

Consultation Paper No. 1/2010-11



Airports Economic Regulatory Authority of India

10% Increase in Aeronautical Charges requested by Mumbai International Airport (MIAL) with effect from 03.05.2009

New Delhi: 12th April, 2010

**Rajiv Gandhi Bhawan
Near Safdarjung Airport
New Delhi – 110003**

SUBJECT: 10% INCREASE IN AERONAUTICAL CHARGES REQUESTED BY MUMBAI INTERNATIONAL AIRPORT (MIAL) WITH EFFECT FROM 03.05.2009.

The Ministry of Civil Aviation vide its letter no. AV.20036/014/2009-AD dated 06.10.2009 (**Annexure-I**), had forwarded the request received from the Mumbai International Airport Limited (MIAL) (letter ref. no. MIAL/PR/96 dated 28.07.2009, **Annexure-II**) for a 10% increase in aeronautical charges at CSI Airport, Mumbai with effect from 03.05.2009 for the Authority's consideration. The aforesaid request was made by MIAL on the grounds that as per Schedule 6 of the State Support Agreement (SSA), entered in to between the Central Government and MIAL, the regulatory authority/Government of India, will set the aeronautical charges from the commencement of the 4th year from the effective date, i.e. 03.05.2006 and for every year thereafter subject always to the condition that, at least, nominal increase of 10% of base airport charges will be available to MIAL.

1.2 MIAL has interpreted the above provisions to mean that the Authority/GoI are bound to permit an increase of 10% of the Base Airport Charges after the commencement of the 4th year and every year thereafter and, accordingly, approval was solicited to increase the airport charges by 10% w.e.f 03.05.2009.

1.3 MIAL has not otherwise justified its proposal. It is relevant to mention here that MIAL was permitted a 10% increase in airport charges w.e.f. 01.01.2009, by the Ministry, in terms of Clause 1 of the Schedule 6 after completion of two years.

1.4 Pending further examination of the matter, MIAL was advised vide letter no. AERA/20010/MIAL-AC/2009 dated 11.11.2009 (**Annexure-III**) to submit a well justified proposal for the consideration of the Authority in case they propose any increase in the tariff of aeronautical services, on merits. MIAL vide letter ref. no. MIAL/PR/233 dated 15.12.2009(**Annexure-IV**) and letter ref. no. MIAL/PR/309 dated 25.03.2010 (**Annexure-V**) reiterated its earlier position and requested for expeditious permission for 10% increase over the base aeronautical charges.

2.1 The matter has been examined by the Authority.

2.2 In terms of Section 13(1)(a) of the Airports Economic Regulatory Authority of India Act, 2008 (the Act), the Authority is required to determine the tariff for aeronautical services, inter-alia, taking into consideration “(vi) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise.”

2.3 For ease of reference Schedule 6 of the SSA is extracted below:-

“Aeronautical Charges, for the purposes of this Agreement, shall be determined in the manner as set out hereunder:

1. The existing AAI airport charges (as set out in Schedule 8 appended hereto) ("**Base Airport Charges**") will continue for a period of two (2) years from the Effective Date and in the event the JVC duly completes and commissions the Mandatory Capital Projects required to be completed during the first two (2) years from the Effective Date, a nominal increase of ten (10) percent over the Base Airport Charges shall be allowed for the purposes of calculating Aeronautical Charges for the duration of the third (3rd) Year after the Effective Date ("**Incentive**"). It is hereby expressly clarified that in the event JVC does not complete and commission, by the end of the second (2nd) year from the Effective Date, the Mandatory Capital Projects required to be completed and commissioned, the Incentive shall not be available to the JVC for purposes of calculating Aeronautical Charges for the third (3rd) year after the Effective Date.

2. From the commencement of the fourth (4th) year after the Effective Date and for every year thereafter for the remainder of the Term, Economic Regulatory Authority / GOI (as the case may be) will set the Aeronautical Charges in accordance with Clause 3.1.1 read with Schedule 1 appended to this Agreement, subject always to the condition that, at the least, a permitted nominal increase of ten (10) percent of the Base Airport Charges will be available to the JVC for the purposes of calculating Aeronautical Charges in any year after the commencement of the fourth year and for the remainder of the Term.

3. For abundant caution, it is hereby expressly clarified that in the event AAI increases the airport charges (as available on the AAI website www.airportsindia.org anytime during the first two (2) years from the Effective Date, such increase shall not be considered for revising calculating the Aeronautical Charges chargeable by the JVC."

2.4.1 Clause 2 of Schedule 6, of the SSA (being relied upon by MIAL in support of the proposal) requires the Authority/GoI to set the aeronautical charges :-

- (i) in accordance with the clause 3.1.1 read with Schedule 1 appended to the SSA; and
- (ii) subject to the condition that, at least, a permitted nominal increase of 10% of the Base Airport Charges will be available to the JVC for the purpose of calculating aeronautical charges in any year after the commencement of the 4th year for the remainder of the Term.

2.4.2 The second part of Clause 2 of Schedule 6 provides that, atleast, a permitted nominal increase of 10% of the Base Airport Charges will be available to the JVC for the purposes of calculating Aeronautical charges in any year after the commencement of the fourth year and for the remainder of the Term.

2.4.3 The Airports Authority of India (AAI) airport charges, on the date of the agreement, i.e. 26.04.2006, which are set out in Schedule 8, are treated as 'Base Airport Charges' as evident from Clause 1 of Schedule 6. Further, a nominal increase of 10% over the Base Airport Charges was to be allowed to MIAL in the

event it completed and commissioned the Mandatory Capital Projects (MCPs) required to be completed during the first two years from the effective date.

2.4.4 As indicated in para 2.4.3 above, 'Base Airport Charges' are the charges which were prevalent on 26.04.2006 (as set out in Schedule 8). A nominal increase of 10% has already been permitted by the GoI over the Base Airport Charges in terms of Clause 1 of Schedule 6. Thus, this could be termed as "permitted nominal increase of 10%".

2.4.5 In terms of the second part of Clause 2 of Schedule 6, "a permitted nominal increase of ten (10) percent of Base Airport Charges will be available to the JVC for the purposes of calculating Aeronautical Charges in any year after the commencement of the fourth year". Thus, on a conjoint reading of Clauses 1 & 2, it is evident that as per Clause 1 a nominal increase of 10% is to be permitted on completion of first two years, subject to certain conditions, and as per Clause 2, this permitted nominal increase of 10% will, at the least, be available to the JVC for the purposes of calculating airport charges from fourth year onwards. Expressed differently, in terms of first part of Clause 2, the Authority/GOI are required to set aeronautical charges in accordance with Clause 3.1.1 read with the principles set out in Schedule 1 of SSA from 4th year onwards and by virtue of second part the nominal increase of 10% permitted (in terms of Clause 1) is saved.

2.4.6 It is also relevant to notice here that M/s MIAL have requested for an increase of 10% on the Airport Charges, which are prevalent on date. However, the second part of the Clause 2 of Schedule 6 mentions an increase of 10% on the Base Airport Charges. As stated in para 1.2 and 2.4.4 above, this increase of 10% on the Base Airport Charges has already been permitted by the GOI in terms of Clause 1 of Schedule 6.

2.4.7 In any case, if it is accepted that Clause 2 contemplates an year upon year increase of 10% from the commencement of 4th year onwards, it would mean that the GOI have agreed to a doubling of Base Airport Charges in about 7 years time irrespective of the actual determination in terms of principles set out in Schedule 1.

2.5 Thus, on a co-joint reading and harmonious construction of the provisions of Schedule 6 of SSA, the following scheme is revealed:-

- (i) The airport charges, as existing on 26.04.2006 (which are set out in Schedule 8) will continue for first two years from the effective date.
- (ii) In the event MIAL fully completes and commissions all the mandated facilities required to be completed during the first two years, it would be allowed a tariff increase of 10% in nominal terms from the beginning of 3rd year from the effective date, as an incentive.
- (iii) From the commencement of 4th year onwards, tariff will be set by the Authority/GOI as per principles set out in Schedule 1 subject to

the condition that, at the least, the nominal increase of 10% permitted during the third year, as incentive, will, continue to be available to MIAL.

3. Briefly stated, it would appear that there is no warrant in Schedule 6 of SSA for an automatic year on year increase of 10% in airport charges from the commencement of fourth year onwards as contended by MIAL.

4.1 As the concession in form of the subject SSA has been granted by the Central Government, the Authority has also consulted the said Government in the matter.

4.2 The Authority has been advised that in view of the enactment of the Airports Economic Regulatory Authority of India Act, 2008 and specific assignment of powers to the Authority under Section 13(1)(a) of the Act, fixation of airport charges is the function of the Authority. The Authority being a statutory authority needs to consider the other aspects stipulated under the relevant section alongwith the provisions of SSA. Further, there is no warrant in Schedule 6 of the SSA for an automatic increase of 10% in the airport charges prevalent during the third year, upon commencement of the fourth year and every year thereafter.

5. In view of the position discussed above, the Authority proposes to reject the request of MIAL for a 10% increase in aeronautical charges at the CSI airport, Mumbai, with effect from 03.05.2009.

6. The Authority solicits feedback, comments and suggestions from stakeholders on the proposal contained in para 5 above. Comments/submissions may please be furnished to the Authority, **latest by Monday, the 26th April, 2010**, at the following address:

Shri Sandeep Prakash,
Secretary,
Airports Economic Regulatory Authority of India,
Room No. 58, Rajiv Gandhi Bhawan,
New Delhi.
Tel: 011-24616025
Fax: 011-24656214
Email: sandeep.moca@nic.in
sandeep.prakash@aera.gov.in

Yashwant S. Bhawe
Chairperson

F. No. AV.20036/014/2009-AD

Government of India
Ministry of Civil Aviation
AD Section

Safdarjung Airport, New Delhi,
Dated 06.10.2009.

To,
Shri Sandeep Prakash,
Secretary,
Airports Economic Regulatory Authority of India,
Safdarjung Airport,
New Delhi.

Handwritten signature and initials

Sub: Upward revision of aeronautical charges by AERA- pending cases to be transferred to AERA.

Sir,

I am directed to refer to d.o. letter No. AERA/20011/DIAL-DF/2009 dated 10.09.2009 from Chairman, AERA on the above-mentioned subject and to forward herewith a set of the relevant extracts of files and correspondence (photocopies) of the proposals received from M/s DIAL, MIAL, CIAL, HIAL & BIAL pertaining to upward revision of aeronautical charges at airports managed by them for further necessary action, as desired. The relevant agreements executed in this regard are available on this Ministry's web-site.

Yours faithfully,

Handwritten signature
(Oma Nand)

Under Secretary to the Government of India.

Tele-24640214.

Encl:

- (i) Relevant extract of notings of files and correspondences relating to upward revision of aeronautical charges in respect of DIAL.
- (ii) Relevant extract of notings of files and correspondences relating to upward revision of aeronautical charges of MIAL.
- (iii) Relevant extract of notings of files and correspondences relating to upward revision of aeronautical charges of CIAL.
- (iv) Relevant extract of notings of files and correspondences relating to upward revision of aeronautical charges of HIAL.
- (v) Relevant extract of notings of files and correspondences relating to upward revision of aeronautical charges of BIAL.

Mumbai International Airport Pvt Ltd

MIAL/PR/96

28th July, 2009

The Secretary
Ministry of Civil Aviation
Rajiv Gandhi Bhawan
Safdarjang Airport
New Delhi - 110 003

14078 - AP 11/08/09
29/7/09

JS (A)
Sir,

Sub: Increase in Aeronautical Charges at Chhatrapati Shivaji International Airport (CSIA), Mumbai

As you are kindly aware of that CSIA, Mumbai has been taken over by Joint Venture Company (JVC) viz. Mumbai International Airport Pvt. Ltd. (MIAL) w.e.f. 3rd May, 2006.

1/3

Operation support period of 3 years is already over and entire operations are being run by MIAL from 3rd May, 2009 without any operational support from Airports Authority of India (AAI).

3/8

Project is being implemented as per schedule. New Integrated Passenger Terminal is scheduled to be completed by end of 2012. CSIA is a severely land constrained airport. While retrieving land from various agencies, MIAL has to incur heavy expenditure to provide new facilities. It was never envisaged that MIAL will be spending to this extent on this account. However, it is gratifying to report that all agencies are extending full support for development of airport but fact remains that there is huge financial burden on MIAL for relocating these agencies.

22/5/09

Increase as per SSA Provisions:

30/07/09

In terms of provisions of Schedule 6 of State Support Agreement (SSA), MIAL was entitled for a nominal increase of 10% of the Base Airport Charges. Increase was to be effective from 3rd May, 2009, however, looking into the severe recessionary conditions and very high oil prices, MIAL did not approach for increase. Now oil prices have stabilised and fall in passenger traffic is also stemmed to some extent.

10/8

It is not only the airlines who have suffered even airports have also suffered because of fall in passenger throughput and severe reduction in cargo tonnage. Over and above this, airlines are not paying in time resulting in huge overdues and increased borrowings; and consequent huge financial cost.

10/8/09

At the time of borrowings from institutions and banks such increase in charges was considered in projections. Hence, any delay in the increase will dent credibility of MIAL before banks and financial institutions.

5/8/09

In view of the facts mentioned above and under the contractual provisions, we request for 10% increase to be approved at the earliest.

8/8/09

This is to inform you that increase of 10% in aeronautical charges will have minimal impact of about Rs. 22 per passenger. For ready reference we are enclosing revised schedule of Airport Charges (Annexure - I).




Introduction of Aerobridge Charges

MIAL is incurring huge cost on maintenance of aerobridges. Use of aerobridge reduces cost of airlines substantially. MIAL is committed to provide aerobridge facility as per OMDA requirements, but it is high time that airlines pay for the usage of aerobridges, as per prevalent worldwide practice.

We understand that Hyderabad and Bengaluru airports are already charging for aerobridge usage to airlines either on hourly basis or on per passenger basis. We propose to charge for usage of aerobridge as per enclosed schedule (Annexure – II).

Yours sincerely,
For Mumbai International Airport Private Limited



(R. K. Jain)
President

Encl: a/a

CC: Chairman, AAI

Mumbai International Airport Pvt. Ltd.**Revised Schedule of Airport Charges at Chhatrapati Shivaji International Airport**

Charges	Structure Level	
* Landing Charges	MAUW	Domestic Flights International Flights
	≤ 21 MT	INR 123.60 / MT Not Applicable
	≤ 100 MT	INR 204.96 / MT INR 273.24 / MT
	> 100 MT	INR 20,496 + INR 275.40 / MT INR 27,324 + INR 367.20 / MT in excess of 100 MT in excess of 100 MT
	Minimum charges of INR 1,200 per landing, except in case of domestic aircraft with MAUW ≤ 21 MT.	
	25% surcharge on landing charges for supersonic aircraft.	
	5% surcharge on international landings between 2301 - 2400 hours IST (peak hour)	
	5% discount on international landings between 1301 - 1600 hours IST (peak hour)	
	15% reduction in landing charges in case of payments within the 15-day credit period for domestic flights.	
	The domestic leg of international routes of Indian operators is treated as domestic flights as far as airport charges are concerned.	
	No landing charges for helicopters and aircraft with seating capacity ≤ 80 and operated by domestic scheduled operators and for helicopters of all types.	
* Housing Charges	AUW	All flights (rate per hour)
	≤ 100 MT	INR 8.88 / MT
	> 100 MT	INR 888 + INR 11.76 / MT in excess of 100 MT

34

*** Parking Charges**

When an aircraft is parked in open, only half of the housing charges are levied. No parking charges are levied for the first two hours.

While calculating free parking time, standard time of 15 minutes is added on account of time taken between touchdown and actual parking time on the parking stand. Another standard time of 15 minutes is added on account of taxiing time of aircraft from parking stand to take-off point.

For calculating chargeable parking time, part of an hour shall be rounded off to the nearest hour.

Charges shall be calculated on the basis of nearest MT.

Charges for each period parking shall be rounded off to nearest rupee.

At in contact stands, after free parking hours, normal parking charges are levied for the first two hours.

After this period, the charges are double the normal charges.

*** X-ray Baggage Charges**

No.	Domestic Carriers (Registered Baggage)		International Carriers (Registered Baggage)	
	Seating Capacity	Amount in INR	Seating Capacity	Amount in USD
1	≤ 25 seats	120	For turnaround flights for aircraft 747, DC-10 & Tristar	228.60
2	26 to 50 seats	240	For transit flight	162.91
3	51 to 100 seats	540		
4	101 to 200 seats	840		
5	≥ 201 seats	960		

*** Passenger Service Fees**

INR 227 per embarking passenger in respect of tickets issued against INR tariffs.

USD 5.68 per embarking passenger in respect of tickets issued against USD tariffs.

For conversion of USD to INR, the rate as on the 1st day of the month for the first fortnightly billing period and the rate as on the 16th day of the month for the second fortnightly billing period shall be adopted.

* Excluding Service Tax or any other applicable tax which is payable extra at actuals.

Note: INR = Indian Rupees / USD = United States Dollars

Mumbai International Airport Pvt. Ltd.

Aerobridge Charges

Aerobridge Charge is payable by airlines on the basis of actual usage of the aerobridge, based on type of aircraft.

Aircraft Type	Initial Aerobridge Usage Charge	Subsequent Hourly Usage Charge
Narrow-bodied Aircraft	INR 2300/- for the first hour or part thereof	INR 2300/- per hour or part thereof
Wide-bodied Aircraft	INR 10500/- for the first two hours or part thereof	INR 4500/- per hour or part thereof

1. Excluding Service Tax or any other applicable tax which is payable extra at actuals.
2. Usage time will be calculated based on ON BLOCK and OFF BLOCK time as recorded at Airport Operations Control Centre (AOCC).
3. For calculating chargeable time, part of an hour shall be rounded off to the next hour.
4. Parking charges will be levied extra.

Note: INR = Indian Rupees

F. No.AERA/20010/MIAL-AC/2009/166
Airports Economic Regulatory Authority of India

Room No.1,
New Administrative Block,
Safdarjung Airport,
New Delhi -110003

Dated the 11th Nov, 2009

To

Shri. R. K. Jain
President,
Mumbai International Airport Pvt Ltd.,
Chhatrapati Shivaji International Airport,
Ist Floor, Terminal 1B, Santacruz (E),
Mumbai 400059.

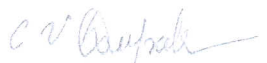
Subject: 10% increase in Aeronautical Charges and Introduction of
aerobridge charges at CSI Airport Mumbai.

Sir,

I am directed to refer to your letter no. MIAL/PR/96 dated 28.07.2009 on the above subject and to say that AERA is required to determine tariff for aeronautical services in accordance with the provisions of Section 13 of the Airports Economic Regulatory Authority of India Act 2008. Therefore, in case MIAL proposes any increase in tariff for aeronautical services, a well justified proposal, on merits, including all requisite financial details may be submitted for the consideration of AERA.

2. As regards the introduction of levy of aerobridge charges at CSI Airport, you may submit a well justified proposal separately along with relevant details for consideration at this end.

Yours faithfully,


(C.V. Deepak)
OSD-II

9c
issued on 11/11/09

Mumbai International Airport Pvt Ltd

MIAL/PR/233

December 15, 2009

The Secretary
Airports Economic Regulatory Authority of India,
Room No: 58, B-Block, Rajiv Gandhi Bhawan,
New Delhi – 110003

Dear Sir,

Subject: 10 % increase in Aeronautical charges and introduction of aero bridge charges at CSI Airport

Ref: 1) Our letter No. MIAL/PR/96 dated 28th July, 2009

2) AERA letter No. AERA/20010/MIAL-AC/2009/164 dated 11/11/2009

This has reference to the above mentioned letter seeking a well justified proposal, on merits, including all requisite financial details for 10% increase over base aeronautical charges.

We would like to bring to your kind attention that the increase sought by MIAL for CSI Airport Mumbai is the minimum increase contractually assured vide Schedule 6 of State Support Agreement executed between Ministry of Civil Aviation, Government of India and Mumbai International Airport Pvt. Ltd.

We draw your kind attention to the specific provision of AERA Act, 2008 vide Section 13 (1)(a)(vi) assures that while determining tariff for aeronautical services, AERA will consider concessions offered by Central Government in any agreement or memorandum of understanding or otherwise.

As mentioned above this 10% increase is minimum increase as per the State Support Agreement. As on date there is no clear road map about what details need to be submitted and methodology which will be adopted for tariff determination. AERA is still in the process of bringing out white papers for discussions, which will lead to documents incorporating regulatory philosophy and methodology for determination of aeronautical charges.

Cont..2.



We draw your kind attention to the meeting called by Chairman, AERA on 3rd December, 2009, where a decision was taken for resolution of issues of immediate concern on a case to case basis.

Since proposal of MIAL is for minimum guaranteed increase, we request you to kindly process the case considering the contractual obligations. Any delay in finalisation of the 10 % increase in aeronautical charges will affect the financial health of airport in the long run. Airport development is under way; any delay in availability of fund will affect the schedule of completion.

Aero-bridge charges:

Proposed aerobridge charges are in-line with charges already accepted by Government for Bangalore Airport. Operation cost at Mumbai Airport is certainly high as compared to Bangalore Airport because of higher electricity charges, wages and other expenses.


Pending final determination, based on set rules and guidelines, proposed aerobridge charges may please be allowed.

We reiterate our request for expeditious permission for 10% increase over the base aeronautical charges as per details attached to our letter no. MIAL/PR/96 dated 28th July 2009 and also the aerobridge charges as requested in the same letter. (Copy enclosed for your ready reference)

Thanking you,

Yours sincerely,

For Mumbai International Airport Pvt. Ltd.


(R.K.Jain)
President



Mumbai International Airport Pvt Ltd

ANNEXURE V

MIAL/PR/309

25th March, 2010

The Secretary
Airports Economic Regulatory Authority of India,
Rajiv Gandhi Bhawan,
New Delhi – 110 003.

Dear Sir,

Subject: Consultation paper containing AERA's proposed position/approach on regulatory philosophy and approach in economic regulation of airports and air navigation services published on 26th February, 2010.

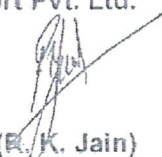
Ref : Our submission vide Letter No.MIAL/PR/305 dated 19th March, 2010

Further to our above referred submission, as an additional submission, we would like to mention that vide Schedule 6 of the State Support Agreement, it is provided, inter alia, "From the commencement of the fourth (4th) year after the Effective Date and for every year thereafter for the remainder of the Term, Economic Regulatory Authority / GOI (as the case may be) will set the Aeronautical Charges in accordance with Clause 3.1.1 read with Schedule 1 appended to this Agreement, subject always to the condition that, at the least, a permitted nominal increase of ten (10) percent of the Base Airport Charges will be available to the JVC for the purposes of calculating Aeronautical Charges in any year after the commencement of the fourth year and for the remainder of the term."

Mumbai International Airport Pvt. Ltd. (MIAL) had submitted its request for permitted increase to The Secretary, Ministry of Civil Aviation vide its letter No. MIAL/PR/96 dated 28th July, 2009 and further information was provided to AERA vide letter No. MIAL/PR/233 dated 15th December, 2009. We request the same may kindly be expedited.

Thanking you,

Yours sincerely,
For Mumbai International Airport Pvt. Ltd.


(R. K. Jain)
President

