

MIAL/CEO/ 075

9th December, 2020

**The Chairperson,
The Airport Economic Regulatory Authority of India,
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi 110 003**

Sir,

Sub: Counter comments on stakeholders comments on AERA Consultation Paper No. 35/2020-21 dated 21st September, 2020 (CP 35)

With reference to the stakeholder comments in response to the CP 35 please find enclosed the counter comments of MIAL as per details below:

1. Federation of Indian Airlines - **Annexure I;**
2. Business Aircraft Operators Association - **Annexure II.**
3. Shri Porus Bhatt – **Annexure III**

Comments provided by Association of Private Airport Operators (APAO), Delhi International Airport Limited (DIAL) and Bangalore International Airport Limited (BIAL) are noted. MIAL does not offer any counter comments on comments of aforesaid stakeholders.

Comments provided by Brihanmumbai Custom Brokers Association and Federation of Freight Forwarders' Association of India are not relevant to the subject matter of the CP 35 hence no counter comment is offered.

Thanking you,

**Yours Sincerely
For Mumbai International Airport Ltd.**



(R.K Jain)

Chief Executive Officer

Encls: a/a



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Counter Comments of MIAL on Comments of FIA on CP no. 35/ 2020-21

A. BACKGROUND

Para 1 to 4:

These para are statement of facts, hence no comment from MIAL is needed.

B. CONTEXT OF THE CONSULTATION

Para 5:

FIA is quoting various statutory provisions to remind the Authority about its bounden duty to determine tariff in terms of such provisions:

The FIA should have refrained from advising the Authority about its duties. Otherwise also it seems that FIA has intentionally mentioned about the Normative cost which is already disputed by the airports including MIAL and the matter is sub-judice before the Hon'ble TDSAT.

Para 6(a):

FIA has mentioned that CP does not provide various information:

The Authority to consider the request.

Para 6(b):

Disclaimer by FIA that its submissions are without prejudice to its rights to make additional submissions:

Noted

7. 'Determination' by the Authority:

Para 7(a):

FIA allegation about Ad-hoc determination of various building blocks is not correct, hence MIAL does not agree with its view.

Para 7(b):

It is implied obligation of the Authority to produce all relevant documents and its decisions should be fully documented:

According to our understanding the Authority provides all the documents and makes decisions which are fully documented. However, it is for FIA to seek specific documents, etc., from the Authority.

Para 7(c):

Decision of the Authority should be fully documented and explained:

Refer our comments in para 7(b) above.

C. ISSUEWISE SUBMISSIONS

I. CLARIFICATIONS / AMEDNMENTS REQUIRED UNDER ANNUAL TARIFF PLAN (ATP) / TARIFF CARD

Para 8 (a):

Basis of Charge per Landing in lieu of FTC has not been explained in the CP and whether the FTC shortfall has been fully recovered or whether any additional recovery is sought by MIAL: *Against target collection of ₹ 106.60 cr. till 30-9-2020 actual collection is only ₹ 33.08 cr. The shortfall and FTC for balance control period shall be recovered as Charge per Landing in lieu of FTC.*

Para 8(a)(i):

Any compensation in lieu of FTC, may be given by way of pass through charge:

Introduction of Ad-hoc Landing charge in lieu of FTC was at insistence of Airlines, to avail the GST input tax credit. With much reluctance, MIAL had acquiesced for such substitution on mandate of MoCA vide letter no. AV.13030/216/2016-ER (Pt.2) dated 8th January, 2020. Any shortfall or over recovery through this mechanism of Ad-hoc landing charges in lieu of FTC has to be adjusted in future, either through charges per landing or other aeronautical charges to ensure that FTC already agreed between Oil Marketing Companies and MIAL is fully recovered.

Para 8(1(ii)):

Exemption from Charge in lieu of FTC should be provided to aircraft with less than 80 seats:
Government of India order does not exempt such aircraft from FTC.

Parking Charges:

Para 8(b):

Calculation of parking charges considering 15 minutes standard time:

Since MIAL Proposal is to charge for actual time of parking, there is no need for providing 15 minutes of normative time from landing and for take-off because actual time of parking for the purpose of parking charges has inbuilt safeguard.

UDF and Ad-hoc UDF

Para 8 (c):

UDF should not be levied on passengers:

This is a non-issue as levy of UDF and also Ad-hoc UDF is within the purview and the provisions of the AERA Act. Ad-hoc UDF is basically a grant for viability gap funding, both the SSA and AERA Act provide for it.

Para 8 (c)(i):

Penal Charges for delayed submission of passenger data:

Penal charges are to ensure timely submission of data. If delay is due to evidence based technical reasons or because of some unforeseen event, such cases will be considered by MIAL, however decision of MIAL whether the evidence based technical reason or an unforeseen events is valid or not shall be final. Such exceptions will be incorporated in ATP to be finalized. Eligibility for collection charges will revive prospectively once data is furnished.

Para no. 8 (c)(ii):

Tariff Card to include exempted category of passengers and clarification about applicable date for levy of UDF:

Exemption from levy of UDF is notified by Director General Civil Aviation. UDF is applicable from the travel date on or after the effective date of Rate Card.

Para no. 8 (c)(iii):

MIAL response to submissions of FIA referring certain building blocks is provided against the respective submissions of FIA for each building block:

Submission of FIA about levy of UDF and Ad-hoc UDF is misconceived and made without going into reason for MIAL proposing such levy. Levy of UDF is part of tariff determination by the Authority. As far as proposal for levy of Ad-hoc UDF is concerned, this is to ensure economic and viable operation of major airports, which are adversely affected due to Covid-19 shock, there is no liquidity to sustain operations. Levy of Ad-hoc UDF shall partly mitigate the liquidity crunch. AERA Act specifically mandates the Authority to ensure economic and viable operation of the airports under Section 13(1)(a)(iv) of the Act. SSA also provides under Principle of Tariff Fixation "Commercial: In setting the price cap, AERA will have regard to the need for the JVC to generate sufficient revenue to cover efficient operating costs, obtain the return of capital over its economic life and achieve a reasonable return on investment commensurate with the risk involved."

Aviation Security Fee

Para no. 8 (d):

Tariff Card should clarify the rates and exemptions:

Levy and collection of Aviation Security Fee is as per MoCA Order.

Para 8 (e):

Tariff Card does not include breakup of the NTR amongst various tariff heads:

Projected collection based on CP under each head is submitted to the Authority.

- II. ADJUSTMENT/ REDUCTION TO TRAFFIC ON ACCOUNT OF COVID-19 ARE NOT EXPLAINED WITH A SCIENTIFIC BASIS OR JUSTIFICATION. AUTHORITY IS REQUESTED TO CONDUCTED INDEPENDENT STUDY OF ITS OWN**

Para no. 9:

There is requirement to determine the best and most scientific methodology to project traffic for third control period for Mumbai:

MIAL has revised the traffic projections based on relevant information available regarding expected trajectory of COVID-19 pandemic, duration and impact of economic downturn and expected time frame for revival of domestic and international passengers. Revised projections of ATM, passenger traffic and cargo are as below:

MIAL revised Projection Traffic vis-à-vis Consultation Paper

| | | FY20 | FY21 | | FY22 | | FY23 | | FY24 | |
|----------------------------|--------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | | Actual | MIAL | AERA | MIAL | AERA | MIAL | AERA | MIAL | AERA |
| ATM | Intl | 76 | 22 | 38 | 60 | 57 | 74 | 76 | 82 | 84 |
| | Dom | 229 | 87 | 114 | 171 | 172 | 227 | 229 | 229 | 247 |
| | Total | 305 | 108 | 152 | 231 | 229 | 301 | 305 | 311 | 330 |
| Passengers (Mn) | Intl | 12.3 | 1.2 | 6.1 | 9.1 | 9.3 | 11.6 | 12.4 | 13.2 | 13.6 |
| | Dom | 33.6 | 9.3 | 16.8 | 23.6 | 25.1 | 32.3 | 33.5 | 33.7 | 36.3 |
| | Total | 45.9 | 10.5 | 22.9 | 32.7 | 34.4 | 43.9 | 45.9 | 46.9 | 50.0 |

Revised Cargo Tonnage vis-à-vis Consultation Paper

| Tonnage | FY20 | | FY21 | | FY22 | | FY23 | | FY24 | |
|---------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| ('000 MT) | MIAL | AERA | MIAL | AERA | MIAL | AERA | MIAL | AERA | MIAL | AERA |
| Int'l | 396.15 | 499.33 | 328.79 | 265.17 | 348.08 | 382.25 | 390.62 | 499.33 | 416.73 | 546.84 |
| Perishable | 76.98 | 70.50 | 67.09 | 37.43 | 74.59 | 53.97 | 87.88 | 70.50 | 98.46 | 77.21 |
| Domestic- ConcorAir | 137.84 | 152.32 | 52.98 | 76.16 | 103.15 | 114.24 | 137.12 | 152.32 | 138.34 | 164.35 |
| Courier- Express Cargo | 27.96 | 35.41 | 23.20 | 18.81 | 24.57 | 27.11 | 27.57 | 35.41 | 29.41 | 38.78 |
| Total | 638.95 | 757.56 | 472.06 | 397.57 | 550.39 | 577.57 | 643.19 | 757.56 | 682.94 | 827.18 |

Para 10:

No detailed analysis or scientific basis for the Covid-19 related adjustments has been given by the Authority:

MIAL has deferred Reconstruction of T1B because of expected traffic shortfall and also to conserve resources. As mentioned under para 9, MIAL has revised the projection of ATM, Passengers and cargo based on its estimates, incorporating available information.

Para 11:

The Authority should conduct an independent scientific analysis for the traffic:

MIAL notes suggestion of FIA about conducting independent scientific analysis of traffic. However, any study has to be based on assumption about Covid-19 impact, pace of economic recovery and duration of Covid-19 impact. While revising projections, MIAL has considered all the variables.

Para 11 (a):

Observation of FIA about resumption of Jet Airways and its impact on traffic is misconceived as disruption in traffic is because of COVID-19 and not because of shortage of aircraft.

Para 11 (b):

Gradual easing of capacity restrictions in domestic operations and robust mechanism of traffic under 'Vande Bharat Mission' and 'Air Bubble' arrangement should be considered:

These have been considered by MIAL in projecting the revised traffic for TCP.

Para 12:

Submission of FIA to consider actual traffic of FY20 to FY22 for traffic projection is impossible. True-up in next control period for various building blocks shall take care of the differences between projected and actual traffic.

- III. CONSERVATIVE AD-HOC ADJUSTMENT FOR PROJECTING NON-AERONAUTICAL REVENUE ON THE BASIS OF CONSERVATIVE TRAFFIC GROWTH. WITH RESPECT TO CONTRACT RELATED REVENUES REDUCTION CANNOT BE DIRECTLY PROPORTIONAL TO PASSENGER TRAFFIC. INDEPENDENT STUDY TO BE CONDUCTED FOR DETERMINING NAR**

Para 13:

Reduction of NAR by the Authority is on Ad-hoc basis:

MIAL has in its Response to CP, revised the Non Aeronautical Revenues in light of Covid-19 pandemic, changed behavior of passengers to spend, propensity to spend and the economic shock experienced due to the Pandemic. The revised Non Aeronautical Revenue projected and considered by MIAL in its Response on CP is as below:

Revised Projected Revenue for TCP

₹ in cr.

| Category | FY20 | FY21 | FY22 | FY23 | FY24 | Total |
|------------------------------|----------------|--------------|--------------|--------------|--------------|----------------|
| F&B | 138.5 | 17.8 | 61.0 | 78.8 | 83.5 | 379.6 |
| Flight kitchen | 25.6 | 3.4 | 14.5 | 19.5 | 20.9 | 83.9 |
| Retail concession | 152.1 | 12.3 | 42.7 | 55.6 | 59.0 | 321.6 |
| Foreign Exchange, & Bank/ATM | 61.2 | 3.1 | 13.7 | 16.9 | 19.1 | 114.0 |
| IT & Communication | 53.3 | - | - | - | 65.3 | 118.6 |
| Car Rentals & Taxi Service | 24.6 | 5.9 | 18.1 | 24.5 | 26.4 | 99.6 |
| Duty Free Shops | 351.7 | 30.5 | 123.7 | 156.2 | 174.6 | 836.8 |
| Advertising Income | 155.0 | 31.1 | 88.5 | 118.9 | 127.1 | 520.6 |
| Car Parking | 33.4 | 7.7 | 23.8 | 32.0 | 34.1 | 131.1 |
| Ground Handling | 107.9 | 34.4 | 72.4 | 93.7 | 101.8 | 410.2 |
| Others | 45.6 | 16.0 | 35.1 | 46.8 | 51.5 | 194.9 |
| Total (A) | 1,148.8 | 162.3 | 493.5 | 642.9 | 763.4 | 3,210.9 |

| Rent & Services | FY20 | FY21 | FY22 | FY23 | FY24 | Total |
|------------------------------------|--------------|--------------|--------------|--------------|--------------|----------------|
| Land Rent and Lease | 96.2 | 40.2 | 73.4 | 109.5 | 114.3 | 433.6 |
| Hangar Rent | 18.0 | 9.7 | 21.8 | 33.5 | 36.0 | 118.9 |
| Terminal Building Rent | 63.4 | 23.6 | 45.1 | 68.2 | 71.2 | 271.5 |
| Cute counter charges | 12.9 | 3.5 | 9.9 | 12.8 | 13.7 | 52.8 |
| Lounges | 73.7 | 19.6 | 56.7 | 77.0 | 89.1 | 316.0 |
| Cargo Building and Other Bldg Rent | 28.3 | 12.2 | 22.9 | 35.1 | 37.7 | 136.1 |
| Total (B) | 292.4 | 108.7 | 229.8 | 336.0 | 362.0 | 1,328.9 |

| Cargo Revenue | FY20 | FY21 | FY22 | FY23 | FY24 | Total |
|-----------------------------|----------------|--------------|----------------|----------------|----------------|----------------|
| Domestic Cargo | 21.0 | 11.3 | 16.1 | 21.3 | 21.5 | 91.3 |
| Cargo Handling Revenue | 25.0 | 15.3 | 21.7 | 24.3 | 26.0 | 112.3 |
| Perishable Cargo | 22.0 | 22.0 | 21.6 | 25.0 | 27.8 | 118.5 |
| Courier Revenue | 32.0 | 23.8 | 24.3 | 26.7 | 28.6 | 135.3 |
| International Cargo Revenue | 201.0 | 190.3 | 201.6 | 220.4 | 236.0 | 1,049.3 |
| Total (C) | 301.0 | 262.7 | 285.2 | 317.8 | 339.9 | 1,506.7 |
| Grand Total (A+B+C) | 1,742.3 | 533.7 | 1,008.5 | 1,296.7 | 1,465.3 | 6,046.5 |

Para 14:

FIA observations about acceptance of MIAL submissions by the Authority are noted.

Para 15:

The Authority should not propose adjustments to NAR which are not dependent on traffic:

All revenues are directly or indirectly impacted due to traffic. FIA assumption that certain revenues are ring fenced from traffic is misconceived.

Para 16:

FIA has stated that Cargo and Ground handling services should not be treated as Non-Aeronautical service:

This is not the proper forum for raising an issue which has been settled by Hon'ble TDSAT. Further, it is a well settled fact that as per Section 13(1)(a)(vi) of the AERA Act, the Authority has to consider the "concessions offered by Central Government in any agreement or memorandum of understanding or otherwise." Cargo and ground handling are classified under Schedule 6 of OMDA as non-aeronautical services and revenue from such services is correctly considered as non-aeronautical revenue.

Para 17:

Other Income should be considered in NAR without Covid-19 adjustment:

First of all, other Income is not revenue from Revenue Share Assets and hence not available for cross subsidization. FIA raising the issue about quantum of revenue is also wrong, as other income will get impacted due to liquidity crunch. Also refer para 3.6.1 and para 4.8.1 of MIAL Response on CP.

Para 18:

The Authority should provide details of Cash flow projections and impact on NAR on receipt of security deposit collected from concessionaires:

The assumption that because of deposits from concessionaires, the revenue share would have been lower, is without any evidence and cogent argument. The charges in respect of cargo at CSMIA are lower than charges at Other Airports, which shows that there is no linkage between

the charges and the deposits obtained by MIAL. In fact, MIAL is proposed to be penalized for its excellent contractual skills merely on an unfounded assumption. Please refer para 4.8.1 of MIAL Response on CP in this regard.

Para 19:

In SCP cross subsidizing portion of NAR was under projected:

The concern of FIA is unfounded as any such variation in estimates and the Actual NAR are trued up in the next control period along with the carrying cost.

Para 20:

Impact of reconstruction of T1B on traffic and NAR should be verified by the Authority:

Due to expected traffic fall due to Covid-19 pandemic and need to conserve resources, the reconstruction of T1B is being deferred.

Para 21:

Submission of FIA regarding review of forecasts of non-aeronautical revenue with reference to AERA guidelines is noted.

Para 22:

The Authority should commission an independent study to determine drivers of NAR other than traffic:

MIAL while revising the NAR due to impact of Covid-19 pandemic has considered all the necessary drivers to arrive at the projected NAR for the TCP. Also refer para 1.2 of MIAL Response on CP in this regard.

- IV. DISPROPORTIONATE ADJUSTMENT TO O&M EXPENSES FOR COVID I.E. BY INR 38.58 CRORES (0.9% ONLY) VS 23.0% REDUCTION IN PASSENGER TRAFFIC. O&M PER PAX HAS INCREASED TO INR 216.06 IN TCP AS COMPARED TO INR 165.15 IN SCP. NO COST RATIONALIZATION MEASURES HAVE BEEN PROPOSED IN O&M EXPENSE PROJECTIONS**

Para 23:

Increase in overall O&M expenses:

O&M expenses are based on past experience, future estimates and also considering cost of re-carpeting of runway as O&M expense instead of capex. The actual expenses are evidence based and subject to true up with carrying cost.

Para 24:

a. FIA submission about entire O&M expenses is not correct.

b. Most of the O&M expenses are fixed in nature and have to be incurred irrespective of the number of passengers.

c. (i) Advertisement Expenses:

Advertisement expenses to be incurred in TCP have been capped by the Authority at ₹ 5 cr. p.a. These expenses are mainly for public notices for tenders in newspaper, website maintenance expenses, new airline inauguration expenses, passengers day expenses, etc. Such expenses are essential and will not get reduced with fall in traffic.

c. (ii) Employee Expenses:

The Authority should not allow increments in salary and encourage MIAL to implement cost reduction measures: Employee cost of MIAL is reasonable. Considering CPI inflation of 4.4% provided by RBI, increment of 8.5% is reasonable which means real increment of just 4.1%. There is possibility that CPI will be higher than the forecast of 4.4% due to increased liquidity infused by the Governments in India and worldwide.

c. (iii) Power Expenses:

Power consumption for T1 should have been reduced by 8.52 cr. KWh instead of 0.24 cr. KWh: FIA observation is grossly misconceived. Gross power consumption of T1 is only 3.6 cr. KWh and net power consumption is 2.21 cr. KWh, how can there be reduction of 8.52 cr. KWh when net consumption for T1 is only 2.21 cr. KWh? MIAL has considered power consumption for T1 for FY21 at 0.91 cr. KWh, considering the fact that to maintain the terminal and equipment it is necessary to intermittently switch on air-conditioning and also take trial of all the equipment to keep them in working condition. For CISF Personnel posted at Terminal security also AC has to be kept on. Accordingly the consumption of 0.91 cr. KWh has been considered for T1 for FY21.

c. (iv) Administrative Expenses:

Authority should reduce administrative expenses and also reduce for Covid-19 impact:

The Authority has already reduced administrative expenses for TCP as compared to MYTP from ₹458.62 cr. to ₹355.25 cr. It is a matter of fact that due to Covid -19 there is a decrease in travelling and lodging expenses, however there is also increase in other expenses like conveyance and telephone. Most of other administrative expenses are fixed in nature and there is no reduction due to Covid-19. The Authority has rightly considered the administrative expenses.

c. (v) Airport Operator Agreement Fee:

Expense for Airport Operator Fee is as per agreement with ACSA Global. This fee paid by MIAL is much less than fee paid by similar Airports. Submission of FIA is without any basis.

c. (vi) Repairs & Maintenance Expenses:

The Authority should not use past trend forecast for Repairs and Maintenance expenditure for TCP: Submission of FIA is without considering factual position. The Authority has considered Runway re-carpeting as deferred expenditure to be written off in 5 years. Repair and Maintenance expenses are incurred for the entire airport and Runway re-carpeting shall not result in significant reduction in Repairs & Maintenance expenses. Secondly, the proposal for reconstruction of T1B has been deferred. FIA submission that the Authority should not use the past trend to forecast Repair and Maintenance expenses for TCP is again misconceived as past trend is the best way to project future expenses. Otherwise also, FIA has not submitted any alternate proposal for projecting Repair and Maintenance expenses.

c. (vii): Reduction in other operating costs:

An independent scrutiny on works claimed by MIAL as operating expenses:

Most of the operating expenses are fixed in nature, wherever there was possibility of renegotiating a contract the same has been done. However, impact is insignificant on overall operating cost. The expenses allowed by the Authority, which were claimed by MIAL as capex, for re-carpeting are as per provisions of AERA Order no. 35/ 2017-18 dated 12th January, 2018 which has not been challenged by FIA.

Segregation of Costs:

Para 25:

FIA submits that the Authority should independently derive floor area to segregate costs into aeronautical and non-aeronautical heads for SCP true up and TCP:

The Consultant appointed by the Authority has cross checked the floor areas computed by IR Class and has independently derived the floor area ratios.

Para 26:

The allocation ratio of SCP is not appropriate to be used for TCP as ratios would differ for TCP:

The Authority has to consider historic ratios and update the same during trueup exercise in the next control period. We find it to be practical.

Para 27:

Reduction in floor area for T1:

On review of IR Class report it is observed that it had left few areas, once these areas are considered, correct area is 1,03,131 m² only.

| | As per IR Class | Adjustment required | Actual |
|-----------------------------------|-----------------|---------------------|----------|
| Total Area (m ²) | 97,621 | 5,510 # | 1,03,131 |
| Commercial area (m ²) | 10,386 | - | 10,386 |
| % of Non-Aeronautical Area | 10.64% | | 10.07% |

comprising of Arrival Forecourt of 2236 m² and T1 Utility area of 3274 m².

The Authority is requested to note the above and incorporate the same for Asset Allocation Ratio for T1.

Para 28:

Shortcoming of Cost Accounting System of MIAL:

Cost Centers and Profit Centers do exist in SAP and the same are used while booking expenses and revenues. Hence, there is no short coming in Cost accounting system. M/s R Subramanian and Company LLP have acknowledged that adequate cost reduction measures have been

adopted. Cost reduction is a continuous process, which is continuously monitored by the management.

Para no. 29:

The Authority has to review the forecast of operating expenses as per AERA Guidelines assessing baseline operation based on actual expenditure as per last accounts, efficiency improvement, etc.:

While reviewing the forecast of the operating expenses the Authority considers all relevant aspects and arrives at final forecast figures.

Para 30:

The Authority should evaluate the O&M expenses in detail in line with recommendations mentioned above:

As stated above in Para 29, the Authority critically reviews the O&M expenses and the same have been reduced wherever the Authority estimates are lower. Though in certain cases, MIAL has not agreed with the view of the Authority.

- V. AUCC MEETING FOR THE PROPOSED CAPITAL EXPENDITURE FOR TCP IS NOT YET CONDUCTED. OUT OF TOTAL CAPEX ADDITION TO RAB OF INR 2,508.71 PROPOSED BY MIAL, CAPEX ADDITIONS AMOUNTING TO INR 1,373.65 CRORES HAS BEEN CONSIDERED EITHER AS IS BY THE AUTHORITY OR NO DETAILS HAVE BEEN PROVIDED. DEVIATIONS FROM NORMATIVE NORMS NOT JUSTIFIED.**

Para 31:

The Authority has not provided details of certain capex in the CP:

While stating the facts, FIA has not adequately brought out if it has any concern.

Para 32:

The Authority has not conducted detailed analysis for the capex, etc. and whether MIAL has determined the costs in respect of projects as per CPWD norms / normative approach Order: *MIAL cost estimates are evidence based. However, normative cost approach is not appropriate as elaborated in our response to CP in para 4.3.2.*

Para 33:

MIAL has failed to conduct a meeting of Airport Users Consultative Committee:

MIAL pursuant to SSA is required to subject the major development involving capital cost in excess of ₹ 100 cr. to stakeholders' consultation and not ₹ 50 cr. as mentioned by FIA. MIAL had planned to hold stakeholder consultation meeting on 16th March, 2020 to discuss the projects with capital cost exceeding Rs.100 cr., however due to Covid-19 pandemic, the meeting could not be held. Further, MIAL has deferred several capital expenditure proposals in view of Covid-19 impact on aviation. The revised capex plan for the third control period will be taken up in the stakeholders' consultation through VC in the third week of December, 2020.

Para 34:

Normative cost in respect of T1B reconstruction:

FIA observation about normative cost is without any basis, historically adherence to normative cost has not been possible in case of other airports also. MIAL does not agree for across the board adoption of normative cost without any basis. Evidence based cost should be accepted by the Authority and other stakeholders. As regards stakeholder consultation for T1B is concerned the same will be undertaken at appropriate time, because for the time being Reconstruction of T1B has been deferred.

Para 35:

The Authority should not allow the capex allowed in earlier control periods but not taken up, as part of capex for TCP:

Capital expenditure which were planned in FCP and SCP were not taken up due to valid underlying reasons, which have been adequately explained to the Authority by MIAL. In certain cases after review the projects have been deferred for future, for conserving resources and also to ensure timely capex as per requirement instead of incurring capital expenditure where it could be deferred. In fact deferring the capex is in the interest of stakeholders. Suggestion of FIA not to approve the deferred capex in future is impractical and not acceptable.

Para 36:

Imposition of higher penalty that too retrospectively:

MIAL has adequately enunciated its point of view about imposition of penalty on delayed

capex vide para 1.3.3 of its Response to CP. Submission of FIA for increasing the penalty from 1% is without any substance. MIAL has adequately explained that delaying the capex is against its interest, any imposition of penalty puts MIAL in double jeopardy.

Para 37:

Comment on FAR and project related assets for study on ratios, etc.:

Capitalised assets are included in the FAR and the cost breakup is fully traceable through work breakdown structure codes (WBS codes). Any concern about accuracy of capitalization is not correct. The consultant appointed by the Authority was provided with all the details to their satisfaction and there is nothing pending. All the necessary information had been provided to the Authority and the Consultant to conduct the study on ratios.

Para 38:

Capital expenditure to be allowed after AUCC meeting and independent audit on cost analysis:

As explained AUCC meeting was delayed due to unforeseen circumstance, the same has been planned for the third week of December, 2020. Authority reviews all the capex, while determining tariff for the next control period hence submission about deferring the approval does not serve any purpose.

- VI. DEPRECIATION COMPUTED BY MIAL FOR SCP AND TCP ACCEPTED AS IS BY THE AUTHORITY. USEFUL LIFE FOR RAB IS AS PER TECHNICAL EVALUATION OF MIAL AND FOR ADDITIONS IT IS AS PER DEPRECIATION ORDER 35. TECHNICAL EVALUATION OF MIAL SUGGESTS USEFUL LIFE WHICH IS HALF OF THE LIFE SUGGESTED IN DEPRECIATION ORDER 35. TECHNICAL EVALUATION OF USEFUL LIFE REFLECTED IN FINANCIAL STATEMENTS OF MIAL IS HIGHER THAN CP 35 TECHNICAL EVALUATION. HIGHLY INFLATED RAB**

Para 39:

Depreciation of ₹2158 cr. has been accepted by the Authority for SCP:

The Authority has rightly considered the depreciation of Rs. 2158 cr.

Para 40:

FIA submits that Lower useful life of assets considered based on report of technical expert and incremental depreciation charge allowed:

Wherever MIAL has adopted lower useful life than mentioned in relevant AERA order it has relied on estimate by technical expert.

Para 41:

Depreciation policy applied inconsistently and useful life of assets is based on management estimate:

There is no inconsistency. Useful life of Assets have been estimated by the Technical expert and accepted by MIAL. As alleged by FIA, there is no inconsistency in providing depreciation rates. Depreciation rates have been considered appropriately based on Companies Act, AERA Order or as estimated by Technical expert, as may be applicable.

Para 42:

The assets shall have to be replaced more frequently due to lower useful life considered:

Observation of FIA is fallacious because only a part of the building like glass façade, canopy roofing, sanitary fittings, etc. have lower useful life, hence the observation that the construction of building shall be required multiple times is misconceived.

Para 43:

Depreciation based on technical evaluation of useful life has enhanced the depreciation on opening RAB:

In fact past depreciation also needs to be recalculated, Depreciation on addition to the assets is applied as per AERA order in absence of exact breakup of part of assets, as in case of reconstruction of T1B, which for the time being has been deferred beyond TCP.

Para 44:

Depreciation should be applied on opening RAB as per order no.13/ 2017-18:

Please refer our response in Para 43.

Para 45:

Detailed calculation of depreciation to be provided: Authority has provided details of depreciation and in case of any specific requirement, the same can be requested by FIA from the Authority.

Para 46:

FIA has suggested higher useful life of Terminal building hence lower depreciation charge: Useful life has been considered either as per Authority's Order or as estimated by technical expert, whichever is applicable. FIA questioning report of technical expert is uncalled for. Example of foreign airports is also irrelevant. Calculation provided by FIA are misleading as they are on entire RAB, disregarding classification of assets. Secondly like in case of terminal, only a part of terminal is considered for lower useful life such as glass facade, sanitary fittings, canopy, etc.

VII. INCORRECT INCLUSION OF HRAB

Para 47:

HRAB should not have been considered for computation of TR:

Comment of FIA is against the provision of AERA Act read with SSA. MIAL has raised the issue of quantum of HRAB in para 2.1 of MIAL Response to CP.

Para 48:

FIA has computed the reduction in Net Target Revenue by ₹313.66 cr. due to exclusion of HRAB from RAB:

In light of our comments in Para 47, no such reduction in NTR is warranted. Please also refer para 2.1 of MIAL Response on CP.

VIII. FAIR RATE OF RETURN FOR TCP

Para 49:

Cost of Equity (CoE):

Covid-19 related adjustment not factored in by the Authority and CoE of 15.13% should be

applied for FCP and SCP as well: There is no downward effect of Covid19 on CoE. Secondly Authority has not considered CoE as per report of CARE. In response to CP MIAL has requested CoE of 25.88 %. MIAL has also requested to gross up CoE as per para 2.2.1 of Response on CP. Hence FIA contention to further reduce CoE and also to make it applicable to FCP and SCP is unjustified.

Para 50:

Cost of Debt should be allowed at 9.8% instead of 10.3% after downgrade of rating: Rating down grade indicates strained financial position of MIAL due to market forces beyond its control. As a result Cost of Debt has gone up which has to be considered on actual basis. In future once financial position of MIAL improves and ratings are reinstated benefit of lower interest shall be passed on by the Authority to the Stakeholders during true up.

Para 51:

Authority to clarify regarding gearing ratio: FIA has singled out gearing ratio considered by the Authority based on report of IIM B, however it has ignored other components like lower beta resulting into overall lower cost of equity as compared to MIAL request of 25.88%, if beta would have been taken correctly. Hence contention of FIA is not tenable.

Para 52:

Upfront fee not to be included for computation of WACC:

Inclusion of upfront fee for computation of WACC has been rightly proposed by the Authority based on the Order dated 15th November, 2018 by the Hon'ble TDSAT in case of MIAL related tariff appeals. The Authority has considered lower upfront fee of Rs. 150 cr. instead of Rs.153.85 cr.

Para 53:

No return to be provided on Refundable Security Deposit (RSD):

Hon'ble TDSAT in its Order dated 23rd April, 2018 in respect of DIAL related tariff appeals has remanded the issue of Return on RSD stating that RSD cannot be a zero cost debt, its cost needs to be ascertained and made available through appropriate fiscal exercise at the time of

next tariff redetermination. Accordingly the Authority has proposed to provide a return on RSD at Cost of Debt. In the opinion of MIAL, RSD are of long term nature with no end use restriction and are treated as quasi-equity by the lenders hence return on RSD should be provided at CoE instead of CoD as proposed by the authority. Please also refer para 3.1.5 of MIAL response to CP.

IX. TRUE UPS FOR FCP AND SCP AND DELAY IN TARIFF DETERMINATION

Para 54:

Over projection and error in projection of Target Revenue:

MYTP is submitted based on estimates and Authority also reviews the submissions. There could always be variation during true up and any extra collection is clawed back with carrying cost. Hence there is no undue enrichment of airport, rather it has to pay the carrying cost.

Para 55:

Detailed independent analysis not carried out by Authority in respect of TR, which unduly burdens the end users:

True up mechanism was considered essential by the Authority due to emerging stage of Regulatory regime in India. Once the industry matures, Authority may consider capping true up both ways. Today airport does not get any incentive even if expenses are lower than the expenses approved by the Authority, same is trued up in the next control period, similarly, higher revenue generated is also trued up during the tariff determination for next control period. However, any assumption that true up leads to complacency on part of Airport is not correct. In case of higher NAR, a portion, subject to revenue share, is retained by the operator.

Para 56

The Authority should carry out detailed analysis of building blocks:

Authority has appointed an independent consultants for most of the building blocks i.e. Cost of Equity, Assets Ratio and Allocation of expenses between aero and non-aero.

Para 57

Delayed Submission of MYTP:

Submission of MYTP was delayed mainly due to imminent and subsequent collapse of Jet Airways. It was extremely difficult to project traffic, both domestic and international, more so international. Jet Airways had major market share at Mumbai airport it was not possible to project passenger and NAR. Submission of MYTP for SCP was well in time.

X. AUTHORITY OUGHT TO FOLLOW SINGLE TILL MODEL FOR DETERMINATION OF AERONAUTICAL TARIFF

Para 58:

Submission of FIA is devoid of the fact that concession documents for CSMIA unambiguously stipulated Shared Till. Later on MoCA has, based on National Civil Aviation Policy, 2016, directed Shared Till for all airports. Section 13(1)(a)(iv) of the AERA Act guarantees consideration 'the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise'. Raising of this settled issue of till mechanism by FIA time and again is uncalled for.

Annexure II

Counter comments of MIAL on interim and final comments of Business Aircraft Operators Association (BAOA) on CP 35 vide letters dated 22nd October 2020 and 9th November, 2020 respectively:

BAOA has raised following issues concerning charges and operation of GA / NSOP aircraft (GA aircraft):

1. **Area for GA aircraft operations not in proportion to number of GA aircraft operating at CSMIA vis-à-vis total number of aircraft operating at CSMIA:**

CSMIA is a land constrained airport and there is no possibility of increasing GA aircraft parking nor the curfew period for GA aircraft can be done away with in view of capacity constraints. There is a common runway used by GA aircraft as well as other aircraft. At no point of time there has been an instance where GA aircraft could not land at CSMIA. So, comparing percentage of area available for GA aircraft vis-à-vis other aircraft is irrelevant.

2. **Unauthorized Overstay Charges:**

BAOA has objected for levy of unauthorized overstay charges during the lockdown period from 00:00 hours of 25th March, 2020 to 23:59 hrs of 24th May, 2020, BAOA has objected to levy of un-authorized over stay charges during the said lock down period. First of all, this is not a subject matter of CP. Secondly, if any GA aircraft was parked at CSMIA with scheduled date of departure (slot allotted) beyond the date of lockdown, no overstay charges have been levied. In case any GA aircraft which was parked at CSMIA, Mumbai with scheduled date of departure prior to imposition of relevant lockdown but it over stayed so that it remained parked during the lock down period, overstay charges have been imposed. General exemption from overstay charges inspite of violation of scheduled time (slot allotted) of departure is not justified and such exemption has not been allowed by MIAL.

3. Window for parking without overstay charges:

a. Domestic GA aircraft:

If a domestic GA aircraft lands and takes off within a period of 48 hours, overstay charges are not levied subject to it not violating the scheduled departure time declared at the time of slot allocation parking. For example, an aircraft is allotted a slot for landing at 8 am and departure next day at 8 am, but it departs after 8 am of next day, parking beyond 8 am of next day shall be subject to overstay charges. Similarly, in case declared departure time at the time of slot allocation is 8 am after 2 days within 48 hours and aircraft departs on time, no overstay charges are levied. It is essential that time of departure is decided before hand and should not be violated.

b. International GA aircraft:

Rule is same as for domestic GA aircraft, except that 72 hours are permitted instead of 48 hours.

It is abundantly clear that 48 / 72 hours are available without imposition of overstay charges subject to adherence to departure schedule at the time of slot allocation. The departure time can be modified at any time until arrival at CSMIA provided stay at CSMIA is within 48 / 72 hours.

Hence, contention of BAOA is to misguide the Authority in this regard.

Annexure III

Counter comments of MIAL on comments by Shri Porus Bhatt on CP no. 35/ 2020-21

1. Levy of User Development Fee (UDF) / Ad – hoc UDF is unjustified:

As alleged by Shri Porus Bhatt, proposal for Ad-hoc UDF is not irrational. This is for the purpose of viability gap funding. This is mandated under Section 13(1)(a)(iv) of the AERA Act which mandates the Authority to while determining the tariff ensure economic and viable operation of major airports. Similarly SSA mandates under Principles of Tariff determination “ Commercial: In setting the price cap, AERA will have regard to the need for the JVC to generate sufficient revenue to cover efficient operating costs, obtain the return of capital over its economic life and achieve a reasonable return on investment commensurate with the risk involved.”

In view of above, objections by Shri Porus Bhatt are not tenable.