

AVIATION BULLETIN



AVIATION IN INDIA: GREAT CHALLENGES AND GREAT OPPORTUNITIES

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INTRODUCTION

The Indian aviation sector is undergoing tremendous change. The air traffic (both inbound and outbound) has amplified manifold. There has been a major increase in the FDI in the non-core sector. Media reports talks of manufacturing passenger aircrafts in India. With these developments, the problem of traffic congestion, air safety and maintenance operation problems have also enlarged substantially. And, in order to address these issues there have been efforts to modify and update certain policies of the Government of India (“GOI”). As a result, the private and foreign participation has increased in recent times. The modernization process is in speed and the aviation industry has reached to cater the needs of Tier II and Tier III cities as well.

1.0 Challenges faced by the aviation industry

In the wake of tremendous developments in the aviation sector in India the International Air Transport Association (“IATA”) identified certain challenges for the successful development of air transport in India: enhancing safety, urgent infrastructure improvement, reasonable taxation, commercial freedom, and simplifying the business through effective use of technology. The price rise is the latest challenge which has led to an increase in air fares. A brief analysis of the situation becomes pertinent to evaluate the state of affairs and know the course the aviation sector is undertaking to withstand the changing scenario.

1.1 Air Safety

Air safety remains the primary concern for the service providers. The Chicago Convention made safety regulation a government responsibility. IATA is leading airline efforts on safety with a comprehensive safety plan. The core of its efforts is the IATA Operational Safety Audit (“IOSA”)¹ which is promoted among countries as a transparent global benchmark for airline operational safety management. IOSA complements International Civil Aviation Organization's (“ICAO”) universal safety oversight programme which audits state compliance. Air India and Jet Airways are among the IOSA registered carriers.

The Aircraft (Amendment) Bill 2008 has enlarged the scope of powers of Directorate General of Civil Aviation (“DGCA”). The DGCA or any other officer specially appointed for the purpose can issue directions on matters related to any person using an aerodrome or engaged in air traffic operations, air traffic control, maintenance and operation of aerodrome, air traffic management facilities etc. The DGCA is also empowered to perform safety oversight functions. American aerospace major Boeing, at the behest of DGCA and Airports Authority of India (“AAI”), shared its expertise with aviation authorities for more effective utilization of airspace by allowing planes to safely fly closer at congested airports and enable faster touchdowns.

Under the aviation programme between India and US, a Federal Aviation Administration team visited India in March 2008, and identified key areas of support with India: radar network, airworthiness, air safety and airport and airport traffic management.

¹ IOSA standards were developed in cooperation with the leading authorities on safety, including: International Civil Aviation Organization (“ICAO”), US Federal Aviation Administration, Europe’s Joint Aviation Authorities, Australia’s Civil Aviation Safety Authority and Transport Canada.

1.2 Improving Infrastructure

Despite the growth, the airline industry continues to grapple with infrastructure bottlenecks and cumbersome regulatory controls, ranging from unavailability of parking slots in metro airports to long queues at security and baggage x-ray and a shortage of technical manpower. The route expansion plans of Indian carriers have already resulted in excess supply over a deficient infrastructure, leading to congestion on the ground and in the skies. The importance of civil aviation is not restricted to creating efficacies of transport, but also as an instrument of wider connectivity and inclusive economic growth. The proposed Airport Economic Regulatory Authority (“AERA”) aims to plug these gaps.

GOI has made it mandatory for all new greenfield airports to provide separate cargo facilities: storage, ground handling, and loading. Further, in a bid to bring Indian airports at par with the international ones the GOI has decided to float a separate air cargo policy, AERA, and revamp the entire electronic data interchange system. A commercial centre needs an efficient and well-organized airport. Presently, Indian airport and airspace capacity needs expansion to fully gain the benefits of a vibrant airline sector. With the requisite expansion airports should also be cost-efficient with acceptable service levels, and have adequate capacity to meet further growth. So, private participation in any airport project is a welcome step when it results in greater efficiency, better service levels, and effective economic regulation.

1.3 Taxing Reasonably

The Chicago Convention, 1944, exempted airlines from tax for international services. Instead, they pay for aviation infrastructure directly. India too collects taxes from airlines for landing, airport and air navigation fees. Though it abolished the illegal fuel uplift levy in 2002, the User Development Fees (“UDF”) is a new issue that requires attention.

The GOI is planning to lower UDF on short-haul routes and higher UDF on long-haul routes. The Civil Aviation Ministry along with airport operators - GMR Hyderabad International Airport and Bengaluru International Airport - is working on a model which will ensure this arrangement. A Planning Commission committee has asked GOI to bring aviation fuel within the definition of declared goods² to salvage the situation or to persuade states to adopt the standard VAT rate of 12.5% to put check on air travel cost.

1.4 Commercial freedom

Failure to agree to a uniform formula for commercial regulation resulted in a bilateral system. There are several bilateral agreements which create unnecessary confusion and delays. They also require periodic amendments to suit the changing demands. Basic commercial freedom, in order to serve the markets wherever they exist and an access to global capital markets is essential.

In 2003, governments at ICAO's 5th Air Transport Conference agreed to a vision of progressive liberalization. So far the implementation has been slow. SAARC is moving in the same direction by lifting some capacity restrictions. The open bilateral agreement between India and Sri Lanka has led to an increase

² Article 286(3)(a) of the Constitution of India authorizes Parliament to declare some goods as of *special importance* and to impose restrictions and conditions in regard to power of States in regard to levy, rates and other incidence of tax on such goods. Parliament can restrict powers of State Government to tax such declared goods.

in the services to 100 per week thereby creating more employment opportunities in both the nations. Such a model can be framed and adopted in the SAARC region. Maintaining a balance of the policy of progressive liberalization with effective infrastructure development is warranted for a comprehensive growth.

1.5 Simplifying the business

The two major challenges in the aviation business are reducing costs and improving passenger convenience. IATA is also working to create a paperless environment in aviation. In a mission to simplify the business of aviation sector IATA had taken up several projects: 100% e-ticketing by the end of 2007, taking the paper out of freight processing, common use of self service kiosks for check-in, radio frequency identification for baggage management and bar coded boarding passes. IATA also targeted 40% global e-ticketing penetration by the end of 2005 and achieved 33%. But India could just manage 5.4%. India needs expertise in this direction and is seeking private participation.

2.0 Government initiatives and increased foreign participation

The GOI is in talks with European aviation giant European Aeronautic Defence and Space Company (“EADS”), the parent of Airbus and Eurocopter, for setting up small and medium size aircraft assembly unit in the country.³ Meanwhile, Canadian aircraft parts manufacturer Viking Air is planning to manufacture ‘Twin Otter plane’ in India for the global market.⁴

In a move to fast track the helicopter operation opened for 100% FDI, the GOI is planning to separate the air traffic control procedures from that of commercial aircraft. There are plans to build heliports-airports for helicopters in Delhi and Mumbai. A heliport houses control tower and hangers, besides facilities for passengers and cargo, unlike helipad, which just provides landing and take off for helicopters.⁵

Growing at a rate of 18% annually,⁶ the Indian civil aviation market holds great promise for potential investors. International no-frills budget carriers, especially Asian low-cost carriers are also making a beeline for India. In the first deal of its kind in the country’s general aviation sector, the New York based private investment firm Global Technology Investments and construction firm Punj Lloyd have bought 33% equity stake each in Airworks India, one of the oldest aircraft maintenance firms in India which will now evolve into a fixed base operator.⁷

2.1 Maintenance-repair and overhaul (“MRO”)

MROs in India need to be a one-stop-shop for line maintenance, airframe maintenance, engine maintenance, and component overhaul. The potential lies in capturing the majority of heavy aircraft and engine maintenance, which airlines and aircraft owners usually outsource to foreign MRO facilities. GOI

³ See <http://www.indiaaviationnews.com> (visited on May 30, 2008).

⁴ See <http://www.globalsmtindia.in> (visited on May 30, 2008).

⁵ “Chopper Class: Heliports fan out,” April 3, 2008, The Economic Times.

⁶ See <http://www.indiaaviationnews.com> (visited on May 30, 2008).

⁷ It is an aviation term used to describe providers of a variety of specialized ground and air services.

amended the foreign investment policy⁸ for aviation sector to allow 100% FDI through automatic route in MRO facilities, which will boost aircraft maintenance activities.

At present, India has a fleet of 822 aircraft, including around 179 helicopters, 325 private aircraft and 327 scheduled aircraft as per the DGCA's aircraft register. Indian carriers spend about \$700 million a year on maintaining their fleet. Lack of expertise makes this segment exposed to more foreign participation. Nacil has engine MROs in Delhi and Mumbai. With foreign participation and expertise, this step will help in bringing the costs down when the aviation fuel prices are on a rise. Now with international standards of repair and overhaul facilities in India, the aircrafts will not need to visit other places for maintenance and related services, thereby saving costs.

With increasing number of aircrafts in India their servicing becomes a huge problem. Media reports suggest that big aviation companies like Hewler Beechcraft Corporation and Aviall Inc have already got their plans ready to utilize this opportunity.

2.2 Training

The demand for pilots and other airline staff is rising rapidly. Though the professional training institutes, aviation schools, and academies are providing the much-needed training, they lack the international expertise. As a consequence, foreign investors are rallying for entry.

Recently Airbus has decided to set up an aviation school in Bangalore to train 1,000 pilots a year. Many more are in the offing. Moreover, DGCA too has decided to subject pilot training schools to a tighter scrutiny. Independent auditors will be appointed to review the working of various flying schools in the country. In a move to encourage setting up of more flying schools in the country, the GOI has allowed 100% FDI for flying training institutes, technical training institutions and helicopter services.

2.3 Private airports

On April 28, 2008 the Government has approved⁹ the proposal made by the Ministry of Civil Aviation (“MCA”) regarding the procedure for approval of private airports/airstrips/helipads for private use in India. All proposals for such constructions shall now be decided by the MCA/DGCA subject to security clearance by the Ministry of Home Affairs, without placing the matter for the consideration of the Cabinet.

This step will not only substantially liberalize the procedure for construction of private airports/airstrips/helipads for private use, but also greatly reduce the burden on other operational airports, improving connectivity to faraway locations without compromising on safety or public interest. The increasing number of aircraft for private use is placing additional burden on existing airports, often coming in the way of accommodating scheduled passenger traffic. A review of practices adopted in USA, UK, Australia and New Zealand shows that approvals/licences for airports in these countries are issued by the respective safety regulator. Since such proposals do not involve any public funding and remain covered by the safety oversight of the DGCA under the provisions of the Aircraft Rules, 1937, the liberalization would not lead to any compromise on safety or public interest.

⁸ Press Note No. 4(2008). See <http://siadipp.nic.in/policy/changes> (Visited on May 30, 2008).

⁹ See <http://indiaaviation.aero/news/> (Visited on May 30, 2008).

Industrialists/entrepreneurs setting up new industries in remote and isolated areas need to connect such industrial locations by building private airports/airstrips/helipads. This, in turn, will lead to more foreign participation for the want of expertise, efficiency and meeting global standards.

CONCLUSION

Delays due to bottlenecks are costly for the airlines and inconvenient for passengers and need to be checked. Developments in the sector may seem satisfactory but they hinge on the regulatory blockage, and once all amendments stipulated are made, this sector too will grow unhindered. The aviation business has substantially moved away from government control and ownership towards liberalized regulation and private ownership. Finally, involvement of IATA and more private and foreign participation is certainly going to improve the conditions and reduce the challenges. This is the time to tap the opportunity.

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