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30
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Aviation/ Aerospace Update

MARCH
2016

I. INDIA MAKING ITS AVIATION SECTOR AIRBORNE

INTRODUCTION



The Indian Civil Aviation industry has steered into a new era of growth and the factors that drive this growth are low-cost carriers, relaxing the Foreign Direct Investment (“FDI”) regime, usage of advanced information technology for safety & security, modernization of airports, growing customer base, healthy competition in the market and growing regional connectivity. India Brand Equity Foundation (“IBEF”), an initiative of Ministry of Commerce & Industry, Government of India has come up with its market survey on Aviation sector in India. The survey says that in January 2016, domestic air passenger traffic rose 23% during the same month of last year and the passenger traffic during the January-December 2015 increased at a rate of 20.3% in the corresponding period a year ago. International and domestic aircraft movements increased 10.6% and 17.5%, respectively, in January 2016. As per Centre for Asia Pacific Aviation, Indian domestic air traffic is expected to cross 100 million passengers by FY 2017, compared to 81 million passengers in 2015. According to data released by the Department of Industrial Policy and Promotion, FDI inflows in air transport (including air freight) between April 2000 and December 2015 stood at US\$ 612.53 million.

Having said that, in this last edition of the aviation update for this financial year, we would bring a summary of all the crucial events in the aerospace segment of the financial year 2015-2016.

CHANGES IN FDI POLICY

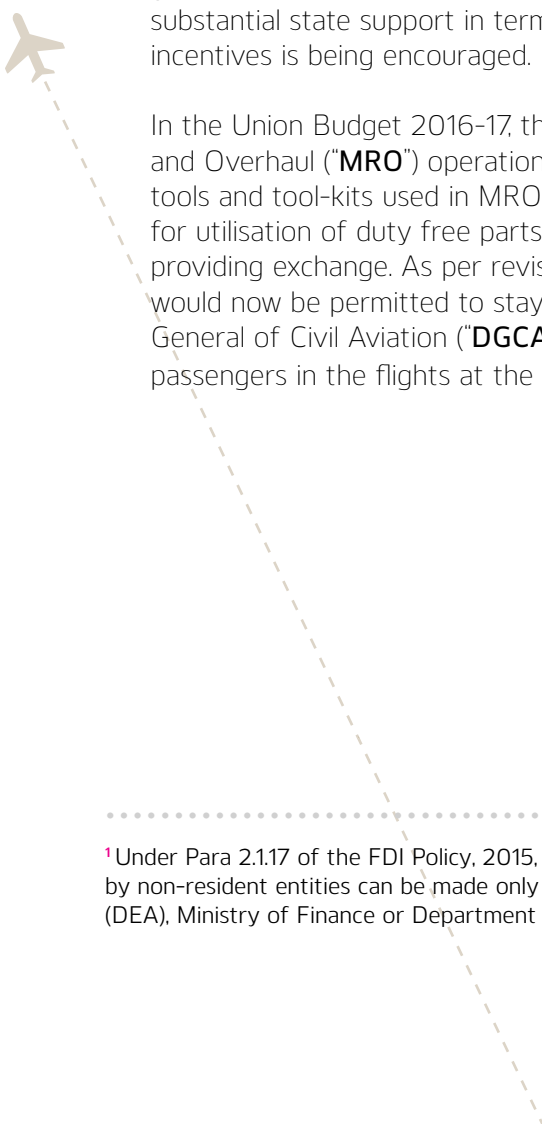
With regard to civil aviation, setting up India operations or investing in India requires a non-resident to comply with the FDI Regulations and Foreign Exchange Management Act, 1999. FDI is allowed either under automatic route or approval route, wherein prior approval of Foreign Investment Promotion Board is required. Last year the FDI policy with respect to aviation was revised and the present FDI position is tabulated below –

Services	FDI Cap	Entry Route
Greenfield airport	100%	Automatic
Brownfield airport	100%	Automatic <i>up to 74%</i> ; Government route <i>beyond 74%</i>
Domestic scheduled passenger airlines	49% 100% for NRI	Automatic
Non-scheduled air transport services	74% 100% for NRI	Automatic <i>up to 49%</i> ; Government route <i>beyond 49% and up to 74%</i>
Ground handling services	74% 100% for NRI	<i>-idem-</i>
MRO, flying training institutes and technical training institutes	100%	Automatic
Helicopter service and seaplanes	100%	Automatic

Procurement for Indian Air Force (Defence) is channelized through the Defence Procurement Policy (“DPP”) and guidelines, issued by the Indian Ministry of Defence (“MoD”). The important condition of DPP is the Off-set requirement which stipulates that any contract bagged by a foreign company shall sub-contract 30% of the contract value back to India.

Press Note No.12 (2015 Series), dated 24th November, 2015, the Department of Industrial Policy and Protection (FC-I Section) under the Ministry of Commerce and Industry, Government of India has amended the FDI Policy 2015 (applicable since 12th May, 2015), where the Foreign Investment cap for Defence Industry (subject to Industrial License under the Industries (Development & Regulation) Act, 1951) has been changed from 49% under Government Route to 49% under Automatic Route. Accordingly, FDI in Defence Sector is allowed up to 49% under automatic route and above 49% under the government route¹ on a case to case basis, wherever it is likely to result in access to modern and 'state of art' technology in the country.

II. GOVERNMENT INITIATIVES



As per the IBEF survey, the Indian government agencies project that around 500 brownfield and greenfield airports would be required by 2020 and for this Public Private Partnership models with substantial state support in terms of financing, concessional land allotment, tax holidays and other incentives is being encouraged.

In the Union Budget 2016-17, the government introduced various proposals for Maintenance, Repair and Overhaul (“MRO”) operations for airplanes. These include customs and excise duty exemption for tools and tool-kits used in MRO works. The government has also scrapped the one-year restriction for utilisation of duty free parts apart from allowing import of unserviceable parts by MROs for providing exchange. As per revised norms, the foreign aircraft brought in to India for MRO work would now be permitted to stay up to six months or as extended by aviation regulator Directorate General of Civil Aviation (“DGCA”). Such foreign aircraft would also be henceforth permitted to carry passengers in the flights at the start and end of its period of stay in India.

¹Under Para 2.1.17 of the FDI Policy, 2015, 'Government route' means that investment in the capital of resident entities by non-resident entities can be made only with the prior approval of Government (FIPB, Department of Economic Affairs (DEA), Ministry of Finance or Department of Industrial Policy & Promotion, as the case may be).

1. New airports & infrastructure

As the Airports Authority of India (“AAI”) under the Ministry of Civil Aviation (“MoCA”) is responsible for creating, upgrading, maintaining and managing civil aviation infrastructure in India, it plans to develop city-side infrastructure at 13 regional airports across India with help from private players for building of hotels, carparks and other facilities, and thereby boost its non-aeronautical revenues. AAI also plans to revive and operationalise around 50 airports in India over the next 10 years to improve regional and remote air connectivity. The government has decided to award airports in Kolkata, Chennai, Jaipur and Ahmedabad on management contract and the Request for Qualification has already been issued by AAI.

The government has given site clearance to Delhi Mumbai Industrial Corridor and Development Corporation for setting up of a Greenfield Airport for public use near Bhiwadi in Alwar district of Rajasthan and has granted ‘in-principle’ approval to 13 other greenfield airport projects. Gujarat is expected to get a second international airport at Dholera. The state government has formed Dholera International Airport Co. Ltd. and is obtaining approvals from the central government.

2. National Civil Aviation Policy

The MoCA has proposed a draft of the National Civil Aviation Policy, 2015, which spells out its mission to provide safe, secure, affordable and sustainable air travel with access to various parts of India and the world and has, therefore, outlined four objectives –

- i. Ensuring safe, secure and sustainable aviation industry through use of technology and effective monitoring.
- ii. Enhancing regional connectivity through fiscal support and infrastructure development.
- iii. Enhancing ease of doing business through deregulation, simplified procedures and e-governance.
- iv. Promoting the entire aviation sector chain: Cargo, MRO, General aviation, aerospace manufacturing and skill development.

The Draft Policy has covered almost all crucial aspects of civil aviation to chart out a plan for improvement and increasing its user base.

The International Health Regulations (IHR) (2005) provided a legal framework for ensuring global health security. This was done, on one hand, to prevent and provide a public health response to the international spread of diseases and, on the other hand, to not interfere with international traffic and trade. This regulation came into effect from June 15th 2007 and since 2009 India also started implementing this in the wake of the pandemic H1N1. In light of this and in exercise of the powers conferred under section 8A of the Aircraft Act, 1934, the **Ministry of Health and Family Welfare proposed draft of the Indian Aircraft (Public Health) Rules, 2015** in supersession of the Indian Aircraft (Public Health) Rules, 1954. Under these Rules, the central government has the responsibility of designating a National IHR focal point for the implementation of health measures that these Rules provides for and to notify occurrence of public health emergency of international concern.

3. Amending offset guidelines

The MoD has initiated various policy measures to address the concerns of the industry for ease of doing business. The **PIB Release dated December 23, 2015 amending the Offset Guidelines** clarified three crucial aspects –

- i. The vendors had been expressing difficulty to upfront provide specific description of products and their work share, supporting documents to establish eligibility of Indian Offset Partners (IOPs) and yearly discharge schedule due to the time lag between submission of technical offset offers and finalization and subsequent implementation of offset contracts, and therefore, requested frequent contract amendments. Accordingly, a two pronged approach for mitigating perceived bottlenecks during pre and post contract stage has been evolved through recent amendments to offset guidelines.
 - a. At pre contract stage option has been given to the vendors to submit detailed offset proposals at a later stage. The vendor can finalize his IOPs and offset product details one year prior to the intended offset discharge, or can even undertake the offset activity and submit claims thereafter. This will facilitate vendors to finalize a more realistic offset offer. Orders in this regard were published by MoD on August 05, 2015.
 - b. At the post contract stage, enabling provisions have been made in the offset guidelines for change in IOP/component and re-phasing of offset schedule, thereby giving complete flexibility to the vendor. The Standard Operating Procedure (SOP) will now make it possible to address requests from vendors to change their IOP or their offset component as per requirement during the period of the contract. Necessary orders in this regard have been issued by the MoD vide MoD ID No. 1(6)/D (Acq)/13-Vol-II dated 11.12.2015.
- ii. The DPP has a provision for foreign Original Equipment Manufacturers (“**OEMs**”) to discharge their offset obligations through ‘Services’. This provision had been kept under abeyance with effect from 23 May 2013 due to absence of any regulatory oversight mechanism for Services. However, there was a persistent demand from the industry (both domestic and foreign) for allowing Services as a valid avenue for discharge of offset obligations. Based on several interactions and inputs, received from industries most of the ‘Services’ which were in abeyance, have been reinstated with checks and balances following a MoD order in this regard on December 07, 2015. Orders have been published vide MoD ID No. DOMW/OP/GEN/03/2015/01 dated 07.12.2015.
- iii. Indian vendors participating in ‘Buy Global’ cases were at a disadvantageous position in terms of fulfilling offset obligations. In order to promote ‘Make in India’, a level playing field has been provided and an Indian vendor has been brought at par with the foreign OEM in terms of fulfilling offset obligations through orders issued by the MoD on December 11, 2015. Orders have been published vide MoD ID No. 1(6)/D (Acq)/13-Vol.II dated 11.12.2015.

4.Import of aircrafts

Public Notice (AV.14027/AAC/2012-AT.I) dated January 11, 2016 issued by the office of DGCA brought to the notice of public the following regarding the import of aircrafts – 

- a. Section 5 of the Aircraft Act, 1934 empowers the central government to make rules regulating the export/import of an aircraft for securing the safety of operation. The requirements for import of aircraft are laid down by Director General of Foreign Trade (“DGFT”), Ministry of Commerce, in this regard from time to time.
- b. As per the order issued by MoCA, the DGCA shall issue permissions for import/acquisition of aircraft by Scheduled, Regional Scheduled, Non-Scheduled Operator, Flying Training Institute and will recommend to DGFT for issue of import license for private use.
- c. All aircraft other than Private Category aircraft shall be imported without the need to obtain an import license from DGFT.
- d. Accordingly, DGCA has issued an Air Transport Circular No. 01/2016 laying down the procedure for obtaining import/acquisition of aircraft. Consequently, the CAR Section 3 Series C Part XI on requirement for permission to import/acquisition of aircraft stands withdrawn with immediate effect. However, the fee for issuance of such permissions shall be charged as approved by the MCA.

DGCA AAC NO 2 OF 2015, Dated: 9th September 2015 – Airworthiness Advisory Circular regarding import/export of aircraft spares, items of equipment etc. for use on aircraft.

Government draws power from section 5 of the Aircraft Act, 1934 to make rules regulating the export/import of an aircraft for securing the safety of operation. Chapter 88 of ITC (HS), 2012 Schedule 1 – Import Policy of DGFT specifies guidelines for import of aircraft and spares. Procedure to be followed for import of Aircraft is described in CAR Section 3 Series C Part XI. Airworthiness requirements for aircraft parts intended to be used on civil aircraft are specified in CAR M and CAR 145. This circular specifies the manner in which aircraft spares, items of equipment may be imported and also exported and re-imported into India by the owner/operator of aircraft.

The policy for import of aircraft spares is laid down in the Export and Import Policy and the Hand Book of Procedures issued by DGFT, Ministry of Commerce and Industry. The organizations importing aircraft spares are required to comply with the provisions of the CAR M and CAR 145. The spares so imported are required to be accompanied by Authorized Release Certificate. In case custom authorities require any clarification/authentication of parts by DGCA, the aircraft operator / approved organization may approach regional/sub-regional office for necessary support.

In certain cases an operator/organization may not be able to service/ maintain/overhaul an item of equipment removed from an aircraft within the country due to various reasons. In such cases the organizations exporting the items for repairs/overhaul at approved firm/agency abroad may do so after ensuring the approval status of the organization. In case of premature failure of components, the aircraft operator shall make necessary arrangements with the overhaul agencies and arrange copy of the investigation report where required. Some of the manufacturers abroad have a procedure called Standard Exchange Program wherein a failed part is replaced by a serviceable part

of another serial number. In such cases the operator may export the failed part/life expired part and replacement thereof by serviceable part of different serial number. In such cases also the aircraft operator are required to ensure that investigation reports of the prematurely removed components are received on completion of the investigation within a period specified by them. The export and re-import of spares are subject to compliance of Reserve Bank of India or any other regulation, if any, on the subject. Import of tools/equipment specified by the manufacturer of aircraft/accessory for maintenance/testing etc., the importer should follow the applicable DGFT / Custom guidelines.

5. Air Safety


DGCA, India's aviation regulator, has signed an agreement with United States Technical Development Agency (USTDA) for India Aviation Safety Technical Assistance Phase II, aimed at bringing in systemic improvements in the area of operation, airworthiness and licensing.

Air Safety Circular No. 2 of 2015 dated 27th August 2015 re Voluntary Reporting System: The key objective of Indian voluntary and confidential reporting system is to enhance aviation safety through the collection of reports on actual or potential safety deficiencies that would otherwise not be reported through other channels. Reporters are encouraged to make use of their organization's internal SMS voluntary reporting system wherever applicable, unless they have no access to such a system or the incident or hazard is deemed beyond the scope of their organization's purview. The Indian voluntary and confidential reporting system is already defined in the Aeronautical Information Circular 03 of 2015. However, this Air Safety Circular gives further detailed guidelines on filing of a voluntary report.

Personnel belonging to any of the following groups of Civil Aviation sector can contribute to aviation safety enhancement through the voluntary and confidential reporting system by reporting on occurrences, hazards or threats in the aviation system:

- a. Flight and cabin crew members
- b. Air traffic controllers
- c. Licensed aircraft engineers, technicians or mechanics
- d. Employees of maintenance, design and manufacturing organizations
- e. Aerodrome ground handling operators
- f. Aerodrome employees
- g. General aviation personnel
- h. Any other person connected with aviation

Voluntary and confidential reports may be submitted for hazards/threats /occurrences observed in the following areas:

- 
- a. Flight operations: Departure/en route/ approach and landing; Aircraft cabin operations; Air proximity events; Weight and balance and performance; Heavy landings when structural limits are not exceeded; and Unstabilized approaches
 - b. Aerodrome operations: Aircraft ground operations; Movement on the aerodrome; Fueling operations; Aerodrome conditions or services; and Cargo loading
 - c. Air traffic management: ATC operations; ATC equipment and navigation aids; and Crew and ATC communications including read-back / hear-back errors
 - d. Aircraft maintenance: Aircraft/engines/components maintenance and repair activities
 - e. Design and manufacturing: Aircraft/engines/components design or production activities
 - f. Approved training organizations: Training activities involving flight operations and maintenance
 - g. Miscellaneous: Passenger handling operations related to safety; and Any other area impacting aviation safety

Car section 2 - AirWorthiness Series "R" part ii issue iii, 26th december 2013 effective: forthwith (F. No. 11-690/R Part II/ 08-AI(2)) on the installation of communication, navigation and radar equipment as revised from 6th October 2015: Pursuant to the Aircraft Rules 9(3) and 57, every aircraft should be fitted and equipped with radio apparatus as may be specified according to the use and circumstances under which the flight is to be conducted and the CAR Section 2 describes the procedures and requirements to be complied with for installation of airborne communication, navigation and radar equipment as follows

- i. Any new avionic installation or replacement of existing installation shall be carried out after development of Supplemental Type Certificate (STC) and the developed STC shall be accepted or approved by DGCA as appropriate; If not covered by STC, then it should have prior approval of DGCA;
- ii. For grant of approval from DGCA, proposal shall be made through local Airworthiness Office after ensuring the following –
 - a. The proposed equipment is of the approved type and is compatible with the existing system.
 - b. Necessary electrical power is available in the aircraft for the proposed equipment.
 - c. C.G. should remain within the limits if proposed installation is carried out.
 - d. Required space is available at suitable location in the aircraft and proposed installation shall not affect the structural integrity of the aircraft.
- iii. After completion of proposed installation or replacement work testing of the system shall be accomplished only after obtaining short term aero mobile license for operating radio apparatus from WPC Wing of Ministry of Communications. This is applied to the DGCA through the local airworthiness office.

- iv. On receipt of the short term permit, the operator shall complete all the installation checks including ground and flight tests as per the approved installation check schedule and prepare a schedule of the tests based on the guidelines contained in the BCAR Section R and FAA Advisory Circular AC 43-13 and forward it to the local Airworthiness office for approval.
- v. On receipt of the installation check report, the aircraft shall be offered for inspection and communication check to the local airworthiness office and after the satisfactory checks the operator should obtain the regular aero mobile license from the WPC in a separate form through the local airworthiness office.

III.OPPORTUNITIES

As per the *“Report of Working Group on Civil Aviation Sector”, National Transport Development Policy Committee, June 2012*, investment in civil aviation will be required in the following areas, viz., airport infrastructure, including Air Navigation Services related infrastructure, airline industry, general aviation, training academies, MRO, Ground handling, building capacity in the regulatory bodies etc. If we look at the key investments and developments in India’s aviation industry last year as per IBEF survey there were investments and JVs announced from Rolls-Royce Plc (with Bharat Forge Ltd for aero engines), Boeing (Apache & Chinook helicopters with Tata Advanced Systems), Airbus (*to start MRO and committed to source products worth US\$ 2 billion cumulatively over the next five years from India*) and LH Aviation (*Manufacture tactical drones with India’s OIS Advanced Technologies through an industrial license*).

The MoCA has signed Memorandum of Understanding with Finland, Kazakhstan, Kenya, Sweden, Norway, Denmark, Oman and Ethiopia for increased co-operation between the countries in terms of additional seats, sharing of airlines codes, increased frequencies and additional points of call, during the International Civil Aviation Negotiations, 2015 held in Antalya, Turkey.

The major areas that provide avenues for investment in India are: Civil Aviation, including airlines (scheduled operations), general aviation (non-scheduled operations), airport infrastructure, MRO, air cargo & express Industry, ground handling, aviation academics; development of helicopters; air navigation services; up-gradation of non-operational air-strips; MRO facilities; greenfield airports under PPP model and the development of new airports.

Though different states in India are trying to become investment haven and are offering sops, the state of Karnataka has become attractive destination for the aerospace industry because of their existing supply chain developed by old-economy aerospace and engineering firms, an investor friendly government with simplified procedures and fast-track business approvals through single window clearance mechanism. Karnataka has drafted its Aerospace Policy 2013-2023 and outlined its trajectory and strategy for the growth of this sector in the next decade. Andhra Pradesh has also come up with its Aerospace Policy and has an investor friendly government.

While opportunities exist and government is keen to tap the potential, with consistent focus on the quality, safety and cost effectiveness, India can definitely become the leader in the aviation market. To quote Mr. Tony Tyler, Director General and CEO International Air Transport Association believes that *"the world is currently focused on Indian aviation – from manufacturers, tourism boards, airlines and global businesses to individual travellers, shippers and businessmen. If we can find common purpose among all stakeholders in Indian aviation, a bright future is at hand."* India is gearing up to take the world in its stride!



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