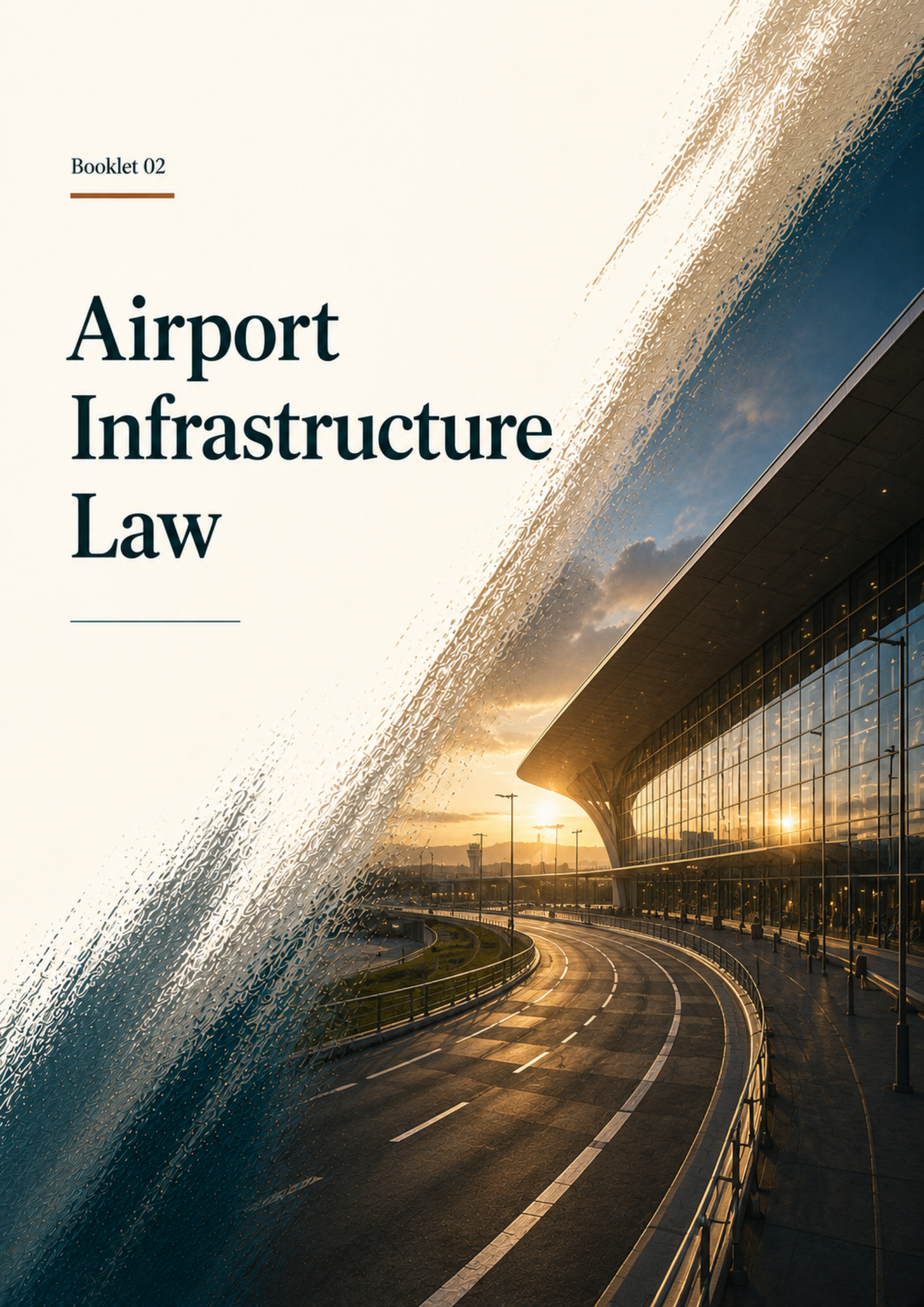
Booklet 02

Airport Infrastructure Law



BHATT & JOSHI ASSOCIATES — INDIAN AVIATION SECTOR LEGAL SERIES

Airport Infrastructure Law

AAI Act 1994, AERA Economic Regulation, Airport Privatisation, Concession Agreements, Slot Allocation & Ground Handling

Booklet II of VI — Indian Aviation Sector Legal Series

Advocates & Legal Consultants — Ultra-Premium Client Advisory Series

CONTENTS

CHAPTER ONE

Airport Authority of India: Statutory Framework and Functions

AAI Act 1994, Airport Ownership, Management and Development Functions, Aerodrome Licensing and AAI's Quasi-Regulatory Role

> *Airports are the foundational infrastructure of civil aviation — the physical and operational nodes through which the entire air transport system interfaces with the surface world. India's airport governance framework, centred on the Airports Authority of India but increasingly supplemented by private operators at major airports, determines the physical capacity, operational efficiency, and commercial viability of India's aviation sector. Premium practitioners must understand the entire framework — statutory, regulatory, and contractual — that governs airport infrastructure.*

1.1 AAI Act 1994: Statutory Mandate and Corporate Architecture

The Airports Authority of India Act, 1994 (AAI Act) constitutes the Airports Authority of India (AAI) as a statutory corporation under the Ministry of Civil Aviation, merging the erstwhile National Airports Authority and the International Airports Authority of India into a single

organisation with comprehensive responsibilities for airport management and development across India. The AAI Act vests AAI with: ownership and management of all major airports in India (except those operated by private entities under concession agreements); the authority to develop, maintain, and manage airports; the power to levy and collect airport charges (landing fees, parking fees, passenger service fees, and user development fees) from aircraft operators and airlines; the function of providing air navigation services (air traffic control) throughout Indian airspace; the power to construct and maintain navigational aids, communications facilities, and meteorological equipment; and regulatory functions including the licensing and classification of aerodromes. AAI's dual role — as the operator of major airports and as a quasi-regulatory body for aerodrome standards — creates potential conflicts of interest that the AERA Act 2008 partially addresses by transferring the economic regulatory function to the independent Airport Economic Regulatory Authority, though AAI retains significant operational influence over airport tariff structures through its participation in AERA proceedings as a party. AAI manages approximately 137 airports across India, of which around 24 are designated as major airports under the AAI Act (subject to AERA economic regulation), with the remaining airports classified as civil enclaves, greenfield airports, and domestic airports under state government or joint-sector management arrangements.

The AAI Act's Section 12 specifies the functions and obligations that AAI must perform, including: ensuring safe, efficient, and economical air transport for passengers and cargo; planning and implementing the development of airports in accordance with national priorities; establishing and maintaining air traffic services conforming to ICAO standards; cooperating with international and regional air navigation organisations; providing aeronautical information to ensure the safety of air navigation; and developing training facilities for aviation personnel. The breadth of AAI's statutory mandate — spanning infrastructure development, operations management, safety oversight, and international regulatory coordination — means that AAI is simultaneously a service provider (to airlines and passengers), an infrastructure developer (building and expanding airport capacity), a safety regulator (setting aerodrome standards and licensing airports), and an air navigation service provider (the monopoly ATC provider for all Indian airspace). This multi-role character creates structural tensions that India's aviation governance framework is only partially successful in managing — particularly the tension between AAI's revenue-generating function (which creates incentives to maximise charges) and its developmental role (which should prioritise affordable and accessible aviation infrastructure).

1.2 Aerodrome Licensing and Classification

Under the Aircraft Rules 1937, every aerodrome in India used for aircraft operations (other than unlicensed private airstrips that meet specified low-traffic exemption criteria) must hold a valid Aerodrome Licence from DGCA, certifying that the aerodrome meets the applicable ICAO Annex 14 standards for its reference code (the ICAO classification system based on aircraft approach

speed and wingspan that determines the physical infrastructure standards required). The Aerodrome Licence is separate from AAI's commercial airport operation rights — it is the safety certification that the aerodrome's physical infrastructure, obstruction limitations, lighting, marking, rescue and firefighting equipment, and operational procedures are adequate for the category of aircraft operations the aerodrome handles. DGCA's aerodrome inspector team conducts pre-licensing inspections of new aerodromes and periodic surveillance inspections of licensed aerodromes, with the power to revoke or suspend the Aerodrome Licence for safety deficiencies — a power that, if exercised at a major international airport, would immediately halt all aircraft operations and would require the airport operator's urgent corrective action and DGCA's reinspection before operations could resume. For lawyers advising airport operators on DGCA aerodrome regulatory compliance, the continuous maintenance of Aerodrome Licence conditions — including the mandatory DGCA notification of infrastructure changes, obstacle limitation surface violations, and mandatory equipment unserviceabilities — is the baseline regulatory obligation from which all other airport operations flow.

1.3 Greenfield Airports: Policy and Legal Framework

The development of new Greenfield Airports in India — airports established at new sites rather than expanding existing AAI facilities — is governed by the Greenfield Airports Policy, which specifies the conditions under which private developers, state governments, and joint venture entities may establish new airports under concession or lease arrangements. The policy requires: feasibility studies demonstrating that the proposed greenfield airport will not cannibalise traffic at an existing nearby airport to an extent that would make the existing airport financially unviable (the "no objection" principle from incumbent airport operators); DGCA safety oversight throughout the development and pre-licensing period; Cabinet-level approval for greenfield airports in metropolitan areas; and concession agreement terms that align the private developer's commercial incentives with the public interest in long-term airport viability and service quality. Notable greenfield airport developments include: Navi Mumbai International Airport (GMR group concession), Jewar International Airport (Noida International Airport) in Uttar Pradesh (Zurich Airport concession), Mopa Greenfield Airport in Goa (GMR Goa International Airport), and Bhogapuram International Airport in Andhra Pradesh. Each of these projects illustrates the complex multi-party legal structure of a greenfield airport development — involving the Ministry of Civil Aviation's policy approval, the state government's land and utility support, DGCA's aerodrome licensing, AERA's prospective tariff regulation, the concession company's financing structure (project finance with AAI/state government equity participation), and the EPC and O&M contracts for construction and operations. Legal practitioners advising on greenfield airport transactions require expertise in project finance, concession agreements, aviation regulation, environmental law, and land acquisition — a multi-disciplinary practice that is among the most technically demanding in Indian infrastructure law.

CHAPTER TWO

AERA Act 2008: Airport Economic Regulation and Tariff Determination

AERA Constitution and Jurisdiction, Tariff Orders, RAB Methodology, Single Till vs Dual Till, UDF/PSF and Economic Regulatory Disputes

2.1 AERA: Constitution and Regulatory Jurisdiction

The Airports Economic Regulatory Authority of India (AERA), established under the Airports Economic Regulatory Authority of India Act, 2008, is the independent economic regulatory body for major airports in India — the authority responsible for determining the tariffs that airports may charge to airlines for aeronautical services. AERA exercises jurisdiction over "major airports" — designated by the Central Government under Section 2(i) of the AERA Act as airports with annual passenger throughput exceeding 3.5 million passengers, or airports notified as major airports by the Central Government for strategic or other policy reasons. Currently, approximately 24 airports in India are designated as major airports subject to AERA tariff regulation, including the privatised airports at Delhi (DIAL), Mumbai (MIAL), and the Adani-managed airports at Ahmedabad, Lucknow, Mangalore, Jaipur, Guwahati, and Thiruvananthapuram, as well as the major AAI-operated airports. AERA's tariff orders — determined through a consultative process involving airport operators, airlines (through their representatives), and the Ministry of Civil Aviation — set the maximum charges that major airports may levy for aeronautical services (landing charges, parking charges, passenger service fees, and user development fees) for successive regulatory periods (typically 5 years). AERA's tariff determination thus directly determines the cost structure of airline operations from major Indian airports, with the aeronautical charges at Delhi and Mumbai airports (the highest-traffic airports) being commercially significant inputs to airline route economics across the entire Indian network.

2.2 RAB Methodology and Single Till vs. Dual Till

AERA's tariff determination methodology — the framework for calculating the maximum revenue that an airport operator is entitled to recover through aeronautical charges — is the central technical and commercially contested aspect of airport economic regulation in India. The Regulatory Asset Base (RAB) methodology, adopted by AERA as the primary tariff determination framework, calculates the airport operator's allowable revenue as the sum of: the weighted average cost of capital (WACC) applied to the RAB (the value of the capital invested in the airport); depreciation on the RAB; and operating costs — producing an Aggregate Revenue Requirement (ARR) that represents the total revenue the airport needs to recover to earn its

allowed return on investment. The ARR is then divided across the traffic volumes forecast for the regulatory period to produce the per-unit tariff rates for each service category. The most commercially contentious aspect of AERA's methodology is the "till" approach: the "Single Till" approach (favoured by airlines) includes all airport revenues — both aeronautical (charges to airlines) and non-aeronautical (commercial revenues from retail, advertising, car parking, and property development) — in the regulatory framework, with non-aeronautical revenues reducing the aeronautical charges needed to meet the ARR; the "Dual Till" approach (favoured by airport operators) segregates aeronautical and non-aeronautical revenues, with commercial revenues outside the regulatory framework and aeronautical charges set to recover the full ARR from airlines alone. India has moved between the Single Till and Dual Till approaches across different regulatory periods and at different airports — a regulatory inconsistency that has generated multiple appeals by both airport operators and airlines before AERA and the Appellate Tribunal (AERAAT), and which remains one of the most actively litigated issues in Indian airport economic regulation.

LEADING CASE

GMR Airports Limited v. AERA (2022), Appellate Tribunal for Electricity and Airport Tariff (AERAAT): The Tribunal held that AERA's adoption of a Hybrid Till approach (treating 30% of non-aeronautical revenues as within the regulatory framework) for Delhi airport without adequate justification for departing from the Single Till approach used in the previous regulatory period was arbitrary and lacked adequate reasoning. The Tribunal remanded the tariff order to AERA for reconsideration with a requirement to provide detailed economic justification for the till approach adopted — establishing the principle that AERA's tariff methodology choices must be reasoned and consistent, and that material departures from established methodology require compelling justification.

2.3 User Development Fee: Legal Character and Disputes

The User Development Fee (UDF) — an airport departure charge levied on departing passengers (and in some cases cargo) in addition to the basic passenger service fee — is one of the most commercially contentious elements of airport tariff regulation in India. UDFs are levied at most major airports to fund specific capital development projects — notably, the construction of new terminals, runways, or capacity expansions — and are typically collected from departing passengers by airlines on behalf of the airport operator as a pass-through charge on passenger tickets. The legal basis for UDF levies has been contested: airlines (who bear the passenger relations burden of collecting and remitting UDF, and who argue that high UDF levels make air travel less competitive with other modes) have challenged AERA's UDF approval decisions on grounds that the UDF rates are excessive, that the development projects being funded are not aeronautical necessities, and that the collection mechanism (through airline ticket prices) improperly passes the collection cost and credit risk to airlines without adequate compensation. Airport operators (who depend on UDF for capital development financing that their own

borrowing capacity cannot fully fund) have challenged AERA's decisions to reduce or refuse UDF proposals, arguing that inadequate UDF levels will prevent necessary capacity expansion and lead to congestion and service deterioration. The UDF dispute at Delhi airport — involving the legality and quantum of the UDF levied for the construction of Terminal 3 — occupied AERA, AERAAT, and multiple courts for over a decade, illustrating the litigation intensity of Indian airport economic regulation.

CHAPTER THREE

Airport Privatisation: Concession Agreements and PPP Framework

DIAL, MIAL and Adani Airport Concessions — Legal Architecture, Revenue Sharing, OMDA Obligations and Dispute Resolution in Airport PPPs

3.1 Delhi and Mumbai Airport Concessions: The Model PPP Framework

The privatisation of Delhi International Airport (through the DIAL concession, awarded to a consortium led by GMR Airports Limited in 2006) and Mumbai Chhatrapati Shivaji Maharaj International Airport (through the MIAL concession, awarded to a consortium led by GVK Power & Infrastructure in 2006) established the template for airport public-private partnership in India — a template that has since been applied with variations to the Adani airport concessions, the greenfield airport projects, and the regional airport PPPs under the UDAN framework. The DIAL and MIAL concession structures involve: a 30-year initial concession (extendable by 30 years) granted by AAI to the private concessionaire; the concessionaire's obligation to design, build, finance, operate, and maintain the airport to specified service level standards (the Operations, Management and Development Agreement — OMDA — specifying the detailed operational obligations); an upfront concession fee and an annual revenue share payment (typically a percentage of gross revenue) to AAI; AAI retaining ownership of the land and basic infrastructure, with the concessionaire owning only the improvements it constructs; AERA's regulation of aeronautical tariffs (setting the commercial parameters within which the concessionaire must recover its investment); and reversion of all assets to AAI at the end of the concession period. The commercial viability of the private airport concessions depends critically on the interaction between the AERA-regulated aeronautical revenues (which are capped) and the non-aeronautical commercial development revenues (retail, hospitality, advertising, real estate development) that the concessionaire can generate from the airport's commercial property — making the till approach (whether non-aeronautical revenues are netted against aeronautical charges in AERA regulation) the single most commercially important regulatory variable for airport concessionaires' investment returns.

3.2 Adani Airport Acquisitions: A New PPP Model

The Adani Group's acquisition of operating rights at six AAI airports — Ahmedabad, Lucknow, Mangalore, Jaipur, Guwahati, and Thiruvananthapuram — in 2020, followed by the acquisition of the MIAL concession from the GVK group in 2021 and the Navi Mumbai greenfield concession, represents India's largest single airport PPP transaction and has created a new model for airport privatisation that combines brownfield concession management (taking over existing AAI-

operated airports) with greenfield development investment. The legal structure of the Adani airport concessions follows the DIAL/MIAL template with some variations: AAI retaining land ownership, Adani operating under OMDAs for specified terms, revenue share payments to AAI, and AERA regulation for major airports. The controversy surrounding the Adani airport acquisition process — including questions about the bid evaluation criteria, the appropriateness of awarding six airports simultaneously to a single private operator, and the competition implications of airport concentration — was addressed in public interest litigation before the Supreme Court, which upheld the process while noting the importance of ongoing competition monitoring in the airport sector. For legal practitioners advising aviation clients on airport access and service quality issues at Adani-managed airports, the OMDA's service level specifications (covering terminal infrastructure standards, IT systems, ground handling access, and passenger experience metrics) and AERA's performance-based tariff framework provide the contractual and regulatory basis for holding the airport operator accountable for service delivery commitments.

3.3 Airport Concession Disputes: Mechanisms and Recent Cases

Airport concession disputes — between the airport concessionaire and AAI, between the airport operator and airlines, or between the airport operator and government agencies — are a significant area of aviation infrastructure litigation in India. Disputes between concessionaires and AAI typically arise from: alleged non-compliance by the concessionaire with its OMDA obligations (service level failures, development timeline delays); AAI's exercise of step-in rights (where AAI alleges the concessionaire's performance is so deficient as to trigger AAI's right to take over operations); disputes about the revenue share base (the definition of "gross revenue" for revenue share calculation purposes); and disputes about the OMDA's interpretation on specific operational matters. Most airport concession agreements include arbitration provisions for commercial disputes, with either domestic ICADR arbitration or international arbitration (typically ICC or SIAC) for major disputes. AERA provides the regulatory dispute resolution forum for tariff-related disputes. The courts (primarily the Delhi High Court and the Supreme Court) handle constitutional challenges, judicial review of AERA orders, and enforcement of arbitral awards. The multi-tier dispute resolution landscape — with AERA, AERAAT, arbitral tribunals, and the courts potentially involved simultaneously in different aspects of the same commercial dispute — requires practitioners advising airport sector clients to carefully sequence and coordinate their dispute resolution strategy across these forums.

CHAPTER FOUR

Slot Allocation, Scheduling and Grandfather Rights

IATA Scheduling Guidelines, DGCA's Schedule Facilitation Committee, Slot Allocation Procedure, Grandfather Rights, New Entrant Protection and Slot Trading

4.1 IATA Worldwide Slot Guidelines: Application in India

Airport slots — the permission to use an airport's infrastructure (runway, terminal, gate, and parking) for the arrival or departure of an aircraft at a specified time on a specified date — are among the most commercially valuable assets in the aviation industry, particularly at Level 3 (fully coordinated, slot-controlled) airports where demand for peak-hour operations substantially exceeds available capacity. India's slot allocation system follows the IATA Worldwide Slot Guidelines (WSG) — the international industry standard for slot allocation developed by IATA in coordination with the Airport Coordination Council (ACI) and adopted by most major aviation jurisdictions. The WSG specifies: the airport capacity parameters (Declared Capacity) that define the number of slots available per hour (typically determined by the most constraining factor among runway capacity, taxiway capacity, terminal capacity, and gate capacity); the classification of airports as Level 1 (no significant capacity constraints), Level 2 (scheduling facilitated — voluntary cooperation between airlines and the airport to prevent overloading), or Level 3 (fully coordinated — all airline movements require pre-allocated slots); the slot allocation process (historical precedence "grandfather rights" for existing carriers, new entrant protection, and competitive allocation for contested slots); and the slot usage requirement (the "use it or lose it" principle, under which an airline must use at least 80% of its allocated slots in a scheduling season or lose grandfather protection for the following equivalent season). India currently has Level 3 slot-controlled airports at Delhi, Mumbai, Bangalore, Hyderabad, and Chennai — the airports where peak-hour congestion means that uncoordinated scheduling would result in significant delays and safety risks from simultaneous demand exceeding declared capacity.

4.2 DGCA Slot Facilitation and the Schedule Facilitation Committee

DGCA's Schedule Facilitation Committee (SFC) — established under CAR Section 3 Series C Part IV — is the national airport slot coordinator for India, responsible for allocating slots at Level 3 airports in accordance with the WSG and DGCA's supplementary guidelines. The SFC operates on the WSG's two-season scheduling cycle (Summer season: late March to late October; Winter season: late October to late March), with the slot allocation conference held approximately six months before the start of each season to allocate slots to airlines for the upcoming season. Airlines seeking slots at Level 3 airports must submit their slot requests to the SFC before the

conference, specifying: the airport, the period, the times requested, the aircraft type, the flight frequency, and the operational purpose (domestic or international). The SFC allocates slots in priority order: first, historical grandfather slots (slots that the airline operated in the equivalent previous season with at least 80% utilisation); second, new entrant priority slots (a guaranteed minimum proportion — typically 50% of newly available or returned slots — reserved for airlines that qualify as "new entrants" at the airport, defined as airlines with fewer than 5% of total slots at the airport); and third, remaining unallocated slots on a first-come-first-served or competitively allocated basis. For airlines at highly congested airports — particularly Mumbai CSIA, where peak-hour slot availability is severely constrained — the strategic management of the slot portfolio is a commercially critical function, and legal counsel on slot retention strategy, slot usage monitoring, and protection of grandfather rights is among the highest-value aviation legal advisory services.

PRACTITIONER NOTE

Premium practice point: The 80% slot utilisation rule creates a mandatory operational discipline — airlines must operate at least 80% of their allocated slots in each season to retain grandfather protection. For airlines experiencing schedule disruptions (aircraft groundings, crew shortages, weather cancellations), actively monitoring slot utilisation and invoking the WSG's force majeure and exceptional circumstances provisions (which suspend the 80% rule when disruptions are caused by factors outside the airline's control) is critical. Practitioners should advise airline clients to maintain detailed records of the cause and timing of each slot non-use to support force majeure claims if utilisation falls below 80%.

CHAPTER FIVE

Ground Handling, Aeronautical Services and Airport Competition

Ground Handling Policy, Self-Handling Rights, Regulated Ground Handlers, Competition Issues and the Aeronautical Services Market

5.1 Ground Handling Policy: Liberalisation and Regulation

Ground handling services — the suite of services that support aircraft operations at an airport, including ramp handling (pushback, towing, marshalling), baggage handling, fuelling, catering, cargo handling, and passenger services — are an essential component of the aviation infrastructure ecosystem, and their efficient provision is directly linked to airline operational performance and passenger experience quality. India's Aeronautical Ground Handling Policy (last comprehensively revised in 2018) allows airlines at major airports to choose their ground handling services from: the airline's own ground handling operation (self-handling, subject to DGCA approval of the airline's ground handling capability); AAI's subsidiary (Air India Airport Services Limited — AIASL, formerly known as the AAI Ground Handling Company); and private ground handlers — entities that have obtained DGCA ground handling licences under CAR Section 9 Series B Part I and have been granted access to the airport by the airport operator. The number of authorised ground handlers at each airport is regulated — typically two to three service providers plus self-handling at major airports — to maintain a commercially viable market structure: too many providers fragment the traffic and prevent any handler from achieving the economies of scale needed for efficient operations, while too few providers risk monopoly service quality and pricing. The selection and performance management of ground handlers by premium airlines — particularly at hub airports where ground handling quality directly affects turnaround times, punctuality performance, and passenger experience — is a commercially critical operational matter that requires careful legal structuring of ground handling agreements, including robust service level obligations, key performance indicators, liquidated damages provisions for performance failures, and clear termination rights.

5.2 CCI and Airport Competition Issues

The Competition Commission of India (CCI) has examined airport sector competition issues in several proceedings that have established important principles for the regulation of airport operators' commercial conduct. The CCI's jurisdiction over airport operators — as "enterprises" providing services and potentially holding dominant positions in the relevant market for airport services to airlines and passengers — is established under the Competition Act 2002, alongside (not subordinate to) AERA's economic regulatory jurisdiction. The CCI has investigated: alleged

abuse of dominance by airports in the provision of ground handling services (through exclusive arrangements with affiliated ground handlers that foreclose the market to independent service providers); alleged discriminatory treatment by airport operators of different airlines in slot allocation, gate assignment, or handling service access; and allegations about excessive pricing for aeronautical services during periods of AERA tariff order transition (when airports claimed interim tariff increases not yet authorised by AERA, which airlines characterised as unlawful extraction). The Supreme Court has affirmed that AERA's tariff regulation and the CCI's competition oversight are concurrent, complementary frameworks — AERA determines permissible tariff levels (the economic regulation function), while the CCI addresses abusive commercial conduct (the competition law function) — and that the existence of AERA regulation does not immunise airport operators from CCI jurisdiction for conduct that constitutes abuse of dominant position. For legal practitioners advising airlines on airport service disputes, the combination of AERA complaints (for tariff-related issues), CCI complaints (for competition-law conduct), and contractual arbitration (for OMDA service level disputes) provides a multi-track dispute resolution toolkit that can be strategically deployed to maximise pressure on airport operators to remedy service quality failures.

Booklet II Key Takeaways: India's airport regulatory framework is a complex overlay of statutory (AAI Act, AERA Act), contractual (concession OMDAs), technical (DGCA aerodrome licensing), and competition (CCI) governance. AERA's tariff determination — particularly the Single Till vs. Dual Till approach, UDF quantum, and RAB methodology — is the most commercially contested dimension of airport regulation, generating regular litigation before AERAAT and the courts. Airport PPP concessions (Delhi, Mumbai, Adani airports) create complex multi-party legal structures with AAI, the concessionaire, AERA, and airline stakeholders, all with legally enforceable rights and obligations. Slot allocation at Level 3 airports — governed by IATA WSG and the SFC — is a high-value commercial asset requiring active legal management. Competition law oversight by the CCI adds a parallel regulatory dimension to the economic regulation of airport services.

EXTENDED ANALYSIS

Airport Infrastructure: Advanced Practice Issues

Heliport Regulation, General Aviation Terminal Policy, Airport Master Planning, Infrastructure Financing and International Airport Management Trends

B.1 Heliport Regulation: A Specialised Aerodrome Category

Heliports — aerodromes designed specifically for helicopter operations, ranging from offshore platform helidecks and hospital rooftop heliports to dedicated commercial heliports serving urban centres — are regulated under a distinct framework from fixed-wing airports, reflecting the different physical and operational characteristics of rotary-wing aircraft. DGCA's CAR Section 2 Series I (Heliport Design) and CAR Section 2 Series J (Heliport Operations) specify the design and operational standards for heliports in India, aligned with ICAO Annex 14 Volume II (Heliports). Heliport licensing — like aerodrome licensing — requires DGCA approval following inspection to verify compliance with the applicable physical standards (Final Approach and Take-Off Area dimensions, obstacle limitation surfaces, marking, lighting, and rescue and firefighting equipment). The commercial heliport ecosystem in India encompasses: offshore heliports serving the oil and gas industry (operated by ONGC and private E&P companies); inter-city helicopter services (IndiGo, Pawan Hans); hospital and emergency medical service heliports; military heliports with shared civilian use; and the emerging segment of premium urban heliports serving the luxury travel and corporate aviation markets. For premium corporate clients — including luxury hospitality groups, private equity sponsors of offshore energy assets, and corporate aviation users — the regulatory interface with DGCA's heliport licensing framework for private heliport development (at corporate headquarters, luxury resorts, or private estates) is a recurring legal advisory need that requires understanding of the licensing procedure, the aeronautical obstruction limitation requirements, and the insurance and liability framework for private heliport operations.

B.2 General Aviation: Policy, Terminals and Premium Market

General aviation (GA) — the broad category of civil aviation activity outside scheduled commercial air transport, encompassing private flying, corporate business aviation, flight training, aerial survey, agricultural aviation, and air sports — is an important segment of India's aviation market that is subject to a distinct regulatory and infrastructure framework from commercial aviation. India's GA sector has been historically constrained by: the scarcity of dedicated GA infrastructure (most airports are designed exclusively for commercial operations, with limited segregated GA areas, minimal self-service fuelling, and inadequate customs facilities for international GA arrivals); the high cost of aircraft ownership and operation

(including customs duty on aircraft imports, high avgas and jet-A1 fuel prices, high hangar rental, and complex regulatory compliance for private aircraft owners); and the cultural preference for chartered business jets rather than owner-operated aircraft at the premium end of the market. The Ministry of Civil Aviation's GA policy initiatives — including the NCAP 2016's provisions for GA development, simplified airworthiness maintenance for light aircraft, and the proposed GA-friendly aerodrome development programme — aim to expand India's GA sector from approximately 600 registered general aviation aircraft (excluding scheduled airline aircraft) toward the level seen in comparable economies. For premium corporate clients operating business aviation (whether self-fly or charter), the legal advisory needs include: aircraft import duty and tax optimisation; DGCA operating approval for non-scheduled private operations; international operations clearances (DGCA and foreign authority overflight and landing permits); crew licensing and recency requirements; and insurance placement for high-value aircraft and premium passengers.

B.3 Airport Master Planning and Capacity Development

Airport Master Plans — long-term infrastructure development blueprints that project passenger and aircraft movement growth over 20–25 year horizons and identify the infrastructure investments (runway extensions, new terminals, cargo facilities, ground transport connections) needed to accommodate this growth — are developed by airport operators (AAI for AAI-managed airports, private concessionaires for privatised airports) and require DGCA approval for their aeronautical infrastructure components and Central Government/state government engagement for their land and utility components. The Master Plan development process involves: demand forecasting (using aviation demand models calibrated to India-specific growth assumptions); capacity analysis (comparing current infrastructure capacity with forecast demand to identify capacity constraints and their timing); infrastructure option analysis (evaluating different configurations for runway, terminal, and ground transport expansion); financial feasibility analysis (assessing the cost and funding sources for each infrastructure element); and environmental and social impact assessment (identifying the environmental and community impacts of the planned development and the required mitigation measures). For privatised airports, the Master Plan must be incorporated into the concessionaire's OMDA obligations — the concessionaire's right to develop and operate the expanded infrastructure must be clearly delineated in the OMDA to avoid disputes about whether specific capacity enhancements are within the concessionaire's rights or require renegotiation of the concession terms. Legal practitioners advising airport developers and investors on Master Plan implementation must provide integrated advice covering OMDA interpretation, planning law compliance, land acquisition and development control, environmental clearances, AERA tariff implications of the capital expenditure, and construction contract structuring — a comprehensive transaction support mandate that is among the most complex in aviation infrastructure law.

B.4 AERA Appeals: Regulatory Dispute Resolution

Appeals against AERA's tariff orders — challenging the methodology, assumptions, or specific tariff determinations made by AERA for major airports — are heard by the Appellate Tribunal for Electricity and Airport Tariff (AERAAT), constituted under the AERA Act as the specialist appellate body for airport economic regulation disputes. The AERAAT's jurisdiction covers: appeals by airport operators (challenging AERA determinations that set tariffs below the operator's claimed allowable revenue); appeals by airlines and passenger representatives (challenging AERA determinations that approve tariffs higher than claimants consider justified); and references from AERA on specific legal questions of interpretation. The AERAAT process — involving written submissions, technical evidence, and oral hearings — is a quasi-judicial proceeding that requires specialised advocacy combining aviation economics expertise (to challenge or defend the RAB methodology, WACC calculations, and traffic forecasts) with traditional appellate advocacy skills (to frame the legal issues, apply administrative law principles to AERA's decision-making, and present arguments persuasively to the technical-legal AERAAT bench). Further appeal from AERAAT decisions lies to the Supreme Court under Article 136 of the Constitution — making airport economic regulation disputes one of the few regulatory matters that regularly reach India's highest court. Premium aviation counsel advising airport operators or airlines on AERA tariff disputes must provide end-to-end representation from the AERA initial tariff determination proceedings through AERAAT appeal and, where necessary, Supreme Court review — a long-form regulatory litigation engagement that can span 5–8 years for major tariff disputes.

Booklet II — Complete Summary: Airport infrastructure law encompasses the full spectrum of statutory (AAI Act), regulatory (AERA, DGCA), contractual (OMDA concessions), and competition (CCI) frameworks that govern India's airport ecosystem. The AERA-AERAAT-Supreme Court regulatory dispute pathway for tariff disputes is the most commercially significant litigation track in Indian aviation infrastructure law. Slot allocation at Level 3 airports is a high-value commercial asset whose strategic management requires dedicated legal counsel. The emerging greenfield airport development programme — Navi Mumbai, Jewar, Mopa — is creating a new generation of aviation PPP transactions that will require innovative legal structuring. Premium counsel advising airport sector clients must provide integrated expertise across infrastructure law, economic regulation, competition law, and environmental compliance.