

F No. AERA/20010/MYTP/HIAL/2011-12

Airports Economic Regulatory Authority of India

Minutes of the Stakeholder Consultation Meeting held on 18.06.2013

(Consultation Paper No. 09/2013-14)

A Stakeholder Consultation meeting was convened by the Authority on 18.06.2013 at 1500 hrs. in the Conference Room, 1st Floor, AERA Building, Administrative Complex, Safdarjung Airport, New Delhi to elicit the views of the stakeholders on the Consultation Paper No. 09/2013-14 issued by the Authority setting out its tentative position in respect of the determination of tariff for aeronautical tariffs services at Rajiv Gandhi International Airport, Hyderabad for the First Control Period (from 01.04.2011 to 31.03.2016). The list of the participants is enclosed at **Annexure – I**.

2.1 Chairperson, AERA welcomed the participants and requested Shri Sidharath Kapur, President Finance, GMR Hyderabad International Airport Limited (GHIAL) to present HIAL's proposal.

2.2 Shri Kapur indicated that the presentation may not be considered as a complete and final response from HIAL and that HIAL will file its comprehensive written response before the final date as indicated by the Authority in the Consultation Paper.

2.3 The presentation made by Shri Kapur is at **Annexure-II** wherein the following were highlighted:

- (i) Appreciation from various users of Hyderabad Airport including prominent personalities;
- (ii) The various awards given to GHIAL at different Forums;
- (iii) The ASQ ratings given to HIAL terming the RGI Airport as one of the world's best airports and comparison in respect of ASQ rating with other airports;
- (iv) The background of the project indicating the economic contribution and the impact/history of the Airport;
- (v) HIAL appeal document;
- (vi) Infrastructure updates of RGIA such as secondary runway, dedicated upgraded cargo apron, rapid exit taxi ways, 12 boarding bridges, modern AOCC etc.

- (vii) Certain key issues of the Consultation Paper such as on Till/RAB/Return on Equity/Cost of Debt/Operation Expenditure and other issues.

2.4 The following issues were highlighted by Shri Kapur during the presentation in detail:

- (i) The provisions in the Concession Agreement and associated agreements like Land Lease Agreement, State Support Agreement etc. need to be complied in toto as these agreements predates passing of the AERA Act and the CA along with the SSA and LLA forms the backbone of the entire concessions. It is based on the understanding of these agreements that the investment decisions were made at the airport.
- (ii) Shri Kapur stated that as per Schedule 6, Regulated Charges of the Concession Agreement, only three charges are to be regulated by the Authority, viz., 1) Landing, Parking and Housing; 2) Passenger Service Fee; and 3) User Development Fee. which by implication contemplated Dual Till. Shri Kapur, reiterated as per the Concession Agreement, HIAL has freedom to fix other charges with no provision of cross subsidization from these revenues. Referring to the Clauses 10.2 and 10.3 and compliance with ICAO policies, Shri Kapur reiterated that the provisions of the CA, by implication contemplate dual till and requested the Authority to adhere to the same.
- (iii) Shri Kapur, also stated that ICAO has in its latest edition of Doc 9082/9, (2012) removed the ambiguity with regard to the contributions to be considered from non-aeronautical revenues while setting of airport charges and left it on member states (MoCA, GOI) to decide on the till issue. As such the position in Order No. 13/2010-11 may please be revisited as amended ICAO policy does not support Single Till.
- (iv) He also stated that since the Concession Agreement (signed with state i.e. MoCA, GOI) does not contemplate Single Till, the Authority is requested to reconsider its stand of Single Till.
- (v) Shri Kapur, during the presentation, also mentioned the letter written by the GoAP to AERA clarifying its position on the choice of Till that Article 10(3) of the Concession Agreement gives the right to HIAL or other service providers to set tariff for non airport facilities and services. The Concession Agreement does not envisage cross subsidy of non-aeronautical revenue against the aeronautical revenues. This may be taken into consideration by the Authority. GoAP have clarified that the land given was for development of airport as well as non airport activities and also to incentivize the airport operator.
- (vi) HIAL reiterated their request that the revenues from land should be kept outside the regulation and the market value of land should not be reduced from RAB as it is against the provision of the AERA Act, the Concession Agreement and other key agreements.

- (vii) On the Till issue, Shri Kapur mentioned that privatization and Till do not go hand in hand and mentioned that there is no major privatization (except UK) in the world, which are on Single Till. Shri Kapur also gave examples of the recent privatization in Brazil and CEBU, Philippines, where the aero charges were pre-defined in the concession agreements and the operator is free to set and optimize its return from non-aeronautical revenues.
- (viii) Shri Kapur requested the Authority to give due consideration to the provisions of the land lease agreement which permits use of land for activities other than airport activities. Since there is no value attributed to land in RAB, there should not be any reduction of the same from RAB.
- (ix) On the issue of allowing future Capex as true up in next control period, Shri Kapur stated that this will lead to inefficient operations at airport impacting the quality of the airport services and hence requested the Authority to consider the submissions made and allow the future Capex within the current control period with 100% true up.
- (x) As regards the proposal in the Consultation Paper to not consider any adjustments related to foreign exchange variations in its determination of tariff for aeronautical services and accordingly proposes to disallow the amounts considered by HIAL under the head "Forex Loss Adjustment as per AS 11" as well as from ECB Loan facility, HIAL requested the Authority to reconsider and allow the Forex fluctuations to be adjusted in the RAB on account of the following reasons:
 - The level of Forex borrowing is not excessive and at a level generally accepted to be normal in the industry.
 - This borrowing was availed before the Authority's current stand was finalized and the borrowing structure cannot be amended now. However this can be a guiding principle for future.
- (xi) State Support Agreement requires that a minimum equity IRR of 18.33% should be maintained for GHIAL. GoAP has reiterated in its letter to Authority that an Equity IRR of 18.33% is bare minimum that needs to be maintained.
- (xii) Shri Kapur, also stated that the NIPFP report accepted by the Authority has various flaws which have been pointed out in tariff determination of other airports and requested the Authority to accept the cost of equity report submitted by HIAL. Shri Kapur, also requested the Authority to use the same assumptions (Asset Beta 0.92, Rfr 7.99% & EMRP 7.84% and actual leverage) as used in case of AAI for determination of cost of equity for GHIAL.
- (xiii) As regards Cost of Debt, HIAL requested the Authority to remove the ceiling on the cost of debt and also remove the proposal for true up on

the savings, if any, that airport may make in the cost of debt. HIAL requested the Authority to remove these provisions and true up the interest cost.

- (xiv) Shri Kapur observed that the operating expenditure approved by Authority is very low and requested that expenses as submitted by HIAL to Authority may be approved without any reduction.
- (xv) In respect of Non-Aeronautical Revenue and its true up proposed in the Consultation Paper, Shri Kapur requested the Authority to accept the non-aero revenue projections as per HIAL's filing with no true up.
- (xvi) As regards the Cargo and Fuel Throughput, Shri Kapur stated that the Concession Agreement implies a Dual Till. Hence, Cargo and Fuel should be treated as Non Aero (un-regulated). Further, he also stated that as clarified by GoAP, Cargo, Ground Handling and Fuel be kept outside regulation (Non Aero under Dual till).
- (xvii) In respect of Service quality Parameters, Shri Kapur mentioned that the Concession Agreement has provisions for monitoring by the GoI, the service Quality and contemplates severe penalties for non-compliance and hence requested the Authority not to impose additional parameters and penalties.

3. The Chairperson welcomed the comprehensive presentation made on the various issues including those of Consultation Paper. He stated that all the issues highlighted by Shri Kapur have been dealt with in the Consultation Paper. During the course of the meeting, many comments may also be raised and would be responded. He then requested the Chief Project Manager of Govt. of Andhra Pradesh to offer his comments, in response to which the representative said that the Government is examining the matter and shall be submitting the comments in due course for which they require one month's time extension. Chairperson stated that the issue of time extension needs to be examined keeping in view the fact that the control period for the tariff determination of HIAL started in 2011 and two and half years already passed so the tariff rate for the remaining period gets truncated. However the request of time extension will be duly considered by the Authority.

4. Mr. Malvyn Tan, Assistant Director of IATA submitted the following:

- (i) The concession agreement does not specify the till, whether single or dual till to be applied while determining the tariff for HIAL. If the intention was to comply with the dual till, the concession agreement would have specified so and therefore the stand taken by AERA which has been enacted by the AERA Act to adopt single till for determination of tariff is supported by IATA.
- (ii) Further, 5450 acres of land including interest free loan and Advance Development Grant has been given by Govt. of Andhra Pradesh to the

Airport Operator for development of the airport project with the intention to make airport economically and commercially viable.

- (iii) Mr. Tan stated that there were certain issues on the rate card such as on the landing fee. While stating that setting of airport charges should be in line with ICAO principles he stated that it does not make sense to have different tariff structure for international/domestic airlines as the same aircraft type originating from domestic and international source utilize the same resources. In view of the margin for all airlines being under pressure, 100% increase in International landing fee will have impact on the airlines operation and therefore the landing fee should have been kept unchanged especially since any increase in landing fee will not result in reduction of UDF. He further stated that there appears to be a proposal to incentivize usage of smaller aircraft as can be seen from landing fee proposed that aircraft having 80 seater capacity have different set of landing charges.
- (iv) Mr. Tan supported the proposal of the Authority to levy UDF only for departing passengers as proposed in the Concession Agreement. Further, he enquired as to what sort of cross subsidy has been proposed as two different categories on international UDF have been fixed for SAARC countries and other than SAARC countries, as, according to him, this concept is not in consonance with ICAO principles. Mr Tan felt that this sort of differentiation does not seem necessary as there already exists a distinction between the domestic and international UDF. Lastly Mr Tan stated that introduction of Common Infrastructure Charges (CIC) does not seem feasible and it would be better if the same is incorporated with UDF as separate levy is not required. While stating that detailed submission shall be submitted by IATA, he requested for two weeks' time for submission of the same.

5. As regards the different UDF rates proposed, the Chairperson clarified that it appears that UK have four different levels/charges and hence there does not appear to be any conflict between having different sets of charge for different categories and general ICAO guidelines. As regards the incentivization of smaller aircraft, he stated that the issue was not to incentivize the smaller aircrafts but to take into account the MoCA's instructions that landing charges etc. are not to be levied on ATRs.

6.1 Representative of FIA requested for Authority's permission to convey his views through his financial and legal advisors namely BMR Advisor and Jyoti Sagar Associates (JSA) respectively.

6.2 BMR, the financial consultant to FIA, commented on the following issues:

- (i) The 100% subsidiaries have not been considered by the Authority while calculating the tariff;
- (ii) While considering operational expenditure, the assumptions have been taken as submitted by HIAL, rather than looking into details of each

assumption. The Authority has been requested to review the assumptions in detail;

- (iii) The cost of debt has been taken as submitted by HIAL and the tax saving has not been taken into consideration;
- (iv) Inflation has been considered on both Operational Expenditure and Yield Per Passenger which is double count;
- (v) The pre control period losses have been considered which are not relevant to the current control period. It does not appear logical to penalize passengers travelling in current control period by burdening them with additional Rs. 70 Crore loss;
- (vi) The Authority has considered the depreciation @ 100% whereas HIAL has submitted depreciation to be considered @ 90%;
- (vii) The financial model has not been made available to the stakeholders. Hence calculation of various figures such as YPP etc. are difficult;
- (viii) In case of land issue, only land relating to Hotel and SEZ have been considered i.e. around 250 acres. However as per the Consultation Paper, 1500 acres out of 5450 acres has been demarcated for non-aero activities. If market value of the asset is being considered, then value of 1500 acres should be excluded from the RAB.

6.3 JSA, the legal consultant to FIA commented on the following issues:

- (i) The cargo service has been considered aeronautical by the AERA whereas the revenue is considered non-aeronautical which is not matching with the guidelines;
- (ii) The control period starts from 2011 but the tariff is proposed to be effective from September, 2013. Hence burdening the current passenger with the past cost is not legally right;
- (iii) The concession agreement says UDF is to be utilized for expansion and development of airport which is a capital expenditure but the Consultation Paper indicates UDF as the revenue enhancing measure, which is mismatch;
- (iv) Further certain documents/business model/land lease agreement was sought by FIA from Authority and hence further extension of time would be required to analyze/study the same.

7.1 Regarding issues raised by BMR, Chairperson clarified the following:

- (i) The Authority is determining the aeronautical tariffs for HIAL, hence, it has considered HIAL as a stand-alone entity without consideration of its subsidiaries (whether 100% or otherwise).
- (ii) Regarding operational expenditure, the Chairperson stated that for the purpose of the Consultation Paper the Authority has taken into account the operational expenditure as submitted by HIAL. The Authority proposes to ascertain the reasonableness of operational expenditure through independent consultants.
- (iii) As regards cost of debt and tax savings the Chairperson stated that the Authority has proposed a ceiling on the cost of debt upto which the actual interest payments made to the bank would be trued up during the next control period. The Authority has also stated that if HIAL has to contract the debt at interest cost higher than the ceiling or alternatively the loan is reset at interest rates higher than the ceiling proposed by the Authority, these cases would be considered by the Authority upon review as to whether the higher than ceiling cost of debt be held admissible under the relevant circumstances. As regards the consideration of tax savings, the Chairperson clarified that the fair rate of return is calculated as per Vanilla WACC approach and only the pre-tax cost of debt is considered, the actual tax paid by the operator being separately considered as building block in the calculation of ARR.
- (iv) As regards the issue of inflation, Chairperson clarified that the issue of inflation has been addressed in the Consultation Paper and there is no double counting.
- (v) As regard the pre control period losses, the Chairperson stated that during 2008-09, an ad-hoc UDF was granted by the Government presumably with a view that certain return would need to be given to the airport operator. The Authority has now assessed the fair rate of return on equity at 16% (and accordingly WACC has been calculated). However, if that return has not been obtained by the air operator and if losses have been incurred by them, it appears logical to consider the same. Hence the losses have been calculated as of 01.04.2011. Each year's losses are calculated and brought forward to 01.04.2011. Hence the issue of any higher losses (by Rs. 70 crore) does not arise.
- (vi) As regards depreciation, Chairperson stated that the guidelines stipulate 90% consideration. However, in case of AAI 100% was permitted due to various factors such as CAG etc. The issue at that point of time was the kind of accounting treatment that would be given in case of disposal of assets before expiry of period. The Authority has noted that accounting treatment does not change and is the same irrespective of residual value being 10%, 20% or 0%. Maturity mismatch between depreciation and principal amount of debt repayment would be somewhat lower with 100% depreciation than what it would be with 90% depreciation. Moreover, 100% depreciation also would better match the company's

accounting treatment. Hence, on balance, the Authority has proposed for 100% depreciation.

- (vii) Regarding supplying the financial model etc., the Chairperson further clarified models that are prepared contain extensive confidential information that is commercially sensitive and has also IPR issues which need to be maintained as private information and not for disclosure to the public.
- (viii) As regards the issues raised in respect of RAB, Chairperson stated that on today's reckoning, around 1500 acres area available for non-aero activity that is in excess of requirements of airport operations. The Authority has been informed that a large chunk of around 700 acres falls under relevant zoning considerations that do not permit its usage for non-aeronautical/commercial activity and only the remaining area may be available for commercial exploitation. Secondly, the guidelines do not specify that valuation of the entire land theoretically available for non aeronautical activity will be used to reduce RAB upfront. The Authority's Order dated 12th January states "reduction in RAB is one of the mechanisms which Authority thought might link the covenants of lease deed with the purpose of land grant". What is the amount of land alienated/ amount received in return are issues to be considered as and when they arise and on facts presented before the Authority. However, since the crystallization of the land usage is yet to be firmed up by HIAL, this aspect is not considered in this control period.

7.2 Regarding the issues raised by JSA, Chairperson clarified the following:

- (i) As regards cargo service, Chairperson stated that it is an aeronautical service according to the AERA Act. The Chairperson stated that the approach of the Authority in reckoning revenue in the hands of the airport operator for aeronautical services namely, cargo, ground handling and fuel supply has been explained in the Consultation Paper. The Authority's approach has been that if these aeronautical services are provided by the airport operator, the revenue in his hands from such services would be treated as aeronautical revenue. However, if the airport operator concedes out these aeronautical services to third party concessionaires (Independent Service Providers), the revenue that the airport operator receives from such third party concessionaires is reckoned as non-aeronautical revenue in as much as the regulated entity is the third party concessionaire and not the airport operator. Within this general framework the Authority needs to take into account the issues like whether the investments for such aeronautical services appear on the balance sheet of the airport operator or otherwise.
- (ii) As regards the control period commencing from 2011, but the tariff being proposed effective September, 2013, the Chairperson stated that the Act has mandated to take a five-year period into account for the purpose of tariff determination. Since the Authority's Guidelines prescribe for the

first regulatory period to commence from April, 2011, the calculations of aeronautical tariff determination would need to be made for the five year period commencing from 1.04.2011 and ending on March, 2016. Once the tariff determination has been made by the Authority, the passengers which would be availing of the airport services after effective date of such new tariffs would have to pay these charges, accordingly. The Authority, therefore, does not envisage any legal infirmity in determining tariffs from a certain date and the passengers availing of the airport services after this date requiring to pay the same.

- (iii) As regards the issue of UDF raised by the legal advisor of FIA, Chairperson clarified that UDF is generally regarded as a revenue enhancing measure not only by the Authority but also as per the decision of High Court of Kerala. However, Concession Agreement states that UDF is to be utilized, inter alia, also for capacity expansion and capital expenditure thereon. The DF (as a capital receipt, also called Airport Development Fee or ADF) is available only in case of AAI (and its leased airports-Delhi and Mumbai airports were held to be eligible for ADF or DF) and not in the case of HIAL and BIAL. While stipulating the provision of UDF, the Government may have felt that UDF can be additional avenue of funds (since DF is not allowed in HIAL), if required, and may have provided for UDF also for capital expansion. Chairperson stated that UDF is to be considered as a last resort, if and when required. The Chairman indicated that in HIAL's case, there is no proposal for capacity expansion and hence UDF for this purpose has no relevance. Chairman also clarified that if the UDF is determined by the Authority also as a capital receipt for expansion of airport, such portion of UDF, as may be determined for expansion of airport, would then be conceptually akin and equivalent to DF and hence would take the colour and character of DF. In such a case, that part of UDF for capacity expansion would accordingly need to be given the same accounting treatment that would have been given to DF if DF were to be admissible.
- (iv) Chairperson stated that redaction of documents from the Consultation Paper is a standard approach of the regulatory authorities the world over. Keeping in view the nature of such information and also keeping in consideration that adequate material needs to be provided for effective stakeholder consultation, the regulatory authorities have to exercise their judgment in these matters. The Authority, likewise has also given its careful consideration to this matter in deciding what material needs to be redacted. The Authority would be separately considering this issue as well as appropriate extension of time period for giving final comments.

8. Representative of MIAL stated that the Concession Agreement needs to be followed *in toto*. The Chairperson reminded the MIAL's representative that, as has also been indicated in the Consultation Paper, the similar approach of adhering to the terms and provisions of the agreements was not insisted upon by MIAL in DF determination of Mumbai International Airport.

9. Shri Sidharath Kapur stated that the Chairperson had clarified the maximum issues but however reiterated the following aspects:

- (i) WACC calculation, as rightly been clarified by Chairperson, done on vanilla approach;
- (ii) Double charging of inflation as pointed out by FIA is incorrect;
- (iii) As regards the view that pre-control period losses should not be considered, he stated that viability of airport is extremely important and crucial and balanced approach is required. If the airport has lost money and the Authority has taken this fact into consideration, HIAL supports the stand of the Authority.
- (iv) As regards UDF being a revenue enhancing measure, he clarified that UDF is part of the target revenue which is an entitlement of the airport given by the regulatory framework of AERA Act.
- (v) As regards disclosure of model/financial document, Shri Kapur stated that these are sensitive and confidential and only being shared with the Authority. He stated that HIAL has very serious concerns about sharing models/confidential documents with the public; and would like to specifically flag this issue for the consideration of the Authority.

10. The Chairperson stated that many of the points made by Shri Kapur in his initial presentation has been addressed by the Chairperson. Some of the points are indicated below:

- (i) Concession Agreements Provisions to be followed: The Chairperson stated that this issue has been adequately addressed in the Consultation Paper. He also stated that observation made by him in response to MIAL's representative, also apply, *mutatis mutandis* in case of HIAL in as much as the GMR Group did not want the agreement to be followed in toto while requesting for DF in Delhi International Airport. This has been indicated in the Consultation Paper. Secondly, the Authority has duly taken into account the provisions of the Concession Agreement. The inter-play between the Concession Agreements, the Associated Agreements, Land Lease Agreements, State Support Agreements, etc. and AERA has also been adequately discussed in the Consultation Paper with particular reference to the clear mention of Independent Regulatory Authority in the Concession Agreement itself.
- (ii) As regards regulated charges and Schedule 6 of the Concession Agreement, Chairperson indicated that the services like cargo, ground handling and fuel supply are defined as aeronautical services in AERA Act. The Authority would, therefore, need to determine the tariffs for the same. However, while doing so, the Authority, following its CGF Guidelines for tariff determination, has determined tariffs for these services under light touch approach and therefore has determined them

as were proposed by the Independent Service Providers. HIAL had also supported the same in the respective Consultation Paper issued by the Authority. Therefore, there should not be any grievance on this count nor has any injury been caused thereby to HIAL. As regards the Concession Agreement implying dual till, the Chairperson stated that this issue has also been discussed at length in the Consultation Paper. In Authority's view wordings of the Concession Agreement have no warrant to indicate that it implies dual till.

11.1 Shri Satyan Nair of APAO stated that their consultants M/s Leigh Fishers would be presenting the comments. The representative of Leigh Fisher submitted the following:

- (i) On the issue of till he stated that there are different perspective of airlines and the airport operators as to what is to be made applicable and how it has affected aviation policy. Certain key issues such as exclusion of land, exclusion from RAB, Cost of Equity etc. are relevant for discussion. He stated that the basis of concession agreement and the facts relating to GMR bidding for the airport and HIAL taking over was based on certain key assumptions which went into the business plan in 2004 and signed by States and SAAi the key stakeholders needs to be given due importance. Hence the provision of the Concession Agreement should be followed in the letter and spirit. He brought out that various references in the Concession Agreement, though with no explicit reference to the dual till, states that different charges would likely be regulated and hence it is implied that there was no single till referred. This issue needs to be taken on board.
- (ii) The consultant stated that to make the green field investments viable, various considerations including land development were given to the airport operator. Combination of aero and non-aero services would be the way to attract private investors to invest in the airport. Also considering the lumpy capital expenditure involved in construction of new runway and a 12-15 million passenger capacity new terminal and to make the project viable, various incentives were given.
- (iii) As regards cost of equity, consultant stated that certain assumption were taken in the bid document by Government of India/Government of Andhra Pradesh and there are concerns on methodology and values taken by NIPFP for calculating key drivers.
- (iv) The consultant stated that the Internal Rate of Return as specified in the concession agreement should be given importance.

11.2 APAO stated that written submissions shall follow.

12. Chairperson stated that the provisions of an Act of the Parliament take primacy over contractual agreements. That apart, the Concession Agreement itself has specific reference to the proposed establishment of an Independent Regulatory

Authority (IRA) and its functions, etc. These issues have been adequately discussed in the Consultation Paper. Interest of airport users (passenger and cargo facility users) and the operator would need to be balanced. Once the airport operator is assured a fair rate of return on his investment (through a combination of eliminating nearly all the risk factors and the legal instrumentality of UDF as a revenue enhancing measure so that the airport operator gets the fair rate of return), the interests of the passengers would be best served if the charges like UDF that directly impinge on them are minimized.

Chairperson also referred to the observations made by Shri Kapur in his presentation that the comparator set chosen by NIPFP and relied upon by the Authority has certain flaws, and hence the Authority should take into account the cost of equity report submitted by HIAL. The Chairperson stated that the NIPFP has updated the comparator set of Commerce Commission of New Zealand and the Authority's cost of equity calculations in respect of Delhi and Mumbai airports as well as for Kolkata and Chennai are based on the revised comparator set and the asset beta calculation of NIPFP. He, therefore, stated that it would be incorrect to state that the Authority's determination of aeronautical tariffs for other airports (both private and of AAI) was based on a comparator set having certain flaws. As to the reference made that developing countries should only be taken in the comparator set, he stated that the issue has earlier also been addressed and reiterated that apart from NIPFP, the Commerce Commission of New Zealand takes into consideration both developed and developing countries. Even Leigh Fisher, in its report to HIAL on cost of equity includes both developed and developing countries. The Authority regards this inclusion (i.e., those of developed countries in the comparator set) as more robust and representative.

13. As regards the issue of land, Chairperson stated that as has been the earlier stand of Authority the AERA would not be concerned with land in normal course. However it has taken into consideration the provisions of the land lease deed that in its opinion link the grant of land (that has been acquired by the Government of Andhra Pradesh) and leased to HIAL on concessional terms to the airport project and its feasibility etc. Moreover, the fact remains that as per the mandate of the Concession Agreement, "IRA" will be set up to regulate "any" aspect of airport activities. The Land Lease Deed refers to land being made available to HIAL to make the airport feasible and that is why the Authority has addressed the land issue.

14. ASSOCHAM – Shri K. Narayanrao representing ASSOCHAM stated that written response shall be submitted by the due date. He commented on three key issues:

- (i) Shri Rao stated that the return on equity should commensurate to the concerned sector as Rs. 62, 000 crores investment is envisaged in the airport sector out of which Rs. 47, 000 crores is expected from the private sector. Hence, if the sector is to be made attractive and viable, then Cost of Equity, that is linked to other infrastructure sectors as also the recommendations of consultants like KPMG, Leigh Fisher and SBI, should be taken into consideration so that investment is attracted from the private sector.

- (ii) The Concession Agreement was signed before the AERA Act came into picture and this point needs to be duly considered.
- (iii) Though penalty for service quality levels are stipulated by the Authority, there is no incentive for airport operator to improve his service levels. This aspect may be duly considered.

15. In response to ASSOCHAM, Chairperson commented that, the AERA Act, 2008 mentions quality of services in two places:

- (i) While considering the cost incurred in giving quality of service, which will be considered for the tariff determination;
- (ii) As a function of AERA to monitor the performance standards. He also observed that in the case of AAI, extensive stakeholder consultation was done on the aspect, however, none of the stakeholders including ASSOCHAM gave any comments on the quality of service.

On account of these provisions, in the opinion of the Authority these are separate and distinct and it has accordingly proposed to prescribe the parameters of quality of service as well as the rebate provisions.

As regards the airport sector to be made attractive, the Chairman stated that in the aviation infrastructure landscape, private sector is expected to play a key role in the development of the airport infrastructure. The Authority is thus aware that the airport infrastructure needs to be made attractive for private investors. He however also felt that this sector is monopolistic, a public utility and regulated in terms of aeronautical charges, a major part of the revenues from which is contributed by passengers through the UDF. Hence a fair rate of return on equity should be adequate for this purpose. Since most of the risk factors are proposed to be eliminated, a fair rate of return on equity at 16% has been considered by the Authority as more than adequate. As regards the provisions of concession agreement to be adhered to, the Chairman stated that these have been duly considered as required by Sec 13(1)(a)(vi) of the AERA Act.

16. As regards the comments of airport operator that AAI's asset beta of 0.92 should be considered also for HIAL and calculations made accordingly, the Chairman stated that the asset beta of AAI airports (Kolkata and Chennai) was calculated based on the same comparator set of NIPFP and not on the report of KPMG. Since the equity of AAI was 89% or so in the means of finance for the projects, the WACC for AAI came to be 14%.

17. Shri S. Suresh, Member Finance, AAI stated that written submissions in respect of the Consultation Paper, would be submitted to the Authority before the due date.

18. Emirates – The representative of the airline appreciated the view of Authority to have a balanced approach of minimizing risk and maximizing revenue and stated

that they support single till as per Authority. He however stated that 100% increase in cost (landing charges) is not the right time now as it is a volatile time for the airlines. Secondly, variation between international and domestic landing fee is not very reasonable. The representative stated that there should be sufficient justification for differentiation between domestic and international UDF charges. In fact, in the case of BIAL, the ICT charges are part of UDF. He further stated that airline ticket are sold three months in advance and this aspect should be considered while approving period of UDF levy. He supported IATA on the other issues.

19. Chairperson, in response, stated that the landing charges have not increased from 2001 and only by 10% in 2009 and thus the proposed increase appears to be high. As regards issue of tickets being sold three months in advance, he stated that there are instances where UDF levy have been effected within 7 days from the date of issue of AIC (e.g. when DGCA issued AIC in respect of one of the AAI Airports) and yet appeared to have been implemented without any difficulties. He however stated that the views of the airlines would be given due consideration at the time of the final order.

20. As regards the issue of differential UDF, Chairperson stated that this is a issue which has been repeatedly taken up by the Authority with the stakeholders about the ratio of domestic to international UDF. He stated that the reason for having a differential rate is partly on account of longer duration spent by the International passengers at the airport (than domestic passengers) and the issue of proportionality (domestic tickets, on average being less than international ones, the UDF as a percentage of the cost of domestic tickets needs to have some element of proportionality). He stated that IATA has often commented that 1:2 should be the ratio of domestic to International UDF. However, if there is a broad consensus/reasonable opinion (especially between the stakeholders like IATA and FIA) on what the ratio should be, it would be given due consideration by the Authority.

21. On the statement of Chairperson regarding the increase in landing fee after a long duration, IATA responded that any increase in landing fee should be on cost basis. There should be a yearly percentage increase. The 100% increase proposed will impact the market seriously. He stated that there are cases where landing charges have actually come down due to productivity and better traffic growth. The Chairman stated that the aeronautical tariff and revenue basket have different components like landing, parking and housing charges as well as the UDF. The Authority has attempted to keep a balance amongst these different components of the basket.

22. Air India - Shri Prabhat Mukherjee representing Air India stated that detailed comments will be furnished shortly. He, however, brought out the following:

- (i) Certainly steep hike will impact the cost of airline operations. This issue needs to be reviewed to work out optimized solution.
- (ii) Discount on landing charges earlier given by the Airport Operator, is not proposed in the present proposal. If that has been omitted, it may be reconsidered by the Authority as it was an incentive to airlines earlier.

- (iii) Collection charges on UDF has been reduced from Rs. 5/- to Rs. 2.50/-. But the fact remains that certain administration costs/manpower costs are involved in collecting UDF on behalf of operator. Hence this may be looked into by the Authority.
- (iv) Single till as recommended by the Authority, will give a better and more balanced approach.

23. Chairperson stated that there are two issues which have not been considered by the Authority namely, Discounts and Bad Debts. The Authority has considered these as matters that the airport operator should actively pursue and follow up to minimize their incidence and that the passengers should not normally be required to reimburse the airport operator on this account. In a regulatory framework where traffic as well as non-aeronautical revenues have been proposed to be trued-up, the Authority has not been able to arrive at a definitive conclusion how to factor in discounts. In fact no discounts have been considered in case of DIAL/MIAL and HIAL. As regards Collection charges Chairperson stated that the same shall be looked into.

24. Singapore Airlines – Representative endorsed the views of IATA and stated that any increase in tariff shall have negative impact on airline operations. IATA reiterated that the Authority should focus on fair rate of return with a balanced interest of airlines and passengers.

25. Chairperson thanked all the stakeholders for participation and expression of their views. He further stated that the Authority will consider requests for extension of time for submission of comments and the decision in this regard will be conveyed soon.

26. The meeting ended with a vote of thanks to the Chair.
