



21 May 2019

Mr. A H M Mustafa Kamal
Minister of Finance
Ministry of Finance
Government of the People's Republic of Bangladesh
Building # 7, Bangladesh Secretariat
Abdul Goni Road, Dhaka-1000
Bangladesh

VALUE ADDED TAX ON AIR TRANSPORT AND RELATED SERVICES

Dear Honourable Minister,

As you are likely aware, the International Air Transport Association (IATA) is a global trade association representing over 290 airline members and accounting for 82% of total global air traffic. Our members include Biman Bangladesh Airlines, Qatar Airways, Emirates, Singapore Airlines, Turkish Airlines, and Air India, amongst other airlines, which operate services to/from Bangladesh.

Further to our previous letter dated 28 January 2019, and under the current tax regime, Value Added Tax (VAT) is being imposed at 15% on various aeronautical and related charges pertaining to international air transport to/from Bangladesh and with retroactive effect back to FY2009-2010. The aeronautical and related charges in question include the: 1) route navigation charge; 2) landing charge; 3) security charge; 4) boarding bridge charge; and 5) embarkation fee; 6) cargo security screening charge; and 7) license fee. The imposition of VAT on these charges directly contradicts international taxation standards and the commitments of the Government of Bangladesh.

Despite IATA's active engagement with the Government of Bangladesh since 2015, the issue of VAT being imposed on the charges in question (both for the current period and the retroactive application) remains unresolved.

At present, it is IATA's understanding that the Government of Bangladesh is proposing to undertake revisions to the existing VAT regime, and specifically the implementation of The Value Added Tax and Supplementary Duty Act, 2012 (Act No. 47) dated 21 October 2013 and found on the website of the National Board of Revenue (NBR), Bangladesh (the "New VAT Act").

In the context of the proposed VAT reform, it is important to note the importance of air transport as an enabling sector that supports the growth and development of the economy of Bangladesh. According to the World Travel and Tourism Council (WTTC), the total direct and indirect contribution of the travel and tourism sector, which is heavily reliant on air transport, to the Gross Domestic Product (GDP) of Bangladesh was BDT 987.1B in 2018 (or 4.4% of total GDP).¹ Further, the sector's total direct and indirect contribution to employment in Bangladesh was 2.414 million jobs in 2018 (or 3.9% of total employment), and which is expected to increase to 3.155 million jobs in 2029.²

In terms of the impact of international visitors to Bangladesh, foreign visitors spent a total of BDT 26.5B in 2018 for the benefit of the local economy and where expected international visitor arrivals to Bangladesh are forecast to exceed 180,000 in 2019.³

In general, IATA is supportive of the provisions contained in the New VAT Act, which should resolve the issue of imposing VAT on the aeronautical and related charges on a prospective basis (as of the effective date of the New VAT Act) and be a positive step towards aligning the VAT regime in Bangladesh with accepted international principles on taxation. This notwithstanding, the imposition of VAT on a retroactive basis back to 2009-2010 remains an issue of significant importance to the industry and which should be resolved by exempting the aeronautical and related charges from VAT.

After reviewing the New VAT Act, please find our comments for your kind consideration contained in **Appendix 1** to this letter.

¹ Available at: <https://www.wttc.org/economic-impact/country-analysis/country-data/>

² Available at: <https://www.wttc.org/economic-impact/country-analysis/country-data/>

³ *Ibid*



IATA appreciates the opportunity to provide its comments to you and thanks you for your attention to this important matter. We would be happy to meet with you or your representatives to discuss the contents of this letter, or any other matters pertaining to VAT in Bangladesh, should you desire.

Yours sincerely,

Conrad Clifford
Regional Vice President
Asia-Pacific

cc. Mr. Mohammad Mahbub Ali, Minister of Civil Aviation and Tourism, People's Republic of Bangladesh
Mr. Mosharraf Hossain Bhuiyan, Chairman, National Board of Revenue of Bangladesh
Mr. M. Naim Hassan, Chairman, Civil Aviation Authority of Bangladesh
Board of Airline Representatives of Bangladesh
Mr. Vinoop Goel, Regional Director, Airport and External Relations, IATA
Mr. Azhar Azahari, Asia Pacific Business Development and Area Manager, IATA
Mr. Gregory Leshchuk, Manager, Industry Taxation, IATA

Appendix 1 – Comments on The Value Added Tax and Supplementary Duty Act, 2012 (Act No. 47) dated 21 October 2013

VAT on International Air Transport Services of Passengers and Cargo

Based on a review of the current provisions of the New VAT Act, it is IATA's understanding that the supply of international air transport services of passengers and cargo are to be VAT zero-rated. With respect to the supply of passenger international air transport services, Section 24 (Supplies of Zero-Rated Services) states the following:

"(5) The supply of a service shall be zero-rated if it is given outside Bangladesh and is of a kind that is received by an individual at the time and place where it is given."

In this regard, and as the supply of international air transport services of passengers are provided outside of the territory of Bangladesh and are received by passengers outside of Bangladesh, where the time of supply is the time when the services in question are rendered or generated, such services are to be VAT zero-rated.

Moreover, and in relation to the provision of international air transport services of cargo, Section 23 (Supply of Goods for Export) of the New VAT Act states as follows:

"(1) Supply of any good for export shall be zero-rated: ...

(2) The following supplies shall be zero-rated, namely—

(a) if the good is located outside Bangladesh at the time of supply and such good is not assembled, installed or imported into Bangladesh, by the supplier;...

(5) A good supplied in the course of repair, maintenance, cleaning, renovation, modification, or otherwise physically affecting an ocean-going ship or an aircraft or any other vessel of the like kind engaged in international transport shall be zero-rated.

(6) A supply of stores, or of spare parts, relating to an aircraft or an ocean-going ship, engaged in international transport, shall be zero-rated, if the stores or parts are for use, consumption, or sale on the aircraft or the ship during a flight or a voyage."

Based on the aforementioned provisions, it is IATA's understanding that the rendering of international air transport services of export cargo are to be VAT zero-rated where such goods are located outside of Bangladesh at the time of supply and are not assembled or re-imported into Bangladesh.

Section 23 of the New VAT Act also provides that the supply of goods in connection with the repair, maintenance, cleaning, renovation or modification and the supply of stores and/or spare parts to airlines in connection with an aircraft engaged in international transport to/from Bangladesh are to be VAT zero-rated. Additionally, no Supplementary Duty or Advance Tax should be applied on the supply or importation of goods or spare parts that are used in relation to the repair, maintenance, cleaning, renovation or modification of aircraft operating international transport services or on goods that are consumed or sold on board aircraft operating international transport services as such goods are equally exported from Bangladesh and should not be subject to tax.

The VAT zero-rated treatment of international air transport services, as well as the supply of goods to airlines in connection with aircraft operating international air transport services, is aligned to the standard and accepted principles on taxation espoused by both the International Civil Aviation Organization (ICAO), a specialized agency of the United Nations and of which Bangladesh is a Contracting State, and the Organisation for Economic Co-operation and Development (OECD). These standards and accepted taxation principles include:

- Article 15 of ICAO's Convention on International Civil Aviation (Chicago Convention) which states that: "*No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon*";
- ICAO's *Policies on Taxation in the Field of International Air Transport* contained in Document 8632⁴, which specifies that "*each Contracting State shall reduce to the fullest practicable extent and make plans to eliminate ... all forms of taxation on the sale or use of international transport by air, including taxes on gross receipts of operators and taxes levied directly on passengers or shippers*";
- The OECD's *International VAT/GST Guidelines* (2017)⁵, which states the following: "*The application of the destination principle in VAT achieves neutrality in international trade. Under the destination principle, exports are not subject to*

⁴ Available at: http://www.icao.int/publications/Documents/8632_3ed_en.pdf

⁵ Available at: <http://www.oecd-ilibrary.org/docserver/download/2317031e.pdf?expires=1518175454&id=id&accname=guest&checksum=28C75F3866AB0ED6E8404B512F54272C>

tax with refund of input taxes (that is, "free of VAT" or "zero-rated")...In fact, the destination principle is the international norm and is sanctioned by World Trade Organization ("WTO") rules."

As such, IATA is highly supportive of the aforementioned provisions in the New VAT Act that not only assists in ensuring Bangladesh is in adherence with its international obligations under ICAO and accepted principles on taxation by the OECD, but that will also benefit local consumers and the national economy.

VAT on Aeronautical and Related Services Associated with International Air Transport

In relation to the VAT treatment of aeronautical and related services rendered to aircraft operating international transport services, and as noted above, this issue has plagued the aviation industry in Bangladesh for several years. While the Government of Bangladesh and the airline industry disagree as to the current VAT treatment of aeronautical and related charges rendered to aircraft operating international air transport services under the provisions of the existing VAT Act (i.e., VAT Act, 1991), the New VAT Act confirms the VAT zero-rated treatment of such services.

In this respect, Section 24 (Supplies of Zero-Rated Services) indicates the following:

"(11) The supply of the following services shall be zero-rated, namely:—

- (a) a supply of services to any international transport;*
- (b) a supply of insurance services to the international transport of goods;*
- (c) a supply of the services of repair, maintenance, cleaning, renovation, modification, or otherwise physically affecting an aircraft or an ocean-going ship engaged in international transport;*
- (d) a supply to a non-resident, who is not registered, of services directly connected to the operation or management of an ocean-going ship or an aircraft engaged in international transport; or*
- (e) a supply of stevedoring services."*

Consequently, IATA supports the above provisions in the New VAT Act, which would resolve this longstanding dispute as to the VAT treatment of aeronautical and related charges on a prospective basis and as noted, would ensure Bangladesh's adherence with its international obligations and accepted principles on taxation.

However, as the provisions in the New VAT Act appear to directly contradict the current imposition of VAT under the existing VAT Act, IATA urges the Government of Bangladesh to reverse its decision and not impose VAT on the charges with retroactive effect back to 2009-2010 to ensure consistency of the tax treatment.