

## Corpsec Hotline

October 24, 2007

### GREENFIELD AIRPORTS: JET-SET, GO!

Heightened demand for air travel amongst the Indian traveler may be putting smiles on the faces of airline operators; however the surge in the number of air travelers has highlighted the deficit in aviation infrastructure. The preamble of the Government of India's Airport Infrastructure Policy of 1997 ("**Infrastructure Policy**") states:

"In view of the fact that there are already a sufficient number of airports, many of which are not viable, Greenfield airports will normally not be taken up either in the public or private sector without prior approval of the Government."

The Infrastructure Policy sets out the circumstances under which a Greenfield airport may be approved, which hitherto have been few and far between. However, on October 23, 2007 the Government of India ("**Gol**") has sent for approval the new draft policy for Greenfield airports.

### Draft Greenfield Airport Policy

At present, there exists a deficit in aviation infrastructure and this problem is being compounded in the absence of favorable Gol policy. The Committee on Infrastructure ("**COI**") which is headed by the Prime Minister of India had sought recommendations on the principles, guidelines and licencing conditions for Greenfield airports ("**Greenfield Policy**") from an Inter-Ministerial Group ("**IMG**"). The COI on April 18, 2007 directed the constitution of an IMG which would be chaired by the Secretary (Civil Aviation) and submit its proposals to the COI which after review would place the policy before the Cabinet for approval. It is therefore interesting to note that after adopting a restrictive policy for 10 years, the Gol has decided to frame a new policy for Greenfield Airports.

The Greenfield Policy has been drafted by the Inter-Ministerial Group ("**IMG**") under the Chairmanship of Civil Aviation Secretary Ashok Chawla. The press release in this regard states that the policy seeks the Gol's waiver of the mandatory requirement for getting approval from the Gol for Greenfield airports. Consequently it proposes that State Governments interested in setting up Greenfield airports can either do so themselves or through any designated entity or a joint venture company.

Additionally, the press release notes that Greenfield Policy identifies the need for streamlining the approval process and has proposed setting up a Steering Committee to coordinate and monitor the various clearances required.

According to the press release Greenfield airports to be set up by the Airports Authority of India ("**AAI**") should preferably be set up through Public Private Partnership in accordance with the proposed policy. Further, it has been proposed that land for such airports will be provided by AAI.

### Proposed Procedure and Incentives for Setting-up Greenfield Airports

The press release from the Ministry of Civil Aviation also sets out the following procedures and incentives for setting up Greenfield airports. In the event a State Government wishes to promote the setting up of airports in the State, it could either:

- Apply to DGCA for a license itself, in which event the State Government would be responsible for development and operation of the airport; or.
- An entity of the State Government could apply for a license to DGCA, in which event such entity would be responsible for development and operation of the airport;
- The State Government or its corporation may select a private entity and form a Joint Venture Company ("**JVC**") in the private sector and in such an event, the JVC would be responsible for development and operation of the airport under a license from DGCA; or.
- Allot land to a private Airport Company for development and operation of an airport under a license from DGCA. The policy lacks clarity on the responsibility to develop and operate the airport, but we assume that the private Airport Company would be responsible for development and operation similar to the policy with respect to the JVC noted above. However, clarification is required.

In event a State Government wishes to facilitate setting up of airport, it could provide the following to the respective Airport Company:

- Land, concessional or otherwise;
- Real estate development rights in and around Greenfield airports;

## Research Papers

### Structuring Platform Investments in India For Foreign Investors

March 31, 2025

### India's Oil & Gas Sector— at a Glance?

March 27, 2025

### Artificial Intelligence in Healthcare

March 27, 2025

## Research Articles

### 2025 Watchlist: Life Sciences Sector India

April 04, 2025

### Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

## Audio

### CCI's Deal Value Test

February 22, 2025

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

- Airport connectivity; and
- Fiscal incentives by way of exemptions from State taxes.

## Conclusion:

The surging Indian economy has changed the way many people now travel. Whereas a decade ago, most people would have traveled by train, the situation now is that air travel has become affordable. However, the rising demand in seats has also left Indian airports stretched for lack of infrastructure. Notably in the large metropolitan cities in India take off times and landing times are stretched. The new draft policy could go far in exploiting private participation in a much needed sector. Under Press Note 4 of 2006, Foreign Direct Investment is now permitted upto 100% for the setting up of Greenfield airport projects, and a favorable policy in this regard would do much to spur investor interest in such projects. We look forward to reviewing the policy once adopted, and hope this will lead to investment in this sector taking off in a big way.

Source: The Press Note

- **Rajesh Pathania & Kartik Ganapathy**

You can direct your queries or comments to the authors

## DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

**Vaibhav Parikh, Partner, Nishith Desai Associate on Tech, M&A, and Ease of Doing Business**

March 19, 2025

**SIAC 2025 Rules: Key changes & Implications**

February 18, 2025