

ASSOCIATION OF PRIVATE AIRPORT OPERATORS

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APAO/ MOCA/2012-13

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Secretary,
Ministry of Civil Aviation,
Government of India
Rajiv Gandhi Bhawan,
New Delhi 110 003

**Subject: Invitation for General Comments and Suggestions on the formulation of
New Civil Aviation Act and Rules, 2012**

Dear Sir,

A kind reference is invited to the note issued by the Ministry of Civil Aviation seeking general comments and suggestions for formulation of New Civil Aviation Act and Rules, 2012. We Compliment the Ministry of Civil Aviation for their initiative in undertaking to frame a New Civil Aviation Act and Rules, 2012. We fully support this initiative. APAO comments are as follows.

During the last few decades Civil Aviation scenario in India has transformed by leaps and bounds. The sector has witnessed great push for globalization and greater integration with the evolving world economy and environmental concerns. We have created world class Airport infrastructure and pursued a series of economic reforms. With the open sky policy of the government, private airlines have started their operations both domestic and international. Similarly with the introduction of Greenfield and Brownfield airport policy, the private promoters/developers have been extensively participating in the sector for developing and maintaining international airports. Governing these developments, we have the old and outdated Aircraft Act, 1934 and Aircraft Rules, 1937 with few modification, additions and deletions made according to the requirements from time to time. This Act and Rule do not have specific provisions to deal with the current and future growth development issues and lacks sufficient clarity and direction. Hence, most of the developments which are taking place in the civil aviation sector are facing serious difficulties as it is not supported by an enabling and forward looking statutory/Legislative provisions.

Pursuant to the formulation of the Greenfield Airport Policy, the sector has been witnessing huge private investments, infrastructure development, modernization of airports by adopting state of the Art operational and navigational

systems and techniques, efficient business practices and also facing new Airport security concerns. Hence the present day civil aviation sector finds it extremely difficult to manage and coordinate various activities of multiple agencies involved to make the sector most cost efficient, passenger friendly and to adopt the latest technology developments available world-wide. In view of this there is an urgent need to review the present Act and enact a new Civil Aviation Act and Civil Aviation Rule, 2012 to facilitate the smooth development of the sector. Similarly the Ministry is thinking to restructure the DGCA and in its place a new Civil Aviation Authority, an independent autonomous body is going to be set up to function as a regulator to the entire sector except that of economic regulation. It is a matter of concern that the new authority will not be able to function effectively with the old set of Rules. We are looking for solutions to the existing aviation scenario from outdated Act and Rules.

The existing Act does not provide the required Legislative and Regulatory support for smooth liberalization and development of the sector and inspire confidence to all stakeholders including the general public. Even the basic approach of the Airport Act which mentions control of manufacture, possession, use, operations, sale, import and export of Aircraft etc. are entirely out of sync from today's approach. Today the focus is for a safe secure, viable, efficient and sustainable Air transportation of passengers and cargo. Hence the present day and future requirements is entirely different from what was prevailing at the time of drafting the existing Airport Act and rules which was enacted almost eight decades ago. The entire civil aviation sector is in the high growth path due to liberalization and globalization which is irreversible. There are innumerable examples in the Aircraft Act, 1934 and Aircraft Rules, 1937 which are outdated and requires modification/replacement etc. to synchronize with the latest developments of the sector. Hence, APAO is of the strong view that it is the most opportune time to scrap the existing outdated Aircraft Act, 1934 and Aircraft Rules 1937 and replace it with a new future looking Civil Aviation Act and Rules 2012.

The following are some of the justifications to support our view:

1. Clear categorization of aviation functions:

The new Civil Aviation act should include provisions to categorize various function viz. Scheduled operations, Non scheduled operations, Business aviation, general aviation, ground handling, cargo handling, aircraft maintenance, aircraft manufacturing, training institutes, security agencies, inspection agencies, Greenfield airports, brown field airports, private airports etc. to ensure that there is no confusion in applicability of provisions in any particular category. A specific eligibility criteria should be adopted for the purpose of categorizing various functions. Clear procedures and guidelines should be provided under each category for bringing in transparency and ensuring safe and secure operations.

2. No proper delegation of power to Private Airport Operator for Airport Operations:

The Airport sector is witnessing privatization in a large scale. Government of India signed agreements with private operators such as OMDA, Concession agreements and State Support Agreements (SSA) for development, modernization, operations and maintenance of Brownfield and Greenfield Airports in India to facilitate private participation. However, in case of Brownfield Airports being developed, operated and managed by Private Operators, many of the power/ functions are still vested with the Airports Authority of India (AAI) as per the Aircraft Act, 1934. For more efficient functioning, it may be desirable to have this amended appropriately. For example one of the important functions which are still not delegated to airport operators is the collection of ADF. A recent Supreme Court order also highlighted this issue. The private airport operators are finding it difficult to manage the airport efficiently as these powers are still with Airports Authority of India. New Civil Aviation Act, 2012 should relook into this issue and effectively delegate all the powers of AAI to the private airport operators as far as the airport operations are concerned for the entire concession/license period.

3. Focus on Growth and Industry development:

The new act should focus on developing civil aviation industry as a whole and should make necessary provisions to encourage healthy competition and level playing field among various categories (as referred above) with prime focus on safety, business viability and sustainability of business.

4. Ensure regulatory advantage over global competition:

The act should make necessary provision to ensure that the operating environment for Airlines and Airports in India is not at a disadvantage as compared to contracting states, particularly in relation to minimum requirements for airlines to start international services, economic regulation vis-à-vis investment requirements by airport operators to ensure world class infrastructure, international airport status to the tier II/III airports, etc

5. Autonomy of Airports for maximizing efficiency:

The act should also make necessary provision for airport operator to ensure maximum utilization of available resources particularly in case of common set of services as required by stakeholders/airlines at airport. The act should provide complete autonomy to the airports in exercising effective slot management which shall include capacity management by the concerned airport operator, 90% usage requirement for historicity precedence, inclusion of timely payments as part of granting slots, penalty clause for preventing misuse, etc. The proposed act should also focus on increasing operational efficiencies by empowering Airports to take necessary steps for bringing in the efficiency in operations *inter alia* including aircraft handling, passenger handling and govt. agencies facilitating airport operations.

6. Regulations affecting aviation and tourism industry:

The new act should provide a platform to industry for providing its inputs through consultation process, for forming rules and regulation affecting airport and airlines operations, e.g. Visa on Arrival policy Airports should be a part of the negotiation while deciding and granting bilateral rights. Moreover, the updated/new ASAs should be shared with the airport operator on regular basis.

7. The existing Rule & Act cannot support the functioning of new Civil Aviation Authority (CAA):

DGCA is the present enforcement body and also a regulator for the air traffic and safety. There is a proposal to restructure and expand the scope of DGCA to make a larger regulatory body known as Civil Aviation Authority (CAA). There will be a requirement of having a new Civil Aviation Act and Rules for smooth functioning of such a high power authority. Continuing with the present Act and Rules does not facilitate this.

8. CNS & ATM services are now reserved for AAI and are under restructuring – Change in Act is required:

Presently, CNS & ATM services are being reserved for AAI and such authority is not given to the concerned airport operator. It may be advisable to have the private operator play a greater role in CNS & ATM services & have power and responsibility for surveillance of airport under stringent monitoring procedure in place. At least the selection of equipment should be done in consultation with the private airport operator, so that the Airport does not suffer from the ill-effect of incompatible equipments. There is a proposal by the government to form a separate independent corporation to manage the ANS Service in the country. In order to facilitate this proposed organization to function effectively there is a requirement for a new Civil Aviation Act and Rules.

9. Complexity of multiple agencies:

Many of the operational functions at the airport are neither handled nor controlled by the airport operator. There are customs, immigration, representatives of Food Ministry, Agriculture Ministry, Ministry of Chemicals and Fertilizers, Ministry of Home Affairs and Ministry of External Affairs etc. over whom airport operator do not have any control. However the level of working of these agencies put severe strain on the airport operator to maintain the mandated quality of services and achieve on-time performance. The new Civil Aviation Act, 2012 should address this issue and facilitate such activities under the overall supervision and control of the respective airport operator. It is important for the New Civil Aviation Act 2012 to also provide clear cut responsibilities/functions and duties of sovereign agencies like CISF, Immigration and Customs Authorities etc. for ensuring that they meet the quality of service requirements mandated for an Airport. It is suggested that comprehensive rules to be framed. The Ministry of Civil Aviation be the Nodal Ministry. In the Aerodrome context, such Acts, Rules and Guidelines should have

precedence over the other departments functioning in the airport, for ensuring smooth / effective airport operational / administrative control and monitoring mechanism.

10. Airport Operator to coordinate all airport functions:

The Aerodrome Operator/Officer In-Charge shall be empowered to act as the Coordinator for all aerodrome functions and all other departments functioning in the Airport shall abide by the directions of the Aerodrome Operator/Officer In-Charge. It may be explicitly stated in the new Act.

11. Positioning of manpower to be in coordination with Airport Operator:

The system for positioning of trained manpower by various Government Departments is to be structured in co-ordination with the Airport Operator, considering the traffic pattern, threat perception / security/ industry requirement of the concerned airport.

12. AERA Act vs. Government policies:

AERA Act has been notified recently while amending the Aircraft Act, 1934. There are many issues and concerns in the AERA Act which is not in sync with the stated policies of the Ministry and the agreements entered into with the private operators. There is a need to reconsider these abnormalities to ensure uniformity between AERA Act as well as the agreements with private operators.

13. No legal framework to cover security issues at Airports:

Civil Aviation Security on the ground and in the air is seen as a matter of great concern in the context of growing threat of international terrorism. At present there is no effective legal framework or any provision in the Aircraft Act in India to address these issues. There is an urgent need to address this issue in the proposed new Civil Aviation Act, 2012. Similarly in the case of the Major Airports being operated by private operators, the Landside security issues are not being addressed appropriately to address the modern day threats from anti-social elements. New Civil Aviation Act, 2012 must address this issue.

14. Separate Civil Aviation Security Force:

At present the security aspect of entire civil aviation sector is managed by Bureau of Civil Aviation Security by deploying CISF personals. Government is in the process of restructuring the BCAS and setting up a separate Aviation security force for Civil Aviation sector. Aviation security, in contrast to general security is a highly technical task. Aviation security is to be carried out as per set standards of ICAO policy guidelines. For international operations it is mandatory for the state to enter into a contract with ICAO which binds the contracting state to abide by the prescribed standard of security to ensure safeguarding all civil aviation operations. This is possible only through a highly

specialized, professionally competent and dedicated force. There is a requirement for restructuring the administration of existing Bureau of Civil Aviation security and setup a dedicated Aviation Security Force and also design a robust operational framework for aviation security taking into account the passenger facilitation, various Airport operational models in India etc apart from security and threat perception.

The entire expenditure for creation of infrastructure and training the new force and recurring expenditure for maintenance of this force must be met by the Ministry as it is a sovereign function of the Government. This issue should be addressed in the New Civil Aviation Act and Rule so as to give a legislative support for the proposed separate Aviation Security Force for civil aviation sector in the country.

15. Outdated formalities to be discarded/discontinued in case of Arriving and Departing International passengers:

There are outdated formalities of filling forms and declarations by the arriving and departing international passengers and have to stand in long queues for immigration clearance. In most of the countries when their own nationals are returning home they are not required to fill up any disembarkation form and only have to show their passport. There are several such issues connected with passenger travel. All such issues are to be liberalized to make the air travel in India a pleasant experience. The existing rule has to be modified to that extent while making the new Civil Aviation Act, 2012.

16. Removal of custom check for departing passengers:

For hassle free travel, it is desirable that there are less procedural issues for international travellers going abroad. The Government long ago had agreed in principle to do away with Customs check of departing passengers but the same is still followed because the Civil Aviation Act is not amended. The new Civil Aviation Act, 2012 should address this issue, as there is no justifiable reason to continue with this archaic rule.

17. Special privileges of Air India and Airport Authority of India (AAI):

The public sector undertaking Air India (AI) has been given many privileges and first right of refusal etc. ignoring the concerns of efficiency, competition and adverse effect on the other participants in the market. All these privileges should be relooked and amended to make a level playing field while framing the new Civil Aviation Act, 2012. Similarly, Airports Authority of India (AAI) is a public sector undertaking enjoying certain privileges as compared to private airport operators. This affects the level playing field by way of exclusive right to provide ANS service, exemption from government taxes and levies, right of way privileges which are not available for the private operators. Air Traffic Control (ATC) now is the exclusive domain of Airports Authority of India and should be licensed to private operators based on the available expertise which meets the requirement. The new Civil Aviation Act, 2012 should address this.

18. Restriction of carrying knives in the eateries:

There are restrictions for passengers in carrying certain basic items while travelling since the rule does not permit them. The existing bottle-necks on the security front, such as prohibiting kitchen knives in the eateries located in the security hold area, rubber stamping of boarding passes etc. are few examples. Safety and security aspects of the aviation business should also be dealt under this act only. Accordingly, various travel/carriage restrictions should be reviewed vis-à-vis current technological environment. The new Civil Aviation Rule should have provision to authorize private Airport operator to issue Airport entry passes (AEPs) and also should have the authority to permit commercial shoot (for commercial ads, cinematography etc. These issues need to be relooked and amended.

19. Restriction on international operations for Airlines:

Procedure for grant of permission to operate scheduled air transport services are required to be streamlined and make it more transparent and easy. At present there are severe restrictions on the Indian carrier for the international operation for e.g. 5 years and 20 aircraft etc. This restricts Indian private carriers to effectively compete with international carriers. Further this is not in line with international practices. There is an urgent necessity to abolish these restrictions and allow operations of private airlines on international sectors. The new Civil Aviation Act, 2012 should address this issue.

20. Currency conversion options:

Providing foreign currency conversion facilities at various locations including SHA and Arrival /Transit concourses within airports should be considered as it is a major issue for transit and arriving the international passengers at all Indian International Airports. This should be addressed in the new Civil Aviation Act 2012, as it restricts flexibility of the passengers & thus causing great inconvenience to passengers. It may be noted that this practice is followed at all major international airports overseas.

21. Validity of license should be for a reasonable longer period:

The validity of license issued by the concerned authority for operation of Airport, Airlines, Training Centres (Aviation Academy) etc. is only for a short period of one to two years and are required to be renewed periodically in short intervals. This puts severe constraints on the licensee to renew the license frequently failing which it will be construed to be violating /operating without a valid license. This needs to be relooked in the new Civil Aviation Act, 2012 and the validity of the license should be for a reasonable longer period say for a period of 15-20 years if not for the entire period of concession granted, as the case may be. There could however be a provision for periodical audits. The concept of deemed approval by default should be considered, unless there are evidences of any gross violations.

22. Restrictions for civil / military operations at Airports :

Presently there are restrictions for civil flight operations to military establishments, whereas, the military exercise right to operate its flights to busy airports which in turn disrupts large number of commercial flight operations at civilian airports. This unilateral right of Defence establishments on the Civil Aviation acts as hindrance to private airports and their day to day operations gets impacted adversely during such periods. New Civil Aviation Act, 2012 must relook into this issue and make such military aircraft operations to civilian airports more reasonable except in case of national emergencies.

23. Essential Service Fund:

Today, the Act does not have provisions to have a separate fund to meet the cost of operations/obligation of the service providers in the unviable areas /sectors. There is a requirement to set up an Essential Air Services Fund (EASF) to provide an explicit subsidy to support the essential but uneconomical sector/services including remote area airports. The new Civil Aviation Act, 2012 should address this issue.

24. Manufacturing of aeronautical products:

At present there is no provision in the Act to encourage setting up the manufacture of aeronautical parts, components, systems and products by private sector in the country. The new Civil Aviation Act, 2012 should facilitate and promote such activities like MRO and Aero SEZs through sufficient incentives which will make the aviation industry of India self-sufficient and also lead to saving of precious foreign exchange.

25. Inconsistent regulatory philosophy:

Today lot of uncertainty is prevailing in the sector on account of unpredictable, unsustainable and inconsistent regulatory philosophy in the country. We submit that the new Act and Rule should explicitly provide a forward looking investor friendly regulatory regime in the country including a clear mention of Dual Till / Light Touch regulatory regime. This will facilitate clarity and certainty on this aspect and there should not be any scope for misinterpretation on this sensitive issue. The Act also should have rules/provisions for greater accountability of regulatory decisions.

26. Regulatory mechanism ensuring reasonable return on investment and ensuring viability:

The regulatory set up should be carefully designed to promote healthy business and develop an enabling environment where the business operators like Airports and Airlines can sustain their growth with a reasonable return on their investments. For example, currently, DGCA is also entrusted with responsibility to review airlines' pricing decisions. This aspect should have a specialized Regulator for enforcing a light-touch regulatory pricing mechanism. Same should be the case while regulating other

commercial/business decisions such as bilateral guidelines, eligibility for international operations by Indian carriers etc. The sectoral growth is dependent upon the viability of the stakeholders. The new Act and Rules must emphasize this point very clearly so that any subordinate legislation or amendment should not ignore this important point. No legislation should be made by risking of viability of the capital intensive airport sector.

27. No regulatory power to AAI and Air India are as they are also operators in the same market:

Government owned entities such as AAI and Air India, being commercial entities with profit motive should not have any regulatory power/role in any aspect of the business, which can create a situation of conflict of Interest.

28. Synchronization with ICAO policies:

ICAO is an international body coordinating and supervising the civil aviation sector by notifying rules, regulations and procedures throughout the world. We cannot have a Rule which is not in synchronization with ICAO policies. There is a requirement that new Act/Rule while framing must take into account the best international practices and must be fully in consonance with ICAO policies.

29. Environmental issues:

Environmental issues are getting greater importance today and which at times make difficult to develop new airport or expand the existing airports. There are issues of noise pollution, air quality and also protection of species and habitants. The responsibility of the concerned ministry should be clearly identified and notified in the new Civil Aviation Act, 2012 so that the airport developer should not be penalized by fault committed by any other agency.

30. Land acquisition issues:

Land acquisition and connected issues such as resettlement of inhabitants, compensation to the owners, environmental clearance etc. takes years together for finding a solution which halt the airport development. The responsibility and timelines should be identified and notified in the new Civil Aviation Act, 2012 so that it becomes a benchmark for future projects.

31. Clarity on the PPP model:

PPP model is considered as one of the most attractive options of meeting the infrastructure targets not only in timely and most efficient manner but also in upgrading the quality of service delivery through greater efficiency for delivering infrastructure services particularly in Airport Sector. There are many critical issues and concerns surrounding the design of policies and creation of institutions that will promote PPP to

attract investments. So far there is no proper definition of PPP notified by the Ministry as the Rules and Act were notified eight decades ago and there was no PPP concept at that time in India. This gives scope for different interpretations and litigations. The new Civil Aviation Act should provide an explicit definition for PPP which should suggest that any private entity which has an equity participation of 51% or more as a private sector entity (In the Civil Aviation Sector).

32. No CAG Audit of PPP Projects:

There are attempts in the recent times by CAG to get automatic legal mandate of auditing PPP Projects. The objective and spirit of establishing PPP Project is to create critical infrastructure assets in the country by attracting large private investments as well as bringing in efficiencies in utilization and management of resources to build infrastructure that become critical national assets in the future. The proposal of CAG to bring PPP Projects under CAG Audit will defeat the very purpose of bringing efficiencies in building infrastructure projects in the country and also adversely affect the functional autonomy of management of PPP Projects. The PPP Projects are already under the active supervision and monitoring of a sectoral regulator and the concerned Ministry. Further, all the capital investment decisions of the concessionaires including tariff and service quality issues are subject to a User Consultation process. The concessionaires are also subjected to statutory audit, performance audit etc. Hence, the PPP Projects should not be subject to an additional audit by CAG. This fact should be very clearly mentioned in the proposed Civil Aviation Act and Rules, 2012 so that there would not be any attempt from any agency or government or CAG to seek for an automatic legal mandate for auditing PPP Projects in Civil Aviation sector which are managed by private enterprises having a 51% or more equity participation.

33. No application of RTI Act on PPP Projects:

There are enough examples that the RTI provisions are misused with the sole intention of spoiling the business reputation of a business entity. In most cases the RTI Applications are found to be frivolous in nature and are used for settling individual/corporate rivalry. There is a huge transaction cost associated with the disposal of RTI application. Further, the concessionaire does not have the control in the manner this information is going to be used. The Right to Information Act should be limited to the information available with the government and the government shall only make available the information regarding PPP Projects. All PPP Projects which have an equity participation of 51% or more are by definition treated as "Private Entity" and hence RTI Act, 2003 will not be applicable to such PPP Projects. Hence, in no case the concessionaires of PPP Projects should be made liable to meet the provisions of Right to Information Act. This should come out very clearly in the proposed Civil Aviation Act and Rules, 2012.

34. Coherence with PPP model:

The new civil aviation act should give due consideration to the OMDA, Concession agreements and State Support Agreements (SSA) and include necessary provisions to ensure that there are no grey areas which may deter further investments in airport infrastructure. The New Civil Aviation Act should also include provisions to ensure the coherence between provisions of PPP agreements and AERA.

35. Ground handling policy:

Ministry is in the process of streamlining the policy of Ground handling in view of various concerns of security on Airport/Airlines. The policy framed in this regard is yet to be implemented. The proposed new Civil Aviation policy should address this serious issue and ensure early implementation of the prolonged pending ground handling policy. Alternatively, the airport operators should not be held responsible for the service level obligations related to these services.

36. Prohibition of slaughtering near the airport premises:

The existing provision regarding prohibition of slaughtering and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometers from the physical extremity of Runway(s)" must continue in the new Civil Aviation Act. Further on reporting of such slaughter houses and of garbage dumps by the Airport Operator, the local administration will initiate the removal of such garbage dump within reasonable time at their own cost. Local authorities should also ensure that adequate garbage disposal facility is made available at appropriate location wherever there are pockets of human dwelling within the specified area of 10 Km.

37. Right of Airport Operator to refuse operations for a aircraft operator who are habitual defaulters:

The new Civil Aviation Rule must contain a provision permitting an airport operator to refuse the use of such public aerodrome by such Aircraft operator, who even after receipt of adequate notice, have consistently defaulted on the payments. Prior to exercise of such powers, the Airport Operator shall appropriately inform DGCA of its intention of not permitting the said Airlines.

38. Right of Airport operator to impose penalty to individuals who act in contravention to the provision of aircraft rule:

The New Civil Aviation Rule should provide the right to the private airport operator or through its authorized representative whereby he will have the power to impose penalty to individual/organization whose act is in contravention to the provision of aircraft rule, CAR and other regulation/ advisory promulgated time to time and for which the airport operator has been made responsible to ensure that such aircraft rules, CAR and other

regulation is not violated. The maximum limit of such penalty shall be jointly decided in consultation with DGCA. The airport operator shall be also responsible to manage and regulate the traffic within the airport premise to ensure that the passengers and visitors do not face any inconvenience due to unregulated traffic and violators of the laid down traffic practices for the Airport. The Airport operator shall have the right to levy penalty on the individuals/entity who have deliberately violated the laid down traffic practices.

39. Power of Airport operator to evict unruly passengers:

Airport Operator should be empowered to initiate appropriate action through airport security and State Police with respect to eviction of unruly passenger (s), who are identified as likely to hamper public tranquility/ cause damage to the property including the aircraft while being in the aerodrome or inside the aircraft.

40. Power of Airport operator penalizing any agency not abiding the safety standards:

The Airport Operator should be empowered to take appropriate action such as warnings, penalizing, black listing etc whenever any agency or individual is proved willfully not abiding the Safety (like declaration of DGR goods as Non-DGR goods) and Security norms prescribed by the Ministry of Civil Aviation/Ministry of Home Affairs.

41. Act should not restrict up gradation of Technology:

To bring in global service standards at the Indian airports, the Policy should encourage up gradation of Technology be it in Airport operations, Airlines systems, Immigration services or Navigation equipment's in a defined manner. This will assist in superior collaborative decision making and ensure that all stakeholders are in a position to deliver better passenger experience, not just the airport infrastructure. There should not be any requirement for amending the Act/Rules to adopt the new technological development. There should be an open provision to adopt new technological advancement.

42. Focus of the legislation should be broader:

The focus of the legislation should be broader – not just the aircraft & related safety (air worthiness etc.) but this policy should cover the entire aviation system consisting of airport operations, airlines systems, navigation, ATC and even bilateral rights taking into account the present day scenario.

43. Promoting training skills:

For healthy growth of the aviation industry in India, the new policy should create an enabling environment and promote the training and skills development in Aviation. The Policy should have provision/mechanism to incentivize the aviation skills development

infrastructure which can address the issue of availability of skilled manpower requirements in the aviation industry.

44. Compliance deficit:

There is compliance deficit in the present system. The present day Rules and Acts lack the required power/Authority for the Ministry to enforce compliance of rules and regulations and penalize for non-compliance. Compliance deficit is a concern and the new Civil Aviation Act, 2012 should address this issue by recommending suitable penalty clauses for imposing penalty for non-compliance of orders / Rules / Regulations of any Authority.

45. Proportionate enforcement regime:

Penalty provisions for violation of Aircraft Rule has been prescribed long back and needs to be amended in the proposed Civil Aviation Act, 2012 taking into account the present day reality and also design a proportionate enforcement regime. Further the mechanism and rate of penalty for non-conformance/non-abidance to the provisions of the Act and Rules to be enhanced in tune with the International Civil Aviation Standards and the same is to be reviewed at least once in five years.

46. Local approvals:

The new act should provide that state authorities should ensure that prior approval from airport(s) is secured for allowing any construction and development within the prescribed limits.

47. Aircraft commissioning/consent on parking decisions:

To ensure safe and efficient operations, Airports' consent for night parking should be made mandatory for all airlines/operators before import/induction of any new aircraft. Further to this, Airports should be the final authority to cancel, withdraw the aircraft parking, and remove the existing aircraft parked at the airport.

48. Access to Airport facilities:

Notwithstanding anything contrary mentioned in rules and regulation of BCAS, the Airport should have right to restrict the access to airport facilities by any person, agency, body corporate, any such category etc. who does not have any legitimate function at airport or services of whom are causing stress on safety and security of airport operations.

49. Responsibility of Airport Operator on Cargo Movement in Aerodromes:

The Aerodrome operator is not attached with responsibility in an explicit manner during the movement of the cargo through the aerodrome, be it on import or export. The responsibility is solely shown to be resting with the shipper, aircraft operator, and those concerned with packing, marking, labeling, acceptance, handling, loading, unloading, storage, training etc. This should be addressed in the new Civil Aviation Act / Rule.

50. Responsibility of Airport Operator for delivery of Cargo:

There exists a lack of clarity and standardized approach supported by explicit regulation on the acceptance and delivery responsibilities for cargo at the aerodrome between the shipper and the aircraft operator and possibility of aerodrome operator to intervene.

51. Responsibility of Aircraft Operator in case of Dangerous Goods imported:

The rule needs to be specific on the responsibility of the aircraft operator in case a genuine Dangerous Goods is brought in undeclared and identified as Dangerous Goods on import examination. At present the regulation is not binding on the aircraft operator for further action including the option of re-exporting the same to the originating station.

52. Periodical Review of Act and Rules:

It is suggested that the provisions of the Aircraft Act and Rules may be reviewed and amended appropriately at least once in five years, considering the national and international civil aviation rule making scenario.

53. Passenger/cargo data collection and verification by the airport operators:

Airlines should furnish traffic data to the airport operators in a prescribed format, as identified by all the airport operators, in conjunction with the ICAO guidelines, and within the stipulated timeframe decided by the airport operators. In addition, there is no proper mechanism at present, to cross-verify the data submitted by airlines to the airport operators. Thus, a proper system should be laid down for checking the data authenticity through appropriate and frequent audits, or airport operators should be given the authority to do the same. In order to get Legal mandation this issue should be addressed in the New Civil Aviation Act and Rules, 2012.

Conclusion

The above are some of the justifications for notifying a new Civil Aviation Rule and Act, 2012 replacing the existing out dated Aircraft Act 1934 and Aircraft Rules 1937. Civil Aviation Sector has a direct relation with the growth of economic activity in the country and promoting GDP growth. Various studies have proved that Civil Aviation Sector has multiplier effect on the economy by way of direct, indirect and

induced effects. The aviation sector in India is rapidly gaining importance. However there are many outdated rules and regulations which are still carrying since pre-independence era which is a bottleneck for the sustainable development of the sector. Needless to mention that the growth of the sector, to a great extent, depends upon modernizing these outdated Act and Rules. India has been losing heavily on its bilateral rights and market share in passenger, aircraft movement and cargo volumes because of several reasons. Importance of which is that we have not changed our old, outdated and highly restrictive rules and regulations to a new and modern and forward looking Rules which can facilitate for a safe and secure, viable, efficient and sustainable air transportation of passengers and goods. Hence, we urge the government to go ahead with framing and notification of a new Civil Aviation Act and Rule, 2012 taking into account all aspect of civil aviation particularly viability and sustainability of the operations replacing the present Aircraft Act, 1934 and the Aircraft Rules, 1937. We assure our full support in this endeavor. **Since it is a difficult and complex exercise, we would suggest that a committee of experts drawn from stake holders and others may be constituted to facilitate framing of a new Civil Aviation Rule and Act 2012.**

We would be happy to provide any additional inputs/clarification on this issue, if required. We would further request the Ministry to kindly frame the necessary draft Civil Aviation Act and Rules, 2012 and circulate for public consultation at the earliest

Thanks & Regards
For Association of Private Airport Operators



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