

# AIR LAW

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“A Look At M.K. Kaw Committee Report On Review And Restructuring of DGCA”, As Also Liberalisation And Privatisation Of Civil Aviation Laws And Regulation. Paper for International Conference on current developments on air law, space law, National Law University, Dwarka Centre For Air and Space Law, Paper by Prof. Saligram Bhatt, former Prof. of Space Law, JNU, ICAO Adviser to Govt. of Botswana, Lesotho, Somalia, ICAO Panel-Member for Regulation of Global Air Transport.

## **1. Introduction**

This paper will attempt to highlight major recommendations of M. K. Kaw Committee report that had impact on civil aviation laws and regulations for liberalisation and privatisation of civil aviation sector towards promoting market economy. The report was instrumental for bringing about changes in the organisation and structure of DGCA to respond to new global developments.

The report did not however recommend changing DGCA into An Aviation Authority, like in UK, or in USA, as it was thought that in 2005-06 time was not ripe to establish Aviation Authority for DGCA.

## **2. The Terms Of Reference**

The terms of reference required *inter alia*, a review of role and functions of DGCA as envisaged by ICAO, and review of air laws and regulations and procedures for discharging the duties and functions entrusted to DGCA by the State. The terms of reference also required to undertake a safety oversight audit.

Setting up of Kaw Committee received media coverage to inform the public/consumers and the industry to interact with the Kaw Committee deliberations.

## **3. Approach Adopted**

The Committee adopted the following approach:

To study the existing status; to study the ICAO Standards and Recommended Practices; to review the regulatory organisation framework; to study and recommend optimum uses of national airspace; to study and streamline regulatory functions of DGCA; to recommend restructuring of DGCA structure.

While making a review, the Report made emphasis on additional responsibilities of DGCA, compliance requirements on air laws, development of air transport economics and statistics, facilitation of air transport at airports, and necessary augmentation of manpower in civil aviation sector.

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#### **4. The Chapters Of This Extensive And Authoritative Report Comprise Of Following: Introduction**

Emerging Aviation Scenario: Some Strategic And Policy Imperatives: Role and Functions of DGCA: Statutory Framework for Aviation Regulation: Certification of Airlines: Licensing of Personnel; System of Examination: Training requirements for Industry and DGCA Personnel: Procedure for clearance for scheduled and non-scheduled flights; Restructuring and Strengthening DGCA: Manpower Policy and requirement: Administrative and Financial Autonomy for DGCA: Whether DGCA needs to be converted into an Aviation Authority; Summary and Conclusion.

#### **5. Executive Summary Of M.K. Kaw Committee Report:**

##### 5.1 Need for civil aviation policy and civil aviation act.

The report suggests to complete a civil aviation policy, and as a consequent a new Civil Aviation act.

##### 5.2 Strategic Imperatives.

There is need for joint and flexible use of airspace between the civil and military requirements in the country. The control of airspace should rest with the Ministry of Civil. A three tier coordination should be established between the civil and military side.

##### 5.3 Setting up of a National Advisory Committee on Civil Aviation.

This advisory committee should be setup under the Secretary Civil Aviation. It will review civil aviation policy from time to time to suit national needs.

##### 5.4 DGCA as the aviation safety and economic regulator.

The committee has recommended DGCA maintain as economic regulator for airports and airlines. Enforcement of economic regulation should be with DGCA. The latter should be given enough enforcement powers for environmental protection laws and related matters.

#### **6. Summary And Some Conclusion On State Of Civil Aviation In India Today**

The M.K. Kaw Committee made a roadmap for development of civil aviation in India. The report took opinion of leading experts into consideration. It did consult economists from the Planning Commission who have been reviewing global reports on de-regulation of air transport ever since the US Deregulation Act of 1978. The Committee saw academic reports from Dr. S.S. Sidgu who was former Secretary General ICAO and Chairman Foundation for Aviation And Tourism (FAST). Some academic works were done in JNU by present writer that were referred to. Besides, earlier reports by Ministry of Civil Aviation in particular by Mr. Naresh Chander were very useful. Report by JRD Tata Committee was always inspiring to read.

**7. The Present Scenario Looks Bright Again After Mild Slowdown In 2008-09**

That slowdown was due global economics. India has maintained some regulatory control over its financial structure. It is not given fully to market economy. Some leading economists like Paul Krugman support Indian economic policies. Joseph Stiglitz in particular is not much optimistic about market economic policies of the West. He wants regulation to ensure that economy gets back to the people. Meanwhile, India is busy making up infrastructure of roads, towns, agriculture, where civil aviation can reach and help mainstream economics, and also economic zones to make good exports. The latest news is that Ministry of Civil Aviation has accepted ICAO proposal to have DGCA as an Aviation Authority. This will enable the new Aviation Authority to develop finances to discharge its regulatory duties more efficiently. End Copyright Prof. Saligram Bhatt.