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AVIATION BULLETIN

GREENFIELD AIRPORTS: RUNWAY TO SUCCESS

Contents

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INTRODUCTION

India is on a march to become a global economic giant. The country is gradually turning from a predominant agrarian economy to an industrial powerhouse. The churning of the economy is throwing up new challenges and avenues of infrastructure development. The development of existing/greenfield airports is one of the many opportunities which await investment by private sector. According to a report prepared by the Investment Commission of India[1], the investment opportunity in this space is of US$ 15-17 billion in the next 5 years.

The policy on airport infrastructure is governed by the civil aviation policy prepared by the Ministry of Civil Aviation (**"MoCA or Central government"**). India's current aviation policy dates back to 1997 and is being updated. It is likely that the country shall have its new aviation policy during the course of next couple of months. The current aviation policy provides the broad framework for the infrastructure of greenfield airports.

*"**Greenfield Airports***

- *Establishing a Greenfield airport will require the prior approval of the government.*
- *A greenfield airport may be permitted where an existing airport is unable to meet the projected requirements of traffic or a new focal point of traffic emerges with sufficient viability. It can be allowed both as a replacement for an existing airport or for simultaneous operation. This aspect must be clearly spelt out in the notice inviting tenders.*
- *No greenfield airport will normally be allowed within an aerial distance of 150 kilometers of an existing airport. Where it is allowed as a second airport in the same city or close vicinity, the parameters for distribution of traffic between the two airports will be clearly spelt out.*
- *The Government may, while permitting a greenfield airport, decide whether it will be in the public or private sectors or be taken up as a joint venture.*
- *Where the Government decides to set up a greenfield airport through the Airport Authority of India* ***(AAI)****, suitable grant-in-aid will be provided to AAI to cover both the initial capital cost as well as the recurring losses."*[2]

Under the aegis of the broad policy parameters stated above, the government has prescribed certain procedural guidelines (**"the Guidelines"**) for setting up greenfield airports in India and these Guidelines have been summed in this third issue of our aviation bulletin.

Ownership of the airport

Greenfield airports may be promoted by the Central government, Airports Authority of India, State government, a local self government institution (like a municipal corporation), a private company, a consortium or a group of individuals, either individually or jointly subject to the Foreign Direct Investment (**"FDI"**) policy. The FDI policy allows 100% foreign investment in greenfield airports under the automatic

[1]Report titled "India – Opportunities in the world's largest democracy" available on http://www.investmentcommission.in/pdfs/investmentcommissionofindia-english.pdf.
[2] http://civilaviation.nic.in.

route, subject to sector specific regulations prescribed by the MoCA.[3] The Guidelines allow that if the State government is a promoter, it may induct private investors through Public Private Partnership.

Approval

Under Indian laws, only the Central government is empowered to legislate and decide on matters in relation to airways[4]. Hence, a promoter of a greenfield airport needs to seek all clearances and permissions from the Central government for setting up the airport.

The promoter shall, after preliminary clearance of the Central government, at its own expense, commission a pre-feasibility report to study the overall potential of the project. The study shall cover demand, technical, manpower, financial, economic and social modules of the project. The promoter shall submit the pre-feasibility report to the Central government for further approval.

The site of an airport is a very sensitive issue and the promoter is required to consult Director General of Civil Aviation, AAI, Ministry of Environment & Forest and Ministry of Defence for the purpose of finalizing the location of the airport.

The Central government shall examine the pre-feasibility report to determine whether the project shows promise of meeting the financial, economic and social criteria set for public investment expenditure. If the Central government is satisfied with the pre-feasibility report, it may thereafter permit the promoter to take up a detailed Techno-Economic Feasibility Study (**"TEFS"**).

The promoter shall commission TEFS including simulation study for conflict free operation by a competent professional body at its own expense. The findings of the pre-feasibility report shall be studied further and the accuracy of its variables shall be improvised to determine the potential of the project. The promoter shall endeavor to establish technical and financial viability through sensitivity analysis of realistic traffic and revenue projections, as emerging from the TEFS and submit the proposal to the Central government with full justification, *inter alia*, enclosing the TEFS and other studies in this regard. Such proposal must cover the respective State government's commitments to the proposal in respect of acquisition of land, supply of water and power, construction of access roads and other financial support.

Upon review of the TEFS and State government and the promoter's recommendations, the Central government shall arrive at the crucial decision of the final approval of the project. The approval is given by the Union Cabinet as per the Civil Aviation Policy. Upon approval of the Union Cabinet, the Central government formulates the operational plan of the project. Though the Union Cabinet may have given its final approval, the project may once again be reviewed at this stage to ascertain whether the project shall meet the desired objectives.

Proximity to an existing airport

If the proposed greenfield airport is close to an existing airport, the Central government has to decide whether the existing airport would require a closure or its commercial operations would be supplemented by the proposed new airport. If it is decided to close the existing airport, the unrecovered

[3] Press Note 4 of 2006.
[4] Entry 29 under List 1, Schedule VII of the Constitution of India.

investments of AAI would be compensated by a suitable mechanism such as share in the concession fee[5] paid to the government by the greenfield operator. Further, the existing airport along with all its assets shall revert back to AAI and AAI may decide on the future usage of the airport in consultation with MoCA. Upon closure of the existing airport, the new airport shall absorb AAI employees subject to merit and efficiency against vacancies.

Project Implementation

A steering committee is required to be established by the promoter comprising of officials of the State government and the MoCA to co-ordinate and allocate the resources for the project. The committee oversees the implementation of the project and funding proposal for achieving the objectives of the project. If the project is promoted by the State government, then the State government has to identify a joint venture partner for investment in the project and divest 74% of its equity shares in its favor. The steering committee also oversees the preparation of tender and other documents in relation to bidding and selection of this joint venture partner.

Bidding process and selection of joint venture partner

The State government shall select the joint venture partner through a transparent competitive bidding process based on technical and financial criteria. The bidders shall be provided with the various draft agreements. The bid document shall also provide the format of commitment required from the lenders of the proposed joint venture partner.

As stated above, the selection criteria shall be based upon the financial and technical strength of the bidder. The technical criteria may include financial, development and management abilities, while the financial criteria would be the minimum bid for state support and maximum concession fee.

Operational Equilibrium

As stated previously, matters of aviation fall exclusively in the domain of the Central government and the latter may retain certain critical and sensitive issues like security, communication, navigation, surveillance, air traffic management under its own administration. At the same time, the airport operator would be allowed to optimize the use of land subject to the applicable rules and regulations of the State government to generate non-aeronautical revenues. Similarly, landing, parking, housing charges will accrue to the airport operator.

Viability enhancement of the greenfield airport

The Guidelines provide that the greenfield airport may be made viable by following means:

(i) Land and external infrastructure provided by the State Government for the airport on lease through Land Lease Agreement with variety of combinations such as token lease, moratorium on lease, deferred payment of lease etc.,

[5] Fee paid to the Central government as percentage of revenue under the Concessions Agreement.

(ii) The State Government may enter into a State Support Agreement in addition to Land Lease Agreement with the greenfield airport operator providing for State Support such as grant, infrastructure loan, interest free loan etc.,

(iii) The Central government may levy an Advance Development Fee from embarking passengers at the existing airport or for the development of new airport on terms and conditions as per the rules framed by the Central government,

(iv) The greenfield airport may be allowed to levy a User Development Fee,

(v) The Central government may also provide concessions through budget pronouncement.

CONCLUSION

In 2003, the Central government amended the Airports Authority of India Act, 1994 to allow private participation in airports in India. It is one of the many laudable steps since India opened up its economy. The government has now realized the need of development of basic infrastructure in the country with private participation, which in turn would allow private players to reap the fruits in the country's progress. Greenfield airports are one of the many opportunities which emerge from the India growth story. India has a huge untapped potential in development of infrastructure in areas like power, roads, ports, telecom etc. which requires investment worth billions of dollars. At the same time, the democratic set up of Indian polity makes it a very safe and favorable destination of investment and the successive governments have ensured that India remains a destination where investors can achieve growth and profitability. Welcome aboard.

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