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MOST URGENT

23 September 2019

To,
The Chairperson,
Airports Economic Regulatory Authority of India (AERA),
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi – 110003.

Kind Attention: Shri. B S Bhullar, IAS

Subject: FIA's submission towards AERA CP.No. 03/2019-20 titled "In the matter of determination of aeronautical tariffs in respect of Jay Prakash Narayan International Airport, Patna for the First Control Period (01.04.2018-31.03.2023)"

Dear Sir,

Further to File No. AERA/20010/MYTP/AAI-PAT/CP-I/2018-19 Addendum to Consultation Paper No. 03/2019-20 - In the matter of determination of aeronautical tariffs in respect of Jay Prakash Narayan International Airport (PAT), Patna for the first Control Period (01.04.2018 to 31.03.2023) 06th September 2019.

Please find attached the FIA submission to the same along with Annexure A for your kind consideration.

Thanking you,

Yours sincerely,

For and on behalf of Federation of Indian Airlines,


UJJWAL DEY
Associate Director

A. BACKGROUND

1. On 08.05.2019, the Airports Economic Regulatory Authority of India (hereinafter referred to as the "**Authority**") had issued the File. No. AERA/20010/MYTP/AAI-PAT/CP-I/2018-19 (Consultation Paper No. 03/2019-20) in respect of determination of aeronautical tariffs of Jay Prakash Narayan International Airport (PAT), Patna (**Patna Airport**) for the first Control Period (01.04.2018 to 31.03.2023), owned and operated by the Airports Authority of India (**AAI**). FIA understands that in the financial year ending March 31, 2016, Patna Airport crossed annual passenger throughput of 1.5 million to become a Major Airport, as defined in Section 2(i) of Airports Economic Regulatory Authority of India Act, 2008. Accordingly, starting from financial year 2016-17, tariff determination of aeronautical services at Patna Airport is to be undertaken by the Authority. For the purposes of this present submission, the Consultation Paper No. 03/2019-20 as mentioned above shall be hereinafter be referred to as "**Consultation Paper**".

2. In terms of the Consultation Paper and requirements under the AERA (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011, FIA understands that AAI had conducted an Airport Users Consultative Committee (**AUCC**) meeting on 17.01.2017. As per the minutes of the AUCC meeting dated 17.01.2017 observed by the Authority, the discussions in the meeting were limited to a broad set of needs regarding Patna Airport. FIA understands that no concrete and quantitative proposals were made at the AUCC meeting dated 17.01.2017. Thereafter, FIA understands that significant deviations and additions to the proposed capital expenditure were made after the said AUCC meeting dated 17.01.2017. In this background, FIA understands that the Authority noted the need for an AUCC meeting with concrete proposals for capital expenditure and instructed AAI to hold the same. AAI conducted the subsequent AUCC meeting on 31.05.2019 (**AUCC Meeting**) at Patna Airport. FIA and its member airline representatives had participated in the AUCC Meeting and raised several concerns to be reviewed by AAI on the proposed capital expenditure and related works.

3. The Authority held a Stakeholder Consultation Meeting on 07.06.2019 (**Stakeholder Meeting**) at the Authority's office in New Delhi. FIA and its member airlines were present in the said meeting and have expressed their views on the Consultation Paper including the issues raised before the AUCC Meeting. *Inter alia*, it was noticed that in the presentation made by AAI in the Stakeholder Meeting certain aspects relevant for tariff determination were different from the AAI submissions made in the Consultation Paper and the AUCC Meeting. Accordingly, in the Stakeholder Meeting the Authority directed officials of AAI to review their working/calculation/projections and provide clarifications on certain aspects of the Consultation Paper.

4. On 12.06.2019, the Authority issued Public Notice No. 06/2019-20 *vide* File No. AERA/20010/MYTP/AAI-Patna/CP-I/2018-19/ AERA (**Public Notice 06**) extending the last date for submission of written comments on the Consultation Paper from 14.06.2019 to 21.06.2019. Further, the attachment to the Public Notice 06 contained the presentation that was made by Patna Airport/AAI officials before the stakeholders during the Stakeholder Meeting.

5. In response to Public Notice 06, FIA submitted letter dated 12.06.2019 (**FIA Letter**) raising several key concerns (referred in para 6 below) on the submission made by AAI as part of the Public Notice 06 and further requesting the Authority to review the revised submissions made by Patna Airport (amounting to amendments of MYTP) and issue a revised consultation paper for Patna Airport.

6. The FIA Letter stated issues which remained to be clarified by the Authority for the purposes of the Consultation Paper including, among others, AAI's proposal for a new airport at Bihta (about 27 kilometers from Patna Airport). FIA submitted that no reference of the proposed commissioning of Bihta Airport had been disclosed under the Consultation Paper, and such fact was only disclosed during the AUCC meeting at Patna Airport and discussed at Stakeholder Meeting. The FIA Letter accordingly sought from AAI the reasoning / need for a new terminal project (including allied works) at Patna Airport when a new airport i.e., Bihta Airport is proposed to be commissioned by 2022 in Patna or alternatively

justify the need for Bihta Airport and also indicate the impact on traffic at Patna Airport due to proposed commissioning of Bihta Airport. The issue pertaining to Bihta Airport has been discussed under the detailed submission in paras. 25-26 below. In the FIA Letter, FIA further submitted key concerns pertaining to source of financing, contradiction in traffic projection and cost of residential quarters, among other concerns.

7. On 03.07.2019, the Authority issued Public Notice No. 07/2019-20 *vide* AERA/20010/MYTP/AAI-Patna/CP-I/2018-19 (**Public Notice 07**) with comments / submissions received from stakeholders on the Consultation Paper.

8. FIA submits that AAI submitted its new proposals and revised numbers on the Consultation Paper as captured under Public Notice 07. In view of the above, the Authority assessed that the nature of some of the comments captured under Public Notice 07 was material in terms of their impact on aeronautical tariffs and accordingly on 06.09.2019, the Authority issued an Addendum to the Consultation Paper (**Addendum**) inviting fresh comments from the stakeholders. The Authority has sought a detailed written submission from its stakeholders on the Addendum by 23.09.2019. The FIA response on the impact of the new proposals / revised numbers submitted by AAI and their corresponding impact on the regulatory building blocks along with FIA's issue-wise submissions are captured under **Part C** of this submission below.

9. FIA submits that the Authority has determined the tariff for Patna Airport under the Consultation Paper and the Addendum as per the Hybrid Till model.

10. By way of this present submission, FIA on behalf of its member airlines submits its preliminary objections to the Consultation Paper, as amended by the Addendum, without any prejudice and craving to submit any additional submission as and when required.

11. At the outset, it is noteworthy that the Authority is under a bounden duty to determine the tariff in terms of:-

- (a) Statutory provisions under the Airports Economic Regulatory Authority of India, Act, 2008 (**AERA Act**);
- (b) AERA (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011 (**AERA Guidelines**);
- (c) Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines 2011 (**CGF Guidelines**); and
- (d) Regulatory jurisprudence and settled principles of law creating a level playing field to foster competition, plurality and private investments in the civil aviation sector.

B. CONTEXT OF THE CONSULTATION

12. To assist the Authority in appreciating these submissions on the Consultation Paper, as amended by the Addendum, FIA would like to state that the present submissions are without prejudice to our right and contentions, reserving FIA's right to submit additional submissions/objections at a later stage and subject to the following: -

- (a) In para 3.1 of the Consultation Paper, it is stated that Patna Airport filed its original MYTP submission on 27.11.2018 for the first control period from 01.04.2018 to 31.03.2023 and further revised the MYTP with submissions dated 14.03.2019. FIA submits that AAI has subsequently submitted numerous revisions to the MYTP as have been recorded up till the stage of issuance of Addendum.

It is not denied that FIA is not the stakeholder for determination of tariff of Patna Airport. FIA submits that as per a catena of judicial pronouncements, it is a well settled principal of doctrine of natural justice – '**audi alteram partem**' (meaning, hear the other side), that before taking any decision/action affecting the rights and liabilities of an individual/entity, an opportunity of showing cause and to submit response thereto has to be afforded to the person whose rights and/or liabilities may be affected. This principal is further enshrined under section 13 (4)

of the AERA Act, which provides that the Authority shall ensure transparency while exercising its powers and discharging its functions, *inter alia*:

- (a) by holding due consultations with all stakeholders with the airport;
- (b) by allowing all stakeholders to make their submissions to the Authority;
- and
- (c) by making all decisions of the Authority fully documented and explained.

FIA would also like to mention that in the Order dated 23.04.2018 passed by the Hon'ble Telecom Disputes Settlement & Appellate Tribunal, New Delhi in the case of *Federation of Indian Airlines vs. Airport Economic Regulatory Authority of India & Ors.* - AERA Appeal No. 6 of 2012 and *Delhi International Airport Ltd. (DIAL) vs. Airport Economic Regulatory Authority of India & Ors.* - Appeal No. 10 of 2012 (**DIAL Order**), it has been *inter alia* held that "...request for supply of documents by a stakeholder should ordinarily be accepted" and "...There is no doubt that the principles of fairness and transparency are very valuable and must be scrupulously followed by the Regulator in the exercise of fixation of tariffs.."

FIA submits that it has not been provided with the copies of the MYTP submissions made by AAI/Patna Airport dated 27.11.2018, as further revised *vide* submissions dated 14.03.2019. In addition to the aforementioned, FIA has not been provided with copy of the Project Investment File (**PIF**) required for an AUCC meeting, as applicable. However, FIA has been provided only with the "Detailed Project Report including Cost Estimate & Value Capture Financing for the subject work" provided by Patna Airport on 24.05.2019 and the AAI presentation under Public Notice 06.

FIA submits that the above limited information does not entirely qualify as PIF as per the requirements of the AERA Guidelines. Accordingly, in the absence of the receipt of such submissions made by Patna Airport, FIA is unable to appreciate, assess and comprehend the facts and figures (and any comparison thereto) of the Consultation Paper in its entirety and actuality. Thus, FIA hereby requests that the above mentioned MYTP submissions as submitted by the AAI may be made available to all the stakeholders (including FIA) for perusal and comments

so as to ensure complete transparency and to enable FIA to submit requisite and consolidated observations / comments to the present Consultation Paper.

13. Pursuant to the enactment of the AERA Act, the Authority has been established to perform the functions vested under the AERA Act including Section 13 of the AERA Act, which includes determination of tariff for aeronautical services, viz.-

- (a)** Section 2(a) of the AERA Act defines "aeronautical services".
- (b)** Section 13 (1)(a) of the AERA Act provides that the tariff for such aeronautical services at a major airport is to be determined by the Authority after taking into consideration various factors, being:-
 - (i)** The capital expenditure incurred and timely investment in improvement of airport facilities;
 - (ii)** The service provided, its quality and other relevant factors;
 - (iii)** The cost for improving efficiency;
 - (iv)** Economic and viable operation of major airports;
 - (v)** Revenue received from services other than the aeronautical services;
 - (vi)** The concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;
 - (vii)** Any other factor which may be relevant for the purposes of the AERA Act.

14. 'Determination' by the Authority:

(a) Section 13(1) (a) of the AERA Act requires the Authority to 'determine' the tariff for aeronautical services. Any 'determination' by a statutory authority must clearly show the application of mind and analysis carried out by the Authority. FIA submits that "to determine tariff" in terms of Section 13 (1)(a) of the AERA Act, the Authority has to carry out a scientific exercise by deducing past performance on the basis of historical data balancing diverse policy objectives and evaluating the comparative weight to be ascribed to the interests of all stakeholders. FIA submits that however, in the present case, the Authority has proposed to allow various expenditures/projections like Capital Expenditure, Operating Expenditure, Traffic Projections, Allocation of Assets, Non-Aeronautical Revenue etc. merely

on the basis of Patna Airport's submissions and has failed to provide any justification of its own or analysis for the same. In fact it appears that the Authority has failed to initiate/conduct an independent assessment or obtain an expert opinion in order to determine or conclude in a reasonable determination of such costs/projections. It is to be noted that to ensure transparency while exercising its discharge of functions by the Authority under AERA Act it is implied obligation to produce all relevant documents and make decisions which are fully documented and explained. In this regard, the judgment of the Hon'ble Supreme Court in the case of *Ashok Leyland Ltd. vs. State of Tamil Nadu & Anr. reported as (2004) 3 SCC 1 (FB)* (at Paragraph No. 94) is noteworthy. The Hon'ble Supreme Court has held that the word 'Determination' must also be given its full effect to, which pre-supposes application of mind and expression of the conclusion. It connotes the official determination and not a mere opinion or finding. The Hon'ble Telecom Dispute Settlement Appellate Tribunal (**TDSAT**) has also held that determination requires application of mind in the Judgment dated 16.12.2010 in Appeal No. 3(C) of 2010 titled as *Zee Turner Ltd. vs. TRAI & Ors.* (at Paragraph No. 150).

(b) Section 13(1)(4)(c) of the AERA Act mandates that any decision by the Authority must be fully documented and explained.

15. To the dismay of the stakeholders (including airlines), the Authority vide the present Consultation Paper has *simplicitor* accepted Patna Airport's/AAI's claims under the MYTP without conducting its own independent financial study and prudence check or commissioning experts, for e.g. matters relating to evaluation of capital expenditure, operating expenditure, allocation of aeronautical and non – aeronautical assets, non-aeronautical revenue, traffic projections etc.

16. It is regrettable that the Authority in the year 2012 i.e., at the time of issuance of DIAL Tariff Order (No.3/2012-13) had decided to commission its own experts has failed to do so till now.

C. ISSUEWISE SUBMISSIONS

I. 52% OF ARR PROPOSED BY AUTHORITY IS RECOVERED BY BURDENING THE PASSENGERS WITH LEVY OF USER DEVELOPMENT FEE. ACCEPTANCE OF AAI'S SUBMISSIONS IN EACH BUILDING BLOCK IS LEADING TO HIGHER ARR.

17. FIA submits that as per Proposal 13 of the Consultation Paper, the Authority has considered total ARR including true up amounting to INR 368.64 crores. The Authority proposes to recover INR 175.7 crores (48% of ARR) from aeronautical charges and INR 192.95 crores (52% of ARR) by levying User Development Fee (UDF) as referred to in the table below.

Revised ARR and Yield as per Authority

Table #7 on Page 26 of addendum to CP No. 3/2019-20

S. No.	Particulars	INR crores						
		FY19	FY20	FY21	FY22	FY23	Total	% of ARR
A	Average RAB	29.01	71.06	99.36	91.93	425.35	425.35	94%
B	Fair Rate of Return	14%	14%	14%	14%	11.54%		
C	Return on average RAB	4.06	9.95	13.91	12.87	49.06	89.85	20%
D	O&M expenses	49.73	58.16	61.55	65.17	71.87	306.48	68%
E	Depreciation	3.65	5.85	7.56	7.32	27.64	52.02	11%
F	Tax expense	-	-	-	15.36	15.93	31.29	7%
G	Subtotal [C+D+E+F]	57.44	73.96	83.02	100.72	164.50	479.64	106%
H	Less: 30% NAR	(4.18)	(4.80)	(5.27)	(5.79)	(6.74)	(26.78)	(6%)
I	Aggregate Revenue Requirement (ARR) [G+H]	53.26	69.15	77.74	94.93	157.75	452.85	100%
J	Add: True up	37.43						
K	PV of ARR based @14%	90.69	60.66	59.82	64.08	93.40	368.64	
L	PV of Aeronautical revenues	27.00	31.30	36.70	38.90	41.90	175.70	48%
M	Shortfall before levy of UDF (K-L)	63.69	29.36	23.12	25.18	51.50	192.95	52%
O	Levy of UDF	15.60	36.20	60.20	69.20	88.60	269.80	
P	PV of UDF based @14%	15.60	31.70	46.30	46.70	52.50	193.00	
Q	Shortfall after levy of UDF (M-P)	48.09	(2.34)	(23.18)	(21.52)	(1.00)	(0.0)	-
R	Total traffic [in millions]	4.06	5.20	5.98	6.88	8.80	31.50	
S	Yield per passenger (Y) (INR) ((I+J/R)*10)	223	133	130	138	179	144	
T	UDF per embarking passenger (Y) (INR) ((O/(R/2))*10)	77	139	201	201	201	171	

18. FIA submits that the one of the key reasons of higher UDF is acceptance of AAI's submission in all building blocks such as higher RAB, higher FRoR, operating expenditure, and lower non-aeronautical revenue. FIA submits that all these factors have cumulatively led to a higher ARR. FIA has also noted that revenue from cargo operations and air navigation services have not been formed part of tariff proposal, which has led to an increase in levy of UDF during the control period. FIA has conducted analysis on each of the building blocks as discussed hereinafter in this submission.

19. FIA submits that pursuant to the proposed Tariff Card in the Addendum, the UDF charges have increased to INR 201 from INR 197 as proposed in the Consultation Paper.

20. Accordingly, FIA submits that the Authority should review the measures to contain the shortfall in the revenue and the corresponding increase in the levy of UDF by adjusting the current building blocks (as discussed hereinafter in this submission). FIA submits that such increase in the levy of UDF will impact the viability and affordability of the Patna Airport for airlines and passengers.

II. TRAFFIC PROJECTIONS PROVIDED BY AAI HAS BEEN ACCEPTED BY AUTHORITY AND THE AUTHORITY HAS NOT CONDUCTED INDEPENDENT STUDY OF ITS OWN. GROWTH RATE PROJECTIONS FOR PASSENGER TRAFFIC ARE NOT IN LINE WITH THE HISTORICAL 5-YEAR CAGR OF DOMESTIC TRAFFIC

A. Traffic Forecast as considered by the Authority

21. FIA submits that for traffic projections at Patna Airport, the Authority sought historical passenger and ATM traffic from FY07 to FY18 for the first control period from Patna Airport. FIA submits that the Authority has considered the passenger traffic growth for the control period as under:

- 1st year of control period (FY19) – Actuals for FY19 (refer table below)
- 2nd year of control period (FY20) – 10 year CAGR (28%) (refer table below)
- 3rd and 4th year of control period (FY21 and FY22) – 15%. FIA submits that it appears that on account of capacity constraints, Patna Airport will not be able to support growth at the rate of 28% and therefore have proposed a downward growth rate of 15%. FIA submits that it is to be noted that Patna Airport has constructed a semi-permanent building admeasuring an area of 1,850 Sq. mt. to accommodate traffic growth. (refer table below)
- 5th Year of control period (FY 23) – 28%. Authority proposes to resume 10 year CAGR of 28% on account of construction of new terminal building. (refer table below)

**FIA's submission towards the Authority's Consultation Paper No. 03/2019-20 titled
"In the matter of determination of aeronautical tariffs in respect of Jay Prakash Narayan International Airport
(PAT), Patna for the First Control Period (01.04.2018 - 31.03.2023)"**

22. FIA submits that the Authority has not considered 10 year CAGR (28%) consistently over the control period on account of capacity constraint and have reduced the growth rate to 15% for FY21 and FY22 without any basis (refer table below). FIA submits that it is also to be noted that Patna Airport is constructing a semi-permanent terminal building to be used for a period of 3 years until the new terminal building is constructed to accommodate traffic growth.

Traffic Forecast as considered by the Authority

Table #1 of Page 9 of addendum to CP No.03/2019-20

Particulars	FY18	FY19	FY20	FY21	FY22	FY23	Grand Total of control period	YoY					5 years CAGR FY 14 to FY19	10 years CAGR FY 09 to FY19	
								FY19	FY20	FY21	FY22	FY23			
As per addendum to consultation paper															
Passenger traffic															
Domestic	3,111,273	4,061,990	5,199,347	5,979,249	6,876,136	8,801,454	30,918,176	31%	28%	15%	15%	28%	31.2%	28.0%	
Total	3,111,273	4,061,990	5,199,347	5,979,249	6,876,136	8,801,454	30,918,176		28%	15%	15%	28%	31.2%	28.0%	
ATM															
Domestic	21,916	28,087	33,143	39,109	46,149	54,456	200,944	28%	18%	18%	18%	18%	23.2%	18.3%	
Total	21,916	28,087	33,143	39,109	46,149	54,456	200,944		18%	18%	18%	18%	23.2%	18.3%	

23. FIA submits that the Authority should consider 5-year CAGR of 31.2% for growth rate projections for domestic passenger traffic for the first control period.

24. FIA submits that the Authority has broadly relied on the data provided by Patna Airport and should instead conduct its own independent study on traffic projections. FIA submits that in case the Authority is unable to commission an independent study for passenger traffic growth, the Authority should consider the construction of semi-permanent terminal building to accommodate the traffic growth and consistently apply traffic growth rate of 28% for the first control period.

B. Impact of Bihta Airport on Traffic Forecast

25. FIA has observed that per para 4.3.1 of the Addendum, the Authority has assessed the impact of the Bihta Airport vis-à-vis the capital expansion at Patna Airport. The Authority has noted that there are issues related to restrictions of land surrounding Patna Airport which results in the Airport's inability to expand further. The Authority has noted that, given

the constraints around Patna Airport and demand projections, AAI's proposal for Bihta Airport is to handle traffic beyond 8 million persons per annum (**MPPA**). The Authority has noted that Bihta is an existing Air Force Base operated by the Indian Air Force (**IAF**) and IAF has agreed for the joint use of Bihta Airport with AAI. FIA observes that as stated para 4.3.1 of the Addendum, AAI has submitted a detailed scope of work for the development of the Civil Air Terminal at Bihta Airport. **FIA submits that the documentation including any detailed scope of work for the development of the Civil Air Terminal at Bihta Airport should be provided to the stakeholders and / or placed in the public domain.**

26. Further, FIA submits that AAI is requested to provide any policy document or factors / considerations for developing dual or multiple airports in the same city or nearby vicinities.

C. Rationale for using 5 year CAGR over 10 year CAGR for Passenger traffic and ATM traffic

27. FIA submits that the International Civil Aviation Organisation's (**ICAO**) "*Manual on Air Traffic Forecasting*" (**Manual**) discusses various air traffic forecasting methodologies. Time series analysis is one of the methodology recommended by ICAO and has adopted in this case by the Authority to forecast traffic. As per the Manual, time series analysis methods are fundamentally based on the assumption that factors which determined the historical development of the traffic historical patterns will continue in the forecasting period.

28. FIA has observed that the Authority has proposed to consider 10 year CAGR growth rate for traffic projections. FIA submits that the aviation sector has undergone significant changes in the past 5 years and hence use of preceding 10 year CAGR will not be reflective of time series analysis as per the Manual. FIA submits that 5 year CAGR is more suitable for forecasting. A summary of changes in aviation sector is summarized in table below:

Civil Aviation Industry Dynamics changes in different phases

Particulars	Prior to 2014	2014-18	Post 2018
Policy and Partnership Initiatives			
Regional Connectivity Scheme - UDAN	No	Yes	Yes
National Civil Aviation Policy 2016	No	Yes	Yes
Grant Agreement for India Aviation Safety Technical Assistance Phase II	No	Yes	Yes
Industry Comparisons			
Ranking of Indian Civil Aviation Market in World (Reports)	NA	3rd	Largest by 2030
Indian GDP Growth rate (Reports)	5% - 7%	7% - 8%	7% - 8%
Ease of Doing Business ranking (World Bank)	134	From 130 to 77	NA

29. FIA submits that the Authority should consider the principles enshrined in the international standard as issued by ICAO on use of time series analysis for traffic forecasting and use 5 year CAGR of 31.2% and 23.2% for passenger and ATM traffic respectively, as factors which determined the growth in the aviation sector in preceding 5 years have significantly changed in favor of the Indian aviation market and can be a fair representation for future estimates.

30. FIA submits that the traffic projections are critical in ascertaining the tariffs and CAGR considered by Authority is significantly lower than past CAGR, the Authority must appoint an independent consultant to evaluate traffic forecasts. FIA submits that the expert study would be scientific as apart from past trends of traffic it will also consider various qualitative factors affecting macro environment of the aviation sector like (a) impact of new civil aviation policy (b) commencement of operations from new airlines (b) future changes in economic environment (c) population growth (d) trends of increase in disposable income.

III. NEW TERMINAL BUILDING ALLOWED AT INR 1,00,000 PER SQ. MT. INSTEAD OF 65,000 PER SQ. MT. AS PRESCRIBED IN AERA ORDER NO. 07/2016-17 (NORMATIVE ORDER)

A. Revised Capital Expenditure proposed by Authority

Revised Capital Expenditure proposed by Authority

Table #3 on Page 17 of Addendum CP No. 03/2019-20

Asset Category	FY19	FY20	FY21	FY22	FY23	Total
Runways, Aprons and Taxiways	6.26	-	-	-	4.20	10.46
Road, Bridges & Culverts	-	-	-	-	81.68	81.68
Building - Terminal	5.59	11.81	-	-	398.35	415.75
Building - semi permanent	0.95	13.66	-	-	-	14.61
Building - Residential	-	32.56	-	-	-	32.56
Plant & Machinery	4.06	-	-	-	-	4.06
Electrical Installations	1.59	11.97	-	-	227.66	241.22
CFT/Fire Fighting Equipment	4.03	-	-	-	-	4.03
Others	1.43	-	-	-	-	1.43
Total	23.91	70.00	-	-	711.36	805.80

B. Key additions to RAB - New terminal Building of INR 580.07 crores

31. FIA submits that the Authority has proposed to construct a new terminal building spread across an area of 65,155 square meters. FIA submits that AAI has further informed that 10.97% of the new terminal building will be used for non-aeronautical operations. FIA submits that the Authority allocated the cost of the new terminal building to be INR 651.55 crores and the aeronautical portion of this to be INR 580.07 crores (INR 364.17 crores for civil work and INR 215.91 crores for electric installations) and disallowed expenditure of INR 72.25 crores.

32. FIA submits that the Authority has adopted the normative approach towards determination of cost of terminal building. FIA submits that the Authority has considered a normative cost of INR 100,000 per sq. meters. However, FIA submits that as per Normative Order No. 07/2016-17 "In the matter of normative approach to building blocks in economic regulation of major airports – capital costs reg." dated 13.06.2016 (**Normative Order**), the ceiling cost per sq. metre for terminal building is stated as INR 65,000. FIA submits that the Authority has mentioned that it has given clarification regarding this normative cost in previous tariff orders pertaining to other airports such as Guwahati and Lucknow. FIA submits that the Authority undertook studies for a few major airports for determining the reasonableness of the capital expenditures for their respective terminal buildings. FIA submits that as per these studies, the cost worked out to be in the range of 0.95 to 1.25 lakhs per sq. meter. FIA submits that, accordingly the Authority has decided to adopt INR

100,000 per sq. meter for terminal buildings of this design and specifications. FIA submits that FIA has not been made a part of the consultation process and / or provided with any documents pertaining to the abovementioned studies undertaken for few major airports by the Authority. Accordingly, **FIA submits that a copy of such studies for the aforementioned decision should be provided to FIA and other stakeholders for their review.**

33. Without prejudice to the above, FIA submits that the regional dynamics of Patna is not similar to Guwahati and Lucknow and therefore considering the cost escalations in those regions will not be appropriate. FIA would also like to highlight that the cost per square meter of the terminal building in the case of Vishakhapatnam Airport is INR 58,546.60 per sq. mt. Accordingly, FIA submits that any cost to be allocated for capital expenditures should be within the normative norms prescribed by the Normative Order dated 13.06.2016.

34. Further, FIA submits that as per the Normative Order dated 13.06.2016, the normative cost of INR 65,000 per sq. mt. is to be taken for new terminal building and in case of deviations from the same the Authority should analyse the deviation. FIA submits that the Authority should provide a detailed breakup of deviations from normative cost of INR 65,000 per sq. mt. Further, FIA submits that the Authority should provide break up expenditures as discussed in the Normative Order dated 13.06.2016 to facilitate comparison with normative cost.

RAB for the 1st control period after Authority's examination

Table #24 of Page 31 of CP No.03/2019-20

INR crores

S.No.	Particulars	Pre control regulatory period			Control period			
		FY17	FY18	FY19	FY20	FY21	FY22	FY23
A	Opening RAB	15.4	17.3	19.0	38.1	121.4	109.4	97.7
B	Capitalizations	4.4	4.3	23.0	91.3	-	-	711.4
C	Disposals	-	0.1	0.3	-	-	-	5.2
D	Depreciation	2.4	2.5	3.6	8.0	11.9	11.7	28.1
E	Closing RAB	17.3	19.0	38.1	121.4	109.4	97.7	775.7
F	Average RAB	16.3	18.2	28.5	79.7	115.4	103.6	436.7

FIA submits that with reference to the above table, i.e., Table 24 of the Consultation Paper, the calculation of updated average RAB has not been provided in the Addendum. FIA submits that the Authority should provide the same while issuing its order.

IV. ACTUAL REVENUE FROM AIR NAVIGATION SERVICES (ANS) AND CARGO OPERATIONS HAVE NOT BEEN INCLUDED IN TARIFF

35. FIA submits that as per section 2 of AERA Act, 2008, under sub-section (a),
"aeronautical services means any services provided-

(i) For navigation, surveillance and supportive communication thereto for air traffic management

(iv) for ground handling services relating to aircraft, passengers and cargo at an airport

(v) for the cargo facility at an airport"

36. FIA submits that considering the above provisions, revenue from Air Navigation Services, cargo services and ground handling services should form part of aeronautical revenues and accordingly Authority should take into account of the corresponding revenue and revise the tariff card.

A. Actual Revenue from AAICLAS to AAI should be taken into account by the Authority

37. FIA submits that as per para 3.2 and 3.3 of Consultation Paper and Table 8 of the Addendum, the tariff proposal submitted by AAI did not consider revenues, expenses and assets related cargo services provided by AAI Cargo Logistics and Allied Services (**AAICLAS**), a wholly owned subsidiary of AAI. FIA submits that the Authority has accepted the incomplete proposal of AAI and proposed a tariff card without considering the revenue from the abovementioned service.

38. FIA submits that per para 14.4.1 of the Consultation Paper, the Authority is of the view that an arms-length business transaction would involve monies to be paid by AAICLAS to AAI in lieu of transfer of business and assets thereof. FIA submits that the Authority decided to consider notional revenue from AAICLAS to be included in projected revenue for

AAI. Accordingly, the Authority has considered the CAGR of 62% as calculated in Table 41 of the Consultation Paper as the estimated growth in revenue for the control period from cargo operations and considered 30% of this estimated revenue as the notional revenue from AAICLAS to AAI. FIA submits that revenue from cargo services should form part of aeronautical revenues and accordingly Authority should take into account of the corresponding revenue and revise the tariff card.

39. FIA submits that as highlighted in Para 57 of DIAL TDSAT judgment, *"...Even if DIAL engages in providing an Aeronautical Service through its servants or agents, in essence the service must be deemed to be one provided by DIAL"*. FIA submits that revenue from cargo services should be considered while determining tariff even if the cargo service is provided by AAI's wholly owned subsidiary AAICLAS, since such services will be deemed to be provided by AAI.

B. Revenue from Air Navigation Services should be taken into account by the Authority

40. With respect to Air Navigation Service (**ANS**), the Authority in its Order No. 04/2010-11 *"In the matter of Economic Regulation of Air Navigation Services – Regulatory Philosophy and Approach"* dated 30.06.2010, has stated that *"the Authority shall determine the tariff(s) for ANS on a uniform basis at all airports."* FIA submits that the Authority is required by the abovementioned order to determine the tariff(s) for ANS.

C. Revenue from ground handling services to be clarified by the Authority

41. FIA understands that as per Table 8 on Page 26 of the Addendum (refer table below), the Authority has included ground handling revenues in the computation of aeronautical revenues. However, it appears that the Authority has not discussed the same in the Consultation Paper as well as the Addendum. FIA understands the revenues from ground handling activities are being taken into account in the calculation of aeronautical revenue. The Authority may kindly confirm the same.

**FIA's submission towards the Authority's Consultation Paper No. 03/2019-20 titled
"In the matter of determination of aeronautical tariffs in respect of Jay Prakash Narayan International Airport
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Computation of Aeronautical Revenues

Table #8 of Page 26 of Addendum CP No.03/2019-20

INR crores

S.No.	Particulars	FY19	FY20	FY21	FY22	FY23	Total
	Landing charges:						
A	Domestic	20.6	28.1	39.2	48.0	59.0	194.9
B	International	-	-	-	-	-	-
	Parking and housing charges:						
C	Domestic	-	-	-	-	-	-
D	International	-	-	-	-	-	-
E	Fuel Throughput charges	0.6	0.8	1.1	1.2	1.5	5.2
F	Ground handling charges	0.4	0.4	0.5	0.6	0.7	2.6
G	Land lease - Oil companies	1.2	1.2	1.2	1.2	1.3	6.1
H	Land lease - Ground Handling	0.5	0.5	0.5	0.5	0.5	2.5
I	CUTE charges	3.5	4.5	5.2	6.0	7.6	26.8
J	Cargo Revenue	0.1	0.1	0.1	0.1	0.1	0.5
K	Total - before UDF	27.0	35.7	47.7	57.7	70.7	238.8
L	PV factor	1.0	0.88	0.77	0.67	0.59	
M	PV of above	27.0	31.3	36.7	38.9	41.9	
N	Σ PV of above	175.8					
	Shortfall before UDF	192.9					
	UDF/PSF charges:						
P	Domestic	15.6	36.2	60.2	69.2	88.6	269.8
Q	International	-	-	-	-	-	-
R	PV of UDF	15.6	31.7	46.3	46.7	52.5	192.8
S	Σ PV of UDF	192.9					
T	Shortfall	-					

42. FIA therefore submits that, as mentioned in points A, B and C above, the Authority should consider the revenue from air navigation services and cargo services while determining tariff for first control period and propose a new tariff card accordingly. FIA further submits that the Authority has not commented on revenue from ground handling services and should accordingly provide a clarification on the same.

V. TARIFF CARD FOR 1ST CONTROL PERIOD – INCREASE IN CHARGES BORNE BY AIRLINES AND CONSUMERS BY LEVY OF UDF. AUTHORITY SHOULD CONSIDER 5 YEAR CAGR AT 31.2% FOR DOMESTIC PASSENGERS, TO RE-EVALUATE INCREASE IN CHARGES.

43. FIA submits that the tariff rates are proposed to be applicable with effect from 01.10.2019 (refer table below).

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Schedule of charges for Patna airport on page 28-29 of addendum to CP 03/2019-20

Weight of the Aircraft	FY 2019-20 (from 1/10/19)	FY 2020-21	FY 2021-22	FY 2022-23
Landing Charges-Domestic flights				
Up to 25 MT	160 Per MT	166 Per MT	173 Per MT	180 Per MT
Above 25 MT up to 50 MT	4,000+280 per MT in excess of 25 MT	4,160+291 per MT in excess of 25 MT	4,326+303 per MT in excess of 25 MT	4,499+315 per MT in excess of 25 MT
Above 50 MT up to 100	11,000+320 per MT in excess of 50 MT	11,440+333 per MT in excess of 50 MT	11,898+346 per MT in excess of 50 MT	12,374+360 per MT in excess of 50 MT
Above 100 MT to 200 MT	27,000+390 per MT in excess of 100 MT	28,080+406 per MT in excess of 100 MT	29,203+422 per MT in excess of 100 MT	30,371+439 per MT in excess of 100 MT
Above 200 MT	66,000+440 per MT in excess of 200 MT	68,640+458 per MT in excess of 200 MT	71,386+476 per MT in excess of 200 MT	74,241+495 per MT in excess of 200 MT
Parking Charges Rates				
Up to 25 MT	3.00 Per Hour Per MT	3.12 Per Hour Per MT	3.24 Per Hour Per MT	3.37 Per Hour Per MT
Above 25 MT up to 50 MT	75.00+4.00 per Hour per MT in excess of 25 MT	78 + 4.16 per Hour per MT in excess of 25 MT	81.12 + 4.33 per Hour per MT in excess of 25 MT	84.36 + 4.5 per Hour per MT in excess of 25 MT
Above 50 MT up to 100	175.00+8.00 per MT per Hour in excess of 50 MT	182 + 8.32 per Hour per MT in excess of 50 MT	189.28 + 8.65 per Hour per MT in excess of 50 MT	196.85 + 9 per Hour per MT in excess of 50 MT
Above 100 MT to 200 MT	575.00+10.00 per MT per Hours in excess of 100 MT	598 + 10.4 per Hour per MT in excess of 100 MT	621.92 + 10.82 per Hour per MT in excess of 100 MT	646.8 + 11.25 per Hour per MT in excess of 100 MT
Above 200 MT	1575.00+11.00 per MT per Hours in excess of 200 MT	1638 + 11.44 per Hour per MT in excess of 200 MT	1703.52 + 11.9 per Hour per MT in excess of 200 MT	1771.66 + 12.38 per Hour per MT in excess of 200 MT
Parking Charges Rates per hour (beyond four hours) (in INR)				
Up to 25 MT	6.00 Per Hour Per MT	6.24 Per Hour Per MT	6.49 Per Hour Per MT	6.75 Per Hour Per MT
Above 25 MT up to 50 MT	150.00+8.00 per MT per Hour in excess of 25 MT	156 + 8.32 per Hour per MT in excess of 25 MT	162.24 + 8.65 per Hour per MT in excess of 25 MT	168.73 + 9 per Hour per MT in excess of 25 MT
Above 50 MT up to 100	350.00+16.00 per MT per Hour in excess of 50 MT	364 + 16.64 per Hour per MT in excess of 50 MT	378.56 + 17.31 per Hour per MT in excess of 50 MT	393.7 + 18 per Hour per MT in excess of 50 MT
Above 100 MT to 200 MT	1150.00+20.00 per MT per Hours in excess of 100 MT	1196 + 20.8 per Hour per MT in excess of 100 MT	1243.84 + 21.63 per Hour per MT in excess of 100 MT	1293.59 + 22.5 per Hour per MT in excess of 100 MT
Above 200 MT	3150.00+22.00 per MT per Hours in excess of 200 MT	3276 + 22.88 per Hour per MT in excess of 200 MT	3407.04 + 23.8 per Hour per MT in excess of 200 MT	3543.32 + 24.75 per Hour per MT in excess of 200 MT

User Development Fees (UDF)	Per embarking passenger
Domestic	INR 201 (0% escalation)
Passenger Service Fee (PSF) - Facilitation/User Development Fees (UDF)	
It has been subsumed under UDF	
Fuel Throughput Charges	Rate Per KL (INR)
Proposed Rate Per KL	171.70

44. FIA submits that the Authority should consider 5 Year CAGR of 31.2% Growth Rate for domestic passengers while computing the above tariff.

45. Further, FIA has observed that the Tariff card proposed by the Authority for 1st Control period does not contain details of tariff pertaining to Housing charges. FIA submits that the Authority should clarify whether the housing charges are applicable on Patna Airport and, if yes, then the Authority should provide housing charges tariff.

46. Further, FIA submits that as per "Charges for airport services (major / non major airports) effective from 1 April 2017" as issued by AAI, it was noted that existing tariff rates at Patna Airport are based on the following slabs: (i) upto 40 MT, (ii) Above 40MT upto 100MT and (iii) Above 100MT. **FIA submits that since the weight slabs mentioned for existing charges as per AAI tariff card are different from the ones mentioned in the Schedule of charges on Page 28-30 of the Addendum and no bridge has been provided between these slabs, FIA requests Authority to confirm the manner in which the increase of tariffs has been computed for first control period over the existing tariff rates.** Further, FIA submits that the Authority has not mentioned or analyzed the percentage increase in proposed tariff versus existing tariffs. FIA requests the Authority to provide the same.

47. FIA submits that the Authority in Para 17.12 of Order No. 45/2018-19 "*In the matter of the determination of aeronautical tariffs in respect of Devi Ahilya Bai Holkar Airport (IDR), Indore*" dated 08.03.2019 provided an illustrative list of charges, as would be applicable for select configuration of aircrafts. **FIA submits that additionally an illustrative list of charges as would be applicable to select configuration of aircrafts be provided by the Authority in its order for Patna Airport.**

48. Without prejudice to the above, FIA submits that on best effort basis, FIA has tried to compute the percentage increase in proposed tariffs vis-à-vis existing tariffs (refer the table below). FIA have computed the increase for certain weight categories of aircrafts due to non-availability of certain slabs in existing rates and proposed rates in the below table. **FIA has observed that key charges have increased in the range of 25% to 108%. The Authority may kindly review and confirm the same.**

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AAI - Existing Charges for Patna Airport

Category	Unit	Existing rates at Patna Airport
Landing charges - International		
Up to 10 MT	INR / MT	122.10
10 MT to 20 MT	INR / MT	1,221.00 + 179.30 in excess of 10 MT
20 MT to 50 MT	INR / MT	3,014.00 + 354.20 in excess of 20 MT
50MT to 100 MT	INR / MT	13,640.00 + 413.60 in excess of 50 MT
Over 100 MT	INR / MT	34,320.00 + 471.90 in excess of 100 MT
Landing charges - Domestic		
Up to 10 MT	INR / MT	67.10
10 MT to 20 MT	INR / MT	671.00 + 117.70 in excess of 10 MT
Over 20 MT	INR / MT	1,848.00 + 231.00 in excess of 20 MT
Parking charges		
Up to 40 MT	INR / hour / MT	1.80
Above 40 MT up to 100 MT	INR / hour / MT	72.00 + 3.40 in excess of 40 MT
Above 100 MT	INR / hour / MT	276.00 + 5.20 in excess of 100 MT
Housing charges		
Up to 40 MT	INR / hour / MT	3.50
Above 40 MT up to 100 MT	INR / hour / MT	140.00 + 6.80 in excess of 40 MT
Above 100 MT	INR / hour / MT	548.00 + 10.30 in excess of 100 MT
Fuel Throughput Charges		
FTC rate	INR / Kiloliter	Not available
UDF Charges		
UDF- Domestic Passenger	INR / embarking passenger	150.00
UDF- International Passenger	INR / embarking passenger	0.00

Schedule of increase in new tariff vs existing tariff

Weight of Aircraft	Existing Tariff	New Tariff for FY20 (effective from 01st Oct, 2019) % increase	
Landing Charges			
50MT	8,778	11,000	25%
100MT	20,328	27,000	33%
200MT	43,428	66,000	52%
Parking Charges			
100MT	276	575	108%
200MT	796	1,575	98%
Fuel Throughput Charges			
Rate per KL	165	172	4%
User Development Fees			
Charges	77	201	161%

Aviation Security Fee

FIA submits that the Ministry of Civil Aviation (**MoCA**) has vide its Order No. AV.13024/659/2015-AS dated 07.06.2019 substituted PSF (SC) as 'Aviation Security Fee' (**ASF**) (determined under Rule 88A of the Aircraft Rules, 1937). Subsequently, the Directorate General of Civil Aviation (**DGCA**) issued

Aeronautical Information Circular Sl. No. 15/2019 dated 19.06.2019 (AIC) on the levy and collection of ASF at Indian Airports. ASF is liable to levied on tickets sold on or after 01.07.2019 after 00:01 hours. MoCA has proposed a draft Standard Operating Procedure (**Draft SOP**) applicable at all airports for Collection of ASF by Airlines. The Draft SOP authorizes airlines to raise collection charges invoice at the rate of 2.5% of the ASF against the amount of ASF deposited with the Trust (i.e. National Aviation Security Fee Trust. **FIA submits that the Authority should accordingly specify the amount of ASF as well as the collection charges for the same in the Tariff Card applicable for Patna Airport. FIA further submits that the Tariff Card should specify the exempted categories of passengers from the levy and collection of ASF as specified in the AIC. The AIC is attached as Annexure A to this submission.**

VI. AUTHORITY HAS BROADLY RELIED ON PATNA AIRPORT'S SUBMISSION ON ALLOCATION OF RAB ADDITIONS BETWEEN AERONAUTICAL AND NON-AERONAUTICAL

49. FIA submits that the Authority has proposed to bifurcate the new terminal building in the ratio of 89.03:10.97 and all other assets as 100% being aeronautical as stated in the table below.

Allocation of RAB Additions		INR Crores
Asset	Allocation Ratio	Aero Assets
Building - Terminal	89.03 : 10.97	415.75
Electrical Installations - Part of building	89.03 : 10.97	215.91
Electrical Installations - Others	Not mentioned	25.31
Road, Bridges & Culverts	100 : 0	81.68
Building - Residential	100 : 0	32.56
Building - Temporary	100 : 0	14.61
Runways, Aprons and Taxiways	100 : 0	10.46
Plant & Machinery	100 : 0	4.06
CFT/Fire Fighting Equipment	100 : 0	4.03
Others	100 : 0	1.43
Total		805.80

A. Allocation of New Terminal building

50. FIA submits that per table 10 of the Consultation Paper, FIA notes that initial RAB consists of terminal building which has been bifurcated in the ratio of 81.7 : 18.3. FIA submits that for additions with respect to new terminal building the same has been bifurcated in the ratio of 89.03:10.97.

51. FIA submits that the Authority in its Order No. 46/2018-19 relating to tariff determination in case of Biju Patnaik International Airport (BBI) has considered the ratio of existing terminal building as a base to allocate new terminal building into aeronautical and non-aeronautical assets.

52. FIA submits that the Authority's proposal to bifurcate assets between aeronautical assets is based on information received from AAI and no detailed technical evaluation of the same or consideration to past ratios has been given by the Authority. FIA submits that no basis, benchmarking or independent study has been conducted by Authority for this ratio.

53. **FIA submits that allocation of the airport assets between Aeronautical or Non-Aeronautical categories is critical under Hybrid Till approach, hence the same should be carried out on the basis of independent study rather than on tentative basis.**

54. **FIA submits that if an independent study cannot be conducted till issuance of tariff order, the Authority should maintain consistency in its judgement among similar airports and should consider the view taken in case of BBI Airport where ratio of existing terminal building has been adopted as a base to allocate new terminal building among aeronautical and non-aeronautical assets and therefore adopt an allocation ratio of 81.7:18.3 as was applicable to existing terminal building of Patna Airport.**

B. Allocation of New Electrical Installations

55. FIA submits that per para 7.2.2.4 of the Consultation Paper, the Authority has proposed to bifurcate cost of new terminal building amounting to INR 580.07 crores among building civil work and electrical installation as INR 364.17 crores and INR 215.91 crores respectively (i.e., 89.03:10.97). **FIA submits that Authority has not discussed the basis of allocating the said expenditure among terminal building and electrical installation. FIA submits that the Authority should provide the basis for splitting the said expenditure among terminal building and electrical installation.**

56. FIA further submits that the split of new terminal building cost between electrical installation and terminal building will have significant impact on depreciation as higher allocation of electrical installation will lead to accelerated depreciation and consequently higher ARR (as depreciation rate of electrical installation is higher than building).

57. FIA submits that since electrical installation – terminal building are allocated in the same ratio as that of terminal building, FIA's submission with respect to allocation ratio of terminal building are applicable to electrical installations as well.

VII. USEFUL LIFE OF RESIDENTIAL BUILDING HAS BEEN TAKEN AT 30 YEARS INSTEAD OF 60 YEARS IN CONTRAVENTION OF AERA ORDER NO. 35/2017-18.

A. New Residential Building amounting to INR 32.56 crores depreciated over a useful life of 30 years instead of 60 years in contravention of Order 35/2017-18 - "In the matter of determination of useful life of Airport Assets"

58. FIA submits that as highlighted in the table below, the Authority has considered 30 years as useful life for residential building.

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Depreciation rates proposed by the Authority

Table # 20 on Page 29 of CP No. 03/2019-20

Asset Category	Up to FY 16	Between FY 17 and				Life (in years)
		FY 18		Beyond FY 18		
		For opening block of asset	For proposed additions	For opening block of asset	For proposed additions	
Leasehold Land	0%	0%	0%	0%	0%	-
Runways, Aprons and Taxiways	13.00%	3.33%	3.33%	3.33%	3.33%	30
Road, Bridges & Culverts	13.00%	3.33%	3.33%	10.00%	10.00%	10
Building - Terminal	8.00%	3.33%	3.33%	3.33%	3.33%	30
Building - Temporary	100.00%	33.33%	33.33%	33.33%	33.33%	3
Building - Residential	5.00%	3.33%	3.33%	3.33%	3.33%	30
Boundary Wall - Operational	8.00%	3.33%	3.33%	10.00%	10.00%	10
Boundary Wall - Residential	5.00%	3.33%	3.33%	10.00%	10.00%	10
Computer - End user	20.00%	16.67%	16.67%	33.33%	33.33%	3
Computer - Servers and networks	20.00%	16.67%	16.67%	16.67%	16.67%	6
Intangible Assets - Software	20.00%	20.00%	20.00%	20.00%	20.00%	5
Plant & Machinery	11.00%	6.67%	6.67%	6.67%	6.67%	15
Tools & Equipment	20.00%	6.67%	6.67%	6.67%	6.67%	15
Furniture & Fixtures: other than trolley	20.00%	10.00%	10.00%	14.29%	14.29%	7
Furniture & Fixtures: Trolley	20.00%	10.00%	10.00%	33.33%	33.33%	3
Vehicles	14.00%	12.50%	12.50%	12.50%	12.50%	8
Electrical Installations	11.00%	10.00%	10.00%	10.00%	10.00%	10
Other Office Equipment	18.00%	20.00%	20.00%	20.00%	20.00%	5
X Ray Baggage System	11.00%	6.67%	6.67%	6.67%	6.67%	15
CFT/Fire Fighting Equipment	13.00%	6.67%	6.67%	6.67%	6.67%	`

59. FIA submits that as per Sl. No. 8 of Annexure - I of the Authority's Order 35/2017-18 "In the matter of determination of useful life of Airport Assets" dated 12.01.2018, residential buildings have a prescribed useful life of 30/60 years. It is pertinent to note here that unlike in case of terminal buildings where option of 30 or 60 years is to be evaluated by Airport Operator, the election of 30 years or 60 years in case of residential buildings is not to be evaluated by Airport Operator but is to be derived from provisions of Companies Act.

60. FIA submits that Part C of Schedule II of Companies Act 2013 prescribes useful life of Buildings (other than factory buildings) having Reinforced Concrete Cement (RCC) frame structure to be 60 years. It is very unlikely that residential buildings will not be built on RCC Frame structure. FIA submits that note 1 to Schedule II of Companies Act 2013 clarifies that "Factory buildings" does not include offices, godowns, and staff quarters. FIA submits that residential building should be depreciated over a period of 60 years and not 30 years.

61. FIA therefore submits that the Authority should consider the useful life of Residential building as 60 years as envisaged in Order 35/2017-18 read with Schedule II of Companies Act 2013 and revise the amount of depreciation accordingly.

B. Cost of Residential Quarter

62. FIA understands that the Authority has reviewed the details and examined the details provided for residential quarters by AAI. FIA reiterates that the residential quarters proposed to be capitalized should be provided only for AAI employees assigned for essential duties for aeronautical services at the Patna Airport.

C. Depreciation on correct allocation ratio

63. FIA submits that the Authority has given an allocation of RAB additions for first control period based on AAI's representation. FIA submits that the Authority should recompute the depreciation basis the allocation of RAB assets in the ratio of 81.7%:18.3% for the first control period for terminal building and electrical installation in consonance with the existing allocation ratio.

D. Component wise details not available

64. FIA submits that the Authority should provide detailed calculations for depreciation charged on opening RAB and additions made therein, rather than just giving a consolidated number. FIA submits that in the absence of detailed calculations for depreciation, FIA cannot comment on the depreciation considered for tariff determination.

E. Useful life of terminal building

65. FIA submits that FIA's review of useful life of assets at various international airports like London Heathrow, Sydney airport and Amsterdam airport indicated that terminal buildings have useful life of as long as 60 years and aprons have it for as long as 99 years. FIA

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submits that the useful life of terminal building for Kannur and Cochin airports have been considered 60 years by Authority.

66. FIA reiterates that the Authority has adopted a conservative view with respect to useful life of terminal and other buildings. **FIA submits that in the interest of consumers, the Authority could consider useful life of buildings as 60 years instead of taking a conservative view.**

VIII. WITHOUT CONSIDERING PAST TRENDS, PRODUCTIVITY IMPROVEMENTS AND COST DRIVERS, THE AUTHORITY HAS ACCEPTED THE OPERATING EXPENDITURE SUBMITTED BY PATNA AIRPORT

Operation and maintenance (O&M) expenditure as revised by the Authority

Table #35 on Page 43 of CP No. 03/2019-20

INR crores

Particulars	Pre control regulatory period		Control period					Total during control period	Opex per passenger (INR)	% of total	Basis of projection for first control period	YoY					
	FY17	FY18	FY19	FY20	FY21	FY22	FY23					FY18	FY19	FY20	FY21	FY22	FY23
	Payroll expenses - non CHQ/RHQ	10.75	14.12	17.16	18.43	19.72	21.10					24.68	101.09	32.70	33%	With Implementation of revised pay commission for non executive grade, overall growth of 22% has been assumed for FY19. for balance, 7% has been proposed	31%
Payroll expenses - CHQ/RHQ	2.37	2.49	3.01	3.22	3.44	3.68	4.31	17.66	5.71	6%		5%	21%	7%	7%	7%	17%
Administration and General expenses - non CHQ/RHQ	1.67	2.97	2.35	2.56	2.80	3.05	3.42	14.18	4.59	5%	NA	78%	-21%	9%	9%	9%	12%
Administration and General expenses - CHQ/RHQ	18.61	19.54	20.52	21.55	22.62	23.76	24.94	113.39	36.67	37%	5% on YoY Basis	5%	5%	5%	5%	5%	5%
Repairs and maintenance	2.96	4.60	4.23	9.84	10.30	10.81	11.38	46.56	15.06	15%	5% on YoY Basis from FY21 onwards	55%	-8%	133%	5%	5%	5%
Utilities and outsourcing expenses	1.50	1.62	2.17	2.20	2.24	2.28	2.51	11.40	3.69	4%	NA	8%	34%	1%	2%	2%	10%
Other outflows - Collection Charges on PSF	0.14	0.22	0.29	0.38	0.43	0.50	0.64	2.24	0.72	1%	Consistent with ATM traffic growth	57%	23%	23%	15%	15%	23%
Total	38.00	45.56	49.73	58.18	61.55	65.18	71.88	306.52	99.14	100%		20%	9%	17%	6%	6%	10%
Passengers (domestic) [in millions]			4.06	5.20	5.98	6.88	8.80	30.92						28%	15%	15%	28%
Opex per passenger (INR)			122.43	111.90	102.94	94.79	81.67	99.14						(9%)	(8%)	(8%)	(14%)

A. Reasonableness of operating expenditure

67. FIA submits that the Operating Expenditure is one of the major components for determining ARR (68% of ARR), hence, the Authority should have evaluated these expenses in detail rather than accepting projections provided by AAI on an "as is" basis. FIA submits

that the Authority should have scrutinized the expenses in detail instead of leaving it for true up in the next control period.

68. FIA submits that as per clause 5.4.2 of AERA Guidelines, while reviewing forecast of operating expenditure the Authority has to assess (a) baseline operation and maintenance expenditure based on review of actual expenditure indicated in last audited accounts and check for underlying factors impacting variance over the preceding year; and (b) efficiency improvement with respect to such costs based on review of factors such as trends in operating costs, productivity improvements, cost drivers as may be identified, and other factors as may be considered appropriate.

69. FIA submits that the approach of the Authority for reviewing the operating expenditure is not in line with the AERA Guidelines. FIA submits that in order to assess efficient operating expenditure the Authority should have conducted an independent analysis in terms of Section 9 (4), Section 13 (1) (e) and Section 13 (4) of the AERA Act.

70. FIA submits that Patna Airport has already completed a significant period of operations, hence benchmarking the costs would not be difficult for the Authority. FIA submits that rather than trueing up, price cap should be mandated by the Authority for each of the operating expenditures depending on the evaluation of past trends, cost drivers, productivity movements, future expansions otherwise the Patna Airport may not make appropriate efforts to contain the costs. FIA submits that this would lead to additional burden on the passengers for the next control period.

B. For an Increase of 20% in operational hours at Patna Airport, electricity charges have been increased by 40%

71. FIA submits that as per para 12.18 of the Consultation Paper, AAI has considered a 40% increase in electricity charges in FY 2018-19 due to commencement of 24-hour operations (which were earlier 19-hour operations) at the airport with effect from 25.03.2018. FIA submits that the Authority has considered the increase of 40% as

reasonable considering the additional 5 operational hours will be during night. FIA submits to the Authority that for an increase of c. 20% increase in operational hours, an increase of 40% in electricity charges seems unreasonable. FIA submits to the Authority to consider the increase in electricity expense in line with and proportional to the increase in operational hours.

C. Bifurcation of expenditure into aeronautical and non-aeronautical – Proportion of aeronautical expenses as compared with other airports is highest in case of Patna Airport

72. FIA submits that per para 12.10 of the Consultation Paper, the Authority examined the allocation of expenses between aeronautical and non-aeronautical. FIA submits that the Authority compared the allocation proposed by AAI to its recent orders for other AAI airports. FIA submits that a summary of the same is presented in the table below:-

Proportion of Aeronautical expenditures and Comparison with other AAI Airports

Table #32 and 33 on Page 40 and 41 of CP No. 03/2019-20

Particulars	Patna	Kolkata	Jaipur	Trivandrum
Payroll expenses - non CHQ/RHQ	97%	88%	94%	95%
Payroll expenses - CHQ/RHQ	95%	88%	95%	95%
Administration and General expenses - non CHQ/RHQ	96%	96%	88%	94%
Administration and General expenses - CHQ/RHQ	95%	85%	90%	90%
Repairs and maintenance	96%	89%	93%	97%
Utilities and outsourcing expenses	90%	91%	93%	98%
Other outflows - Collection Charges on UDF	100%	93%	100%	100%

73. FIA therefore submits the following may be applied:

- (a) FIA submits that the Authority should order an independent study for determining the reasonableness of allocation ratios and consider the same at the time of passing its order on the Consultation Paper (on basis of that study) on issues such as 'bifurcation of expenditures into aeronautical and non-aeronautical' instead of leaving it for truing up without assigning any cogent reasons.

(b) FIA further submits that allocation of the operating expenditure between Aeronautical or Non-Aeronautical categories is critical under Hybrid Till approach. However, till the time study is conducted, FIA would like to highlight aeronautical allocation ratio proposed as per CP 5/2014-15 of Normative approach of 80% should be used, hence FIA submits that aeronautical expenditure should be considered at 80% for the first control period.

(c) FIA submits that the proportion of aeronautical expenses as compared with other airports is highest in case of Patna Airport and, therefore, the Authority should consider the allocation ratio taken for similar airports with respect to bifurcation of aeronautical and non-aeronautical expenditure. FIA submits that the Authority has considered allocation of repairs and maintenance expenditure based on allocation of assets. FIA would suggest the Authority to consider the allocation ratio for operating expenditure in ratio of 81.7:18.3.

IX. CONSERVATIVE VIEW OF AUTHORITY HAS BEEN TAKEN FOR PROJECTING NON-AERONAUTICAL REVENUE GROWTH RATE. NEW TERMINAL BUILDING TO BE BUILT OVER AN AREA ADMEASURING 65,155 SQ. MT. (C. 8 TIMES CAPACITY OF EXISTING TERMINAL BUILDING ADMEASURING 7,864 SQ. MT.). HOWEVER, CORRESPONDING NON AERONAUTICAL INCOMES NOT CONSIDERED ACCORDINGLY.

74. FIA submits that as per para 11.3.1 of the Addendum, the Authority has proposed to consider Non-Aeronautical Revenues as per table below:

**FIA's submission towards the Authority's Consultation Paper No. 03/2019-20 titled
"In the matter of determination of aeronautical tariffs in respect of Jay Prakash Narayan International Airport
(PAT), Patna for the First Control Period (01.04.2018 - 31.03.2023)"**

Revised non-aeronautical revenues as per Authority (INR cr.)

Table No#6 Page 22 of Addendum CP No. 03/2019-20

Particulars	Pre control regulatory period		Control period					Total	Revenue per passenger (INR)	% total	Basis of projection for first control period	YoY							
	FY17	FY18	FY19	FY20	FY21	FY22	FY23					FY18	FY19	FY20	FY21	FY22	FY23		
Trading concessions																			
Restaurant / snack bars	1.35	1.54	2.47	3.24	3.57	3.93	4.51	17.72	5.73	20%	10% increase YoY and 15% for FY 23	14%	60%	31%	10%	10%	15%		
T.R. stall	1.01	1.13	1.72	2.11	2.32	2.56	2.94	11.65	3.77	13%	10% increase YoY and 15% for FY 23	12%	52%	23%	10%	10%	15%		
Hoarding & display	1.89	2.35	2.58	2.84	3.13	3.44	3.95	15.94	5.16	18%	10% increase YoY and 15% for FY 23	24%	10%	10%	10%	10%	15%		
Rent and services																			
Land leases	0	0	0	0	0	0	0	0	-	0%	NA	0%	0%	0%	0%	0%	0%		
Building (residential)	0.02	0.04	0.03	0	0	0	0	0.03	0.01	0%	5% increase YoY	100%	5%	5%	5%	5%	5%		
Building (non-residential)	3.96	4.40	4.84	5.32	5.85	6.44	7.73	30.18	9.76	34%	10% increase YoY and 20% for FY 23	11%	10%	10%	10%	10%	20%		
Miscellaneous																			
Car rentals	0.07	0.07	0.07	0.08	0.09	0.10	0.11	0.45	0.15	1%	10% increase YoY and 15% for FY 23	0%	0%	14%	13%	11%	10%		
Car parking	1.03	1.18	1.36	1.49	1.64	1.80	2.08	8.37	2.71	9%	10% increase YoY and 15% for FY 23	15%	15%	10%	10%	10%	16%		
Admission tickets	0.24	0.17	0.19	0.21	0.23	0.25	0.32	1.20	0.39	1%	10% increase YoY and 23% for FY 23	(29%)	12%	11%	10%	10%	28%		
Other income / Sale of scrap etc	0.75	0.65	0.68	0.71	0.75	0.78	0.82	3.74	1.21	4%	5% increase YoY	(13%)	5%	4%	6%	4%	5%		
Total	10.31	11.52	13.94	16.01	17.58	19.30	22.47	89.30	28.88	100%		12%	21%	15%	10%	10%	9%		
30% of non aero revenue			4.18	4.80	5.27	5.79	6.74												
Passengers (domestic) [in millions]			4.06	5.20	5.98	6.88	8.80	30.92						28%	15%	15%	28%		
Non-aero revenue per passenger (INR)			34.32	30.79	29.40	28.07	25.53	28.88					(10%)	(5%)	(5%)	(9%)			

75. FIA submits that the increase in non-aeronautical revenue is a function of passenger traffic growth, inflationary increase and real increase in contract rates. FIA submits that despite all these factors increasing during the control period, on examination of the non-aeronautical revenue projection for the first control period by Authority, FIA has observed that a conservative approach has been taken by the Authority.

A. New terminal building to be built over an area admeasuring 65,155 sq. mt. (c. 8 times capacity of existing terminal building admeasuring 7,864 Sq. mt.). However, corresponding non aeronautical incomes not considered accordingly.

76. FIA submits that per para 7.2.2.4 of the Consultation Paper, new terminal building is to be built over an area admeasuring 65,155 sq. mt. which is c. 8 times the existing capacity of terminal building (7,864 sq. mt.) as mentioned in para 1.2 of the Consultation Paper. The Authority has considered a 5% increase in income under the head Restaurant/snack bar, T.R. Stall and Hoarding and display on account of construction of new terminal building in FY23 (10% increase in income is considered on account of agreement's escalation clause). FIA

submits to the Authority that income under the mentioned heads (namely Restaurant/snack bar, T.R. Stall and Hoarding and display) are directly related to area of terminal building and therefore 5% increase in income against a c. 800% increase in terminal building area is unjustifiable. **FIA submits that the Authority should revise the non-aeronautical revenues accordingly.**

B. Admission tickets are directly linked with passenger traffic. However, the income from admission tickets are not aligned with growth in passenger traffic.

77. FIA submits to the Authority that income from admission tickets are directly linked with passenger traffic (28% and 15% as considered by the Authority). FIA submits that the Authority has considered an increase of 10% in 4 years and 23% in 5th year of the control period. FIA submits to the Authority to consider the growth in income from admission ticket based on 5 year CAGR passenger traffic growth rate.

C. Income from new concessions awarded in FY19 for Retail / Snack bars, Car parking and T.R. stalls effective from FY19.

78. FIA has calculated the non-aeronautical revenue to be considered for FY19 under the head Income from Restaurants / Snack bars and Income from T.R. stall taking non-aeronautical revenue and new concession agreements as base. FIA submits that non-aeronautical revenue should have been INR 5.40 crores altogether for these heads. FIA submits that the non-aeronautical revenue has been considered as INR 4.19 crores by the Authority. FIA submits that the difference of INR 1.21 crores in non-aeronautical revenue should be clarified by the Authority.

D. Authority has proposed a 5% growth in income from residential buildings. However, the amount of income has not been considered in Non aeronautical Income

79. The Authority has proposed a 5% growth in income from residential buildings from FY19. FIA submits that the amount of revenue has not been considered in non-aeronautical

income. FIA submits to the Authority to revise the amount of income from Residential building in its order.

E. Income from car parking for FY19 has reduced from INR 2.94 crores in the Consultation Paper to INR 1.36 crores in the Addendum

80. FIA has observed that while in the Consultation Paper the Authority has considered INR 2.94 crores as income for car parking fee for FY19, in the Addendum, the income from car parking has been considered as INR 1.36 crores for FY19. FIA submits that as per para 11.1.2 and 11.2.2 of the Addendum, existing parking contract has been discontinued from 09.04.2019 and new contract entered by AAI would start from June 2019. The Addendum further states that the new contract did not materialize due to change in AAI policy and that these developments would not have any impact on revenue earned in FY19. **FIA submits that no rationale/reasoning for such decline in FY19 has been provided by Authority in the Addendum. FIA submits that the Authority should provide a reasoning for decline in car parking fee in FY19 from INR 2.94 crores in the Consultation Paper to INR 1.36 crores in the Addendum.**

F. Conservative approach while projecting growth in non-aeronautical revenue

81. FIA further submits that increase in non-aeronautical revenue is function of increase in terminal building area, passenger traffic growth, inflationary increase and real increase in contract rates. Despite all these factors increasing during the control period, on examination of the non-aeronautical revenue projected for the first control period by Authority, it was noted that a conservative approach has been taken by the Authority.

82. FIA submits that as per agreement entered by AAI with various vendors, five non-aeronautical revenue streams (namely restaurant/snack bar, T.R. stall, non-residential building, car rentals and car parking) which contribute 95% of total non-aeronautical revenue for first control period, year on year 10% increase has been proposed by Authority between FY20 to FY23. FIA submits that as per para 11.7 of the Consultation Paper, FIA

understands that the Authority has verified the agreement with retail store vendors. FIA submits that further details and breakup pertaining to the agreement have not been mentioned in the Consultation Paper. FIA submits that no details have been mentioned with respect to key terms, duration, tenure of these agreements, and the relation of rent escalation with passenger growth.

83. FIA submits that as per Table 4 of Consultation Paper, Patna Airport had registered domestic passenger growth over 5 year CAGR of 31.2%. On comparing the passenger growth rate with the escalation clauses in agreement as mentioned by the Authority, FIA analysed that escalation clauses as per agreements is c.10% during FY19 to FY23, which is far lower than year on year projected passenger growth over the control period. FIA submits that non-aeronautical revenue per passenger was analyzed for each year of the first control period and a decreasing trend was noted in the same, which clearly indicates that the Authority has taken lower growth rate projections/conservative view for non-aeronautical revenue.

84. FIA further submits that as per clause 5.6.1 of the AERA Guidelines, the Authority's review of forecast of revenues from services other than aeronautical services may include scrutiny of bottom-up projections of such revenues prepared by the Airport Operator, benchmarking of revenue levels, commissioning experts to consider where opportunities for such revenues are under-exploited, together with the review of other forecasts for operation and maintenance expenditure, traffic and capital investment plans that have implications for such activities.

85. FIA submits that its review of the Consultation Paper indicated that for the purpose of determining non-aeronautical revenue, the Authority has relied on *ad hoc* growth rate and basis provided by Patna Airport rather than evaluating non-aeronautical revenue in detail as per AERA Guidelines to consider the impact of inflationary increase and real increase while projecting these non-aeronautical revenue.

86. FIA submits that Authority should re-consider growth rates for non-aeronautical revenues so as to keep them in line with the growth in passengers. FIA submits that the Authority has not commented on the real increase, inflationary increase and passenger traffic based increase for the growth rates proposed for the first control period. Since each of them affect the non-aeronautical revenues, FIA submits that the Authority should re-evaluate the growth rates for non-aeronautical revenue basis a consultant study. However, for the purpose of the order, FIA submits that the Authority should consider 31.2% YoY growth (being 5-year passenger growth CAGR) in non-aeronautical revenue during the control period except in case of long term contracts where YoY escalation is agreed.

87. FIA submits that Authority should direct AAI to enter into contracts where an escalation clause is linked with passenger growth and propose true up in second control period based on actuals.

88. FIA submits to Authority, if the capitalisation for new terminal building is done in FY23, then the Authority should reconsider the growth rates projected in FY23 as new contracts will be entered with various vendors which will lead to higher non-aeronautical income.

X. CARRY FORWARD OF LOSSES PRIOR TO FY17 SHOULD BE ALLOWED TO BE SET OFF FROM FUTURE PROFITS.

89. FIA submits that as per para 13.6 of the Consultation Paper, the Authority has considered carry forward of losses for prior 2 years i.e., FY17 and FY18, only and set off the carried forward losses in subsequent 2 years i.e., FY20 (INR 15.26 crores) and FY21 (INR 25.96 crores).

90. FIA submits that as per para 5.5.1 of the AERA Guidelines, *"Taxation represents payments by the Airport Operator in respect of corporate tax on income from assets/ amenities/ facilities/ services taken into consideration for determination of Aggregate*

Revenue Requirement." FIA submits that the AERA Guidelines are clear that tax payments under Income Tax Act, 1961 will be considered for calculation of target revenue.

91. FIA submits that as per para 5.5.2 of AERA Guidelines, *"The Authority shall review forecast for corporate tax calculation with a view to ascertain inter alia the appropriateness of the allocation and the calculations thereof"*. FIA submits that as per proviso to sub-section (ii) Section 72 of Income Tax Act, 1961 *"if the loss cannot be wholly so set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assessee, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding"*. FIA submits that business losses can be carried forward for 8 years and can be set off with profits in future years. FIA submits that the actual tax paid by the Company in control period shall be lower due to the set off of carry forward of losses prior to FY17.

92. **FIA submits that losses for periods prior to FY17 (if any) that are allowed to carry forward as per Income Tax Act, 1961 should be considered while computing taxation in the first control period rather than leaving it for true up in the second control period. FIA submits that actual payment of income taxes should be considered for true up purposes.**

XI. COST OF EQUITY HAS BEEN TAKEN AT 16% IN LAST YEAR OF CONTROL PERIOD

93. FIA submits that as per table 5 on page 20 of the Addendum, while calculating FRoR for the last year of the control period, cost of equity has been taken at 16% by the Authority. FIA submits that in case of other airports as well as in the Consultation Paper, cost of equity has been assumed at 14%. **FIA submits that no reasoning has been provided by the Authority while taking a higher percentage for cost of equity in the last year of the control period. FIA submits that the Authority should consider 14% as cost of equity for calculating FRoR in the last year of the control period.**

**FIA's submission towards the Authority's Consultation Paper No. 03/2019-20 titled
"In the matter of determination of aeronautical tariffs in respect of Jay Prakash Narayan International Airport
(PAT), Patna for the First Control Period (01.04.2018 - 31.03.2023)"**

94. FIA submits that if ARR is calculated by taking cost of equity as 14% (instead of 16%) while calculating WACC in the last year of the control period, i.e. FY23, the ARR would reduce by INR 3.55 crores (1% of total ARR) as reflected in the table below.

Revised ARR and Yield as per Authority

Table #7 on Page 26 of addendum to CP No. 3/2019-20

INR crores

S. No.	Particulars	FY19	FY20	FY21	FY22	FY23	ARR as per addendum to CP			
							Total (i)	03/2019-20 (ii)	Change (i -ii) % Change	
A	Average RAB	29.01	71.06	99.36	91.93	425.35	716.71	716.71	-	-
B	Fair Rate of Return	14%	14%	14%	14%	10.70%				
C	Return on average RAB	4.06	9.95	13.91	12.87	45.51	86.30	89.85	(3.55)	(4%)
D	O&M expenses	49.73	58.16	61.55	65.17	71.87	306.48	306.48	-	-
E	Depreciation	3.65	5.85	7.56	7.32	27.64	52.02	52.02	-	-
F	Tax expense	-	-	-	15.36	15.93	31.29	31.29	-	-
G	Subtotal [C+D+E+F]	57.44	73.96	83.02	100.72	160.95	476.09	479.64	(3.55)	(1%)
H	Less: 30% NAR	(4.18)	(4.80)	(5.27)	(5.79)	(6.74)	(26.78)	(26.78)	-	-
I	Aggregate Revenue Requirement (ARR) [G+H]	53.26	69.16	77.75	94.93	154.21	449.30	452.85	(3.55)	(1%)

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

95. FIA submits that as per para 2.1 of the Consultation Paper, it is stated that The Authority, vide its Order No. 13/2010-11 dated 12.01.2011 (**Single Till Order**) and Direction No. 5/2010-11 dated 28.02.2011 (**AERA Guidelines**), had issued guidelines to determine tariffs at major airports based on Single Till mechanism. Subsequently, the Authority has amended guidelines vide its Order No. 14/2016-17 dated 12.01.2017 (**Hybrid Till Order**) to determine the future tariffs using Hybrid Till. FIA submits that as per para 2.2 of the Consultation Paper, it is stated that the Authority shall determine tariffs for Patna Airport using the Hybrid Till model. It is to be noted that FIA has from time to time, advocated the application of a Single Till model across the airports in India. FIA submits that Single Till is premised on the following legal framework being:

- (a) Section 13(1)(a)(v) of AERA Act envisages that while determining tariff for aeronautical services, the Authority shall take into consideration revenue received from services other than the aeronautical services.
- (b) Clause 4.2 of AERA Guidelines recognizes Single Till approach which sets out the following components on the basis of which ARR will be calculated:-

- (i) Fair Rate of Return applied to the Regulatory Asset Base;
 - (ii) Operation & Maintenance Expenditure;
 - (iii) Depreciation;
 - (iv) Taxation;
 - (v) Revenues from services other than aeronautical services.
- (c) FIA submits that determination of aeronautical tariff warrants a comprehensive evaluation of the economic model and realities of the airport – both capital and revenue elements. FIA submits that the Authority's approach of Hybrid Till for Patna Airport deserves to be discarded.
- (d) In the Single Till Order, Authority has strongly made a case in favor of the determination of tariff on the basis of 'Single Till'. It is noteworthy that the Authority has *inter alia* in its Single Till Order:
- (i) Comprehensively evaluated the economic model and realities of the airport – both capital and revenue elements.
 - (ii) Taken into account the legislative intent behind Section 13(1)(a)(v) of the AERA Act.
 - (iii) Concluded that the Single Till is the most appropriate for the economic regulation of major airports in India.
 - (iv) The criteria for determining tariff after taking into account standards followed by several international airports (United Kingdom, Australia, Ireland and South Africa) and prescribed by ICAO.
 - (v) The Authority in its AERA Guidelines (Clause 4.3) has followed the Single Till approach while laying down the procedure for determination of ARR for Regulated Services. In this respect, the matter must be dealt with by the Authority considering the ratio pronounced by the Constitutional Bench in the Hon'ble Supreme Court Judgment in PTC vs. CERC reported as (2010) 4 SCC 603 (please ref: Paragraph Nos. 58 to 64 at Page Nos. 639 to 641) wherein it is specifically stated that regulation under an enactment/statute, as a part of regulatory framework, intervenes and even overrides the existing contracts between the regulated entities inasmuch as it casts a statutory obligation on the regulated entities to align their existing and future contracts with the said regulations.

(vi) The fundamental reasoning behind 'Single Till' approach is that if the consumers/passengers are offered cheaper air-fares on account of lower airport charges, the volume of passengers is bound to increase leading to more foot-fall and probability of higher non-aeronautical revenue. The benefit of such non aeronautical revenue should be passed on to consumers/passengers and that can be assured only by way of lower aeronautical charges. It is a productive chain reaction which needs to be taken into account by the Authority.

(e) FIA therefore submits as under:

- (i) Single Till Model ought to be applied to ALL the airports regulated and operated by the Authority regardless of whether it is a public or private airport or works under the PPP model and in spite of the concession agreements as the same is mandated by the statute.
- (ii) Single Till is in the public interest and will not hurt the investor's interest and given the economic and aviation growth that is projected for India, Fair Rate of Return (**FRoR**) alone will be enough to ensure continued investor's interest.
- (iii) MoCA's view(s) with respect to any issue at best can be considered as that of a Stakeholder and by no means are binding to Authority's exercise of determination of aeronautical tariff as is admitted by MoCA itself before the AERAAT.

In view of the above, FIA submits without prejudice that determination of aeronautical tariff on Hybrid Till basis for the First control period would set the tone and precedent for determination of aeronautical tariff in subsequent control periods contrary to the applicable legal framework. Thus, FIA submits that Authority should discard the option of determination of aeronautical tariff on Hybrid Till and follow Single Till scrupulously.

D ADDITIONAL SUBMISSION

- (a) In addition to the above submissions, it is respectfully submitted that airlines and consequently, passengers will have to bear the burden of higher Aeronautical Tariffs as proposed by AAI and the Authority. It is noteworthy that Airlines and passengers

must not be burdened with any tariff to be collected to fund the capital investments of any airport operator / private concessionaire.

- (b) The Authority is aware that airlines have been going through difficult times with high prices of crude oil. Increase in aeronautical tariff as proposed by the Authority will erode airlines' capabilities to increase fares to sustain its operational capabilities.
- (c) FIA reiterates its submission that there is a critical relationship between passenger traffic and growth of the civil aviation sector. What would benefit both the airport operator as well as the airlines is a reasonable and transparent passenger tariff, both direct and indirect – since then the airlines will be able to attract more passengers and the airports would benefit both through higher collection of aeronautical charges as also enhanced non-aeronautical revenue at the airports. In FIA's view, the airport should be regarded as a single business as its aeronautical and non-aeronautical revenues are intertwined.
- (d) It is submitted that an order passed by an administrative authority, affecting the rights of parties, must be a speaking order supported with reasons. It is a well settled position of law that:
- (i) Reasons ought to be recorded even by a quasi-judicial authority.
 - (ii) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
 - (iii) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
 - (iv) Insistence on reason is a requirement for both accountability and transparency.
 - (v) Reasons in support of decisions must be cogent, clear and succinct.
 - (vi) A pretense of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.
 - (vii) Requirement of giving reasons is virtually a part of 'Due Process'.
- (e) In view of the foregoing submissions, FIA submits that the Authority ought to pass a reasoned order on issues mentioned above, after the stakeholders are provided with all the relevant copies of the submissions made by AAI for Patna Airport and any

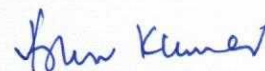
study report conducted by technical experts etc. for making any additional/final submissions on this Consultation Paper.

- (f) In view of the above, it is respectfully prayed that the Authority keeps in mind the interests of the airlines and civil aviation sector before finalizing any decisions regarding increase in Aeronautical Tariffs and other charges. AAI's proposal, if accepted, will have cascading impact on the airlines and consequently, on the civil aviation industry.
- (g) FIA humbly submits that any reliance by FIA in the present submission, on the DIAL Order dated 23.04.2018 passed by the Hon'ble Telecom Disputes Settlement & Appellate Tribunal, New Delhi in the case of *Federation of Indian Airlines vs. Airport Economic Regulatory Authority of India & Ors.* - AERA Appeal No. 6 of 2012 and *Delhi International Airport Ltd. (DIAL) vs. Airport Economic Regulatory Authority of India & Ors.* - Appeal No. 10 of 2012, is without prejudice to its rights and contentions before the Hon'ble Supreme Court and any reliance on the said DIAL Order may not be treated as an admission.

TELEPHONE No. : 011-24622495 Aeronautical : VIDYAYX E-Mail: dri@dgca.delhi.nic.in Fax 011-24652760	GOVERNMENT OF INDIA AERONAUTICAL INFORMATION SERVICES DIRECTOR GENERAL OF CIVIL AVIATION OPPOSITE SAFDARJUNG AIRPORT NEW DELHI-110003	AIC Sl. No.15/2019 19.06.2019
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File No.09/06/2019-IR

This AIC is issued for dissemination of the decisions contained in Ministry of Civil Aviation letter No. AV.13024/659/2015-AS dated 13.06.2019.



(ARUN KUMAR)

Director General of Civil Aviation

LEVY AND COLLECTION OF AVIATION SECURITY FEE (ASF) AT INDIAN AIRPORTS

In exercise of the power conferred under Rule 88A of the Aircraft Rules, 1937, Ministry of Civil Aviation vide Order No. AV.13024/659/2015-AS dated 07.06.2019 accorded the approval of levy of Aviation Security Fees (ASF), {previously known as PSF(SC)}. The rates of ASF shall be as under and will be levied on tickets issued on or after 1st July, 2019 at 00:01 hrs:-

- (i) Aviation Security Fee for the domestic passengers will be levied at the rate of Rs. 150/- per embarking passenger.
- (ii) Aviation Security Fee for the International passengers will be levied at the rate of US\$ 4.85 or equivalent Indian Rupees per embarking passenger.

Contd/2..

2. In addition, in terms of Rule 88A of Aircraft Rules, 1937, all the airports and civil enclaves are hereby directed to exempt the following categories of persons from levy and collection of ASF at all airports and civil enclaves in the country:

- (i) Children (under age of 2years),
- (ii) Holders of Diplomatic Passport,
- (iii) Airlines crew on duty including sky marshals & airline crew on board for the particular flight only (this would not include Dead Head Crew, or ground personnel),
- (iv) Persons travelling on official duty on aircraft operated by IAF.
- (v) Persons travelling on official duty for United Nations Peace Keeping Missions.
- (vi) Transit / transfer passengers (this exemption may be granted to all the passengers transiting up to 24 hrs. "A passenger is treated in transit only if onward travel journey is within 24 hrs. from arrival into airport and is part of the same ticket, in case 2 separate tickets are issued, it would not be treated as a transit passenger").
- (vii) Passenger departing from any Airport due to involuntary re-routing i.e. technical problems or weather conditions.
