

Airports Economic Regulatory Authority of India

**In the matter of Provision of Compensation in lieu of Fuel Throughput Charges at
Cochin International Airport**

19th May, 2020

**AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003**

AERA



1. Introduction

The Airports Economic Regulatory Authority (AERA) is a statutory body constituted under the Airports Economic Regulatory Authority of India Act, 2008 vide Gazette Notification dated 5th December 2008. The AERA was established by the Government, to create a level playing field and foster healthy competition among major airports, to encourage investment in airport facilities, to regulate tariffs for aeronautical services etc.

2. Functions of AERA

The main functions of AERA are:

1. to determine the tariff for the aeronautical services
2. to determine the amount of the development fees in respect of major airports
3. to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934 (22 of 1934);
4. 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. Back Ground

3.1 In accordance with the provisions contained in Section 13 of Airports Economic Regulatory Authority of India Act (AERA Act), 2008, the Authority determined aeronautical tariffs of Cochin International Airport under the regulatory principles for the second Control Period ie. 01.04.2016 to 31.03.2021 vide Order No. 07/2017-18 dated 13.07.2017.

3.2 As detailed in Table 32 under para 18.1.2 of the above said order, the Authority determined Rs.1596.17 as the total Aggregate Revenue Requirement (ARR) as per Regulatory Building Blocks for the entire period of second control period. Fuel Throughput Charge (FTC) was one of the aeronautical components to achieve this revenue requirement along with other aeronautical services such as Landing, Parking & Housing, PSF etc.

3.3 The Fuel Throughput charges as per the above tariff order considered by the Authority is given in Table-1 below:

Table - 1

	2017-18	2018-19	2019-20	2020-21
Fuel Throughput projected (in KL)	332044	368567.4	409108.3	454108.5
Charges per KL	936.53	976.58	1018.62	1062.75
Revenue (Rs in crores)	31.10	35.99	41.67	48.26



4. Ministry of Civil Aviation vide letter No.AV.13030/216/2016-ER (Pt.2) dated 08.01.2020 decided to discontinue the levy of Airport Operator Charge or Fuel Throughput Charge (FTC) in any manifestation at all airports. Para 4 of the said letter reads as follows:

“Keeping in view all aspects of the matter, in light of the need to uphold affordability and sustainability of air passenger and air cargo transportation as per the National Civil Aviation Policy 2016, it has been decided as follows:

- (i) Levy of airport operator charge or fuel throughput charge in any manifestation shall be discontinued at all airports, airstrips and heliports across India with immediate effect.
- (ii) AERA/ Ministry of Civil Aviation, as the case may be, should take into account the amount in this revenue stream and duly compensate the Airport Operator/ AAI by suitably recalibrating other tariffs during their determinations of airport tariffs.”

5. Considering the above policy decision of MoCA, the Authority vide letter No. AERA/ 20015/ FT/2010-11/Vol.II dated 15.01.2020 advised all “Major Airport Operators” to implement the above said MoCA letter with immediate effect. AERA also advised major airport operators to submit their proposal for compensation, if any, due to discontinuation of Fuel Throughput Charges for consideration of the Authority.

6. Accordingly, Cochin International Airport Ltd (CIAL) vide letter No. CIAL/FIN/AERA/ 2019-20 dated 24.01.2020 has submitted that CIAL had discontinued levy of FTC at Cochin International Airport w.e.f.15.01.2020. The revenue loss from 15.01.2020 to 31.03.2021 of the second control period calculated by CIAL is given in table 2 below:

Table – 2

Loss of Revenue due to abolishment of FTC as submitted by CIAL (Rs. In Lakhs)

	Method I	Method II	Method III
	Based on Co's approved Budget	Based on Traffic	Average of Method I & II
15.01.2020 to 31.03.2020			
International	348.24	536.02	442.13
Domestic	201.33	309.89	255.61
F Y 2020-21			
International	2394.86	2648.13	2521.5
Domestic	1384.55	1530.97	1457.76
	4328.98	5025.01	4677

6.1 CIAL has requested the AERA to compensate Rs.46.77 crores for the period from 15.01.2020 to 31.03.2021. To compensate the loss on account of discontinuation of FTC w.e.f. 15.01.2020, CIAL proposed to increase the landing charges of domestic airlines by 28% and international airlines by 38% for the period 15.01.2020 to 31.03.2020 and further 6% and 9% for the F Y 2020-21. The revised Landing charges proposed by CIAL is given in table 3 below:



Table – 3: Revised Landing Charges submitted by CIAL

For 15.01.2020 to 31.03.2020	Unit	Existing Rate	Proposed Rate
Landing Charges – International			
Up to 100 MT	INR per MT	387	497
Above 100 MT	INR per MT	38700+520 in excess of 100 MT	49687 + 668 in excess of 100 MT
Landing Charges – Other than International			
Up to 100 MT	INR per MT	281	387
Above 100 MT	INR per MT	28100+376 in excess of 100 MT	38717+518 in excess of 100 MT
For F Y 2020-21			
Landing Charges – International			
Up to 100 MT	INR per MT	406	540
Above 100 MT	INR per MT	40600+546 in excess of 100 MT	54048 + 727 in excess of 100 MT
Landing Charges – Other than International			
Up to 100 MT	INR per MT	295	411
Above 100 MT	INR per MT	29500+395 in excess of 100 MT	41135+551 in excess of 100 MT

7. Authority's Examination

7.1 The Authority carefully examined the proposal of CIAL in reference to the letter No. AV.13030/216/ 2016-ER (Pt.2) dated 08.01.2020 issued by MoCA. AERA in its tariff order No.07/2017-18 of CIAL had noted at para 18.4.6 that there could be an under recovery of ARR as per the tariff card proposed by CIAL. Vide the said order the Authority expected that CIAL would generate revenue from Landing and FTC during the second control period as detailed below:

	(Rs in crores)				
	2016-17	2017-18	2018-19	2019-20	2020-21
Revenue from Landing	62.80	98.63	113.76	131.26	151.49
Revenue from FTC	6.35	31.10	35.99	41.67	48.26

7.2 The Authority noted that in compliance to the tariff order no.07/2017-18, the expected shortfall in revenue from FTC for the period from 15.01.2020 to 31.03.2020 is Rs.8.68 crores and FY 2020-21 is Rs.48.26 crores. However, CIAL vide letter dated 24.01.2020, based on CIAL's budget and traffic trend, calculated an average shortfall of Rs. 46.77 crores and requested AERA to compensate the shortfall. AERA noted that the shortfall in revenue from FTC expected by CIAL is Rs.46.77 crores which is 30.87% of expected landing revenue of Rs.151.49 crores for FY 2020-21.

7.3 The Authority is of the view that FTC is one of the operating expenditure of airlines charged by Oil suppliers as a pass through expenditure. Airport Operators are charging FTC as a royalty in addition to land rent from oil suppliers. With the abolition of FTC cost of ATF is expected to get reduced to that extent and avoid cascading effect of taxes which in turn would benefit airlines. In view of above, the Authority proposed to



compensate this shortfall by increasing the landing charges by 30.87% during FY 2020-21.

8. The Authority considered the submissions made by CIAL and issued the Consultation Paper No. 22/2019-20 dated 05.03.2020 proposing the following for stakeholder consultation:

- (i) The Authority proposes to increase the Landing Charges at Cochin International Airport by 30.87% for FY 2020-21 to recover the shortfall of Rs. 46.77 crores.
- (ii) To true up revenue based on actuals while determining tariff for third control period.

9. Stakeholders Comments

In response to the Consultation Paper No 22/2019-20 dated 05.03.2020 the comments have been received from the following stakeholders:

9.1 Federation of Indian Airlines (FIA)

FIA stated that AERA should not implement increase of airport charges/tariff, of any nature whatsoever, due to the adverse financial impact on the airlines in the wake of Corona virus outbreak. FIA further submitted the following, in case AERA is desirous to implement any increase in airport charges:

- a) "firstly, the consultation paper may kindly be placed in abeyance till the aviation industry experiences normalcy and; and
- b) Thereafter, as and when the consultation exercise on the consultation papers are resumed, the following needs to be ensured."

- (i) Analysis on identification of tariff component for effecting amendments:- FIA stated that the consultation paper fails to provide any cogent reasons for CIAL's proposal to increase in landing charges instead of any other airport charges. The consultation paper ought to provide/discuss (a) whether airport operator has considered other aeronautical tariff components instead of landing charges for the purpose of seeking compensation? If yes, provide reasons for not proposing the same for tariff revision, along with any cost benefit analysis on such tariff component? (b) whether airport operator has considered compensation by way of revision of non-aeronautical sources? (c) AERA's scrutiny on revision of other tariff components including the alternate possibility of compensation through non-aeronautical sources.

FIA further submitted that the revision of tariff, if any, should be made only in the pass-through elements of the airport charges e.g. UDF, PSF-Facilitation etc. which will avoid any adverse impact on airline industry.

- (ii) FIA also submitted that AERA invited written submissions from stakeholders on the consultation paper without convening stakeholders meeting. FIA stated that AERA is bound to hold due consultation with the



stakeholders while discharging its functions in terms of Section 13(4) of AERA Act, 2008.

FIA also stated that there has been no stakeholder consultation on the issue of tariff adjustment pursuant to the abolishment of FTC by MoCA as stated in para 7.3 of the consultation paper. It is essential that a suitable stakeholders consultation meeting is convened by AERA, preferably for identifying a common tariff component.

9.2 International Air Transport Association (IATA):

IATA requested to defer any increase in airport charges as compensation in lieu of FTC for the remaining period of this control period due to outbreak of COVID-19 and consequential disruptions in the aviation industry. IATA also suggested that Airport Operators should equally play their role in this situation by lowering their profit expectations and help to provide the much-needed financial relief to airlines through reductions or rebates to airport charges.

9.3 Mumbai International Airport Ltd (MIAL):

MIAL has requested to consider the time value of the shortfall already suffered by the airport operator and the impact of annual escalation of FTC as per the agreement between airport operator and oil marketing companies.

9.4 Association of Private Airport Operators (APAO):

APAO stated that AERA while allowing the compensation should also consider the agreement between airport operators and the oil marketing companies, which provide escalation in charges, as applicable. APAO further stated that AERA should have considered the future value of shortfall suffered due to discontinuation of FTC and requested to implement the order w.e.f. 15.01.2020 to 31.03.2021.

9.5 **Bharat Petroleum Corporation Ltd.** stated that they have no objection to the proposal of AERA.

9.6 **CIAL:** CIAL has stated that they had proposed a hike of 28% and 38% for the domestic and international sectors respectively for the period 15.01.2020 to 31.03.2020 and further 6% and 9% for the F Y 2020-21. However the Authority in its Consultation Paper proposed a uniform hike of 30.87% w.e.f. 01.04.2020 which will reduce the compensation by Rs. 12 crores. CIAL has requested to implement the order w.e.f. 15.01.2020.

10. CIAL's view on stakeholders comments:

10.1 CIAL has commented that FIA and IATA had designed their response in such a manner that this increase is induced by the airport but the proposal is only meant to restructure the existing levies charged by the airport to airlines, which is primarily intended to benefit the airlines to avail additional benefit of GST input tax credit. The entire loss has not been ensured in the present proposal, which CIAL willingly accepted to forego during the balance period of this control period for the best interest of Aviation Industry.



10.2 CIAL appreciated the concern expressed by IATA due to outbreak of COVID-19, and stated that not only Airline Industry but Airports are also adversely affected by COVID-19. Further CIAL had faced devastating floods and consequent disruption of airport operations during the last two years and CIAL is still in the reviving process. Mandatory runway re-carpeting work also disrupted operation during this year. Too many business disruptions and simultaneous distortions in the approved aeronautical revenues in the form of withdrawal of FTC cannot be absorbed by CIAL.

10.3 Regarding the rationale for selecting Landing Charges instead of any pass through airport charges, CIAL stated that FTC was not a pass through charge of airlines like PSF and UDF and was required to be factored in its cost of operations. There is no mechanism to ensure that the abolished FTC has been passed on to the passengers by reduction in ticket fares, therefore, it is not proper to pass on the compensating charges to the passengers. Further CIAL stated that they have evaluated other tariff heads and concluded that landing charges shall be the most suitable tariff head as this is the only similar head which takes into consideration, the weight of the aircraft and the air traffic movement, on which the ATF fuel throughput charge is directly related.

10.4 Regarding conducting stakeholders consultation meeting, CIAL responded that, the FTC was withdrawn with immediate effect from 15.01.2020 without finalizing any compensation proposal and 2.5 months have already elapsed. Any further meeting shall result in further delay. Considering the several rounds of consultation with all the stakeholders by MoCA, the Authority would have been straight away issued the compensation order as each day of delay causes significant revenue loss to Airport and loss of GST input credit to Airlines.

10.5 CIAL further stated that, the discontinuation of a head of aeronautical revenue in the computed ARR cannot be compensated by non-aeronautical charges. The aeronautical tariff has been derived by considering the non-aeronautical revenue for the control period.

11. Authority's view on Stakeholder's Comments.

11.1 The Authority carefully examined the comments of stakeholders and is of the view that AERA had considered FTC as one of the aeronautical charges to recover the target revenue determined for 2nd control period i.e.01.04.2016 to 31.03.2021. The discontinuation of FTC from 15.01.2020 has created gap in actual revenue vis-a-vis target revenue as per tariff order. The present crisis due to COVID-19 outbreak has affected all the stakeholders across aviation industry and this may further reduce the recovery of ARR. Hence any delay in implementation of this order is not appropriate.

11.2 The suggestion of FIA to compensate by way of revising non-aeronautical tariffs may not be feasible as AERA is mandated to determine aeronautical tariffs only. AERA considers FTC as one of the aeronautical charges, hence, the shortfall can be compensated through aeronautical services only. FTC was a part of fuel cost for airlines and abolition of FTC and consequent avoidance of cascading effect of taxes has direct benefit for airlines, hence to compensate the airport operator, charging passengers may not be appropriate. The Authority also noted that presently no UDF is levied at Cochin International Airport.



11.3 Regarding FIA's suggestion for holding stakeholders meeting the Authority decides not to conduct the same in view of following:

- a) The Authority observed that MoCA has conducted numerous rounds of stakeholder's consultations and considered the deliberations of two industry working groups representing airline operators, airport operators, fuel infrastructure facility providers, oil marketing companies etc. before abolishing the FTC.
- b) The Authority is not considering any new revenue to the Airport Operator in addition to already determined ARR vide order No. 07/2017-18 dated 13.07.2017 wherein aeronautical tariffs were finalized after extensive Stakeholders consultation process. The aeronautical tariffs were finalized after duly considering the cross subsidy from non-aeronautical revenue.
- c) Abolition of FTC, which directly benefits the airlines as they can avail input tax credit, necessitates recalibration of other tariffs to compensate/cover the shortfall in ARR of the Airport Operator.
- d) The Authority, by inviting detailed comments, had given an opportunity to all the stakeholders to express their views on the Consultation Paper.

11.4 The Authority also decides to true up this revenue considering time value of money while determining tariff for next control period.

11.5 Accordingly, the Authority decides to compensate Rs.46.77 crores to CIAL by increasing the landing charges for F Y 2020-21 as detailed in Table given below.

Revised Landing charges

	Unit	As per Order No. 07/2017-18	Revised Rate
Landing Charges - International			
Up to 100 MT	INR per MT	406	531
Above 100 MT	INR per MT	40600+546 in excess of 100 MT	53100 + 714 in excess of 100 MT
Landing Charges – Other than International			
Up to 100 MT	INR per MT	295	386
Above 100 MT	INR per MT	29500+395 in excess of 100 MT	38600+517 in excess of 100 MT

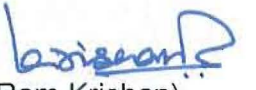


ORDER

Upon careful consideration of material available on record, the Authority, in exercise of powers conferred by Section 13(1) (a) of the AERA Act, 2008 hereby orders that:

- (i) The Authority has decided to increase the Landing Charges at Cochin International Airport by 30.87% for FY 2020-21 to recover the shortfall of Rs. 46.77 crores in lieu of abolition of FTC. The revised Landing Charges are annexed as "Annexure I".
- (ii) To true up revenue based on actuals while determining tariff for third control period.
- (iii) The revised charges shall be applicable from **01.06.2020**.

By the Order and in the name of the Authority


(Ram Krishan)

Director (Policy & Statistics)

To

Cochin International Airport Limited
Nedumbassery,
Kochi Airport P.O.,
Ernakulam- 683111, Kerala.
(Through: Sh. V J Kurian, Managing Director)

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The Landing charges for FY 2020-21 as per Annexure-I of Order No. 07/2017-18 dated 13.07.2017 in respect of Cochin International Airport is amended as follows:

Landing Charges for FY 2020-21

	Unit	Revised Rate
Landing Charges – International		
Up to 100 MT	INR per MT	531
Above 100 MT	INR per MT	53100 + 714 in excess of 100 MT
Landing Charges – Other than International		
Up to 100 MT	INR per MT	386
Above 100 MT	INR per MT	38600+517 in excess of 100 MT

Fuel Throughput Charges for FY 2020-21: **NIL**

All other charges as determined and terms & conditions vide order No.07/2017-18 dated 13.07.2017 shall remain applicable.

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