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GOVERNMENT NOTICES

DEPARTMENT OF TRANSPORT

No. 1752

1 December 2003

THE 2004/5 – 2008/9 AIR TRAFFIC AND NAVIGATION SERVICES

REGULATING COMMITTEE

PERMISSION TO LEVY AIR TRAFFIC SERVICE CHARGES

It is hereby published for general notice that on 01 December 2003 the Regulating Committee, established by section 11 of the Airports Company Act, (Act No. 44 of 1993), issued in terms of section 11 (5) of the ATNS Company Act (Act No. 45 of 1993), to the ATNS Company the permission set out in the Schedule.

Mr M K Sizwe

Chairperson: Regulating Committee

SCHEDULE

PERMISSION TO LEVY AIR TRAFFIC SERVICE CHARGES FOR 2004/5 - 2008/9

In this Schedule any word or expression to which a meaning has been assigned in the Aviation Act, 1962 (Act No. 74 of 1962) or the ATNS Company Act, 1993 (Act No. 45 of 1993), shall have the meaning so assigned to it, unless the context otherwise indicates.

Subject to the provisions of the ATNS Company Act, 1993 (Act No. 45 of 1993), the ATNS Company (the Company) is hereby authorised to levy air traffic services charges, provide air navigation infrastructure and conduct air traffic services and air navigation services from 1 April 2004 to 31 March 2009 on the following conditions:

1 Limits on air traffic service charges

- (1) The tariff structure will be of the same mathematical format and apply under the same circumstances as immediately before the date of the issuing of this permission.
- (2) In the event of the Company contemplating modifying the structure of airport charges, the Company shall satisfy the Regulating Committee that the resultant charges will have the same material effect as the conditions on airport charges of this permission.
- (3) Notwithstanding subsection (5), the Company shall submit annually to the Committee a report on the implementation of the adjusted tariff structure.

(4)

- (a) The Company may during the period of validity of this permission alter the level of air traffic service charges to the maximum limit set by the following formula:

$$RWPTI_t \leq (CPI_t - X_t + CF) + K_t$$

Where:

$RWPTI_t$ = the sum of the revenue weighted percentage tariff increases in year t

CPI_t = the CPI forecast at the beginning of period t for the period t

X_t = the subtractive X factor for year t set out in subsection (c)

K_t = the K factor for year t set out in subsection (d)

$$CF_t = ((CPI_{t-1} - X_{t-1} + CF_{t-1} - (RWPTI_{t-1} - K_{t-1})) \times (1 + Pr_{t-1})) + ((CA_{t-1} - CP_{t-1}) \times (Rf_{t-1} + Rp) \times 1/(1 - T) \times 1/AR_{t-1})$$

Where

CPI_{t-1} = actual CPI for the year $(t - 1)$

Pr_{t-1} = predominant prime overdraft rate in year $(t - 1)$

$RWPTI_{t-1}$ = the sum of the revenue weighted percentage tariff increases in year $(t - 1)$

CA_{t-1} = actual capital expenditure for the year $(t - 1)$

CP_{t-1} = capital expenditure per the permission forecast for the year $(t - 1)$

Rf_{t-1} = the average yield on the R153 long term Government bond for the year $(t - 1)$

R_p = the premium over the risk free rate as set out in subsection (c)

T = the statutory tax rate applicable to companies

AR_{t-1} = the total aeronautical revenue for the year $(t - 1)$

The Regulating Committee may, in exceptional circumstances only, implement a further regulatory adjustment to tariffs, where it deems such an adjustment necessary in fulfilling its duties per the ATNS Company Act, 1993 (Act No. 45 of 1993).

(b) The CPI as determined by the independent forecast for the Regulating Committee shall be:

5.8% in financial year 2004/5

3.3% in financial year 2005/6

5.2% in financial year 2006/7

5.6% in financial year 2007/8

5.4% in financial year 2008/9

The Regulating Committee will provide an independently obtained forecast CPI each year by November prior to the period to which the tariff increases relate for use by the Company in calculating the tariff increases for that period.

(c) X shall be:

-11.5% in financial year 2004/5

-6.0%	in financial year 2005/6
-4.0%	in financial year 2006/7
-2.0%	in financial year 2007/8
0.0%	in financial year 2008/9

The Committee has included an efficiency component in the X factor of 1.0% per annum.

In arriving at the X factors for the Permission period, the Committee has taken into consideration the permission application presented by the Company including, *inter alia*, the anticipated traffic volumes, capital expenditure and cost efficiencies as well as the rates of return anticipated.

In estimating a reasonable rate of return for the Company, the Committee has taken into consideration the various economic and market indicators, including bond yields, market risk premiums, the industry risk profile, cost of debt and ideal gearing levels, as well as factors specifically applicable to the Company.

Based on the above, the Committee estimates that a reasonable rate of return for the Company should approximate a 1.3% premium to the risk free rate.

Clearly, the rate of return is only one of several considerations in applying the price-cap regulation and factors such as actual inflation, capital expenditure, cost efficiencies and traffic volumes would affect the anticipated returns.

(d) K is equal to nil.

(e) Correction factor

The correction factor for 2001/2 and 2002/3 has been determined but has not been factored into the proposed tariff increases above. A once-off upward adjustment to tariffs amounting to R27.1 million shall be implemented in the financial year 2004/5.

The correction factor for 2001/2 and 2002/3 has been based on the following components:

- (i) An adjustment for inflation;
- (ii) An adjustment for capex under-/overspend; and
- (iii) A 50:50 profit sharing of the superprofits generated.

The profit-sharing mechanism is intended to preserve the incentives offered by the price cap method of regulation while ensuring that superprofits are used to moderate aeronautical charges as per the single till principles.

The Regulating Committee seeks to strike a balance between its duty to restrain a possible abuse of monopoly position and the continued incentivisation of the Company.

- (5) The Company shall furnish the Regulating Committee with such information as may be agreed upon from time to time. In the absence of such agreement any information as may be requested by the Regulating Committee in order to enable the Committee to apply the conditions of this permission.
- (6) Notwithstanding subsection (5), the Company shall submit annually to the Committee a detailed variance analysis report, including key performance indicators, setting out how the main underlying assumptions of the business plan on which this permission is based compare to actual events. In addition, the Company shall furnish an audited certificate setting out the actual revenue weighted percentage tariff increase for the period.

(7) Capital expenditure

Included in the capital expenditure programme is the cost of primary radars at Port Elizabeth, George, Bloemfontein and East London. It is the understanding of the Regulating Committee that these primary radars will not be required if all aircraft are equipped with transponders. In the event that this situation was to change, the Committee requests that the Company inform the Regulating Committee who would review the permission in this regard.

(8) Other issues

In the interest of a more equitable balance amongst all stakeholders, the Regulating Committee strongly encourages the Company to review and resolve the following issues as a matter of urgency, targeting completion by 30 June 2004:

- (i) The structure of the tariff formula; and
- (ii) The contribution in revenue from general aviation.

- (9) The Regulating Committee strongly encourages the Company to set its total revenues such that it reflects the underlying total cost base and a reasonable profit margin.

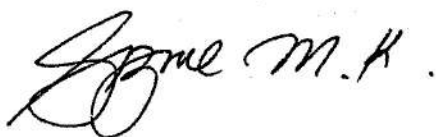
It also encourages the Company to exercise a degree of restraint in implementing its tariff increases where it anticipates that excessive profits will be generated.

2 Service Standards

- (1) The Company shall maintain the level of service of any relevant activity at the same level or higher as that provided immediately before the date of the issuing of this permission. Provided that the Company may alter a level of service only if –
 - (a) The Company has applied to the Regulating Committee for the approval of such an alteration;
 - (b) The Company has satisfied the Regulating Committee that such an alteration will not materially affect users of any such relevant activity.
- (2) The Company shall be responsible for the monitoring on a regular basis of the level of any air traffic service or any air navigation service, as may be agreed from time to time between the Company and the Regulating Committee. In the absence of such an agreement, the Regulating Committee shall determine the air traffic service and air

navigation service to be monitored. The Company shall report the results of such monitoring to the Regulating Committee in the format and at such intervals as the Committee may prescribe from time to time.

Signed in Pretoria this 28th day of November 2003

A handwritten signature in black ink, appearing to read 'Sizwe M.K.', with a stylized flourish at the end.

M.K. Sizwe

Chairperson – Regulating Committee to ACSA and ATNS

No. 1753

1 December 2003

**THE 2004/5 – 2008/9 AIRPORTS COMPANY OF SOUTH AFRICA
REGULATING COMMITTEE**

PERMISSION TO LEVY AIRPORT CHARGES

It is hereby published for general notice that on 01 December 2003 the Regulating Committee, established by section 11 of the Airports Company Act (Act No. 44 of 1993), issued in terms of section 12 (5) of the said Act to the Airports Company the permission set out in the Schedule.

**Mr M K Sizwe
Chairperson: Regulating Committee**

SCHEDULE

PERMISSION TO LEVY AIR TRAFFIC SERVICE CHARGES FOR 2004/5 - 2003/9

In this Schedule any word or expression to which a meaning has been assigned in the Aviation Act, 1962 (Act No. 74 of 1962) or the Airports Company Act, 1993 (Act No. 44 of 1993), shall have the meaning so assigned to it, unless the context otherwise indicates.

Subject to the provisions of the Airports Company Act, 1993 (Act No. 44 of 1993), the Airports Company of South Africa (the Company) is hereby authorised to levy airport charges and conduct relevant activities from 1 April 2004 to 31 March 2009 on the following conditions:

1 Limits on airport charges

- (1) The tariff structure will be of the same mathematical format and apply under the same circumstances as immediately before the date of the issuing of this permission.
- (2) In the event of the Company contemplating modifying the structure of airport charges, the Company shall satisfy the Regulating Committee that the resultant charges will have the same material effect as the conditions on airport charges of this permission.
- (3) Notwithstanding subsection (5), the Company shall submit annually to the Committee a report on the implementation of the adjusted tariff structure.
- (4)
 - (a) The Company may during the period of validity of this permission alter the level of air traffic service charges to the maximum limit set by the following formula:

$$RWPTI_t \leq (CPI_t - X_t + CF_t) + K_t$$

Where:

$RWPTI_t$ = the sum of the revenue weighted percentage tariff increases in year t

CPI_t = the CPI forecast at the beginning of period t for the period t

X_t = the subtractive X factor for year t set out in subsection (c)

K_t = the K factor for year t set out in subsection (d)

$$CF_t = ((CPI_{t-1} - X_{t-1} + CF_{t-1} - (RWPTI_{t-1} - K_{t-1})) \times (1 + Pr_{t-1})) + ((CA_{t-1} - CP_{t-1}) \times (Rf_{t-1} + R_p) \times 1/(1 - T) \times 1/AR_{t-1})$$

Where

CPI_{t-1} = actual CPI for the year $(t - 1)$

Pr_{t-1} = predominant prime overdraft rate in year $(t - 1)$

$RWPTI_{t-1}$ = the sum of the revenue weighted percentage tariff increases in year $(t - 1)$

CA_{t-1} = actual capital expenditure for the year $(t - 1)$

CP_{t-1} = capital expenditure per the permission forecast for the year $(t - 1)$

Rf_{t-1} = the average yield on the R153 long term Government bond for the year $(t - 1)$

R_p = the premium over the risk free rate as set out in subsection (c)

T = the statutory tax rate applicable to companies

AR_{t-1} = the total aeronautical revenue for the year $(t - 1)$

The Regulating Committee may, in exceptional circumstances only, implement a further regulatory adjustment to tariffs, where it deems such an adjustment necessary in fulfilling its duties per the Airports Company Act, 1993 (Act No. 44 of 1993).

(b) The CPI as determined by the independent forecast for the Regulating Committee shall be:

5.8% in financial year 2004/5

3.3% in financial year 2005/6

5.2% in financial year 2006/7

5.6% in financial year 2007/8

5.4% in financial year 2008/9

The Regulating Committee will provide an independently obtained forecast CPI each year by November prior to the period to which the tariff increases relate for use by the Company in calculating the tariff increases for that period.

(c) X shall be:

- 5.5% in financial year 2004/5
- 1.5% in financial year 2005/6
- 1.5% in financial year 2006/7
- 1.5% in financial year 2007/8
- 1.5% in financial year 2008/9

The Committee has included an efficiency component in the X factor of 1.5% per annum.

In arriving at the X factors for the Permission period, the Committee has taken into consideration the permission application presented by the Company including, *inter alia*, the anticipated traffic volumes, capital expenditure and cost efficiencies as well as the rates of return anticipated.

In estimating a reasonable rate of return for the Company, the Committee has taken into consideration the various economic and market indicators, including bond yields, market risk premiums, the industry risk profile, cost of debt and ideal gearing levels, as well as factors specifically applicable to the Company.

Based on the above, the Committee estimates that a reasonable commercial rate of return for the Company should approximate a 3.3% premium to the risk free rate. This estimate incorporates the risk-reward associated with an anticipated non-aeronautical component of approximately 45-50% of total revenue over the permission period.

Clearly, the rate of return is only one of several considerations in applying the price-cap regulation and factors such as actual inflation, capital expenditure, cost efficiencies and traffic volumes would affect the anticipated returns.

(d) K is equal to nil.

(e) Correction factor

The correction factor for 2001/2 and 2002/3 has been determined but has not been factored into the proposed tariff increases above. A once-off downward adjustment to tariffs amounting to R127.1 million shall be implemented in the financial year 2004/5.

The correction factor for 2001/2 and 2002/3 has been based on the following components:

- (i) An adjustment for inflation;
- (ii) An adjustment for capex under-/overspend; and
- (iii) A 50:50 profit sharing of the superprofits generated.

The profit-sharing mechanism is intended to preserve the incentives offered by the price cap method of regulation while ensuring that superprofits are used to moderate aeronautical charges as per the single till principles.

The Regulating Committee seeks to strike a balance between its duty to restrain a possible abuse of monopoly position and the continued incentivisation of the Company.

- (5) The Company shall furnish the Regulating Committee with such information as may be agreed upon from time to time. In the absence of such agreement any information as may be requested by the Regulating Committee in order to enable the Committee to apply the conditions of this permission.
- (6) Notwithstanding subsection (5), the Company shall submit annually to the Committee a detailed variance analysis report, including key performance indicators, setting out how the main underlying assumptions of the business plan on which this permission is based compare to actual events. In addition, the Company shall furnish an audited certificate setting out the actual revenue weighted percentage tariff increase for the period.
- (7) The Regulating Committee strongly encourages the Company to set its total revenues such that it reflects the underlying total cost base and a reasonable profit margin.

It also encourages the Company to exercise a degree of restraint in implementing its tariff increases where it anticipates that excessive profits will be generated.

The tariff increases implemented should be fairly balanced between the users (i.e. passengers and airlines).

2 Service Standards

- (1) The Company shall maintain the level of service of any relevant activity at the same level or higher as that provided immediately before the date of the issuing of this permission. Provided that the Company may alter a level of service only if –
 - (a) The Company has applied to the Regulating Committee for the approval of such an alteration;
 - (b) The Company has satisfied the Regulating Committee that such an alteration will not materially affect users of any such relevant activity.
- (2) The Company shall be responsible for the monitoring on a regular basis of those relevant activities at Company airports as may be agreed from time to time between the Company and the Regulating Committee. In the absence of such an agreement, the Regulating Committee shall determine those relevant activities at Company airports to be monitored. The Company shall report the results of such monitoring to the Regulating Committee in the format and at such intervals as the Committee may prescribe from time to time.

Signed in Pretoria this 28th day of November 2003



M.K. Sizwe

Chairperson- Regulating committee of ACSA and ATNS

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