



REPORT OF THE DGCA COMMITTEE ON
CATEGORISATION OF AIR TRANSPORT
OPERATIONS IN INDIA

Office of Director General of Civil Aviation
New Delhi

February 2015



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INTRODUCTION

1. Indian classification of air transport operations draws on the Aircraft Rules 1937 wherein there is a broad delineation between operations carried out by public transport aircraft and private aircraft. The former is aligned with the concept of commercial operations while the latter with general aviation operations. There is however no basic document that classifies air transport operations which has led varying interpretation and lack of clarity in the scope of commercial operations and its attendant oversight obligations.
2. The civil aviation industry in India is still at a nascent stage of growth and limited number of aircraft carry out a mix of commercial and non-commercial activities. The industry has long demanded that there should be a proportionate approach to certification and operations of aircraft that are usually not used for scheduled air operations by commercial airlines. However, DGCA has followed the ICAO approach of addressing commercial and non-commercial operations. Within commercial operations, there are no separate SARPs for scheduled and non-scheduled operators.
3. Following representations by the industry, a committee was tasked to formulate comprehensive regulations for General Aviation/ Business Aviation (GA/BA) on 08 July 2014. This committee headed by Jt. DG made a presentation on 19th August 2014 during which the problem of clubbing General Aviation with commercial operations due to ICAO stipulations on the subject was highlighted. DG (CA) constituted another Committee headed by CFOI to formulate regulations for NSOPs. Following acceptance of the recommendations of this Committee, draft amendment seeking limiting issue of NSOP to operators with minimum three aircraft was put up on the DGCA website. There have been a number of responses to this proposal that is under process of finalization.
4. The issue of proportionate regulations for smaller operators was again flagged during a meeting chaired by the Secretary, Civil Aviation to discuss the Draft Civil Aviation Policy on 09 December 2014. The Director General directed constitution of committee to draft comprehensive recommendations on the issue.
5. **Committee Composition.** The members of the committee are as follows:

Capt Ajay Singh, CFOI	-	Chairman
Mr Maneesh Kumar, Director Air Safety		
Mr AK Bhardwaj, Director Aerodrome Standards		
Ms Tuhinanshu Sharma, DDAW		
Capt Amit Garg, SFOI	-	Member Secretary

6. Terms of Reference.

6.1. To recommend re-classification of air transport operations in India keeping in view the provisions of ICAO Annexes and international best practices.

6.2. To recommend amendments, if required, to Aircraft Rules based on the new classification.

6.3. To recommend amendments to various relevant CARs as per new classification.

6.4. To recommend an implementable schedule and list of activities to operationalize recommendations regarding new classification of air transport operations. The Committee would also look into the hurdles/ obstacles in implementation of new classification because of existing policies/ requirements within the purview of Civil Aviation or outside.

7. Committee Diary of Action.

26 Dec 2014 : DG issues Order No DG/MISC/2014 to constitute committee.

29 Dec 2014 – 14 Jan 2015 : Review of ICAO, FAA and EASA provisions on air transport operations.

15 Jan 2015 : Meeting of Committee Members to discuss proposed classification.

16 Jan 2015 : Meeting with BAOA and RWSI representatives to obtain inputs and discuss draft proposal. The attendance sheet of this meeting is placed at Annex.

17-18 Jan 2015 : Preparation of the draft report.

19 Jan 2015 : Discussions with Director, Air Transport on the draft report.

27 Jan 2015 : Meeting of the Committee members to discuss timelines for implementation of the draft report.

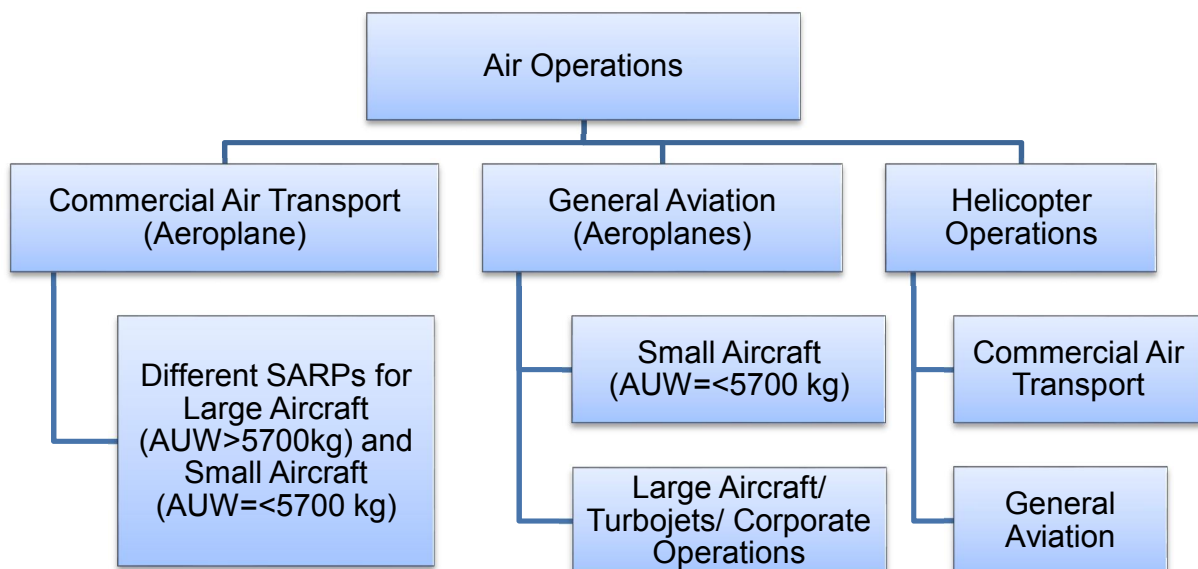
09 Feb 2015 : Meeting of the Committee members to discuss other activities for implementation of the draft report.

11 Feb 2015 : Final meeting of the Committee members.

12 Feb 2015 : Submission of report.

CURRENT REGULATORY FRAMEWORK: ICAO

8. International Air Transport Operations are currently governed by ICAO Annex 6, which has the following three parts: -
- Annex 6 Part 1 – International Commercial Air Transport – Aeroplanes. It has different SARPs for aeroplanes above 5700 kg. There are also a few SARPs for aeroplanes above 27000kg.
 - Annex 6 Part 2 – International General Aviation - Aeroplanes. This has a separate Section applicable only to Large/ Turbojet aeroplanes. It also has different SARPs for aeroplanes above 5700 kg.
 - Annex 6 Part 3 – International Helicopter Operations. This is further subdivided into Sections for Commercial and General Aviation. It also has different SARPs for helicopters above 3180 kg and those above 5700 kg.
9. The definitions pertaining to the types of operations are:
- *Commercial air transport operation. An aircraft operation involving the **transport** of passengers, cargo or mail for **remuneration or hire**.*
 - *General aviation operation. An aircraft operation other than a commercial air transport operation or an aerial work operation.*
 - *Aerial work. An aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.*



ICAO'S CRITERIA OF SAFETY OVERSIGHT OBLIGATIONS

10. The ICAO's classification of air transport operations as commercial and general aviation is primarily due to the higher involved duty of care of regulators for fare paying passengers as opposed to the lesser degree of the same for private use of air transport as has been explained in the foreword to Annex 6 Part II as follows:

"The Commission endorsed the philosophy established during initial development of the Annex that the owner and pilot-in-command must assume responsibility for the safety of operations in non-commercial operations where travel is not open to the general public. In such operations the Standards and Recommended Practices need not be as prescriptive as those in Annex 6, Part I, due to the inherent self-responsibility of the owner and pilot-in-command. The State does not have an equivalent 'duty of care' to protect the occupants as it does for fare-paying customers in commercial operations. The Commission endorsed the level-of-safety philosophy that the Standards and Recommended Practices of Annex 6, Part II, must protect the interests of third parties. It was therefore agreed that the basic provisions of Annex 6, Part II, should remain applicable to all general aviation operations, but updated to reflect current technologies and operational procedures and the use of safety management systems where appropriate.

The Commission also considered that additional provisions should be added for the larger, more complex operations, and all general aviation operations using turbojet aeroplanes. In this regard the Commission decided to add an additional section applicable to this sector of general aviation.

In large and turbojet operations, it was concluded that their complexity warrants provisions governing an operator, whereas in the initial development of Annex 6, Part II, the provisions applied to the owner and pilot-in-command. A review of the safety record of this general aviation sector showed that the principles of individual operator responsibility and industry codes of practice have been effective given that the safety record is excellent and essentially equivalent to large, scheduled air transport governed by Annex 6, Part I."

"It will be noted that the Standards and Recommended Practices contained in Annex 6, Part II, when applied to the operation of large aeroplanes, are less stringent than those in Annex 6, Part I, applicable to the same or similar aeroplanes when used in commercial air transport operations. Nevertheless, it is considered that, in conjunction with existing provisions in Annexes 1 and 8, Annex 6, Part II, ensures an adequate level of safety for the operations envisaged for the large aeroplanes in question. In this connection attention is drawn to the point that the entire performance Standards of Annex 8 are applicable to all aeroplanes of over 5 700 kg mass intended for the carriage of passengers or cargo or mail for

international air navigation, of which the prototype was submitted for certification on or after 13 December 1964. Moreover, by virtue of Annex 1 the pilot of an aircraft certificated for operation with a minimum crew of at least two pilots must hold a type rating for that aircraft type”.

11. Level of Safety in General Aviation. ICAO, in order to accommodate the essential differences between commercial and general aviation as also to afford greater flexibility to general aviation operations without compromising safety states the following in the foreword to Annex 6 Part II:

- *Level of safety. The Annex should ensure an acceptable level of safety to passengers and third parties (third parties meaning persons on the ground and persons in the air in other aircraft). Also, as some international general aviation operations (typically under 5 700 kg) would be performed by crews less experienced and less skilled, with less reliable equipment, to less rigorous standards and with greater freedom of action than in commercial air transport operations, it was therefore, accepted that the passenger in international general aviation aircraft would not necessarily enjoy the same level of safety as the fare-paying passenger in commercial air transport. However, it was recognized that in ensuring an acceptable degree of safety for third parties, an acceptable level of safety for flight crews and passengers would be achieved.*
- *Freedom of action. The maximum freedom of action consistent with maintaining an acceptable level of safety should be granted to international general aviation.*
- *Responsibility. The responsibility that devolves upon the operator in Annex 6, Part I, should, in Part II of the Annex, fall upon the owner and pilot-in-command. Precedent for this course of action exists in Annex 2.*

12. Complexity of Aircraft and Scale of Operations. The different SARPs for aircraft with higher AUW limits essentially recognize the higher passenger seating capacity and/ or the increased range of the aircraft. In turn, this increases the need for prudence while undertaking operations and thus calls for enhanced safety regulations. This is also recognized in recommendations contained in ICAO Section III of Annex 6 Part II which state that even non-commercial operations with aeroplanes having passenger seating capacity in excess of 9 or by operators having more than three aeroplanes irrespective of their size or type should be regulated with provisions stipulated for large aeroplanes or those with turbojet engines.

CURRENT REGULATORY FRAMEWORK : FAA

13. The FAA regulates operations under the following FARs classified as Parts;

- Part 91 – General Aviation
- Part 121 – Commercial Operations by Domestic, Supplemental and Flag Carriers
- Part 125 – Non-commercial Operations by Large (more than 6000 pounds AUW or 20 or more passengers) aeroplanes upgrading the level of safety of large aeroplanes formerly operating under Part 91.
- Part 135 – Commercial Operations by Commuter and On-Demand Charter.

14. FAA Definitions in 14 CFR;

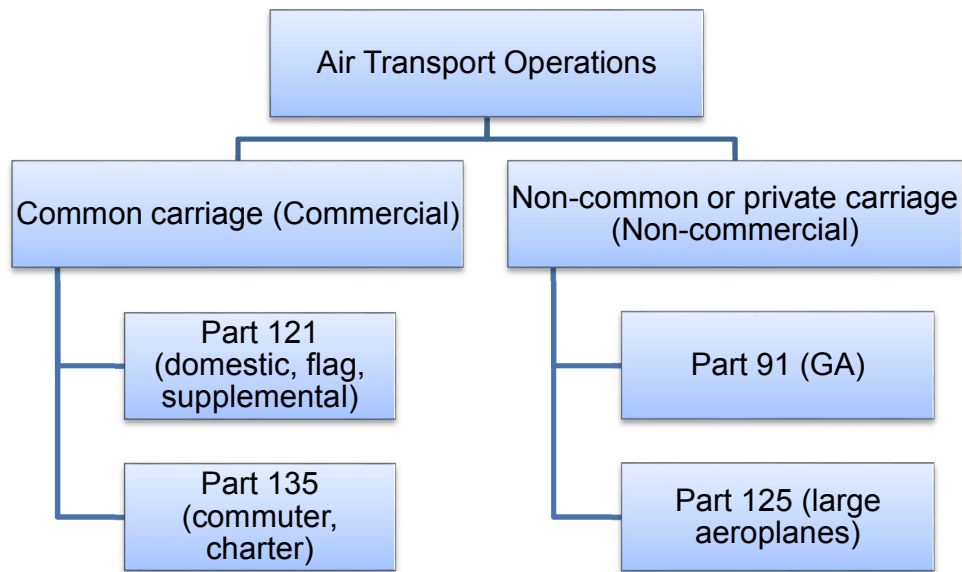
- *Air carrier* means a person who undertakes directly by lease, or other arrangement, to engage in air transportation.
- *Air transportation* means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.
- *Commercial operator* means a person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property, other than as an air carrier or foreign air carrier or under the authority of Part 375 of this title. Where it is doubtful that an operation is for “compensation or hire”, the test applied is whether the carriage by air is merely incidental to the person's other business or is, in itself, a major enterprise for profit.

15. The FAA espouses a concept of common carriage versus private carriage and this is further clarified in AC 120-12A.

“A carrier becomes a common carrier when it "holds itself out" or to a segment of the public, as willing to furnish transportation within the limits of its facilities to any person who wants it. Absence of tariffs or rate schedules, transportation only pursuant to separately negotiated contracts, or occasional refusals to transport, are not conclusive proof that the carrier is not a common carrier. There are four elements in defining a common carrier; (1) a holding out of a willingness to (2) transport persons or property (3) from place to place (4) for compensation. This "holding out" which makes a person a common carrier can be done in many ways and it does not matter how it is done.”

“In summary, persons intending to conduct only private operations in support of other business should look cautiously at any proposal for revenue generating flights, which most likely would require certification as an air carrier.

16. The broad FAA structure for commercial and non-commercial is depicted below:



CURRENT REGULATORY FRAMEWORK : EASA

17. EASA classifies air operations under commercial and non-commercial.

For non-commercial operations, there is a further sub-classification depending on whether an aircraft is complex motor powered aircraft (CMPA) or non-complex. Complex aircraft are defined as under whereas all other aircraft are termed as non-complex: -

17.1. *An aeroplane:*

- *With a maximum certificated take-off mass exceeding 5 700 kg, or*
- *Certificated for a maximum passenger seating configuration of more than 19, or*
- *Certificated for operation with a minimum crew of at least two pilots, or*
- *Equipped with (a) turbojet engine(s) or more than one turboprop engine.*

17.2. *A helicopter certified:*

- *For a maximum take-off mass exceeding 3 175 kg, or*
- *For a maximum passenger seating configuration of more than nine, or*
- *For operation with a minimum crew of at least two pilots.*

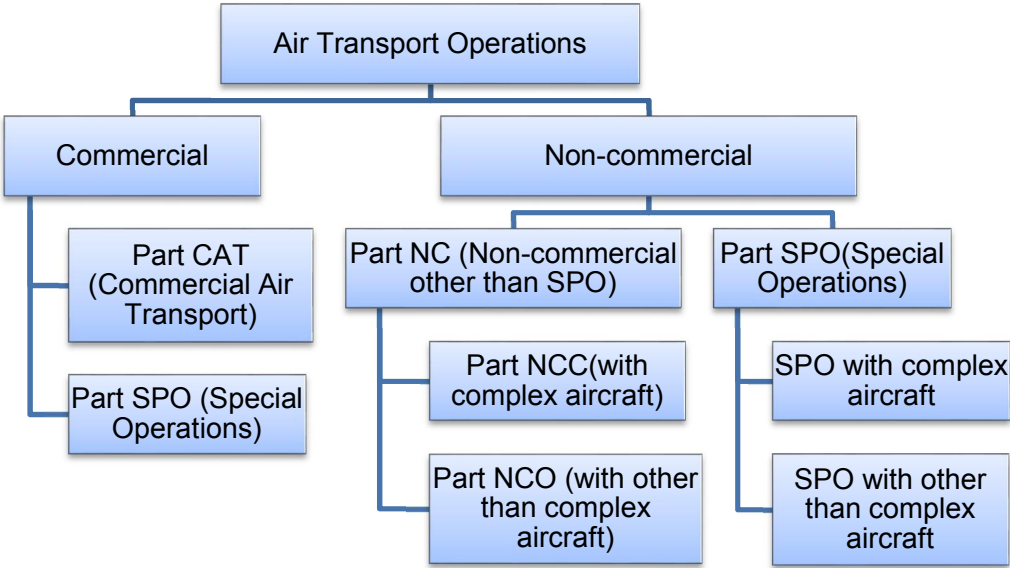
18. Definitions in EASA rule making are as follows;

- “Commercial operation shall mean any operation of an aircraft, in return for remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator”
- “Commercial air transport means the transport of persons, cargo or mail for remuneration or other valuable consideration”.

19. EASA’s regulations for non-commercial operations are based on the following objectives:

- Proportionate level of safety depending on complexity of the aircraft;
- Proportionate rules between NCO and NCC operations;
- Sufficient flexibility and efficiency for operators and authorities;
- Compliant with ICAO SARPs of Annex 6 Part II and Part III Section III as far as feasible; and
- Consistent with rules of other Annexes under the AIR OPS Regulation.

20. The EASA structure is as below:



CURRENT REGULATORY

FRAMEWORK : DGCA

21. The Aircraft Rules 1937 contain the following definitions in *Rule 3*

- "*Air transport service*" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights
- "*Air Transport Undertaking*" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward.
- "*Private aircraft*" means all aircraft other than aerial work aircraft or public transport aircraft;
- "*Public transport*" means all carriage of persons or things effected by aircraft for a remuneration of any nature whatsoever, and all carriage of persons or things effected by aircraft without such remuneration if the carriage is effected by an air transport undertaking;
- "*Public transport aircraft*" means an aircraft which effects public transport;
- "*Scheduled air transport service*" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, each flight being open to use by members of the public.

22. The Aircraft Rules 1937 cover scheduled and non-scheduled operators as follows:

- "*Rule 134*

No person shall operate any Scheduled air transport service from, to, in, or across India except with the permission of the Central Government, granted under and in accordance with and subject to the provisions contained in Schedule XI "

- *Rule 134A.*

No air transport service, other than a scheduled air transport service, shall be operated by any air transport undertaking of which the principal place of business is in any country outside India except with the special permission of the Central Government and subject to such terms and conditions as it may think fit to impose in each case.

No air transport service, other than a scheduled air transport service, shall be operated by an Indian air transport undertaking unless it holds a Non-Scheduled Operator's Permit granted by the Central Government.”

23. The Aircraft Rules 1937 cover general aviation operations as follows:

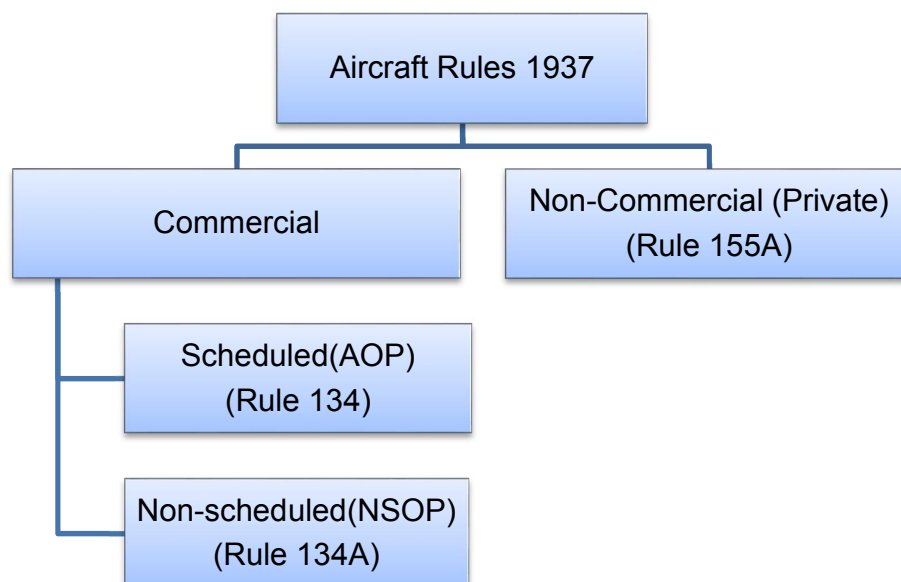
- *Rule 155. Private aircraft owners-*

A private aircraft, aircraft components and items of equipment shall be maintained as may be specified by the Director-General.

An owner shall maintain complete record of aircraft, aircraft components and items of equipment as included in the approved manual, of total time flown, the time flown since last overhaul and time flown since last inspection and any other data as may be specified by the Director-General. The records shall be made available for inspection and check and shall be maintained for such period as may be specified by the Director-General.

An owner shall comply with the engineering, inspection and manual requirements, as may be specified in expanded Civil Aviation Requirements.

24. The Aircraft Rules 1937 structure for commercial and non-commercial air transport is depicted below:



25. Besides, the basic provisions contained in the Aircraft Rules, 1937, CARs in Section 3 specify requirements for obtaining Operator Permits for different kinds of air transport operations. There are total of six CARs dealing with grant of Operator Permits as follows: -

- CAR 3-C-II : Minimum requirements for grant of Permit to operate Scheduled Passenger Air Transport Services.
- CAR 3-C-III : Minimum requirements for grant of Permit to operate Non-Scheduled Air Transport Services
- CAR 3-C-IV : Minimum requirements for grant of permit and operation of Air Transport Cargo Services
- CAR 3-C-VIII : Minimum requirements for grant of permit to operate Scheduled Regional Air Transport Service
- CAR 3-C-IX : Operational And Airworthiness Requirements For Seaplane Operation.
- CAR 3-C-X : Minimum requirements for operations with aircraft owned by State Govts/ PSUs of Central/ State Govts

26. CARs in Section 8, pertaining to commercial or general aviation with aeroplanes/ helicopters, regulate actual operations. Details of these CARs are as follows: -

- CAR 8-O-II : Operation of Commercial Air Transport – Aeroplanes
- CAR 8-O-III : Operation of General Aviation – Aeroplanes
- CAR 8-H-I : Operation of Commercial Air Transport – Helicopters
- CAR 8-O-V : Operation of General Aviation – Helicopters

27. It is evident that the current classification of Air Transport Operations in India is:

- In harmony with ICAO and best international regulations (FAA, EASA) as far as the basic structure of air transport activities of commercial and non-commercial operations are concerned. There are some nuanced variations with FAA and EASA for the operating regulations concerning special operations.
- At variance with best international practices wherein Indian regulations for certification of operators and governing operating regulations are fragmented compared to FAA and EASA. This leads to bottlenecks and inadequate clarity

for operators (as well as regulators to an extent) who are subject to varied certification regulations for a common set of operating regulations.

RECOMMENDATIONS OF THE COMMITTEE

28. In light of the above and based on the ICAO methodology and international best practices highlighted above, the following criteria are recommended for classification of operations: -

- the commercial nature of operations i.e. whether operations are for hire/ remuneration or not and whether they are available to general public or not, that is commercial and non-commercial (general aviation); and
- within the above respective classification, size and complexity of the aircraft based on aircraft AUW above and below 5700 kg and whether the aircraft are turbojet engine powered or not.
- the frequency of operations i.e. whether operations are scheduled or non-scheduled.

29. The first two factors are also the primary criteria for categorisation of air operations as adopted by both FAA and EASA, though both FAA and EASA follow a much more nuanced approach and use different terms to differentiate between various common types of air transport operations. Though ICAO uses the term scheduled and non-scheduled, as also FAA, there is no impact of this classification on regulatory aspects.

30. The following classes of air operations are accordingly proposed for drafting proportionate and complementary regulations for both certification and operations in India: -

- **Commercial Air Transport Operations with Large and Turbojet Aircraft.** This would include all commercial air transport operations with bigger aircraft (*i.e. above 5700 kg AUW and all turbojet aircraft*). These operators could undertake both international and domestic operations whether scheduled or charter.

Operations currently classified as Scheduled Commercial Operations and some categories of Non-Scheduled Operations (e.g NSOP Charter operations with large/ turbojet aircraft) would fall under this category.

- **Commercial Air Transport Operations with Small Aircraft.** This would include all domestic commercial air transport operations with non-turbojet aircraft below 5700 kg AUW including scheduled and charter operations.

This category would include all scheduled and non-scheduled operations for regional/ remote connectivity subject to the same being conducted with non-turbojet aircraft with limited AWW and passenger seating capacity. E.g. Air Taxi/ Commuter Airlines.

- **General Aviation Operations with Large and Turbojet Aircraft.** This would include all operations other than a commercial air transport operation or an aerial work operation conducted with bigger aircraft (*i.e. above 5700 kg AWW and all turbojet aircraft*) or on a bigger scale (*i.e. operators having more than three aircraft on their permit*) but not available to general public. These could include international and domestic operations.

This would include state/ government operations, corporate/ business operations with larger aircraft for non-commercial purposes.

- **General Aviation Operations with Small Aircraft.** This would include all operations other than a commercial air transport operations or aerial work operations conducted with aircraft below 5700 kg AWW on a limited scale *i.e. with less than three aircraft.*

The certification regulations based on above classification would have no distinction between aeroplanes and helicopters although operating regulations would address the specific requirements of both categories of aircraft.

31. This proposal would provide the following advantages over the system currently followed: -

- It encompasses all current air operations and would also cover all envisaged future air operations e.g. remote connectivity operations.
- It would enable duly *proportionate rules for certification* whilst totally conforming to the concept of duty of care and ICAO's rule making philosophy. e.g. The different ICAO SARPs could be segregated for different classes of air operations explained above.
- It would also enable *proportionality in operating requirements* based on the category of operations.
- It would provide a *comprehensive set of certification and operating regulations* related to the scope and complexity of operations.
- It would also provide tremendous *flexibility to operators* who could choose what category of operations to operate under, based on their requirements and the rigorousness of the regulations.

- *DGCA resources* would also get *proportionately applied* to ensure optimal regulatory oversight thus *enhancing aviation safety*.
- It would bring our regulations *at par with international best practices*.

AMENDMENTS TO AIRCRAFT RULES

32. Adoption of the recommended classification would be contingent to amendments to Aircraft Rules, 1937. The Committee has identified the following amendments that would be needed for the said adoption: -

32.1. Rule 3 :

- Deletion of definitions at serial numbers 1A, 9, 9, 9A, 39, 43, 45 and 49
- Addition/ Modification of definitions of General Aviation, Commercial Operations, Large Aircraft, Small Aircraft and Aerial Work.

32.2. Rule 14.

32.3. Rule 24(2)

32.4. Rule 35.

32.5. Rule 38A.

32.6. Rule 39B

32.7. Rule 48.

32.8. Rule 60.

32.9. Rule 78.

32.10. Rule 134

32.11. Rule 134A

32.12. Rule 134B

32.13. Rule 140B(3)

32.14. Rule 155.

33. The consequential impact of deleting/ introducing definitions would need to be studied in detail and changes incorporated as necessary.

AMENDMENTS TO CARs

34. Comprehensive proportionate regulations applicable to each category need to be developed by a dedicated team on the lines of best international practice.

35. Consequent to amendments to Aircraft Rules, a detailed exercise aimed at refining CARs in Sections 2, 3, 4, 5, 7 and 8 would be required so as to enable proportionate regulations for the four categories of operations. The most significant amendments would be in CARs contained in Section 3 whereas CARs in other Sections would continue to be derived essentially from ICAO Annexes albeit incorporating SARPs

for different categories as relevant. The desired end state of this exercise would be that there would be a total alignment of regulations for each category of operations.

IMPLEMENTABLE SCHEDULE

36. The adoption and implementation of these regulations would be subject to prior notification of amended Aircraft Rules by the MoCA. The recommendations have a far reaching impact and although considerable deliberations have already been held with major stakeholders, the in-principle approval of MoCA may be considered prior to implementing these recommendations. MoCA has already moved proposals for creating additional categories of operators viz Scheduled Regional Airlines/Commuter Airlines. Hence, all such classes would be absorbed into the classification proposed in this report whilst ensuring India's compliance with ICAO requirements.

37. The following schedule is proposed for implementation;

- 20 Feb 2015 – Acceptance of recommendations (DGCA)
- 28 Feb 2015 - Presentation to MoCA to obtain 'In Principle' approval of the proposed classification.
- 15 Mar 2015 - Submission of detailed proposal for amendments to Aircraft Rules to MoCA.
- 15 Mar 2015 - Selection of team for drafting CARs.
- 15 Jul 2015 - Presentation of draft CARs to CARG.
- 01 Sep 2015 – Publishing of draft for public comments.
- 15 Nov 2015 – Finalisation of CARs.
- 01 Feb 2016 – Applicability of CARs.

Sd/-

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CFOI
(Chairman)

Maneesh Kumar
DAS
(Member)

Capt Amit Garg
SFOI
(Member Secretary)

Shri AK Bhardwaj
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