



DGCA TO PHASE OUT EX-PAT PILOTS BY 2013

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Due to increasing pressures from Indian pilots' bodies and associations, the DGCA is considering measures for reducing the number of ex-pat pilots employed by airlines in India. As for March 2011, approximately 350 ex-pat pilots were employed with airlines in India. The primary grievance of the Indian pilots' bodies vis ex-pat pilots is that there is no parity in the remuneration packages offered. In addition to this, when airlines retain foreign pilots, who are employed primarily as flight commanders, the career progression of the Indian co-pilot halts, i.e. the co-pilot who is eligible to be trained and promoted as commanders stagnates as a co-pilot. As a fallout of this, airlines seldom have openings for co-pilots which leaves numerous commercial pilot license holders in the lurch and unemployed.

PSA view – There have been certain measures by the DGCA taken in the past for reducing the number of ex-pat pilots employed by airlines in India. As recent as in December 2010, the DGCA has made Class I medicals mandatory for foreign pilots. Previously, the foreign pilot had to meet the criteria of fitness as prescribed by their home nations aviation regulator. Since the Indian requirements are much stricter, there has been a gradual drop in the number of ex-pat pilots for fear of not meeting the same. In addition to this, many such pilots have been grounded for being temporarily unfit. Commercial airlines on the other hand feel that there is a level of distinction that is brought to their brand value due to ex-pat pilots. It will be interesting to see whether removal of all ex-pat pilots is actually realized as per the DGCA, and what pit-falls civil aviation in India is likely to face if all ex-pat pilots are phased out and airlines are forced to hire inexperienced pilots to command flights.

Compensation for Mangalore crash

The Kerala High Court on July 20, 2011 directed NACIL to pay interim compensation of Rs. 7.5M each to the kin of the deceased passengers in the Mangalore crash in May last year. The petition was filed by the kin of a deceased passenger resident of Kerala seeking damages of Rs. 15M and challenging the substantially low offer from NACIL and its insurers deduced on the basis of the age and economic strata of the passenger. The court has noted that by ratifying the Montreal Convention, the Indian passengers would be entitled to the minimum 100,000 SDR as a strict liability. The court has held that since the extent of damage to any injury cannot be anything more than death, no further proof is necessary to have sanctioned the minimum compensation.

PSA view – This is a landmark judgment since the High Court has clearly determined that owing to India being a signatory to the Montreal Convention, the intention was to bring parity in compensation to the passenger irrespective of class of travel while providing for a two-tier system of compensation. Furthermore, with pilot error being established, it is likely that the next of kin of deceased passenger would seek a higher final compensation under the second-tier of liability based on the presumed fault of the carrier wherein there is unlimited liability. In such case, NACIL would have the insurmountable burden of proof that the incident was not on account of its negligence. In effect, this judgment has laid down a precedent for assessment of compensation in future liability cases in case of death of passengers. The stand of courts for liability of carriers in case of bodily injury is not yet determined.

Air India on the brink of closure

India's national carrier Air India's operation could come to a standstill in a month if it fails to pay interest on its Rs. 43,000 crore loans from various banks and financial institutions. As per the latest figures released on March 31, 2011, the total interest payable by Air India stands at whopping amount of Rs. 4,486 crore. It is also important to note that the national carrier has also defaulted on payment of service tax and interest on working capital from April 2011. Since, Air India has been constantly defaulting in making the payments, banks and financial institutions have stopped lending to Air India. In case, Air India fails to repay the outstanding payment by end of July, such interest on the loans would be categorized as non-performing assets and thus would trigger banks and financial institutions to initiate stringent measures such as freezing its accounts and selling its assets pledged for securing loans.

PSA view – The Air India saga goes endlessly. There is no possibility of the national carrier continues survival except on the basis of unlimited budgetary allocation. It is prudent to note that how long can the government bail out the national carrier which has been a loss making organization for several years. We believe the time has come that the government should initiate to privatize Air India as its continued operations is a major source of distortion in the industry and prevent other Indian airline companies from becoming globally competitive.

Mahindra and Mahindra's indigenous aircraft prototype to be launched

India's first indigenous prototype aircraft developed by Mahindra and Mahindra at a whopping amount of 11.2 billion will be launched soon and would make India join the select few countries that manufacture such aircrafts. The Company had in January this year, acquired an old Australian aviation company, Gipps Aero, stationed in Melbourne for a total amount of Rs. 175 crore to manufacture aircrafts. The Company would start manufacturing the prototype aircraft at the Gipps Aero facility in Melbourne, while design would be done in Bangalore. The indigenous prototype aircraft would have a seating capacity varying from 8 to 22.

PSA view – It is a positive step initiated by Mahindra and Mahindra. The first indigenous prototype aircraft manufactured by the Company would be a five-seater aircraft. It was prudent on the part of Mahindra and Mahindra to come up with such aircraft considering there is huge growth for such utility aircrafts. The aircraft manufactured by Mahindra and Mahindra would be used for various purposes such as tourism, cargo and adventure sport etc.

DGCA to monitor flight duty records of pilots

DGCA will monitor flight duty records of pilots to ensure that the crew gets adequate rest between each flights. In its new rules on duty hours and rest period for pilots, it has proposed online monitoring of the records. The rule issued by DGCA on 'Flight and Duty Time Limitation' will specify how many hours a pilot can fly in a day; what should be the minimum rest period between two flights. DGCA has also stated that the duty hours will vary for domestic and international operations depending upon the number of crew, time zones crossed and the time of day and night when an aircraft is flown. The new rules will come into effect from February 2012.

PSA view – It is a pro-active step initiated by the DGCA. DGCA has instructed airlines to maintain computerized records of flight duties which would be linked to their website. The proposed rule will bring a sigh of relief for the pilots considering airlines are continuously pressurizing their pilots to operate more hours over the prescribed limit. Once, this rule comes into effect, DGCA will have direct access to the airline records and would be able to monitor it more efficiently.

India and US sign bilateral Aviation Safety Agreement

The DGCA and FAA have facilitated a Bilateral Aviation Safety Agreement ("BASA") between India and US on July 19, 2011. US has signed BASA with 24 countries. The BASA provides for reciprocal airworthiness certifications of civil aeronautical products imported/exported between the signatory countries. Consequently, Indian airworthiness standards would be comparable to US and EASA standards easing global export of aeronautical products from India. This process would involve inspection and certification of aerospace products made in India by the DGCA.

PSA view – Owing to the increasing manufacturing and design market in India, this is an important step since it would demonstrate that civil aviation products certified by DGCA are FAA certifiable and are globally acceptable. This would encourage production of aeronautical products in India and drive trade not only with the US but globally as well.

Jet Airways enters into code share arrangement with Thalys rail service

Jet Airways has entered into an intermodal code share arrangement with Thalys, high-speed rail service between Brussels and Paris. Under the code share, Jet Airways will place its marketing code on the Thalys operated direct train service between the train station at Brussels Airport and Paris Nord. The service, now available for sale, will be operational from October 30, 2011. Under this arrangement, customers can book combined Thalys-train ticket between Paris and India or US and Canada via Brussels with Jet Airways through travel agencies or through its website.

PSA view – This new service is a result of co-ordinated effort of Jet Airways, Brussels Airlines, Thalys- the rail partner and the Brussels Airport. Jet Airways has constantly innovated to set new benchmarks and its affiliation with Thalys high speed train is another distinctive step and would provide benefits to the customers from this new travel solution.

Government threatens to ground Swiss International Airlines in India

The Ministry of External Affairs ("MEA") has threatened to cease all services of Swiss International Airlines ("Swiss") to and from India. It is alleged that the Swiss has violated the substantial ownership and effective

control (“SOEC”) clause mandated under the bilateral air services agreement signed between the two countries. As per the SOEC clause, the government has the right to designate one or more airlines but, its substantial ownership and effective control should be vested in the party designating the airline (in this case, the Swiss government) or its citizens. The Ministry of Civil Aviation has noted that such SOEC clause has been violated as Lufthansa, German carrier has bought a majority stake in the Swiss.

PSA view – The MEA, in its communication with the Swiss government, has sought clarifications along with the action steps taken by them to meet the SOEC clause, failing which the Swiss will no longer be entitled to operate the services. While Swiss operates 144 flights a week, and considering it being a developing new hub for Indian travelers travelling to U.S and other European countries, it would be prudent to note the outcome of such fiasco between the two countries.

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