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years



Aviation/ Aerospace Roundup

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I. REGULATIONS CHECK

NATIONAL CIVIL AVIATION POLICY 2015

Introduction: Vision, Mission & Objective



The Ministry of Civil Aviation (“**MoCA**”), Government of India has proposed a draft of the National Civil Aviation Policy, 2015 (“**Draft Policy**”) and has requested the stakeholders to come up with suggestions. The Draft Policy states that despite the potential to be among the top nations in terms of domestic and international passenger traffic, Indian Aviation Sector, which is currently ranked 10th, has not witnessed any significant growth. Keeping this in perspective, the Draft Policy envisages providing an ecosystem, creating a level playing field to various aviation sub-sectors and providing affordable flying to the masses. It 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. In the subsequent paragraphs we would go through the specific details of the Draft Policy to understand the various proposals, the steps government intends to take to overhaul this sector and bring it at par with the global standards.

1. Safety

The government places aviation safety as the topmost priority and has, therefore, proposed a lot of measures to pre-empt or prevent accidents. Implementation of the State Safety Program and development of State Safety Plan by Directorate General of Civil Aviation (“**DGCA**”) are crucial suggestions. These steps would aim to ensure that the relevant service providers implement the Safety Management Systems, identify operational hazards and apply risk management principle for the mitigation of the hazards. DGCA would ensure real-time safety tracking and prompt incident reporting. The Draft Policy also emphasizes on strengthening the Aircraft Accident and Incident Investigation Bureau in order to undertake speedy, professional and effective investigation.

In a step to improve scrutiny and compliances, DGCA would issue separate Civil Aviation Requirements (“**CAR**”) wherever possible, for ease of scheduled commuter airlines, charter operators, etc and carry out comprehensive review of all CARs once in every 5 years, starting from financial year 2016-17. The implementation of eGCA project (*DGCA services going fully automated*) by April, 2016 and creating a single system for aviation related transactions, queries and complaints have also been proposed.

2. Regional Connectivity Scheme (“RCS”)

RCS is proposed to come to effect from 1st April 2016. MoCA has proposed to target an all inclusive airfare not exceeding Rs. 2,500 per passenger indexed to inflation for a one-hour flight on RCS routes. The implementation of RCS will be done by way of revival of un-served or under-served aerodromes and airstrips, concessions by different stakeholders, viability gap funding for scheduled commuter airlines and providing a cost effective security solutions by BCAS and state governments.

The flip side is that RCS will be made operational only in those states where VAT of ATF is reduced at airports to 1% or less. The significant tax proposals include the following –

- a. For customs duty, SCA is proposed to be treated at par with scheduled commercial airlines, provided they do not undertake charter carriage.
- b. For 10 years from the commencement of flight operations under RCS –
 - There will be no airport charges levied on Scheduled Commuter Airlines ("SCA") for their operation under RCS;
 - Service tax on tickets to be exempted under RCS;
 - State government to provide fire and police services free of cost;
 - Power, water and other utilities will be provided at substantially concessional rates by the state government;
 - ATF drawn by SCA's from the RCS airports shall be exempt from excise duty;
 - Viability Gap Funding ("VGF") indexed to ATF prices and inflation will be provided for a particular route;
 - VGF to be shared between MoCA and the State Government in the ratio of 80:20;
 - MoCA's share of VGF to be provided through RCF;
 - RCF to be funded by levy of 2% on all domestic and international tickets from 1st January 2016;
 - Proceeds from auctioning of any bilateral rights to go to RCF;
 - RCF will be collected and operated by AAI or any other entity identified by MoCA;
 - SCAs to be provided with easy options to entry and exit from RCS.

3. 5/20 Rule

In 2004, government stipulated that for Indian carriers to fly abroad, they must fly on domestic routes for 5 years and have a fleet of 20 aircraft. MoCA is now proposing to introduce the concept of Domestic Flying Credits ("DFC"). Three possible policy options have been proposed. Either the 5/20 Rule may continue as it is, or it would be abolished with immediate effect. Alternatively, domestic airlines will have to accumulate 300 DFC before commencing flights to SAARC countries and countries located beyond 5000 km radius from New Delhi and to accumulate 600 DFC before starting flights to remaining parts of the world. DGCA will monitor the accounting of DCF. Airlines will need to earn 300 DCF per annum, after commencing international operations. Airlines will also be free to trade DCF with other airlines under intimation to DGCA.

4. Bilateral Traffic Rights

Right from Chicago Convention of 1944 bilateral traffic rights exists. India has Air Service Agreements (ASA) with 109 countries, covering aspects relating to the number of flights, seats, landing points and code-share. Draft Policy proposes to further liberalize the regime of bilateral rights for a greater ease of doing business and providing wider choice to passengers. It further proposes an 'Open sky' on a reciprocal basis with SAARC countries and countries located beyond 5000 km radius from New Delhi with effect from 1st April 2020. If the government decides for open skies for countries within the 5000 km radius, there will be increase in FDI in airlines from 49%.



5. Code Share Agreements

A code share agreement between two airlines allows one airline (Marketing airline) to sell seats on a flight run by another airline (Administrating airline) with the airline code and flight number of the marketing airlines. Draft Policy proposes that the Indian carriers will be free to enter into code-share agreements with foreign carriers for any destination within India, on a reciprocal basis. International code-share between Indian and foreign carriers will be completely liberalized subject to ASA between India and other country. No prior approvals in this regard will be required from MoCA. Indian carriers would be required to inform MoCA 30 days prior to starting the code-share flights.

6. Maintenance, Repair and Overhaul (MRO)

The Draft Policy proposes to develop India as an MRO hub in Asia, to attract business from foreign airlines. To enable economies of scale, MRO will be zero-rated for service tax on output services and spare parts imported by MRO's can be stored tax free up to 3 years. The period of maintenance of foreign aircraft in India for MRO work, shall extend till the entire period of maintenance or 6 months, whichever is lesser and an extended period would require DGCA's permission. Temporary landing permits will be issued to foreign pilots operating an aircraft, for the purpose of servicing at an Indian MRO entity. Levies on MRO service providers to be rationalized in consultation with Airport Operators and VAT may become zero rated. Foreign MRO experts would be provided visas promptly especially in an AOG situation.

7. Route Dispersal Guidelines ("RDG")

RDG was introduced to provide connectivity to remote areas and smaller places in India. The Draft Policy proposes certain steps to rationalize the existing RDG scheme. The criteria proposed for a category I route is a flying distance of 700 km, average seat factor of 70% and annual traffic of 5 lakh passengers based on information with DGCA so that it does not cause any financial & operational burden. With a 30 day prior intimation to MoCA and DGCA, airlines may change routes within category II and III. Withdrawal of any existing domestic operation to and with North East region, Islands and Ladakh will require prior permission from MoCA.

8. Fiscal Support

MRO, ground handling, cargo and ATF infrastructure located at an airport will get the benefit of infrastructure sector and with benefits under section 80IA under Income Tax Act.

9. Helicopters

Helicopters play a crucial role in remote area connectivity, intra-city movement, tourism, disaster relief and search and rescue etc. Separate regulations for helicopters to be notified by DGCA by April 2016. Scheduled helicopter operators will be allowed to trade their DFC. They will be free to fly without ATC clearance in airspace below 5000 feet, after filing the flight plan with the ATC office. Seaplanes will be encouraged along the coastline for the growth of tourism and regional connectivity.

10. SCA

The Draft Policy proposes to facilitate easy entry of new players and, therefore, the eligibility criteria for SCA in terms of paid-up capital have been kept at 2 crores. SCA will have a capacity of 100 seats or less. SCA operating on RCS routes will be considered eligible for VGF and be also allowed to enter into code-shares with Indian and foreign airlines. SCA operating to Srinagar and North East States will be considered for further subsidy under other central government schemes.

11. Airports developed by State Governments, Private Sector or in PPP model

The Draft Policy proposes that other than a reasonable lease rent, operators of a future airport projects will not levy airport charges, concession fee and royalties on MRO, cargo, ground handling and ATF infrastructure. Tariff at all future airports will be calculated on a 'hybrid till' basis. 30% of non-aeronautical revenue to be used to cross-subsidize aeronautical charges.

12. Airports Authority of India ("AAI")

The Draft Policy proposes that the AAI shall take up Greenfield and Brownfield airports subject to conditions:

- i. **Projects should be financially viable except for no frills airports developed under RCS.**
- ii. **State/Central Government to provide VGF to AAI, if project is strategically important.**
- iii. **Land to be provided free of cost by the State government.**

AAI to possibly give out O&M contracts for a cluster of existing and/or new airports.

13. Air Navigation Services ("ANS")

The Draft Policy claims that the up gradation and modernization in India is in line with the global trends. India becomes the fourth nation in the world to use satellite-based navigation system. New aircraft being registered in India from April, 2017 will have to be GAGAN enabled.

14. Air Cargo

Revenue from air cargo helps airlines subsidize the cost of passenger tickets and take flying to the masses. Air Cargo Logistics Promotion Board (ACLPB) is constituted to promote growth in air cargo by way of cost reduction, efficiency improvement and better coordination and will develop service delivery modules for all elements of air cargo value chain – airlines, airports, terminal operators, CHAs, freight forwarders and government agencies like customs, CISF, etc. MoCA shall now encourage development of cargo-villages near airports. Air cargo will be given infrastructure status if co-located with an airport and will become eligible for Sec 80IA benefits. Air cargo will shift to paperless processing by April 1, 2017. Advanced cargo information system will be implemented by April 1, 2016. ACLPB shall also work for an action plan for space augmentation at existing airports for air cargo services. ACLPB shall lay down norms and penalties to minimize pilferage, mishandling and damage of cargo.



15. Aeronautical 'Make in India'

MoCA will be the nodal agency for developing commercial aero-related manufacturing and its ecosystem in India. The Draft Policy proposes that the area where aero-manufacturing takes place will be notified as SEZ. Government will consider an incentive package to nullify the cost differential if the cost of made in India aircraft and components workout to be higher than those supplied from their original sources. Government will consider incentive packages if the cost of make-in-India works out to be higher than those supplied from original sources.

16. Ground Handling

The airport operator will ensure that there should at least be three ground handling agencies to ensure fair competition. There would be no upper limit on the number of GHAs at an airport. Domestic airlines and charter operators will be free to carry out self handling. MoCA will also encourage consolidation in ground handling through stakeholder's consultation.

17. Sustainable Aviation

MoCA shall now pursue limitation on CO2 emission in Indian Aviation, in coordination with ICAO. DGCA will issue a CAR making it mandatory for all aircraft operators to develop a reliable reporting system for CO2 emissions. MoCA will encourage roll out of airport collaborative decision making to reduce on-ground and aerial congestion by April 2016 and strive to ensure flexible use of airspace by April 1, 2016 in consultation of Ministry of Defence. Airports will be encouraged to use Fixed Ground Electrical Power (FGEP), Pre-conditioned Air Units (PCA), single engine taxing and dispatch towing.

18. Aviation Security, Immigration and Customs

MoCA will develop service delivery modules for aviation security, immigration, customs, quarantine officers, etc in consultation with ministries/departments. Retired personnel from military and para-military forces will comprise the private security agencies, as per norms laid by BCAS. CISF will carry out training of such personnel. BCAS security auditors will carry out regular and surprise audits with the power to penalize. Global best practices in IT, passenger check-in, baggage handling, mobile boarding passes, security checking procedures, immigration and customs will be introduced with due security vetting keeping the Indian context in consideration.

19. Ancillary Revenue

To reduce the base airfare, higher ancillary revenue for airlines is facilitated. Except for check-in luggage and assistance to differently -abled passengers, airlines shall be free to charge any amount for additional services.

20. Essential Services Maintenance Act, 1968

As per ESMA, essential services include, '...any service connected with the operation or maintenance of aerodromes or with the operation, repair or maintenance of aircraft.' Government will try to include the following additional services within ESMA – ground handling, catering and aircraft fuelling.

21. Aviation Education and Skill Building

Government will expedite the commencement of courses by the National Aviation University. MoCA will provide full support to the Aerospace and Aviation Sector Skill Council for imparting skills for the growing aerospace and aviation industry in India. Involvement of private sector in sponsoring institutions, industrial training and R&D projects will be facilitated by MoCA. These institutions will be monitored by MoCA and DGCA.

22. Charter Operations

The Draft Policy proposes to impose no restrictions in terms of number of international charter flights by an operator and passengers flown into India. Incoming charter aircraft will be free to land at any Indian airport that has Customs and Immigration facilities. Passengers coming on an inbound charter flight will be free to shift to scheduled carriers for travel within India or abroad.

The Draft Policy is a step towards creating a more effective and efficient system with greater use of technology. The new system is proposed to be more simplified and transparent without compromising on safety and security of the passengers.

II. LATEST NOTIFICATIONS/CIRCULARS

1. 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 Directorate General of Foreign Trade (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 organisations 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 Authorised Release Certificate. In case custom authorities require any clarification/authentication of parts by DGCA, the aircraft operator / approved organisation may approach regional/sub-regional office for necessary support.

In certain cases an operator/organisation 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 organisations exporting the items for repairs/overhaul at approved firm/agency abroad may do so after ensuring the approval status of the organisation. 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 Programme 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.

2. 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:

- a. Departure/en route/ approach and landing
- b. Aircraft cabin operations
- c. Air proximity events
- d. Weight and balance and performance
- e. Heavy landings when structural limits are not exceeded
- f. Unstabilized approaches

B. Aerodrome operations:

- a. Aircraft ground operations
- b. Movement on the aerodrome
- c. Fuelling operations
- d. Aerodrome conditions or services
- e. Cargo loading

C. Air traffic management:

- a. ATC operations
- b. ATC equipment and navigation aids
- c. Crew and ATC communications including read-back / hear-back errors

D. Aircraft maintenance:

- a. Aircraft/engines/components maintenance and repair activities



E. Design and manufacturing:

- a. Aircraft/engines/components design or production activities

F. Approved training organizations:

- a. Training activities involving flight operations and maintenance

G. Air traffic management:

- a. Passenger handling operations related to safety
- b. Any other area impacting aviation safety

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