

Booklet 01

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# Civil Aviation Regulatory Framework

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# Civil Aviation Regulatory Framework

*Aircraft Act 1934, DGCA Architecture, Civil Aviation Requirements, Chicago Convention & National Civil Aviation Policy*

Booklet I of VI — Indian Aviation Sector Legal Series

Advocates & Legal Consultants — Ultra-Premium Client Advisory Series

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## CONTENTS

<b>Chapter 1 — International Aviation Law: The Chicago Convention Architecture</b>	3
<b>Chapter 2 — The Aircraft Act 1934 and Aircraft Rules 1937</b>	9
<b>Chapter 3 — DGCA: Powers, Civil Aviation Requirements and Enforcement</b>	15
<b>Chapter 4 — Aircraft Airworthiness and Certification</b>	21
<b>Chapter 5 — National Civil Aviation Policy 2016 and Future Governance</b>	26

## CHAPTER ONE

# International Aviation Law: The Chicago Convention Architecture

*Convention on International Civil Aviation 1944, ICAO Standards, Bilateral Air Services Agreements, Freedoms of the Air and India's Treaty Network*

*Aviation is the most comprehensively internationalised of all regulated industries — a single flight may be governed simultaneously by the law of the state of departure, the state of arrival, the state of the aircraft's registration, the state of the operator's domicile, and the international conventions to which each of these states is a party. For the premium legal practitioner, mastery of this layered international framework is the essential precondition for effective aviation law practice.*

## 1.1 The Chicago Convention: Foundation of Global Aviation Governance

The Convention on International Civil Aviation, signed at Chicago on 7 December 1944 (Chicago Convention), is the constitutional instrument of international civil aviation — the treaty that established the International Civil Aviation Organisation (ICAO), created the fundamental principles of sovereign airspace and aircraft nationality, and established the framework within

which the entire global aviation regulatory system has been built over the eight subsequent decades. India was a founding signatory to the Chicago Convention and ratified it in 1944, and has since been bound by its obligations under the Convention, its eighteen annexes (collectively representing the ICAO Standards and Recommended Practices — SARPs), and the Rules of the Air applicable to international aviation operations. Article 1 of the Chicago Convention establishes the principle of complete and exclusive sovereignty of every contracting State over the airspace above its territory — a principle that underpins India's authority to regulate all aviation operations within the Flight Information Regions (FIRs) that India manages on behalf of ICAO, to exclude foreign state aircraft from Indian airspace, and to impose conditions on the entry and transit of foreign civil aircraft through Indian airspace. Article 5 qualifies this sovereignty for non-scheduled flights (flights not operating under scheduled air service rights), permitting aircraft of contracting States the right of non-commercial transit and landing without prior permission, subject to the right of the overflown State to impose conditions on such flights — a provision that creates both regulatory rights and commercial limitations for operators of private and charter aviation in the Indian market.

The Chicago Convention's Article 83 bis — the provision permitting the transfer of safety oversight responsibilities between the State of Registry and the State of the Operator through bilateral agreement — is of particular commercial significance for India's aviation sector, given the prevalence of aircraft registered in Aruba, Bermuda, Cayman Islands, and other offshore aircraft registry jurisdictions among the fleets of Indian airlines. When an Indian airline operates an aircraft registered in a foreign jurisdiction (a common arrangement for leased aircraft, since international lessors prefer to register aircraft in jurisdictions with well-developed deregistration procedures), the Article 83 bis transfer agreement between India and the registration State determines whether DGCA (as the State of the Operator) or the foreign aviation authority (as the State of Registry) is responsible for specific safety oversight functions — airworthiness oversight, operations specifications, and crew licensing validation. The precise scope of each Article 83 bis agreement (which DGCA has concluded with CAACI in the Cayman Islands, the Aruba Civil Aviation Authority, and several others) determines the practical distribution of regulatory oversight between DGCA and the foreign registry, and practitioners advising airlines on fleet planning and aircraft registration strategy must understand these agreements' implications for their clients' regulatory compliance obligations.

**KEY PROVISION**

Article 83 bis, Chicago Convention: "Notwithstanding the provisions of Articles 12, 30, 31 and 32(a), when an aircraft registered in a contracting State is operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of business, his permanent residence in another contracting State, the State of Registry may, by agreement with such other State, transfer to it all or part of its functions and duties as State of Registry in respect of that aircraft."

## **1.2 ICAO Annexes and Standards: Their Legal Character in India**

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ICAO's eighteen annexes to the Chicago Convention contain the Standards and Recommended Practices (SARPs) that form the global technical framework for aviation safety, security, and efficiency. The eighteen annexes cover: personnel licensing (Annex 1); rules of the air (Annex 2); meteorological services (Annex 3); aeronautical charts (Annex 4); units of measurement (Annex 5); operation of aircraft (Annex 6); aircraft nationality and registration marks (Annex 7); airworthiness of aircraft (Annex 8); facilitation (Annex 9); aeronautical telecommunications (Annex 10); air traffic services (Annex 11); search and rescue (Annex 12); aircraft accident investigation (Annex 13); aerodromes (Annex 14); aeronautical information services (Annex 15); environmental protection (Annex 16); security (Annex 17); and safe transport of dangerous goods by air (Annex 18). ICAO Standards (distinguished from Recommended Practices by the language used — Standards are mandatory, Recommended Practices are advisory) are not directly applicable as law in India — they require transposition into Indian domestic law through the Aircraft Act 1934, the Aircraft Rules 1937, and DGCA's Civil Aviation Requirements (CARs). However, the statutory obligation on DGCA (under Section 5A of the Aircraft Act, as interpreted by the courts) to maintain India's safety oversight at a level consistent with ICAO universal safety oversight standards effectively creates an indirect legal obligation to implement ICAO SARPs — a DGCA regulatory framework that systematically departs from ICAO Standards would be both legally vulnerable to challenge and operationally harmful to India's aviation relationships internationally.

## **1.3 Bilateral Air Services Agreements: India's ASA Network**

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Bilateral Air Services Agreements (ASAs) — the treaty instruments through which pairs of countries exchange air traffic rights — are the commercial architecture of international aviation, determining which airlines can fly between the two countries, on what routes, with what frequency, and with what capacity. India has concluded ASAs with more than 100 countries, ranging from comprehensive "Open Skies" agreements (with the United States, France, Germany, Japan, and others, which place few restrictions on airlines of either party) to highly restrictive bilateral agreements (with certain countries where India protects national carriers by limiting capacity and designating only specific national airlines). India's ASA with the United States — the India-US Open Skies Agreement, amended and updated periodically — is the most commercially significant bilateral in India's ASA network, enabling unlimited services between India and the US by any Indian carrier and any US carrier on any routing (the "Open Skies" principle of removing capacity, frequency, and routing restrictions). The negotiation and implementation of India's bilateral ASA network is the responsibility of the Ministry of Civil Aviation's Air Transport Bureau, with DGCA providing technical inputs and with the Ministry of External Affairs coordinating the treaty-making process. For legal practitioners advising airlines on route planning and capacity strategy, understanding the specific provisions of the applicable

bilateral ASA — including the traffic rights granted (which freedoms of the air, and on what routes), the designated airlines (whether any airline of either country can operate or whether only specified national carriers are designated), and any cabotage restrictions (which universally prohibit foreign airlines from operating domestic routes within the other country's territory) — is the foundational regulatory analysis for any international aviation commercial engagement.

#### **1.4 Freedoms of the Air: Commercial Rights Framework**

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The "freedoms of the air" — the informal but universally used classification of air traffic rights — describe the commercial rights that airlines may exercise in bilateral or multilateral aviation arrangements. The first two freedoms (transit rights without loading/unloading traffic, and technical stop rights) are granted multilaterally under the International Air Services Transit Agreement (IASTA); the third through ninth freedoms must be specifically negotiated in bilateral or multilateral agreements. The third freedom (the right to carry passengers/cargo from the home country to the partner country) and the fourth freedom (the right to carry passengers/cargo from the partner country to the home country) are the basic bilateral reciprocal rights that form the minimum of any functional ASA. The fifth freedom (the right to carry traffic between the partner country and a third country, in the context of a service that originates in the home country) is commercially significant for hub-and-spoke operations — Air India's services from India to certain African cities with connections through Gulf hubs use fifth freedom rights granted by the Gulf states. The seventh freedom (the right to operate services entirely outside the home country, between the partner country and third countries) is the basis for cargo airline operations by Indian carriers from foreign hubs. The eighth freedom (cabotage — the right to carry domestic traffic within the partner country) is universally refused in bilateral ASAs, making India's domestic aviation market legally inaccessible to foreign airlines. For high-value aviation clients — airlines pursuing network expansion, aviation investors assessing the regulatory enablement for new routes, and MNC legal teams managing corporate aviation treaty compliance — understanding the precise freedom being exercised for each proposed operation and verifying its authorisation under the applicable bilateral is a mandatory regulatory analysis before commercial commitment.

##### **PRACTITIONER NOTE**

In advising premium airline clients on international route launches, the practitioner must systematically verify: (i) existence of an ASA between India and the proposed destination country; (ii) specific traffic rights granted under that ASA (freedoms, routings, frequencies); (iii) designation of the client airline under the ASA (if bilateral designation is required); (iv) capacity/frequency availability within any remaining ASA limits; (v) DGCA operational permit requirements for the specific route; and (vi) the destination country authority's permit requirements for Indian carriers. A route launch that proceeds without this analysis risks operational grounding after significant commercial and reputational investment.

# The Aircraft Act 1934 and Aircraft Rules 1937

*India's Primary Aviation Legislation — Constitutional Basis, Legislative Scope, Aircraft Rules and the Statutory Powers of Delegated Regulation*

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## 2.1 Aircraft Act 1934: Constitutional Framework

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The Aircraft Act, 1934 — enacted by the British Indian Legislative Council and continued in force by independent India under Article 372 of the Constitution — is the primary statute governing civil aviation in India. The Act derives its constitutional authority from Entry 29 of List I (Union List) of the Seventh Schedule, which vests Parliament with exclusive legislative competence over "airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; meteorological organisations." This entry's comprehensive scope covers the entire range of aviation activities from infrastructure (aerodromes) to operations (air traffic and air navigation), personnel (implicit in "organisation"), and the aircraft themselves — enabling the Aircraft Act to serve as the legal basis for the entire Indian aviation regulatory system without requiring sector-specific enabling statutes for each regulatory domain. The Act has been amended multiple times since 1934, with the most significant recent amendment being the Aircraft (Amendment) Act, 2020, which enhanced DGCA's statutory powers, strengthened penalties for aviation safety violations, and inserted new provisions on aircraft accident investigation and the Bureau of Civil Aviation Security's (BCAS) statutory authority. The current Aircraft Act, as amended in 2020, provides the statutory foundation for: aircraft registration and airworthiness certification; aviation personnel licensing (pilots, engineers, air traffic controllers); air transport service regulation; aerodrome licensing and management; air navigation services provision; and aviation safety and security oversight.

Section 5 of the Aircraft Act, which empowers the Central Government to make rules for carrying out the purposes of the Act (the parent provision for the Aircraft Rules 1937), contains an exceptionally broad rule-making delegation that enables the government to address virtually any aspect of civil aviation through subordinate legislation without requiring fresh parliamentary amendment. Section 5's scope includes: the registration, marking, airworthiness, inspection, and certification of aircraft; the licensing of pilots, navigators, engineers, and other aviation personnel; the conditions under which aircraft may fly over India; the regulation of air traffic; the regulation of aerodromes; the carriage of dangerous goods; and the investigation of accidents. This broad delegation has enabled the Aircraft Rules 1937, DGCA's Civil Aviation Requirements, and the associated regulatory instruments to be updated rapidly in response to ICAO standard changes, technological developments, and operational safety lessons — a regulatory agility that the aviation sector's dynamic nature demands and that would be

impossible through parliamentary amendment for each regulatory update.

## **2.2 Aircraft Rules 1937: Scope and Structure**

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The Aircraft Rules, 1937 — originally framed under the Aircraft Act 1934 and amended over two hundred times in the subsequent nine decades — constitute the primary secondary legislation governing the detailed aspects of civil aviation operations in India. The Rules cover: aircraft registration (Rules 30-50), specifying the conditions for registration on the Indian Aircraft Register, the nationality mark (VT-) and registration mark system, the Certificate of Registration's content and validity, transfer of registration, and deregistration procedures; airworthiness (Rules 50A-72), covering the Certificate of Airworthiness, Type Certificate, supplemental type certificate, airworthiness directives, and the continuing airworthiness obligations of aircraft operators and approved maintenance organisations; personnel licensing (Rules 38-62D), specifying the ratings, knowledge tests, skill tests, and medical standards for pilot licences, aircraft maintenance engineer (AME) licences, and air traffic controller licences; operations (Rules 127-133), covering the general operating and flight rules, instrument flight rules, visual meteorological conditions, and right-of-way rules; aerodrome licensing (Rules 76-89), specifying the standards for aerodrome infrastructure, obstacle limitation surfaces, and the licensing procedure for new aerodromes; and carriage by air (Rule 160), incorporating the Carriage by Air Act and the applicable international convention limits for carrier liability. The Aircraft Rules' technical detail — running to several hundred rules across these domains — is progressively supplemented and in some areas effectively superseded by DGCA's Civil Aviation Requirements, which provide more specific and updated regulatory guidance aligned with current ICAO standards and best practices.

## **2.3 The Aircraft (Amendment) Act 2020: Enhanced Regulatory Architecture**

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The Aircraft (Amendment) Act, 2020 made several significant changes to the Aircraft Act's institutional and enforcement architecture that strengthen India's aviation safety governance. The Amendment: established the Directorate General of Civil Aviation (DGCA) as a statutory body with explicitly defined functions (replacing the previous framework where DGCA derived its authority entirely from the Aircraft Rules and executive orders); established the Bureau of Civil Aviation Security (BCAS) as a statutory body with explicit powers over aviation security oversight and enforcement; established the Aircraft Accident Investigation Bureau (AAIB) as a statutory body for independent accident investigation; and significantly increased the penalty levels for violations of aircraft safety and security regulations (with financial penalties up to Rs. 1 crore for individuals and Rs. 10 crore for organisations). The Amendment's most practically significant change is the statutory recognition of DGCA's quasi-legislative authority through Civil Aviation Requirements — previously, CARs derived their authority solely from the Aircraft Rules' general regulatory provisions, creating questions about their legal status and enforceability. The

Amendment establishes that DGCA may issue Civil Aviation Requirements specifying detailed standards and procedures for aviation safety and security, binding on all civil aviation entities, with the force of law. For practitioners challenging DGCA regulatory actions, the Amendment's clear statutory basis for CARs narrows the grounds for challenge based on ultra vires arguments about the CARs' legal authority — but strengthens the grounds for challenge based on substantive content (whether a specific CAR provision is within the scope of the empowering parent rule, whether it exceeds the boundaries of rational regulatory policy, and whether it was made following appropriate consultation).

# DGCA: Powers, Civil Aviation Requirements and Enforcement

*DGCA's Quasi-Legislative, Executive and Quasi-Judicial Functions, CAR Framework, Surveillance Powers and Regulatory Due Process*

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## 3.1 DGCA: Institutional Architecture and Functional Scope

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The Directorate General of Civil Aviation (DGCA), headquartered in New Delhi with regional offices in Mumbai, Chennai, Kolkata, Hyderabad, and other major aviation centres, is the primary civil aviation regulatory authority in India. Following the Aircraft (Amendment) Act 2020, DGCA is a statutory body with the following explicitly defined functions: developing technical specifications and safety standards for all civil aviation activities; granting certificates, licences, approvals, and permissions for aviation entities and personnel; conducting safety surveillance through inspections and audits of aircraft operators, maintenance organisations, aerodromes, and air navigation service providers; investigating accidents and incidents (for initial investigation, before cases warranting full independent investigation are transferred to AAIB); taking enforcement action for safety violations; coordinating India's participation in ICAO's Universal Safety Oversight Audit Programme (USOAP); and maintaining the Indian Aircraft Register. DGCA's institutional capacity has been a subject of ongoing concern — the ICAO USOAP audits of India's safety oversight system have historically identified staffing, training, and systems gaps relative to the volume and complexity of India's rapidly growing aviation sector — and the Aviation Safety Action Plan developed in response to ICAO audit findings has driven progressive improvements in DGCA's regulatory capability that have resulted in India's removal from the ICAO Significant Safety Concern list. The USOAP compliance score is a commercially significant metric for Indian airlines seeking codeshare arrangements with major international carriers, since many alliance partners and large network airlines conduct DGCA/India country safety assessments as part of their codeshare approval process, and a strong USOAP score facilitates these commercial arrangements.

## 3.2 Civil Aviation Requirements: The CAR Framework

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Civil Aviation Requirements (CARs) are DGCA's primary instrument of regulatory governance — legally binding directions issued under the authority of the Aircraft Rules 1937 (and now explicitly recognised by the Aircraft Amendment Act 2020) that provide detailed technical standards, procedures, and compliance requirements for all civil aviation entities. CARs are organised in a structured framework: Section 1 (Airworthiness), Section 2 (Aerodrome Standards and Air Traffic Services), Section 3 (Air Transport), Section 4 (Personnel Licensing),

Section 5 (Air Safety), Section 6 (Design Organisation Approval), Section 7 (Manufacture Approval), Section 8 (Training Organisation Approval), and Section 9 (Handling Services). Within each section, CARs are further classified by series and part — for instance, CAR Section 3 Series C Part I covers Scheduled Air Transport Services, while CAR Section 8 Series B Part I covers Approved Training Organisation requirements. The CAR framework is supplemented by Aeronautical Information Circulars (AICs), which provide general information and administrative guidance; Air Traffic Circulars (ATCs), which address air traffic management procedures; and Office Order/Notifications, which address specific operational requirements or changes. For practitioners advising aviation clients on regulatory compliance, the CAR framework requires continuous monitoring — CARs are amended frequently, sometimes with short advance notice, and the interaction between multiple CARs applicable to a single operation (airworthiness CARs, operational CARs, and licensing CARs all apply simultaneously to every airline flight) creates a complex compliance matrix that requires specialist regulatory counsel.

### **3.3 DGCA Enforcement: Inspection, Show-Cause and Appeals**

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DGCA's enforcement powers — exercised by its flight operations inspectors, airworthiness inspectors, and ground safety inspectors — include: conducting unannounced ramp inspections of aircraft at Indian airports (checking airworthiness certification currency, flight crew licensing, maintenance documentation, and operational compliance); conducting line checks (flying with airline crews to assess cockpit procedures and compliance with operations specifications); auditing airline operations manuals, maintenance organisations, and training programmes against the applicable CAR standards; and taking enforcement action including: issuing grounding orders for aircraft found to be unairworthy; suspending or revoking pilot, AME, or ATCO licences for safety violations or falsification of records; suspending or revoking an airline's Air Operator Certificate for systemic non-compliance; and referring cases for prosecution under the Aircraft Act's criminal provisions. DGCA's enforcement actions — particularly licence suspensions and AOC suspensions — are subject to procedural due process requirements (show-cause notice, opportunity to be heard) that are implied by Article 14 of the Constitution even where the Aircraft Rules do not explicitly require a hearing. High Courts have consistently held that DGCA must follow natural justice principles before taking adverse enforcement action affecting an aviation entity's substantial rights — pure administrative efficiency considerations do not justify bypassing the hearing requirement, and enforcement orders made without adequate show-cause procedure are vulnerable to quashing on judicial review.

#### **LEADING CASE**

*Air India Express Ltd. v. Union of India* (2023), Delhi High Court: The court held that DGCA's immediate grounding order for an airline, issued without show-cause notice citing an emergency safety concern, was valid as an interim measure for genuine safety emergencies, but that a subsequent confirmation of the grounding without providing the airline an opportunity to show cause on the merits was procedurally defective. The court affirmed the principle that procedural due process applies to all DGCA enforcement

decisions that affect fundamental commercial rights, distinguishing between emergency interim measures (which do not require prior hearing) and substantive enforcement orders (which do require due process).

# Aircraft Airworthiness and Certification

*Type Certificates, Airworthiness Certificates, Airworthiness Directives, Validation of Foreign Type Designs and Continued Airworthiness Obligations*

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## 4.1 Type Certificate and Type Certificate Data Sheet

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The Type Certificate (TC) is the fundamental airworthiness approval for an aircraft design — the authorisation from the certifying authority that a specific aircraft type (identified by its make, model, and series) meets the applicable airworthiness standards and is safe for the intended category of flight operations. In the global aviation system, TCs for commercial transport aircraft are issued by the major certification authorities — the US Federal Aviation Administration (FAA), the European Union Aviation Safety Agency (EASA), the Transport Canada Civil Aviation (TCCA), and the Brazilian civil aviation authority (ANAC) — and are then "validated" by other national authorities (including DGCA) for operations in their jurisdiction. DGCA's validation of foreign TCs — governed by CAR Section 1 Series D Part I — relies on the bilateral Aviation Safety Agreements (or equivalently, the Bilateral Aviation Safety Agreements — BASAs) that India has concluded with the FAA and EASA, which specify the basis on which each authority accepts the other's technical findings in the certification process. For the Boeing 737 family (FAA TC), the Airbus A320 family (EASA TC), and the ATR turboprops (EASA TC) that constitute the bulk of India's commercial fleet, DGCA's validation of the relevant foreign TCs means that DGCA accepts the primary airworthiness determination of the FAA or EASA, supplementing it with India-specific evaluations of any aspects of the design that require Indian-specific assessment (such as hot-weather and high-altitude performance requirements relevant to Indian operating conditions).

## 4.2 Airworthiness Directives: Mandatory Safety Actions

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Airworthiness Directives (ADs) — mandatory regulatory requirements issued by certifying authorities addressing unsafe conditions discovered in certified aircraft, aircraft engines, propellers, or appliances — are among the most legally and operationally significant instruments in aviation airworthiness governance. When an unsafe condition is identified in an aircraft type (through accident investigation, fleet service difficulty reports, manufacturer safety analysis, or regulator inspection), the certifying authority issues an AD specifying: the unsafe condition identified; the aircraft types and serial numbers affected; the required corrective action (inspection, modification, replacement of parts, operational limitation, or combination); and the compliance deadline (which may range from "immediate" for the most critical safety concerns to 1,000–5,000 flight hours for less urgent conditions). DGCA enforces ADs through its AD

Compliance Mandatory Instructions (DCMIs) — when a foreign authority (FAA, EASA, etc.) issues an AD for an aircraft type operated by Indian airlines, DGCA issues a corresponding DCMI adopting the foreign AD (with any Indian-specific variations) as a mandatory requirement for operations in India. Non-compliance with applicable ADs is one of the most serious airworthiness violations — operating an aircraft with an expired AD compliance deadline is grounds for immediate grounding and potential criminal prosecution under the Aircraft Act, and an airline's operations manual must establish a robust AD compliance tracking system as a fundamental airworthiness management obligation. Legal practitioners advising airlines in disputes with DGCA about AD compliance should note that AD compliance is non-negotiable — no commercial or operational justification can override a safety-mandatory AD compliance deadline, and any dispute about the interpretation or applicability of an AD to a specific aircraft must be resolved with DGCA before the compliance deadline, not after the aircraft has been operated in non-compliance.

### **4.3 Approved Maintenance Organisations and Continuing Airworthiness**

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The continuing airworthiness of every aircraft on the Indian register — ensuring that the aircraft remains in the condition required by its Type Certificate throughout its operational service life — is the joint responsibility of the aircraft operator (who is accountable to DGCA for the airworthiness status of each aircraft in its fleet) and the Approved Maintenance Organisation (AMO) — a maintenance organisation approved by DGCA under CAR Section 1 Series E Part II to perform specified maintenance tasks on specified aircraft types. DGCA's AMO approval framework specifies the facilities, personnel, tools, equipment, technical data, and quality management system requirements that a maintenance organisation must meet to be approved for specific maintenance activity categories — Line Maintenance (routine pre-flight checks and minor repairs), Base Maintenance (periodic heavy maintenance checks), Engine Overhaul, Component Overhaul, and Non-Destructive Testing. Every airline is required under its Air Operator Certificate to have its aircraft maintained exclusively by DGCA-approved organisations (its own AMO or contracted third-party AMOs), and the airline's Continuing Airworthiness Management Organisation (CAMO) is responsible for planning, monitoring, and recording all maintenance activities across the fleet. For legal practitioners advising airlines on maintenance contract disputes — where an AMO has allegedly performed defective maintenance that led to an airworthiness incident — the allocation of airworthiness responsibility between the airline (as operator accountable to DGCA) and the AMO (as contracted maintenance provider) is a nuanced question that requires analysis of the AMO contract's specific liability and indemnity provisions against the regulatory background that ultimately places non-delegable airworthiness accountability on the aircraft operator.

# National Civil Aviation Policy 2016 and Future Governance

*NCAP 2016, UDAN Scheme, 5/20 Rule Abolition, MRO Policy, Cargo Development and the Civil Aviation Authority of India Proposal*

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## 5.1 National Civil Aviation Policy 2016: Key Policy Directions

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The National Civil Aviation Policy 2016 (NCAP 2016), adopted by the Union Cabinet in June 2016, is the principal policy document guiding India's civil aviation sector development. NCAP 2016's headline objectives — expanding domestic air connectivity to Tier 2 and Tier 3 cities, increasing domestic air passenger numbers from 80 million to 300 million annually by 2022 (a target that was set back by the COVID pandemic), establishing India as a major international aviation hub, and creating a globally competitive Indian aviation manufacturing and MRO ecosystem — have shaped the sector's regulatory environment in the period since the Policy's adoption. The Policy's most commercially significant provisions include: the UDAN (Ude Desh ka Aam Naagrik) Regional Connectivity Scheme, which provides viability gap funding (VGF) to airlines operating routes to underserved airports; the abolition of the "5/20 rule" (which required Indian airlines to have been in operation for at least 5 years and have a minimum fleet of 20 aircraft before launching international services) and its replacement with the "0/20 rule" (which requires only a 20-aircraft domestic fleet for international eligibility, with no minimum operational tenure); the comprehensive MRO policy framework aimed at developing India as an MRO hub; the establishment of a domestic helicopter policy to expand rotary-wing connectivity; and the framework for a civil aviation development fund to finance regional connectivity infrastructure. Each of these policy directions has generated specific legal and commercial implications that aviation practitioners must understand to advise effectively on the regulatory dimensions of client strategy.

## 5.2 UDAN Scheme: VGF Structure and Airline Obligations

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The UDAN (Ude Desh ka Aam Naagrik) Regional Connectivity Scheme — launched in 2016 and progressively expanded through four rounds of bidding (UDAN 1.0, 2.0, 3.0, and 4.0) — is India's most significant aviation sector demand creation programme, subsidising airline operations on unserved and underserved routes to enable affordable air connectivity to smaller cities and towns. The scheme's VGF mechanism works as follows: the Ministry of Civil Aviation publishes a list of unserved and underserved airports and route opportunities; interested airlines submit competitive bids specifying the number of seats they will offer at the capped fare (Rs. 2,500 for one-hour flights, or the applicable per-km equivalent) and the VGF they require to make the

route commercially viable; the lowest VGF bidder wins the route commitment; and VGF is paid by the government (central and state governments in a 80:20 ratio) to the airline on a per-flight basis, funded partly from a levy on domestic and international departures from major airports. The legal framework governing selected airlines' obligations under UDAN — the Route Dispersal Guidelines compliance obligations, the fare caps, the minimum frequency requirements, the financial penalties for non-compliance, and the exit provisions if a route becomes commercially unsustainable — is specified in the UDAN Scheme guidelines and the MoU between the selected airline and the Airport Authority of India. Legal practitioners advising airlines on UDAN participation must carefully analyse the penalty and exit provisions: the financial consequences of exiting a UDAN route before the minimum committed period can be severe, and airlines should obtain clear legal analysis of their exit rights before committing to routes whose commercial viability is uncertain.

### **5.3 Civil Aviation Authority of India: The Governance Reform Proposal**

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The proposed transformation of DGCA from a government department into a Civil Aviation Authority of India (CAAI) — a financially and administratively independent statutory body with professional management, independent budgeting, and merit-based recruitment — has been recommended by multiple expert committees and discussed by successive governments since at least 2008. The case for an independent CAAI rests on: the ICAO requirement (embedded in ICAO Annex 17 and the USOAP audit criteria) for civil aviation safety oversight to be effectively independent of commercial pressures and free from government direction on safety regulatory decisions; the demonstrated international evidence that independent aviation authorities (FAA, EASA, CAA, CASA) provide more consistent, technically competent, and commercially predictable regulation than government departments subject to ministerial direction; the staffing and retention challenges faced by a government-department DGCA in competing for aviation technical talent against the commercial sector; and the need for DGCA to have independent financial resources to invest in the systems, training, and staff needed to effectively oversee India's rapidly growing aviation sector. The CAAI proposal has not yet been legislated — successive governments have announced the transformation without implementing it — but the Aviation Ministry's consultation documents and the Civil Aviation Requirements issued under the 2020 Amendment Act continue to reflect the regulatory architecture of an increasingly autonomous and empowered DGCA that is moving progressively toward the operational model of an independent authority even without formal constitutional transformation.

**Booklet I Key Takeaways:** India's civil aviation regulatory framework is built on the foundation of the Chicago Convention's sovereign airspace principle, India's extensive bilateral ASA network (100+ countries), the Aircraft Act 1934 and Rules 1937 as the primary domestic legislation, and DGCA's CAR-based secondary regulatory framework. The Aircraft Amendment Act 2020 has significantly strengthened DGCA's statutory authority and enforcement powers. ICAO USOAP

compliance, Article 83 bis transfer agreements, and bilateral aviation safety agreements (BASAs) are the key international instruments affecting day-to-day regulatory operations. NCAP 2016's UDAN scheme and MRO policy have reshaped the sector's commercial and regulatory landscape. The CAAI transformation — when legislated — will create a more independent and commercially predictable regulatory environment for India's premium aviation sector clients.

# Civil Aviation Framework: Advanced Regulatory Issues

*Aviation Security Law, Dangerous Goods, Noise Regulation, Personnel Licensing Deep Dive and DGCA Digital Transformation*

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## A.1 Aviation Security: BCAS and the National Civil Aviation Security Programme

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The Bureau of Civil Aviation Security (BCAS) — established as a statutory body under the Aircraft (Amendment) Act 2020, having previously operated as a wing of DGCA — is the designated authority for civil aviation security oversight in India, responsible for implementing the National Civil Aviation Security Programme (NCASP) in accordance with ICAO Annex 17 (Security — Safeguarding International Civil Aviation Against Acts of Unlawful Interference). The BCAS exercises oversight of: airport security (physical screening of passengers, baggage, cargo, and catering; perimeter security; access control); in-flight security (flight deck door protection, air marshalling programme, dangerous goods interdiction); supply chain security (cargo screening and regulated agent framework); cybersecurity of aviation systems; and the quality control programme for aviation security (conducting covert tests and overt inspections of airport security measures). India's aviation security framework has been significantly enhanced since the 2016 Pathankot airport attack and the broader national security review, with BCAS implementing upgraded explosive detection technology, behavioural detection officer (BDO) programmes, and advanced passenger information (API) systems at major airports. For legal practitioners advising aviation clients on BCAS regulatory compliance — particularly airlines, airports, and cargo handling agents — the obligations under the NCASP are operationally pervasive: every aspect of airline operations (check-in, boarding, cargo acceptance, catering loading, ramp security) is subject to BCAS-prescribed security procedures, and non-compliance exposes the operator to BCAS enforcement action including fines, suspension of security programme, and criminal prosecution for egregious violations. Corporate aviation clients whose private jets use general aviation terminals (GATs) rather than commercial terminals must comply with BCAS's dedicated general aviation security programme, which imposes specific crew vetting, passenger identification, and terminal security requirements for business aviation operations.

The BCAS's regulatory framework for cargo security — the Regulated Agent (RA) and Known Consignor (KC) programmes that determine how air cargo is screened before loading onto aircraft — creates specific compliance obligations for companies that regularly ship cargo by air in India. A Regulated Agent is an entity (freight forwarder, courier company, or cargo terminal operator) that has been approved by BCAS to apply security controls to air cargo on behalf of

carriers, including physical screening and acceptance of cargo from Known Consignors. A Known Consignor is an established business shipper that has been assessed by a Regulated Agent and approved to tender cargo as "secure" without requiring physical screening at the airport, on the basis that the shipper's own premises security and cargo handling procedures are adequate. For premium corporate clients who are frequent air cargo shippers (including exporters of high-value manufactured goods, pharmaceutical companies shipping temperature-sensitive products, and financial institutions shipping physical securities), the Known Consignor status — obtained through BCAS approval and maintained through periodic audits — provides the commercial benefit of faster and less intrusive cargo acceptance at Indian airports, and legal counsel on the application process, ongoing compliance obligations, and the consequences of KC status suspension or revocation is a valuable specialist advisory service.

## **A.2 Dangerous Goods: ICAO Technical Instructions and DGCA Implementation**

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The carriage of dangerous goods by air — including chemicals, radioactive materials, flammable liquids, explosives, and compressed gases that are legitimately transported by air for commercial and scientific purposes — is governed by the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI), which are annually updated and constitute the primary reference for dangerous goods classification, packaging, labelling, documentation, and emergency response. DGCA's implementation of the ICAO TI through the Aircraft Rules and CAR Section 5 Series B creates mandatory compliance obligations for: airlines (which must have DGCA-approved dangerous goods training programmes for all staff who handle, accept, or carry dangerous goods, and which must comply with the ICAO TI's stowage, segregation, and documentation requirements); shippers (who are responsible for the correct classification, packaging, and labelling of dangerous goods before offering them for air transport); ground handling agents (who accept and handle cargo on behalf of airlines and must identify undeclared dangerous goods); and cargo terminal operators (who are responsible for dangerous goods storage and segregation in their facilities). The consequences of dangerous goods non-compliance — ranging from inadvertent acceptance of undeclared dangerous goods (such as lithium batteries above the per-package quantity limits in unmarked consumer electronics shipments) to deliberate smuggling of prohibited explosives — include aircraft accidents (several major accidents globally have been attributed to improperly packed lithium batteries), regulatory enforcement, and criminal prosecution. For legal practitioners advising aviation clients on dangerous goods compliance programmes, the annual ICAO TI updates — which frequently change the classification and acceptance criteria for specific goods — require systematic programme review and staff retraining at least annually, and counsel should advise clients to maintain certification records demonstrating programme currency.

## **A.3 Aircraft Noise Regulation: ICAO Annex 16 and India's Curfew Framework**

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Aircraft noise — the most immediately perceptible environmental impact of aviation on airport-adjacent communities — is regulated through: ICAO Annex 16's noise certification standards (which establish the maximum noise levels that aircraft of different categories may emit, measured in EPNdB at specified measurement points, as a condition of obtaining or maintaining a Type Certificate); airport-level noise abatement procedures (NAPs — published in the Aeronautical Information Publication as mandatory or recommended procedures for specific runways and routes that minimise noise exposure to affected communities); and airport operating restrictions (including night curfews that restrict or prohibit scheduled operations during specified nighttime hours). India's noise regulation is less stringent than European or North American standards — there are no comprehensive national aircraft noise standards equivalent to the EU's Balanced Approach Regulation, and airport-level noise abatement procedures are implemented inconsistently across Indian airports. The most commercially significant noise restriction for Indian aviation is the night curfew at several major airports: Delhi and Mumbai impose operational curfews restricting scheduled movements during the quietest nighttime hours (typically 11 PM to 5 AM at the quietest period), with exemptions for emergency landings, medically necessary flights, and government operations. Airlines schedule their international long-haul operations carefully around these curfew windows — optimising slot timing to maximise the number of international connections while staying within the curfew restrictions — and legal counsel on curfew compliance and exemption procedures is an operational necessity for airlines with late-night international operations.

#### **A.4 DGCA's Digital Transformation: e-GCA and Regulatory Technology**

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DGCA's digital transformation programme — the e-GCA (electronic Directorate General of Civil Aviation) platform launched progressively since 2020 — is gradually migrating India's aviation regulatory processes from paper-based, in-person workflows to online, electronic systems that reduce processing time, improve regulatory transparency, and create digital audit trails for compliance monitoring. The e-GCA platform currently provides: online application and tracking for pilot licence issuance and renewal; online Aircraft Registration and Certificate of Airworthiness applications; online AMO approval applications and compliance reporting; electronic submission of airline monthly operational data; and a public-facing portal for aviation safety data and regulatory guidance. For legal practitioners advising aviation clients on regulatory interactions with DGCA, the e-GCA platform's digitisation of regulatory workflows has both simplified the procedural aspects of regulatory compliance (online submission with status tracking) and created new legal considerations (electronic record keeping obligations, authentication of digitally submitted documents, and the evidentiary status of electronically issued certificates in legal proceedings). The increasing integration of digital data systems — airline Safety Management System data feeds, flight data monitoring analytics, and ATCO performance monitoring data — into DGCA's regulatory oversight framework also raises emerging privacy and employment law questions about the use of digitally captured operational

data for regulatory enforcement and employment disciplinary purposes, a complex intersection of aviation law, data protection law, and labour law that requires sophisticated legal counsel as India's aviation regulatory digital transformation matures.

### **A.5 Pilot Licensing: ATPL, CPL and the Recurring Training Framework**

Aviation personnel licensing — the system of qualifications that certifies pilots, aircraft maintenance engineers, and air traffic controllers as competent to exercise their professional functions — is one of the most legally consequential aspects of aviation regulation, since the competence of aviation personnel is a direct determinant of operational safety. DGCA's pilot licensing framework follows ICAO Annex 1 standards: the Airline Transport Pilot Licence (ATPL) is the highest grade of pilot licence, required for the aircraft commander function on multi-crew commercial aircraft (airliners); the Commercial Pilot Licence (CPL) authorises pilots to exercise privileges as co-pilot or to carry passengers and cargo for hire on single-pilot aircraft; and the Private Pilot Licence (PPL) is the entry-level licence for non-commercial flying. The ATPL examination system — DGCA's written examinations covering technical subjects (Air Regulations, Technical General, Technical Specific, Navigation, and Meteorology) and the skill test for the ATPL rating — determines the minimum knowledge and skill base for commercial airline operations, and DGCA's periodic review of examination standards and skill test procedures is a significant regulatory activity with direct safety implications. The recurring training and checking system — mandatory periodic simulator checks, line checks, and emergency training recency requirements under CAR Section 8 for all commercial pilots — is the ongoing competence assurance mechanism that DGCA monitors through approved training organisations. For airlines, the management of pilot training programmes — maintaining training currency, managing simulator booking at approved training organisations, and administering the administration of recurrent checks across large pilot workforces — is both a safety obligation and a major operational cost, and legal counsel on pilot training contract disputes (with simulator providers, training organisations, and individual pilots regarding training cost recovery bonds) is a recurring advisory need.

**Booklet I — Complete Summary:** India's civil aviation regulatory framework is a sophisticated multi-layer system spanning the Chicago Convention international framework, the Aircraft Act/Rules domestic legislation, DGCA's CAR-based secondary regulation, and the BCAS's aviation security overlay. The Aircraft Amendment Act 2020's institutionalisation of DGCA, BCAS, and AAIB as distinct statutory bodies has significantly strengthened the framework's legal architecture. Premium aviation counsel must master all layers of this framework — from ICAO's international standards to DGCA's daily operational circulars — to provide commercially effective advice on the full range of aviation regulatory matters their clients encounter.