



International Civil Aviation Organization

WORKING PAPER

A37-WP/171

EC/10

8/9/10

(Information paper)

ASSEMBLY — 37TH SESSION

ECONOMIC COMMISSION

Agenda Item 50: Economics of airports and air navigation services

ECONOMIC REGULATION OF AIRPORTS IN INDIA

(Presented by India)

EXECUTIVE SUMMARY

This paper provides information on major work accomplished by India since the last Assembly in establishing an independent regulator for economic regulation of airports and air navigation services. The regulator is in the process of formulating its regulatory philosophy and approach as well as devising systems and procedures for determination of tariff. It is expected that the regulator would be able to finalise this process and commence the actual tariff determination shortly. This is likely to impart regulatory certainty to the airport infrastructure sector in India.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective D — Efficiency — Enhance the efficiency of aviation operations.
<i>Financial implications:</i>	Not applicable.
<i>References:</i>	

1. INTRODUCTION

1.1 Aviation sector in India has been on a high growth trajectory since 2004-05. The total passenger throughput in India in 2009-10 grew to 123.75 million from 40 million in 2000-01. ACI estimates (2010-15) suggest that passenger traffic in India in 2015 shall be of the order of 177.71 million whereas as per long term forecasts by ACI (2008-27), the passenger traffic is likely to increase to 580.78 million in 2027, at a growth rate of 9.2% p.a.

1.2 This unprecedented growth in air traffic has placed considerable strain on the airport and related infrastructure in the country. Presently, India has about 89 operational airports. Traditionally, the airport infrastructure sector in India has been a public monopoly. Keeping in view the need for attracting private investment to create world class infrastructure, the Government of India, through a legislative amendment, permitted entry of private sector in airport development in 2003-04. Subsequently, 100% foreign direct investment (FDI) was also permitted in Greenfield airports.

1.3 Pursuant to the aforesaid policy initiatives, the four major airports in the country namely, at Delhi, Mumbai, Hyderabad and Bangalore were restructured/privatised through Public – Private Partnership (PPP) route. Delhi and Mumbai airports, which are two biggest airports carrying about 50% of the passenger traffic of the entire country, have been leased to private companies for operation management and development for a 30 year period, which is extendable by a further period of 30 years. The PPP companies have set up and operationalized new airports at Hyderabad and Bangalore in March, 2008 and May, 2008, respectively. The State owned Airports Authority of India (AAI) is also undertaking substantial investments in airports infrastructure, with particular focus on airports in tier II and tier III cities. The estimated investment in airport development, during the period 2007-12, is likely to be of the order of US\$ 10 billion, substantially from private sources, including for Greenfield airports.

1.4 The air navigation services (ANS) continue to be provided solely by the AAI.

1.5 In this background, the need for an independent economic regulator was felt so as to create level playing field and to foster healthy competition amongst all major airports, to encourage investment in airport facilities and to regulate tariff for aeronautical services. Accordingly, Parliament of India had enacted Airports Economic Regulatory Authority of India Act, 2008 in December, 2008 to provide for the establishment of the Airports Economic Regulatory Authority (AERA).

2. POWERS AND FUNCTIONS OF THE REGULATOR

2.1 AERA is required to perform following functions in respect of major airports:

- a) to determine the tariff for the aeronautical services;
- b) to determine the amount of the development fees, including user development fees;
- c) to determine the amount of the passengers service fee; and
- d) To monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Government or any authority authorised by it in this behalf.

2.2 A 'major airport' has been defined to mean as any airport which has, or is designated to have, annual passenger throughput in excess of one and half million or any other airport as the Government may, by notification, specify as such. As per the traffic statistics for 2009-10, 14 airports qualify to be major airports. These major airports handle about 85% of the total traffic of the country (95% of the total international traffic and 83% of the total domestic traffic). Besides, as per available information, this group of 14 airports is the single largest group of airports being regulated by one independent regulator anywhere in the world.

2.3 The legislation defines the aeronautical services to mean any service provided:

- a) for navigation, surveillance and supportive communication thereto for air traffic management;
- b) for the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport;
- c) for ground safety at an airport;
- d) for ground handling services relating to aircraft, passengers and cargo at an airport;
- e) for the cargo facility at an airport;
- f) for supplying fuel to the aircraft at an airport; and
- g) for a stake-holder at an airport, for which the charges, in the opinion of the Government, for the reasons to be recorded in writing, may be determined by the regulator.

2.4 AERA is required to determine tariff for aeronautical services taking into consideration the following factors:

- a) the capital expenditure incurred and timely investment in improvement of airport facilities;
- b) the service provided, its quality and other relevant factors;
- c) the cost for improving efficiency;
- d) economic and viable operation of major airports;
- e) revenue received from services other than the aeronautical services;
- f) concession offered by the Government in any agreement or memorandum of understanding or otherwise; and
- g) any other factor which may be relevant for the purposes of the legislation.

2.5 The legislation mandates the regulator to determine the tariff once in five years. The tariff, so determined, can be amended, if so considered appropriate in public interest, from time to time during the said period of five years.

3. **FRAMING OF REGULATORY PHILOSOPHY, APPROACH, SYSTEMS & PROCEDURES**

3.1 AERA was established in May, 2009 and its regulatory functions were notified with effect from 1st September, 2009. Pursuant thereto, AERA has set in motion an open and transparent process, involving extensive stakeholder consultation, to establish its regulatory philosophy and approach as well as to evolve detailed procedures and systems for determination of tariff and monitoring of performance standards.

3.2 AERA proposes to use the interests of passengers and cargo facility users as the touchstone for discharge of its regulatory functions.

3.3 AERA has classified its regulatory ambit in three broad categories and proposes to adopt following approach to economic regulation thereof:

S. No.	Aeronautical Services	Proposed approach
1.	Services provided by the airport operators	Price Cap regulation on 'single till' basis.
2.	Air Navigation Services	Cost plus fair rate of return based regulation.
3.	Services provided by cargo facility operators, ground handling service providers and fuel farm form operators/fuel access providers.	(a) If service is not 'material'; or it is 'material' but provided on competitive basis – light touch regulation. (b) If service is 'material' but not provided on competitive basis – Price Cap regulation.

3.4 The proposed approach in economic regulation of airports is broadly in sync with the approach adopted by the regulators in the United Kingdom, South Africa and the Republic of Ireland.

4. **CURRENT STATUS**

4.1 The regulatory philosophy and approach in respect of economic regulation of ANS has been finalized, recently. Detailed guidelines to operationalize the same, setting out the procedure to be followed for tariff determination as well as information requirements have been issued for stakeholder consultation. It is proposed that the first quinquennial control period for tariff determination of ANS would commence from 1st April, 2011 for which the ANS provider would have to submit its multiyear tariff proposal by 31st October, 2010.

4.2 The concession agreements in respect of the private airports had been finalized and entered into by the Government before the establishment of the regulator. Thus, the inputs of the Government are considered to be of special relevance in so far as economic regulation of services provided by the airport operators is concerned. Government is in the process of finalizing its views in the matter.

4.3 In the meantime, AERA has tested its proposed systems and procedures, applying draft policy and approach, in the cases relating to determination of user development fee (UDF) at Ahmedabad and Thiruvananthapuram airports.

4.4 It is expected that the regulator would be able to complete its preparatory work and commence the actual tariff determination within the current Financial Year. This is likely to impart regulatory certainty to the airport infrastructure sector in India.