected to 5.33%. HIAL has assumed an increase in manpower by 10% when the capacity reaches to 9 mppa.

For the present, a nominal escalation in salaries over WPI @ 3% and the additional manpower increase @ 10% for every 3 million increase in passengers has been assumed.

(b) **Power Cost**: HIAL has indicated that there is likely to be increase in power cost by GoAP in year 2010-11. Thereafter, power cost has been assumed to increase by inflation of 5.33% pa, for the present.

(c) **Security Cost**: As indicated in HIAL's submission, increase in manpower numbers by 5% has been considered for every increase in pax by 1.5 million. Real increase of 3% and inflationary increase of 5.33% as been taken for future years on manpower cost.

(d) **Consultancy Charges**: As indicated in HIAL's submission, real increase in consultancy charges is taken as 3% pa and inflation of 5.33% pa.

(e) **Repair and Maintenance**: As indicated in HIAL's submission, after every increase in pax by 1.5 million, an increase of 5% is taken. In addition, an yearly increase of 8.30% pa is taken in costs.

(f) **Insurance Charges**: Insurance charges are increased by inflation of 5.33%pa.

(g) **Rent & Rates Property Tax**: Increase is taken by 5.33%pa.

Projections in respect of operating cost are being accepted for the present (with changes indicated above) subject to detailed assessment at the final determination stage.

10. To summarise:

(i) No year on year increase in LPH charges is being considered. However, additional revenue on account of reduced discounts has been considered.

(ii) The assumptions and submissions made by HIAL in respect of the Non-Aeronautical Revenue streams have been broadly accepted, for the present.

(iii) All interest and dividend income from subsidiaries and other investments have been considered as revenues.

(iv) Rental income from hotel land has also been considered.

11. As indicated in para 2.1 above, as per the CA, the HIAL will be allowed to levy UDF w.e.f. airport opening date, duly increased in the subsequent years with inflation index. In a communication dated 21.09.2010, HIAL have confirmed that they have made the application *"for enhancement of UDF keeping in view the provisions of AERA Act and also considering clause 10.2.4 of the GHIAL concession agreement wherein we seek AERA's approval on UDF as per framed regulations. As AERA's final tariff regulations are not yet in place, we have sought an appropriate ad hoc*

determination from AERA. For the purpose of this adhoc UDF determination we have not factored an inflation index on UDF (Schedule 6 of CA)." It is observed that:

(i) The determination of UDF is being made on the economic justification basis.

(ii) The operating expenditure of HIAL has been duly indexed for inflation in this determination.

(iii) A fair return is being ensured even for the previous period, i.e., for 2008-09, 2009-10 and 2010-11 (upto 31.10.2010), while determining the revised rate w.e.f 01.11.2010.

Keeping in view the above, it is clear that the impact of inflation is duly considered in the present determination and there is no case for separately indexing the UDF for inflation as contemplated under the concession agreement.

12. Keeping in view the position explained above the proposal for revision of UDF, w.e.f 01.11.2010, was reworked and the following options emerged:

Option No.	**HIAL - UDF Calculations reworked (excluding applicable taxes) -** *(Existing UDF @ Rs.340/- departing domestic pax and Rs.907/- departing International Pax)*			
	Domestic (Rs.)	Incremental Domestic (Rs.)	International (Rs.)	Incremental International (Rs.)
I	400	60	1714	807
II	420	80	1656	749
III	440	100	1598	691
IV	450	110	1569	662

13. UDF is considered a measure of revenue enhancement. From this perspective, the UDF rate was worked out based on the five year details submitted (for FY 2008-09 to 2012-13) by HIAL, recognizing the fact that the UDF rate would have to be finalized at the tariff determination stage.

14. The Authority in its Nineteenth Meeting (No. 13/2010-11) held on 23.09.2010 considered the proposal of revision of UDF at Hyderabad Airport and proposed that the rate of UDF may be revised w.e.f 01.11.2010, purely on ad-hoc basis, @ Rs.420/- per embarking domestic passenger and @Rs.1656/- per embarking International passenger, exclusive of service tax, based on the figures for the period 2008-09 to 2012-13, subject to stakeholder consultation.

15. A Consultation Paper No.07/2010-11, placing the proposal in para 14 above for stakeholder consultation, was issued on 23.09.2010 with the last date for submission of comments by 07.10.2010. A stakeholders' consultation meeting was also held at Hotel Novotel, Hyderabad, Shamshabad on 29.09.2010. Minutes of the meeting were

uploaded on the website of the Authority on 01.10.2010. Minutes of the meeting are placed at **Annexure-I.**

16.1 Comments on the Consultation Paper No.07/2010-11 were received from the following stakeholders:

(i) Central Government (Ministry of Civil Aviation) (No.AV/20036/028/2004-AAI (Vol.IV) dated 12.10.2010

(ii) Bengaluru International Airport Ltd. (letter No.Nil dated 07.10.2010)

(iii) Mumbai International Airport (P) Ltd. (letter No.MIAL/PR/172 dated 07.10.2010)

(iv) GMR Hyderabad International Airport Ltd. (letter No.Nil dated 05.10.2010)

(v) Association of Private Airport Operators (letter No.APAO/CP-07-2010-11/UDF/GHIAL dated 07.10.2010)

(vi) International Air Transport Association (letter No.Nil dated 07.10.2010)

(vii) Federation of Indian Chambers of Commerce & Industry (email dated 07.10.2010)

(viii) Embraer Asia Pacific Pvt. Ltd. (letter No.Nil dated 07.10.2010)

(ix) Shri Satish – Juniper (email dated 27.09.2010)

The comments received from the stakeholders were uploaded on the Authority's website on 13th October 2010 vide Public Notice No. 09/2010-11 with a request that any stakeholder desirous of making any comments/ submissions in respect of the stakeholder's comments may do so by 20.10.2010.

16.2 The comments of Federation of Andhra Pradesh Chambers of Commerce and Industry, submitted vide their letter no. FAPCC/President/2010-11/781 dated 07.10.2010 inadvertently remained to be uploaded. Further, NACIL furnished their comments on Consultation Paper No.07/2010-11 vide its letter no. Nil dated 19.10.2010. The APAO, vide email on 21.10.2010, submitted their comments in respect of stakeholders comments uploaded vide Public Notice No.09/2010-11.

17.1 The comments received from the stakeholders have been examined. The stakeholders have broadly commented on the following issues:

(i) Issue of Till

(ii) Classification of revenues and adherence to the Concession Agreements

(iii) Cost Of equity

(iv) Traffic Forecast

(v) Central Government's views on discount & landing charges for less than 80 seater aircrafts

(vi) Treatment of Dividend income / Real Estate Income

(vii) Keeping Hotel out of Regulatory Base

(viii) Lease rentals from Hotel

(ix) Retroactive consideration of HIAL's financial performance

17.2 For ease of reference and understanding, the stakeholder comments have been tabulated. These comments and point wise comments/position of the Authority thereupon are placed at **Annexure-II.** These may be read as part of this Order.

17.3 It is clarified that the Comments/ position of the Authority as at **Annexure II** are made with reference to the present proposal only.

18.1 HIAL, vide their submission dated 05.10.2010, have, inter-alia, requested for certain corrections to be made to the UDF workings on the basis of the following:

(i) Change in the Operating Cost base from 2009-10 (taken by the Authority) to 2010-11 (as per HIAL filing)

(ii) Exclusion of Interest on amount recoverable from the Hotel subsidiary

(iii) Advertisement revenue taken erroneously as also inclusion of income in form of non-refundable deposits not furnished in their earlier submission.

(iv) Double counting of dividend income

(v) Accounting of Aero Express Bus Service for the year 2008-09 as the same was hived off as a separate JV w.e.f 01.04.2009

(vi) Unidentified difference in landing and parking charges estimated by the Authority

(vii) Ground handling area and escalation of ground handling rent to be corrected.

HIAL has submitted that the cumulative impact of the above corrections is Rs.621/- per international passenger (keeping the domestic UDF constant at Rs.420/-). HIAL has revised the worksheets accordingly wherein the UDF works out to Rs.420/- per domestic passenger and Rs.2849/-per international passenger (excluding taxes) with a request to approve the UDF rates on ad-hoc basis w.e.f 01.11.2010.

18.2 The detailed comments of the Authority on the issues raised by HIAL (as indicated in para 18.1 above) are given in **Annexure-II**. Broadly, it is the Authority's understanding that the aforesaid differences are arising mainly as HIAL is taking 2010-11 estimates as firm figures. It is reiterated that the figures of 2010-11 are only estimates and therefore, Authority proposes to continue with its approach of taking actuals of 2009-10 to estimate the figures in respect of 2010-11 and 2011-12 and 2012-13. After reconciliation the UDF rate has been worked out as Rs.430/- per domestic passenger and Rs.1700/- per international passenger, exclusive of service tax, on an ad-hoc basis w.e.f. 01.11.2010 (details at **Annexure III**). Authority is conscious that on a detailed assessment, including a bottoms up analysis of all revenues and expenditures, the UDF rates presently determined may need to be altered. This exercise will be undertaken at the final determination stage.

19. Having perused the records and upon due consideration of all facts, circumstances and submissions made by the stakeholders, the Authority passes the following Order.

ORDER:

20. In exercise of powers conferred by Section 13(1)(b) of the Act read with rule 89 of the Aircraft Rules, 1937, the rate of User Development Fee (UDF) to be levied at the Rajiv Gandhi International Airport, Hyderabad is revised to Rs. 430/- (Rupees Four Hundred and Thirty only) per embarking domestic passenger and Rs.1700/- (Rupees One Thousand Seven Hundred only) per embarking International passenger (exclusive of service tax, if any), purely on an ad-hoc basis, with effect from 01.11.2010 based on the figures for a period of 5 year. This ad-hoc determination would be reviewed at the stage of tariff determination for the first cycle and thereafter at such intervals as the Authority may determine, from time to time.

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By the Order of and in the Name of the Authority

(Sandeep Prakash)
Secretary

Hyderabad International Airport Pvt. Ltd.,
GMR HIAL Airport Office
Shamshabad,
Hyderabad – 500 409
(Through : Shri Kiran Kumar Grandhi, Managing Director)

ANNEXURE - I

F. No. AERA/20010/HIAL-UDF/2009-10/Vol-II
Airports Economic Regulatory Authority of India
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Minutes of Stakeholder Consultation Meeting held on 29.09.2010

Subject: Consultation Paper containing AERA's proposed decision on the proposal of HIAL to revise the User Development Fee (UDF) at GMR Rajiv Gandhi International Airport, Hyderabad by GMR Hyderabad International Airport Limited (Consultation Paper No.07/2010-11 dated 23.09.2010).

A stakeholder consultation meeting was convened by the Authority on 29.09.2010 at 1100 hrs, at Novotel Hotel, RGI Airport, Shamshabad, Hyderabad to elicit the views of the stakeholders on the Consultation Paper No 07/2010-11 issued by the Authority setting out its proposed decision in respect of the proposal of GMR Hyderabad International Airport Limited (HIAL) to revise the UDF rate at Rajiv Gandhi International Airport, Shamshabad. The list of participants is at Annexure-I.

2. Chairperson, AERA welcomed the participants. Touching briefly on the proposal submitted by HIAL, Chairperson stated that HIAL had made a request for revising the UDF rates being levied at their airport from the existing rate of Rs.340/- per departing domestic passenger and Rs. 907/- per departing International passenger to Rs.500/- per departing domestic passenger and Rs. 2987/- per departing International passenger w.e.f 01.11.2010 (single till, in accordance with the position taken by the Authority in the Consultation paper, which is under discussion). The Authority, while examining the proposal made three major changes in the assumptions made by HIAL, i.e., in respect of the traffic forecast, cost of equity and WPI. Based on the above, the proposal was reworked and four options emerged. The Authority, on balance, is minded to approve the option II i.e., Rs.420/- per departing domestic passenger and Rs. 1656/- per departing International passenger (excluding service tax) w.e.f 01.11.2010. Chairperson also clarified that this revision is proposed based on the figures for 5 years, i.e., 2008-09, 2009-10, 2010-11, 2011-12, 2012-13. The closing year has been inadvertently mentioned as 2013-14 in the Consultation Paper, which may be corrected and read as 2012-13.

3.1 Shri Sidharath Kapur, CFO-Airports, GMR Group made a presentation, inter-alia, highlighting the significant milestones achieved by the airport since its inception to its commissioning, the infrastructure created, benefits it has provided to the airlines and the passengers, positive passenger feedback and the socio-economic benefits it has delivered to the State of Andhra Pradesh.

3.2 The presentation, inter alia, covered the proposal submitted by HIAL and highlighted following issues where it felt that there was a variance from the approach adopted by the Authority and requested the Authority to consider the same before

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finalizing the levy of UDF. The points of variance highlighted during the presentation are as follows:

(a) The operating cost numbers as projected by the Authority seem to be based on 2009-10 numbers. However in HIAL's filing they had taken 2010-11 as the base because:

- The forecasted operating expenses of 2010-11 filed by HIAL are based on annual budgets prepared by the company and approved by board.
- The 2009-10 operating expenses relate to a period wherein most of the equipment were under warranty/defect liability period and as such do not reflect the trend going forward. The operating costs in 2010-11 are higher due to expiry of defect liability period .
- Landside security related expense which were earlier part of PSF (SC) have become part of costs of HIAL in 2010-11. This is as per the latest guidelines of Ministry of Civil Aviation.

(b) Authority has assumed interest income on the amount receivable from the Hotel JV (Loan). It has been considered from the effective date of hive off i.e. 1st April 2009 till March 2011. However this is not a correct treatment as Hotel assets are not part of RAB in HIAL's UDF filing and also in the Authority's computations.

(c) Advertisement Revenue taken by Authority is based on earlier submission to AERA (Jan'2010). However in HIAL's current filing in August 2010, the numbers were amended and submitted based on renegotiated contract, which has not been considered.

(d) Double Counting of Dividend Income: In HIAL's submission (hard copy) dated 18th August 2010, Dividend Income was included in the revenues. However in HIAL's explanation dated 13th September 2010, HIAL had clarified about non inclusion of the dividend income in the filing (revised excel sheet was furnished which has not been taken on board). The Authority appears to have added dividend income again in earlier excel working sheet. This misunderstanding has resulted in double counting of dividend income.

(e) The AERO EXPRESS Bus service: Revenues and expenses of the AERO Express appear to have been excluded from the audited financials of 2008-09. The AERO Express was hived off as a separate JV w.e.f. 1st April 2009. As such the income and expenses of the same for the year 2008-09 need to be considered for UDF calculation.

(f) There is an unidentified significant difference in Landing and Parking charges estimated by the Authority and the same needs to be identified and corrected.

(g) The Ground Handling area taken by the Authority is from HIAL's earlier January filing. However in the current filing in Sept 2010, the revenues are less as significant area was surrendered by Ground Handlers. Also the escalation in ground handling rent has to be at the rate of 5% instead of 10%.

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3.3 Shri Sidharath Kapur stated that if the above submissions/amendments were to be made, the same would result in a further increase of Rs.700/- in the revised (proposed) International UDF rate (keeping the domestic UDF rate same as Rs.420/-) in the UDF rate proposed by the Authority.

3.4 Shri Sidharath Kapur stated that HIAL was granted inadequate interim UDF at the opening of the airport, which has resulted in a loss of Rs.120 crores in 2008-09 and Rs 109 crores in 2009-10 (as per audited accounts). There was a severe downturn in economy resulting in dip in air traffic since start of airport operations at HIAL and the airport is financially bleeding due to continuous losses. He stated that as on March 2010, accumulated losses aggregated Rs. 294 crores against equity and reserves of Rs.485 crores indicating erosion of net worth by more than 50%. Hence debt servicing will be impacted at present levels of UDF leading to defaults and consequential collateral damage. However, despite incurring these losses, HIAL did not compromise on meeting its performance standards and enhancing infrastructure to the benefit of airlines and passengers. He stressed that in order to enable HIAL to continue to maintain globally benchmarked performance standards enhancement of UDF is critical. Since financial and operational viability of the airport needs to be ensured which is an enshrined objective of AERA under its guiding legislation, he requested the Authority and stakeholders to consider the request made by HIAL for revision in the UDF rates favourably.

3.5 Shri Sidharath Kapur further stated that the current filing by HIAL is 'adhoc' in nature pending finalization of regulatory principles by the Authority. Hence their submission on any issue or principle in this filing may not be regarded as a suggestion or a recommendation towards the final regulatory principles. He also stated that the HIAL shall be submitting a detailed reply to the Consultation Paper before the due date.

4. Chairperson, AERA clarified that that the difference in the UDF rates arrived at by HIAL and the Authority is on account of the three major changes made to the parameters relating to traffic forecast, cost of equity and WPI adopted by HIAL. The traffic projections made by HIAL are based on a study made by the Madras School of Economics. The Authority had observed that the detailed assumptions and specifically the independent variables were not available and that the forecast made for the current year 2010-11 did not match with the actual traffic witnessed till now. Hence, the Authority adopted the 10 year national average rates for passenger, ATM and cargo movements. Further, HIAL had proposed 24% as cost of equity whereas the Authority has taken 18.33% as cost of equity based on the State Support Agreement between HIAL and Government of Andhra Pradesh. In any case, the Authority would verify the submissions of HIAL. Any errors or omissions would be taken on board and a further revision in the proposed revised UDF rates, if required, would be considered while finally deciding the present proposal. Chairperson also requested the stakeholders to apprise the Authority specifically about their views on fair rate of return on equity and the traffic forecasts.

5.1 The representative of NACIL, Ms.Vinita Bhandari, ED (I), stated that their comprehensive views on the proposal shall be submitted to the Authority before the due date ie., 07.10.2010. However, she stated that while the revised UDF rates may improve the viability of the airport, any increase may discourage the air passengers, which could eventually lead to drop in traffic growth.

5.2 The representative of Jet Airways stated that RGI Airport provides good infrastructure. However, as the market is just picking up after a severe downturn, HIAL should not insist on higher charges.

5.3 FIA representative Shri.Ujjwal Dey, while appreciating the infrastructure at the new airport, stated that any increase in UDF may lead to a dip in the passenger traffic affecting both the airlines and the airports. He also stated that the equity return for airlines is considerably lower and in a case where passenger traffic drops due to increase in passenger related charges the cash flows of the airlines would be adversely impacted. Further, which determining the benchmark rate for RoE, the Authority should take into consideration the fact that the airport operators get significant revenues from non-aero services where returns /margins are much higher than the returns available from aero services.

5.4 Representative of Blue Dart Aviation, Ms.Tulsi Mirchandaney, commended HIAL for setting up a world class infrastructure and facilities. She stated that an airport should operate on spirit of inclusion viz. it should give equal weightage to the passengers and the cargo. Unfortunately, cargo services are not being given due consideration. Ms.Mirchandaney opined that the Authority should have decided on the discount being offered by HIAL while computing the UDF rates. By her view, the 10% year on year escalation in LPH charges was not justified as WPI was much lower.

5.5 Shri.K.Damodharan, Advisor, Regulatory Affairs, Association of Private Airport Operators Association (APAO), appreciated the excellent infrastructure and initiatives taken by the airport. He felt that the airport needs to be remunerated with a reasonable return in order to ensure that it continues to maintain globally benchmarked performance standards. In his view, the cost of equity of 24% proposed by HIAL was reasonable.

5.6 The representative of Kingfisher airlines commended the world class infrastructure provided at the Hyderabad airport. However, in his view, any increase in UDF is likely to adversely impact the air traffic which has just started picking up.

5.7 The representative of Indigo airlines supported the views expressed by FIA.

5.8 Mr.Paul Smith, CEO, Hyderabad Menzies Air Cargo Pvt.Ltd., stated that the return of 18.33% proposed by the Authority in arriving at the UDF rate revision is insufficient. He opined that there is a lumpy investment and high risk in an airport business. Upon specific query from the Chairperson about what rate of return would be considered by him as fair he stated that a project return (return on investment) of 20-24% should be considered. The Chairperson, at this juncture stated that this would translate into a return on equity (RoE) of 30% to 38% based on a debt equity ratio of 50:50. Mr.Smith stated that this will be correct and fair.

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5.9 The representatives of FIEO, FICCI and FAPCCI stated that their detailed comments would be furnished within the deadline set by the Authority.

5.10 Member (Finance), AAI stated that this being an 'ad-hoc' UDF determination, HIAL should not withdraw the exemption on landing charges for less than 80 seater aircrafts nor should the discount rate on LPH charges (for domestic landing) be revised from 15% to 2%, at this stage. Further, by way of levy of direct passenger charges such as UDF, a part of the risk on account of air traffic is being directly passed on to the airport operator.

5.11 Shri. Ajay Mishra, Principal Secretary (I&I), representing the State Government of Andhra Pradesh, stated that the on the issue of return on equity, the State stands by what has been provided in the State Support Agreement, i.e., 18.33%. Further, while the view point of airlines is understandable, the State Government broadly supports higher UDF to ensure viability of the world class infrastructure created at the Hyderabad airport.

5.12 Shri Oma Nand, Under Secretary, representing the Ministry of Civil Aviation stated that the approach suggested by the Authority for economic regulation of airport, specifically the issue of "regulatory till", is under active consideration of the Central Government for giving its views. Pending the same, the Central Government would request the Authority to decide the subject proposal, purely on an ad-hoc basis. Further, the Ministry would give its views on the withdrawal of exemption to less than 80 seater aircrafts and the reduction of discount from 15% to 2% proposed by HIAL in its written submissions.

5.13 Representative of ASSOCHAM stated that the HIAL deserves good return on investment as it has created world class facilities.

5.14 Shri Kiran Kumar Grandhi, Managing Director, HIAL stated that the airport had been set up only after commitments made by the State Government and the Central Government. He mentioned that at the development stage the traffic was robust and the planning and designing of the airport was altered twice to cater to then expected higher traffic. However, after it's commissioning the passenger traffic dipped sharply. The passenger traffic at the new airport is likely to be 7 million in the current year, i.e., 2010-11 which was the closing traffic of the Begumpet airport in March,2008. The airport was granted an inadequate UDF as a result of which it has incurred losses in the last two years. Though the airport has taken steps to maximize its revenues and reduce its costs, in order to enable HIAL to continue to maintain globally benchmarked performance standards enhancement of UDF is critical at this stage. Accordingly, Shri Kiran requested the support of all the stakeholders.

6.1 Secretary, AERA clarified that the proposal is for an ad-hoc revision of the existing UDF rates. The Authority has not considered the issue regarding the 10% year on year increase in LPH charges as it would amount to tariff determination. He also pointed out that:

(i) As per present practice, the aircraft with less than 80 seats are fully exempted from payment of landing charges, even though the landing charge is leviable according to weight based rate. Therefore, the proposal to withdraw the exemption and levy a charge of Rs. 4000/- per landing is in effect reduction in 100% discount (or exemption) to the level proposed. In so far as the proposed fixed rate of Rs. 4000/- is within the weight based rates, the withdrawal of exemption is a purely commercial decision of the airport operator.

(ii) Similarly, the reduction in discount for payment made within the credit period, from 15% to 2%, is a purely commercial decision of HIAL. Authority would again not like to go in to this question at this stage for same reasons as in (i) above.

The Authority is minded to adopt a price cap approach to the airport charges on passenger yield basis. The discounts offered by the airport operator are within the yield (so decided by the Authority) and result in returns (i.e., return to the airport operator) lower than those decided by the Authority. In this view of the matter, the Authority is of the opinion that it would not like to interfere with such commercial decisions of the operator in so far as the operator maintains the integrity of the cap. The Secretary also pointed out that, in the present case, if the reduced discounts are not taken into account, the UDF would have to be revised upwards further.

6.2 Secretary also requested the stakeholders to furnish their views on what should be the correlation between the airline related charges (landing, parking etc) and passenger related charges (UDF, DF, PSF) as also distribution of UDF levy between the domestic and international passengers.

7. In his concluding remarks, Chairperson, AERA thanked all stakeholders for their active participation and requested them to furnish their comments / views on the Consultation Paper by 07.10.2010 so as to ensure the revision of UDF takes effect from 01.11.2010. Any further delay in the process would affect the viability of the airport and also increase the incidence of the levy on the passengers.

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Annexure -I

to Annexure -I

List of Participants :

Airports Economic Regulatory Authority of India

1. Shri Yashwant Bhave, Chairperson - in Chair
2. Shri M.P. Vijayakumar, Member
3. Shri Sandeep Prakash, Secretary
4. Shri C.V.Deepak, OSD-II
5. Shri Praveen Jain, Sr.PPS

Government of Andhra Pradesh

6. Shri Ajay Mishra, IAS

Ministry of Civil Aviation

7. Shri Oma Nand, Under Secretary

Airports Authority of India

8. Shri S.C. Chhatwal, Member (Finance)

GMR Hyderabad International Airport Ltd

9. Shri Kiran Kumar Grandhi, Managing Director, HIAL
10. Shri Sidharath Kapur, CFO Airports, GMR Group
11. Shri K. Narayan Rao, Director
12. Shri G.R.K. Babu, CFO HIAL
13. Shri Madhukar Dodrajaka, AGM
14. Shri Ankur Sethia, AGM

National Aviation Company of India Ltd

15. Mrs. Vineeta Bhandari, ED (I)
16. Shri K.S. Reddy

Jet Airways

17. Shri Gautam Acharya, General Manager
18. Shri U. Shenoy, General Manager
19. Roopali, Duty Manager

InterGlobe Aviation Limited (Indigo)

20. Shri B. Raghunath Singh, Manager (Customer Relations)

21. Shri Tarajit Singh, Manager (Customer Relations)

Kingfisher Airlines

22. Shri Salim Chaudhary , Airport manager
23. Bala PS, Finance Manager

Hyderabad Menzies Air Cargo Pvt. Ltd

24. Shri. Paul Smith, CEO
25. Shri Prashant Nimgade, VP Finance
26. Shri M.Balasubramanyam, Head Operations

Association of Private Airport Operators (APAO)

27. Dr. K.V. Damodharan, Advisor – Regulatory Affairs

Blue Dart Aviation Ltd

28. Ms. Tulsi Nowlakha Mirchandaney , Managing Director
29. Shri P.K. Srichandan

Federation of Indian Airlines (FIA)

30. Shri Ujjwal Dey, Sr. Executive Officer

Federation of Indian Chambers of Commerce and Industry (FICCI)

31. Shri Akhilesh Maharkar, Director – AP State Council

Federation of Andhra Pradesh Chambers of Commerce and Industry

32. Shri Shekhar Aggarwal, President

Federation of Indian Export Organization (FIEO)

33. Shri Dhanajay Sharma, AD

ANNEXURE II

PROPOSAL OF REVISION OF UDF AT RAJIV GANDHI INTERNATIONAL AIRPORT BY GMR HYDERABAD INTERNATIONAL AIRPORT LTD. COMMENTS RECEIVED FROM VARIOUS STAKEHOLDERS IN RESPONSE TO CONSULTATION PAPER NO.7/2010-11 DATED 23.09.2010.

S. No	Name of the Stakeholder	Comments given by Stakeholder	Comments / Position of the Authority
1	**Central Government (Ministry of Civil Aviation)**	(1) The Ministry is already seized of the larger issue of deciding the regulatory till / framework. The views of the Ministry would be conveyed to AERA on finalization of the issue.	(1) The Authority had issued a Consultation Paper No. 03/2009-10 on 26.02.2010 indicating therein the positions/ approach proposed to be taken by it, inter-alia, in respect of economic regulation of major airports. The issue of regulatory till was specifically highlighted therein. Ministry of Civil Aviation had indicated that it would furnish its views in the matter before July, 2010. There has been correspondence as well as discussions between the Ministry and the Authority thereafter. The views of the Ministry are still awaited.
		(2) The Ministry had issued orders regarding exemption to small aircraft (less than 80 seats) from landing, housing, etc. and discounted rates for making payment by the airline operators. These instructions are applicable universally to all airport operators and tinkering with these instructions in respect of one airport would lead to discrimination and open a pandora's box. As such, the Ministry is examining these issues separately and would convey its views to AERA in due course.	(2) As indicated in para 7(iii) and (iv) of the Order, the Authority is of the view that provision of discount, within the rates approved by the regulator, is a purely commercial decision of the airport operator and the Authority, therefore, does not wish to be a party to such a decision. In other words, the Authority while estimating the revenues for the relevant airport operator would adopt the approved rates as such (as has been done in the present case) and not the approved rates net of discount.
		(3) AERA should take into consideration the views of the Ministry, as mentioned above, while determining the UDF for Rajiv Gandhi International Airport at Hyderabad.	(3) The Ministry has referred to the issue of regulatory till and the discounts offered by the airport operators as at (1) and (2) above, without presently indicating its views on both the issues. Further, the present proposal is only for revision of UDF and that too purely on an ad-hoc basis.

S. No	Name of the Stakeholder	Comments given by Stakeholder	Comments / Position of the Authority
			Therefore, it is understood that the Ministry expects the Authority to take on board its views on the issues highlighted by it, as and when finalized and indicated to the Authority, and not at the present stage of purely ad hoc determination.
2.	**Bangalore International Airport Limited (BIAL)**	(1) The Authority should adopt a more non-discretionary approach while determining adhoc UDF applications rather than adopting unilateral approach of 'Single Till'.	(1) HIAL has proposed the revision of UDF on single till basis, subject to its position that the matter of regulatory till should be finalized on a dual till/hybrid till basis in respect of Hyderabad airport. HIAL itself having submitted the proposal on single till basis, the averments of BIAL that the Authority has adopted a discretionary or unilateral approach appears to be devoid of merit. Secondly, the position of the Authority regards adopting single till was arrived at after wide consultations and giving reasons for the same vide Consultation Paper of 26th February, 2010. On this ground also, it cannot be said that the decision of the Authority regards single till has been discretionary or unilateral.
		(2) BIAL has concerns over the scope of regulatory framework and its likely impact on the contracts that have already been entered into with the service providers. Citing the provisions in the extant agreements, viz the Concession Agreement and the State Support Agreements , BIAL states that these signal the intent of the Government for a fundamental separation of aero and non-aero revenues and have submitted that any approach of considering single till position will be in disagreement with Concession Agreement.	(2) As per article 10.2.1. of the Concession Agreement entered into between the Central Government and HIAL, airport charges specified in Schedule 6 (regulated charges) shall be consistent with ICAO policies. UDF is one of the regulated charges mentioned in the said Schedule 6. Therefore, only requirement of the Concession Agreement is that the determination of UDF should be consistent with the ICAO policies. It is Authority's considered view that the single till approach is totally consistent with the ICAO policies. Therefore, the position that the single till position will be in disagreement with Concession Agreement is incorrect and unacceptable. In any case, the Authority has already indicated that

S. No	Name of the Stakeholder	Comments given by Stakeholder	Comments / Position of the Authority
			it will consider the effect of concession agreements at the stage of tariff determination.
		(3) The Authority must ensure that all agreements including the concession agreements, state support agreements etc entered between the airports and the stakeholders should be considered grandfathered and these agreements should not be respected only in the first review period, but for the entire tenure of the agreement.	(3)Comments at sl.3(1) below may be seen. For the reasons mentioned therein the Authority is of the opinion that the provisions of concession agreements with the Central Government are relevant for determination of UDF. In accordance with position stated at (2) above, the Authority would take a final view in the matter at the stage of final determination. However, there is no requirement for the Authority, statutory or otherwise, to consider agreements other than the concession agreements with the Central Government for the purposes of determination of Tariff or UDF.
		(4) The Authority should consider appropriate cost of equity considering the severities of Indian Airports as well as many additional risks specific to Indian aviation market with more clarity rather than adopting a lower rate of 18.33% as provided in the state support agreement.	(4) As stated in para 9.2 of the Order, HIAL is not a listed company. Therefore, beta in case of HIAL is not readily available nor can it be easily determined. In these circumstances, Authority has proposed to adopt a equity rate of return of 18.33% assured to HIAL in terms of clause 2.3(b) of the State Support Agreement entered between the Government of Andhra Pradesh and HIAL. In this regard, following position also needs to be highlighted : (i) Jacob Consultancy has proposed a post tax cost of equity of 24.12% (on standardized D/E value) for HIAL on the basis of nominal risk free rate of 7.7%, equity beta of 1.5 and market risk premium of 11%. On the other hand the cost of equity on current D/E value has been estimated as 37.8% with equity beta of 2.74. (ii) As per a report dated 26.11.2007 of Meryll Lynch, the equity beta for HIAL was estimated to be

S. No	Name of the Stakeholder	Comments given by Stakeholder	Comments / Position of the Authority
			1.0. With risk free rate of 8% and equity risk premium of 5.5%, Meryll Lynch had estimated the cost of equity in respect of HIAL to be 13.5%. It would be relevant to note here that this report was prepared when the Hyderabad airport project was under implementation when the risk perception would have been higher than the risk perception after the airport has been operationliazed. (iii) As per the Monthly Review (October 2010) of Indian Industry prepared by the Centre for Monitoring Indian Economy (CMIE), the equity betas of three listed airlines, namely, Jet Airways (India), Spicejet and Kingfisher Airlines were 1.33, 1.53 and 1.71, respectively. It is commonly accepted that the beta of airlines is higher than that of the airports. (iv) Risk relates to the possibility that expected returns may not actually materialize. In the present case : (a) Pursuant to the opening of the new Hyderabad airport, the old airport at Begumpet has been closed. (b) The company has been assured a levy of user development fee on the date of opening of the airport. This assurance has been implemented by the Government of India. Further, the Authority is revising the UDF (approved by the Government) to ensure fair rate of return to HIAL. While doing so the Authority is also taking into consideration the losses suffered by the company in two previous financial years, i.e., 2008-09 and 2009-10 despite levy of UDF. In other words, by way of levy of UDF, a fair return on capital is being assured to HIAL. Keeping in view the above, it would appear that the request for higher cost of equity for HIAL, considering the "severities of Indian airports as well as additional risks specific to Indian aviation market"

S. No	Name of the Stakeholder	Comments given by Stakeholder	Comments / Position of the Authority
			may not be justified and the risks, if any, are at least being over stated. However, the Authority is not yet in a position to take a final view in the matter and therefore considers it appropriate to adopt the rate assured in the SSA by the Government of Andhra Pradesh.
		(5) The Authority must consider the independent consultant reports and recommendations on traffic forecasts as these reports are done independently and are supported by historical data and current & future trends	(5) As indicated in para 9.3 of the Order the Authority has not been able to accept the traffic projections made by HIAL based on a study conducted by Madras School of Economics, inter-alia, as the detailed assumptions and specifically independent variables are not available and that the forecast made for the current year 2010-11 do not match with the actual traffic witnessed till now. This position is reiterated.
		(6) The Authority should take out real estate income and dividend income from the purview of the till approach and the provisions of the AERA Act should not be misinterpreted as being in favour of Single Till. Further, as per ICAO policies it is appropriate for airport to retain non-aeronautical revenues and Single Till can be contrary to the objective of cost relatedness and user pays principle.	(6) The Authority's position in respect of regulatory till has been spelt out clearly in the Consultation Paper No. 3 of 2009-10 dated 26.02.2010. Authority is of a considered view that single till is the most appropriate position for regulation of Indian airports. This view of the Authority is in consonance with the provisions made in section 13(1)(a) of the AERA Act wherein it has been provided that while determining the tariff for aeronautical services, "(v) the revenue received from services other than aeronautical services" has to be taken into consideration. The pure dual till approach which does not take non aeronautical revenue into consideration, while determining the tariff for aeronautical services appears to be, therefore, statutorily ruled out. Further, it is also relevant to note that the quoted provision was introduced in the

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			Act in response to the recommendations made by the Department Related Standing Parliamentary Committee (133rd Report). Further, if the intention of the legislature would have been for the regulator to consider only part of the non aeronautical revenue while determining the tariff for aeronautical services (as is the case under hybrid till based regulation) the aforesaid provisions could have been worded as under: "(v) the revenue received from services other than aeronautical services or part thereof" In the circumstances, it appears that as per the provision of the AERA Act, 2008, the dual till based regulation is ruled out and hybrid till based regulation is not intended. It is also incorrect to state that single till is contrary to the ICAO policies. In fact, the Authority's reading of the ICAO guidance in the matter (specifically the position stated at page 4-15 of ICAO Doc 9562/2) is that: (i) ICAO clearly recognizes that non aeronautical revenue are generated by the passengers. (ii) ICAO accepts contribution of non aeronautical revenue to defray the cost base for charges. (iii) ICAO prefers aeronautical charges to be lower for which there may be solid grounds to defray the charges through non aeronautical revenues.
		(7) Treatment and classification of various revenue streams into Aero and Non-Aero – provisions of concession agreements need to be respected by the Authority.	(7) AERA Act gives clear definition of aeronautical services. As such these services will need to be treated as aeronautical services. As regards the classification of revenue generated by the services defined as aeronautical services under the AERA Act, prima facie, there is no warrant to consider such revenue as non aeronautical revenue on the basis of

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			alleged provisions of the Concession Agreements. It would also be relevant to state here that HIAL itself has proposed the exclusion of hotel asset from the RAB. However, the exclusion of the land underlying the same has not been proposed. Since the land remains in the RAB of HIAL, it is only reasonable to consider the income arising from such land in the revenue of HIAL.
3	**Mumbai International Airport Pvt. Ltd (MIAL)**	(1) The Authority is required to determine UDF under Section 13 (1) (b) of the AERA Act and there is no mention of matters to be taken in to consideration while determining UDF unlike as specified in S 13 (1) (a) (i) to (vii). Therefore, MIAL is of strong view that determination of UDF under section 13 should be based on dual till only.	(1) The Authority is required to determine the rate of user development fee (UDF) in respect of major airports in terms of powers conferred under section 13(1)(b) of the AERA Act read with rule 89 of the Aircraft Rules, 1937. The aforesaid provisions do not lay down any guidance on the factors which need to be taken into consideration by the Authority while determining the rate. Therefore, the Authority needs to take into consideration such factors as it may consider relevant for due discharge of its powers. The Authority has clearly indicated that it considers UDF to be a revenue enhancing measure to ensure economic viability of the airport operations. The UDF rate has to be so determined so as to enhance the revenue to a level where the airport operators is able to obtain a fair return on the capital employed on weighted average cost of capital basis. The revenue enhancement is obviously over and above the revenue available to the airport through determination of tariffs in accordance with Section 13 of the Act. One of the requirements thereof is to take into account the revenues from services other than aeronautical services. Therefore, in effect the determination of UDF is dependent on the determination of tariff for aeronautical services under section 13(1)(a). In view of this, the Authority is of the opinion that the factors listed under section

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			13(1)(a) are relevant for the purposes of determination of UDF as well. However, this is not to say that for UDF determination these are the only factors which need to be taken into consideration. As stated in the stakeholder consultation meeting held at Hyderabad on 29.09.2010 factors such as correlation between the airline related charges and passenger related charges as also distribution of levy between the domestic and the international passengers etc. would also be relevant. In view of the above, the determination of UDF has to be made in line with the approach proposed in respect of determination of tariff for aeronautical services.
		(2) MIAL has a strong view on the classification of aeronautical and non-aeronautical services listed by HIAL as they find some of the services wrongly classified. Further, wherever there is a difference in the classification as per the AERA Act, 2008 and Concession Agreements, the treatment thereof should be such as to put the airport operator economically at par with provisions of the concession agreement.	(2) The "aeronautical services" are defined under section 2(a) of the AERA Act. The Authority has made the classification in accordance with the provisions of the AERA Act. In case, there is any conflict between the provisions of the statute and any agreement, the statutory provisions have to be given effect.
		(3) MIAL disagrees with the decision of the Authority over the Cost of Equity, as it depends on risk profile of each airport and it should be calculated after taking into consideration various risk factors.	(3) Position as stated at sl. 2(4) above may be referred.
		(4) The Tariff Forecast figures prepared by the Madras School Of Economics should not have been rejected for want of assumptions and independent variables and HIAL could have been asked to submit	(4) Position as stated at sl. 2(5) above may be referred. Further, HIAL has even at this stage not supplied the Authority the assumptions and independent variables.

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		the same.	
		(5) MIAL is not in agreement with the treatment of land lease rental in the till and feels that the same may need to be reviewed.	(5) Position as stated at sl. 2(7) above may be referred.
		(6)The Authority has reduced cost of overall debt by considering zero cost for the Interest Free Loan advanced by the Government of Andhra Pradesh, which virtually tantamounts to taking away the benefit given to the airport by State Government.	(6) The State of Andhra Pradesh has given an interest free loan of Rs. 315 crores to the HIAL. While calculating the cost of debt, Authority in line with its position that it would defray actual cost of debt, has taken the cost of interest free loan as zero. If instead of interest free loan, this had been subsidy, RAB would have been reduced by this amount. It is thus incorrect to say that due to this, the benefit given by the State government has been taken away as the assets made out of the interest free loan are included in the Regulatory Asset Base (RAB) on which a return is being allowed to the operator on WACC basis.
4	**International Air Transport Association (IATA) -**	(1) IATA agrees with the concept of a UDF but is opposed to a difference in fees between domestic and international departing passengers that has been proposed. ICAO's Airport Economics Manual (Doc 9562 Paragraphs 4.26 – 4.29) provides a reasonable basis for allocation of costs between international and domestic traffic that is based on space usage. It has been urged that a similar basis that stands up to scrutiny be used for determining the relative proportions of international and domestic UDF.	(1) There is a merit in IATA's suggestion that the difference in rate between domestic and international departing passengers should be decided on a reasonable basis. The Authority had, on its own, specifically placed this issue for stakeholder comments in the stakeholder consultation meeting held on 29.09.2010 (para 6.2 of the minutes refer). However, till date no other stakeholder has furnished any views or suggestions in the matter. In the circumstances, it is proposed to continue with the present position at this ad hoc determination stage. The Authority would take on board suggestions, which the stakeholders may give, at the time of final determination.

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		(2) IATA have opposed the retroactive consideration of HIAL's financial performance particularly for the period before the Authority's regulatory powers were notified. Since the Authority's regulatory powers only started from September 2009, it would appear from a time jurisdiction standpoint that circumstances before that should not be included for economic regulation by the Authority and without that clear time delineation, the floodgates would be open for airports to call for considerations for as far back a period as would work in their favour.	(2) The Authority has already taken note of this view and has considered the same while coming to its stated position. To reiterate UDF is a revenue enhancing measure and the rate thereof is so determined so as to ensure the fair return to the airport operator on the RAB. Therefore, in a case where operator has not been able to obtain a fair return on RAB and has in fact incurred losses despite UDF, it is evident that UDF rate earlier determined was insufficient. In such a situation, it would be reasonable to so revise the rate of UDF, prospectively, so that the operator is able to obtain at least a minimum assured return for the entire period under consideration. This view is also in consonance with the objectives of the Authority to ensure viability of the airports. Further, the approach adopted by the Authority would enable it to claw back any excessive returns which may have accrued to the airport operator in the past due to the UDF. It would also be relevant to observe here that the existing UDF rates were approved by the Central Government in 2008. Present exercise has been necessitated as the rates so approved were found to be inadequate.
		(3) IATA has welcomed AERA's rejection of HIAL's assumption for a year-on-year 10% increase in aeronautical charges and also agrees that UDF should not be separately indexed for inflation.	(3) Noted.
		(4) IATA feels that the cost of equity of 18.33% used in the computation of WACC is on the high side and	(4) Comments at sl. 2(4) above may be referred.

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		that AERA would carry out a more detailed analysis and make the necessary adjustment in the process of tariff determination for the first regulatory cycle. They also believe that assessment of WACC and the associated parameters needs to be carried out independently.	
		(5) IATA has stated that the aspect of efficiency was clearly omitted when assessing the escalation of operating costs and trusts that under the 'CPI-X' regulation, the efficiency factor would be duly considered when determining the yield cap for the first regulatory cycle.	(5) Noted.
		(6) A hotel site on airport land benefits from the core business activities of the airport and therefore should not be selectively excluded from the scope of the RAB.	(6) In the present case, the hotel business has been demerged by HIAL and a new company is running it. Further, the precedent of regulator in UK ring fencing the hotel business of BAA also supports the exclusion.
5.	**Embraer Asia Pacific Pte Ltd**	Private sector partners that constitute GMR HIAL entered in to financial commitments to invest billions of dollars at the airport without either clarity or transparency regarding the charging mechanisms it would subsequently be permitted to impose on users. The proposed levy should be rejected simply by virtue of its being devoid of any wide-spread public benefit, and more specifically, because its fails to consider whatsoever the impact of such an increase might have on India's myriad small airports.	It appears that this observation has been made with reference to reduction in discount offered by the airport operator on the landing charges on domestic landings and the aircraft seating 80 or fewer passengers. The Authority's views in this regard are stated at sl. 1(2) above.
6	**Hyderabad International**	(1) The Concession Agreement does not provide for single till basis and is based on an implied dual till.	(1) HIAL has submitted the present proposal on a single till basis. The Authority welcomes HIAL's

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	Airport Pvt Ltd (HIAL)	We are aware of AERA's predilection for the single till approach. Thus, keeping this fact in mind and also considering the current ad-hoc filing and need for expediency and avoidance of expected response from AERA to provide computation on single till basis in case computation were filed on dual till basis, current ad-hoc submission provided computation on single till basis as an interim measure.	approach of suo-motto conforming to the present position of the Authority with respect to single till. Further, the Authority does not find any provision in the concession agreement which provides that the aeronautical charges in respect of the Hyderabad airport would be decided on dual till basis. Only requirement of the concession agreement (article 10.2.1) is that the charges shall be consistent with the ICAO policies. There is no averment that the single till is not consistent with the ICAO policies. In fact as stated in response to sl. 2(6) above, it is Authority's understanding that a harmonious and complete reading of the ICAO guidance on the issue suggests a preference for single till.
		(2) Their submission in the ad hoc filing dated 18th August 2010 had taken cost of equity at 24% recommended as rational and logical as per M/s Jacobs Consultancy Report whereas the Authority has considered the Cost of Equity only @ 18.33% based on Clause 2.3(b) (i) of the State Support Agreement. This clause provides that GoAP uses the target equity IRR of 18.33% to adjust interest Free Loan (IFL) and does not prohibit earning of a higher reasonable equity return based on CAPM.	(2) Comments at sl. 2(4) above may be referred. It would also be relevant note that in the stakeholder consultation meeting held on 29.09.2010, the representative of Government of Andhra Pradesh stated that "on the issue of return on equity, the State stands by what has been provided in the State support Agreement, i.e., 18.33%". Further, the argument if taken at its face value, would mean that HIAL should first approach Government of Andhra Pradesh to upward adjust the interest free loan to arrive at target equity IRR of 18.33% before approaching the Authority for increasing the UDF. The Authority appreciates HIAL for raising this important issue and would further examine and finally decide the same at the stage of final determination.
		(3) The traffic at Hyderabad historically has followed a trend different from the all India growth. In the	(3) It is noted that HIAL has, in the interim, accepted the Authority's decision in the matter. Comments at

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		interim, HIAL has accepted AERA's stand with regard to traffic assumption with a request to give due credence to the study conducted by the Madras School of Economics for the final tariff determination.	sl. 2(5) above may also be seen
		(4) The existing discount rate of 15% for timely payment on domestic landings lacks financial rationale and needs to be corrected. The discount proposed by them @ 2% should be considered as part of price cap mechanism as it helps in making the industry healthy and improve the payment cycle thus strengthening the viability of the airport. Further, if a higher discount is "suggested" as part of the Government or Regulatory guidance, then the same should be included as part of price cap and appropriate upward adjustment in UDF made. (5) As regards the levy of Rs.4000/- landing charges on aircrafts with less than 80 seats, if the same is not allowed, appropriate upward adjustment in UDF should be made.	(4)&(5) Position stated in para 7(iii)& (iv) of the Order read with para 6.1(i) of the minutes of the stakeholder consultation meeting held on 29.09.2010 are reiterated.
		(6) HIAL have pointed out following corrections to be made to the UDF workings: a. Change in the Operating Cost base from 2009-10 (taken by AERA) to 2010-11 (as per HIAL filing) b. Exclude the Interest on amount recoverable from the Hotel subsidiary c. Advertisement revenue taken erroneously as also inclusion of income in form of non-refundable deposits not furnished in their earlier submission.	(6) (a) (d) & (f) It is Authority's understanding that the aforesaid difference are arising mainly as HIAL is taking 2010-11 estimates as firm figures. It is reiterated that the figures of 2010-11 are only estimates and therefore, Authority proposes to continue with its approach of taking actuals of 2009-10 to estimate the figures in respect of 2010-11 and 2011-12 and 2012-13. The double counting of dividend income has been removed. After reconciliation, the UDF rate has been worked out as Rs.430/- per domestic passenger

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		d. Double counting of dividend income e. Accounting of Aero Express Bus Service for the year 2008-09 as the same was hived off as a separate JV w.e.f 01.04.2009 f. Unidentified significant difference in landing and parking charges estimated by the Authority g. Ground handling area and escalation of ground handling rent to be corrected. HIAL has submitted that the cumulative impact of the above corrections is Rs.621/- per international passenger (keeping the domestic UDF static). HIAL has revised the worksheets accordingly wherein the UDF works out to Rs.420/- per domestic passenger and Rs.2849/-per international passenger (excluding taxes) with a request to approve the UDF rates on ad-hoc basis w.e.f 01.11.2010.	and Rs.1700/- per international passenger, exclusive of service tax, on an ad-hoc basis w.e.f. 01.11.2010. Authority is conscious that on a detailed assessment, including a bottoms up analysis of all revenues and expenditures, the UDF rates presently determined may need to be altered. This exercise will be undertaken at the final determination stage. (6)(b) HIAL has advanced a loan of Rs. 140 crores to the demerged hotel business. The notional interest on the same has been considered as a revenue for HIAL by the Authority in the present ad hoc determination. It is HIAL's case that the hotel is demerged and no return is being allowed to them in RAB on the corresponding portion. Therefore, notional interest may not be taken into account as revenue. However, the Authority is not in a position to appreciate, presently, : (i) As to why the hotel could not have directly raised this loan instead of HIAL advancing it to them; and (ii) The imputation of the loan advanced to the equity or debt raised by HIAL is also not possible to determine at this stage. In the circumstances the Authority reiterates its position for the present. (6) (c) & (g) These issues would be taken up at the stage of final determination after bottoms up assessment. (6) (e) Aero Express Bus Service is not a related activity of the airport. HIAL itself demerged this business from 2009-10 onwards. Therefore, on principle, the Authority does not find the proposal acceptable.
7	**Federation of Indian**	(1) The revision of UDF rates will definitely improve the financial conditions of the airport, but it may also	(1) (2) (3) (6) It would appear that FICCI supports increase of non

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	Chambers of Commerce & Industry (FICCI)	affect the passenger growth affecting both the airlines and the airports and that the airport may look for some other alternative source of incomes i.e. non-aeronautical revenues to increase their income.	aeronautical income so as to reduce reliance of the airport operator on the aeronautical revenues. In Authority's view, the single till approach without disincentivising the non aeronautical revenues, enables subsidization of aeronautical charges through non aeronautical revenues thus keeping the impact of higher charges on the passengers moderated.
		(2) Major airports in Europe are no longer mere infrastructure providers but have become fully fledged businesses. Faced with the necessity to finance their own operating and development costs, these major airports have diversified their sources of revenue, relying not only on the traditional aeronautical revenues made up of airport charges, but also increasingly on a variety of other revenues including retail, parking, real estate, etc.	FICCI has stated that major airports in Europe have diversified their sources of revenue and are relying on non aeronautical revenues "to finance their own operating and development costs". This is also the position of the Authority in adopting single till approach where all the revenues (both from aero and non aero services) are taken together to finance operating and development costs of the airports.
		(3) The declining airline economics have required airports to become more reliant on non-aeronautical revenues, with many airports deriving more than half of total revenues from such sources and this figure is increasing in a substantial number of airports and expected to even cross 70% in near future.	FICCI seems to suggest that in view of the declining airline economics, the airlines should not be burdened more than absolutely necessary. In short, the incidence of burden of charges on the airlines should be minimized. Coupled with its comment at (1), it would also like the passenger charges to also be moderated. FICCI has taken a nuanced approach in this regard. Single till addresses precisely both these concerns, yet maintaining a fair rate of return to the airport operator.
		(4) There is ample evidence that airport users are currently not paying the full cost of the infrastructure they use. Indeed airport users currently appear to be benefiting from an under-recovery of capital costs, at the expense of the owners of the airports.	(4) No data has been furnished to support this statement. Therefore, Authority is not in a position to comment upon the same. However, it would be seen that by ensuring a fair return on RAB the airport operator is assured that there would be no under recovery of capital cost.

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		(5) Moreover, increasing competition between airports results in a growing trend of cross-subsidisation between non-aeronautical and aeronautical revenues, to the benefit of the latter. This reflects the fact that today airports have no interest in overcharging airlines but rather seek to offer competitive charging levels to attract and retain traffic so as to secure future growth.	(5) As per the policy of the Government of India a new airport is not normally allowed within 150 kms distance of an existing airport. Therefore, in the Indian context the monopoly nature of the airports is further strengthened. The comments of FICCI do not seem to have taken into account this India specific position.
		(6) HIAL can look for further diversifying into various non-aeronautical activities with a view to reduce its dependency on airlines/ aeronautical revenues by innovative and result oriented airport marketing. This calls for timely and detailed forecasts to be undertaken to understand the traffic development so as to plan ahead for capital-intensive decisions such as expansion of terminals, construction of car parks, hotels, conference facilities and other commercial entities.	(6) The Authority is in full agreement with FICCI's view that HIAL should look for further diversifying into various non-aeronautical activities so that the surplus therefrom could be used to fund the airport capital needs. In fact, this could be a good template for funding capital investment at all airports.
		(7) In order to transform the current airport business model, HIAL need to adopt a customer-centric approach focused on enhancing the passenger experience. Since the airlines have control of today's passenger relationship, airports need to develop a strategy to engage the passenger in their end-to-end travel journey. In fact, the airports need to consider the passenger as a 'customer.' This is a real opportunity for airports to transform their current airport business model that will result in increased non-aeronautical revenues."	(7) The Authority is in agreement with the position that passenger interest should be the basic anchor for economic regulation of airports. Keeping this in view the Authority is minded to adopt the single till approach which keeps the charges on a lower side. The Authority is also in agreement with FICCI's approach of recognizing the importance of customer in increasing non-aeronautical revenues which is also in alignment with ICAO's guidance on this subject.

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8	**Association of Private Airport Operators (APAO)**	(1) UDF is to be determined under Section 13 (1) (b) of AERA Act and there is no specific mention of matters to be taken into consideration while determining UDF unlike as specified in Section 13(1) (a) (i) to (vii). Hence, the Authority should ensure adherence to concession agreements and APAO fundamentally disagrees with the philosophy of the Single Till for the Private major Airports with concession agreement.	(1) Comments at sl. 3(1) above may be referred.
		(2)APAO disagrees with the cost of equity taken by the Authority as they feel that it depends on the risk profile of each airport and the same should be calculated after taking into consideration various risk factors and have also submitted that the Authority should not disregard the report submitted by internationally renowned consultants such as Jacobs Consultancy.	(2) Comments at sl. 2(4) above may be referred.
		(3) APAO, also disagrees with the approach of the Authority on the Traffic Forecast projections and feels that the non availability of detailed assumption and the independent variables and a short term growth trend should not be a reason for rejection of such a scientific study by a reputed institute.	(3) Comments at sl. 2(5) above may be referred.
		(4)APAO have also stated that the classification is not in conformity with Concession agreement and APAO is of the view that in case there is a difference between AERA Act an concession agreement relating to classification of some services as either	(4) Comments at sl. 3(2) above may be referred.

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		Aeronautical or Non-aeronautical Services, treatment thereof should be such so as to put airport operator economically at par with provisions of concession agreements	
		(5) The Authority in their proposal has included dividend income in tariff calculations. APAO have submitted that the dividend income is not revenue received on account of the licensed activities of airports and hence these should be excluded for the purpose of computation of Gross Revenue / Tariff calculation.	(5) Position stated in para 9.4.1(h) of the Order is reiterated.
		(6) Land lease rental has been included by the Authority for UDF determination. APAO states that even though on an ad hoc basis, this needs to be reviewed and taken out of the Till.	(6) Comments at sl. 2(7) above may be referred.
		(7) Landing charge for aircraft less than 80 seats: APAO has agreed with the position taken by Authority. However, APAO notes from the Authority's comments that airport operators need not seek Authority's approval either for discontinuing or reducing such concessions which is purely a commercial decision of the respective airports.	(7) Comments at sl. 1(2) above may be referred.
		(8) APAO has submitted that the interest free loan has been extended by state Government to encourage development of Greenfield airport. However, while calculating WACC, the Authority has reduced cost of overall debt by considering zero cost for this debt which is equivalent to taking away all the benefit	(8) Comments at sl. 3(6) above may be referred.

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		given to the airport by State Government. APAO has requested the Authority to recognize the fact that any specific concessions or benefits available as part of Concession agreement to the investors, the same should be respected and the benefit should be made available to the Organization.	
9	**The Federation of Andhra Pradesh Chambers of Commerce & Industry (FAPCCI)**	(1) FAPCCI have submitted that the working of the PPP model must be in such a way that the project and the entrepreneur do not suffer a loss and they must get adequate returns on their investment and also on the services offered by them.	(1) Comments at sl. 4(1) above may be referred.
		(2) As regards the return on equity FAPCCI feels the same could be worked out most logically and rationally by the Authority.	(2) Comments at sl. 2(4) & 6(2) above may be referred.
10	**National Aviation Company of India Ltd. (NACIL)**	(1) The levy would be extremely detrimental to the growth of passenger traffic and instead of augmenting revenues for the airport, it could result in lowering of revenue with lesser passengers coming in due to proposed increase in UDF.	(1) There is some merit in the argument that the increase in UDF may be detrimental to the growth in passenger traffic. Therefore, the Authority has by adoption of single till moderated UDF through non aeronautical revenue.
		(2) There is need for clarification regarding the facilities towards which the additional investment of Rs.442 crores has been utilized by HIAL which was initially to be made without any liability on the user and which has been withdrawn in August 2010, without stating any valid reasons.	(2) At the time of expansion of the airport project during execution stage the Government had permitted additional investment of Rs. 442 crores subject to the following conditions: (i) It will not require any additional contribution from stakeholders. (ii) There will not be any additional liability to the user. No additional UDF will be considered on this account.

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			(iii) All the works may be taken through competitive bidding process. However, according to the Ministry of Civil Aviation letter F. No. AV.20014/003/2006-AAI dated 9.08.2010, the Ministry on a re-examination has withdrawn the same. Authority has taken on board this position and has not gone into the reasons thereof. However, on a broad basis, it is the considered view of the Authority that the airport operator should be allowed a fair return on the investments made by it and which have been included in the RAB.
		(3) NACIL has stated that the cost of construction of the hotel should not form part of overall costs incurred on the airport, which have been included in the RAB by HIAL. Further, the interest on the amount given as loan to the Hotel should be considered as income for HIAL. Further, NACIL have also stated that any expenses or revenue of the Hotel for 2008-09 should also not be considered while determining UDF from the date of inception of the hotel and all costs and revenues incurred for the Hotel in 2008-09 should, hence, not be part of the initial cost of the airport hotel.	(3) The hotel asset except the land underlying the same has been demerged from HIAL. Further the interest on the amount given as loan to the hotel entity is, for the present, being considered as the income of the HIAL.
		(4) Citing the huge cost of the building constructed by HIAL for its Office, NACIL has commented that details of construction cost needs to be provided since unnecessary additions to assets and costs are increasing the financial burden and thus the demand for increase in UDF.	(4) The capital expenditure incurred by HIAL would be taken up for a detailed review at the final determination stage.

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		(5) NACIL has submitted that the equity internal rate of return of 18.33% considered by the Authority is unreasonable considering the long term capital investment perceived for an airport and therefore, a rate of return equivalent to airlines industry needs to be followed which is never in the range of 18-24%. The balance sheet of HIAL reflects that debt to equity is in the ratio of 5:1 , hence the cost of debt should be taken as cost of equity.	(5) Position stated in para 9.2 of the Order is reiterated.
		(6) NACIL is of the opinion that the cost audit of the expenses incurred on the project by HIAL vis-à-vis their reasonableness needs to be confirmed based on cost audit.	(6) The capital expenditure incurred by HIAL would be taken up for a detailed review at the final determination stage.
		(7) As regards the proposal for levy of landing charges on aircraft less than 80 seats, NACIL has submitted that the same should be treated as part of increase in landing and parking charges and considered once the regulatory period is over during tariff determination. NACIL feels that no additional 10% increase in landing and parking charges should be provided to HIAL.	(7) & (8) Comments at sl. 1(2) above may be referred.
		(8) NACIL has further stated that if a discount of 15% on payment of landing and parking charges is allowed, financial burden on the airline would increase, thus affecting airline viability. Moreover, as single till concept is being followed, distinction between aero and non-aero revenues is pointless and both need to be considered to calculate deficit/loss.	

S. No	Name of the Stakeholder	Comments given by Stakeholder	Comments / Position of the Authority
		(9)As regards the Aero Express Bus service, NACIL feels that since the expenditure has been incurred in 2008-09 and the same has been hived off as a separate JV from April 2009, no income or expenses of the same should be considered from the start. (10) NACIL has agreed that the traffic projections based on National Average are seemingly correct and the same should be considered.	(9) This has already been done by the Authority. (10) Noted.

Hyderabad International Airport Limited **Annexure -III**

UDF Calculation per departing passenger - Domestic @ Rs.430/-, International @ Rs.1700/-

All numbers are in Million Rs							
			2008-09	2009-10	2010-11	2011-12	2012-13
Aeronautical Revenue		AR	2,777	3,384	4,293	5,492	6,148
Non Aeronautical Revenues		NAR	997	1,246	1,145	1,136	1,258
Admissible Capital Base		C	21,736	21,769	21,563	20,552	19,420
O&M cost Aeronautical		OMA	1,788	1,554	1,719	1,884	2,053
O&M cost Non Aeronautical		OMNA	452	454	465	498	540
Depreciation		D	1,034	1,085	1,127	1,132	1,132
Tax payable		T	-	-	-	-	-
WACC			9.42%	9.71%	9.65%	9.89%	9.86%
Discount Factor			1.20	1.10	1.00	0.91	0.83
WACC x RAB			2,048	2,114	2,082	2,032	1,914
Aggregate Revenue Requirement ARR = WACC x RAB + OMA + OMNA + D + T			5,322	5,207	5,393	5,547	5,639
Target Revenue R = AR+NAR			3,774	4,630	5,437	6,628	7,406
Target Deficit TD = E - R			1,548	577	(44)	(1,081)	(1,767)
NPV of target deficit		0	1,859	633	(44)	(984)	(1,464)
Domestic departing Pax					1.13	3.07	3.47
International departing Pax					0.40	1.07	1.19
UDF Incremental Revenue - Domestic					102	276	312
UDF Incremental Revenue - International					316	845	941
Net Incremental revenue - UDF					418	1,121	1,254