Chapter 1
Introduction

1.1 Growth of Aviation Sector

The Airports Authority of India (AAI) was and largely is the sole air traffic service provider for the air space in the country covering an area of 2.8 million square nautical miles of land mass and the adjoining oceanic area as recognized by International Civil Aviation Organization (ICAO). There are 115 airports in the country including 22 civil enclaves[1] of Defence airfields as on 31 March 2011.

With opening of Indian airspace to private as well as international operators, the air traffic in the country registered phenomenal increase. Between 2000 to 2006, passenger traffic increased from 4.20 crore to 7.33 crore, cargo movements increased from 8.46 lakh MT to 13.97 lakh MT and movement of aircrafts rose from 4.90 lakh to 8.38 lakh. In fact the growth commenced from 1996 and continues till today.

The existing airport infrastructure proved to be inadequate to cope with the unprecedented increase in traffic and cargo. It led to congestion at many airports and in particular airports in metros. The country required new airports as also expansion and modernization of existing ones to efficiently handle passengers, cargo and aircrafts. Ministry of Civil Aviation (MoCA), in a Conference of Chief Secretaries held on 20 May 2006 projected a requirement of an additional ₹ 40,454 crore to augment and modernize existing infrastructure and to construct Greenfield airports. The revenue surplus generated by AAI was found to be grossly inadequate to meet this requirement.

1.2 Background of the decision of Joint Venture

While approving the restructuring of airports of AAI in January 2000 through long term lease route, the Cabinet had also directed that after detailed plans were prepared for development of any airport, each such case for lease should be separately brought up for consideration of the Cabinet Committee on Economic Affairs.

Action was accordingly initiated by MoCA to restructure and upgrade Delhi, Mumbai, Chennai and Kolkata airports through the long leasing route. Financial and Legal consultants were appointed and work of due diligence and transaction structure started. During this exercise it was felt in the Ministry that the Joint Venture route had certain advantages over long term leasing route. The matter was again put up for consideration of the Cabinet in December 2002 seeking approval to the proposal of restructuring of Delhi, Mumbai, Chennai and Kolkata airports through Joint

[1] Civil enclaves are airports under the control of Navy / Defence

Venture route by formation of separate Joint Venture company for each of these airports with the respective selected bidder, in which AAI would have five *per cent* equity.

The Cabinet directed the MoCA to discuss the proposal further with Ministry of Finance and Ministry of Company Affairs and return to the Cabinet. In July 2003, Ministry of Finance opined that the proposal should be restricted to Delhi and Mumbai only.

Finally in September 2003, Cabinet approved the proposal of MoCA that restructuring of Delhi and Mumbai airports may be undertaken through JV route by formation of two separate companies between AAI and selected JV partners. It also approved formation of an Empowered Group of Ministers(EGOM) comprising Minister of Finance, Minister of Law and Justice, Minister of Disinvestment and Minister of Civil Aviation (in-charge) to decide on the detailed modalities including the design parameters, bid evaluation criteria etc. based on which the Joint Venture partner was to be selected. Later Minister of Defence became the Chairman of the EGOM.

The EGOM in February 2005 approved all the key principles of the Request for Proposal (RFP) document along with the draft transaction documents i.e. Operation, Management and Development Agreement (OMDA), State Support Agreement (SSA), Shareholders Agreement (SHA), Lease Deed Agreement, CNS-ATM[2] Agreement and State Government Support Agreement.

The EGOM after evaluation of the technical and financial bids recommended the Joint Venture Partners, which were submitted to the Cabinet for approval in a note dated 31 January 2006. The Cabinet approved the proposal on 1 February 2006.

For Indira Gandhi International Airport, the JV partner approved was M/S GMR Consortium. The consortium comprised six private entities namely (i) GMR Infrastructure Limited (ii) GMR Energy Limited (iii) Fraport AG Frankfurt Airport Services Worldwide and (iv) Malaysia Airports (Mauritius) Private Limited (v) GVL Investments Pvt. Limited and (vi) India Development Fund.

AAI incorporated on 1 March 2006 a subsidiary company namely M/s Delhi International Airport Private Limited (DIAL). After the OMDA was signed on 4 April 2006 with the JV partner, 74 *per cent* of the equity shares were sold to them in accordance with the Shareholders' Agreement. In terms of the agreement, issued share capital of ₹ 200 crore was jointly held by AAI (26 *per cent*), GMR Infrastructure Ltd (31.10 *per cent*), GMR Energy Limited (10 *per cent*), GVL Investments Ltd (9 *per cent*), Fraport AG Frankfurt Airport Services Worldwide (10 *per cent*), Malaysia Airports (Mauritius) Private Limited (10 *per cent*) and India Development Fund (3.90 *per cent*). Subsequently, shares of IDF were acquired by GMR group. The paid up equity capital of DIAL as on 31 March 2011 was ₹ 2450 crore with the share of AAI at 26 *per cent*.

[2] Communication, Navigation, Surveillance and Air Traffic Management

Indira Gandhi International Airport was handed over to M/s DIAL with effect from 3 May 2006.

During the audit, MoCA informed (March 2012) Audit that "*the decision to the restructure and modernize Delhi Airport was a policy decision of the highest body i.e. Cabinet. The terms and conditions as well as the modalities of modernization/ restructuring as mentioned in the transaction documents were finalized and approved by the EGOM. It was further clarified that there has been no change in the finalized transaction documents. Several issues such as JV route, leasing of land /assets, Concession Period, Right of First Refusal (ROFR) etc. were policy decisions of the Cabinet based on expert inputs in formulation and inter-ministerial consultation. Hence these policy decisions should not be brought into question at this stage through audit observations.*"

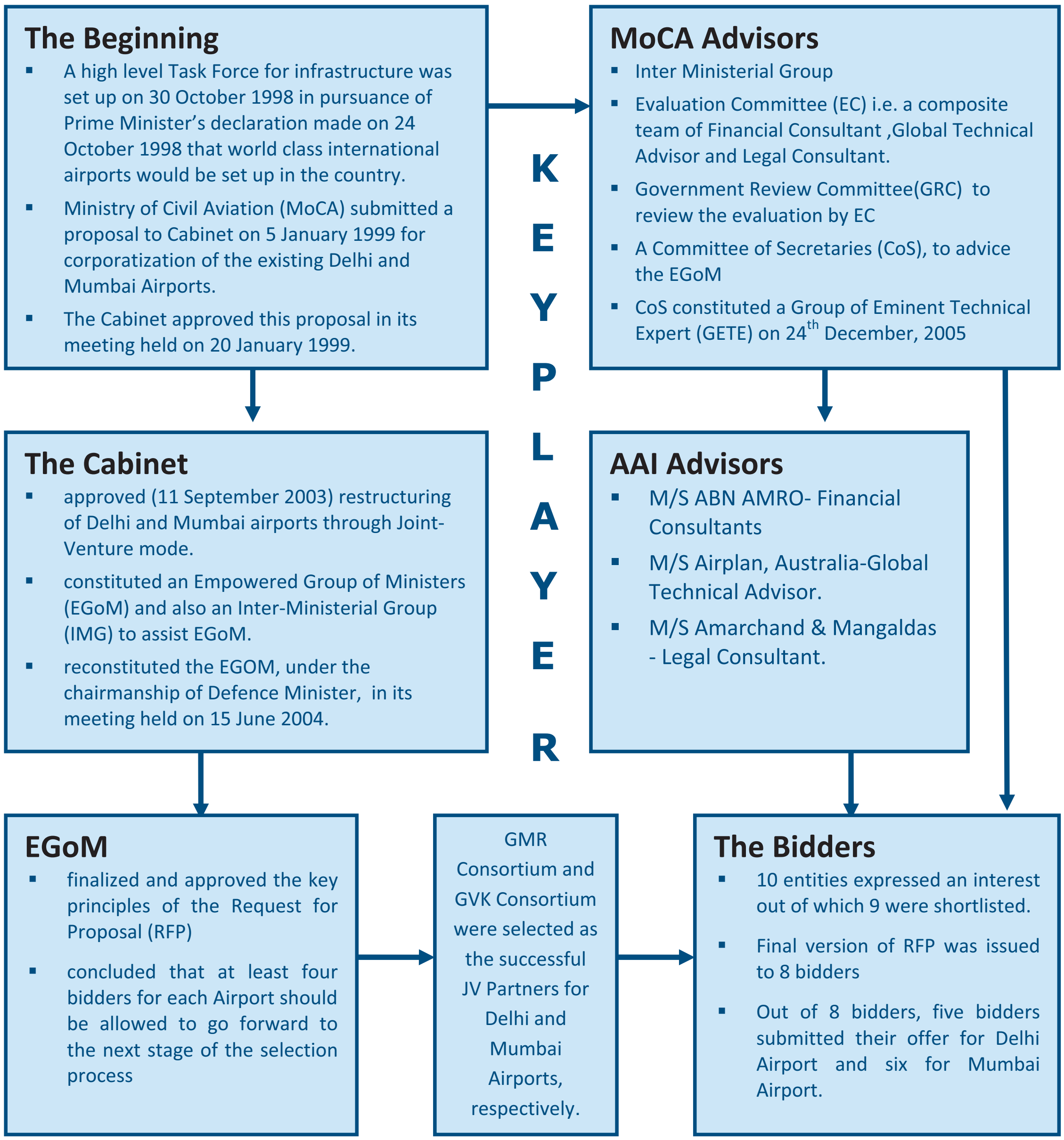
Admittedly, the decision to adopt the Joint Venture route was a policy decision. Audit acknowledges the sole prerogative of the Government to take such policy decisions. This audit exercise, on the other hand, has been restricted to operationalization of the decision of the joint venture mode. The terms and conditions as agreed to in the transaction documents do not fall in the domain of the policies though these have been approved by the EGOM.

Our observations pertain to operationalization of the JV mode and implementation of the OMDA and SSA. In the course of audit, we have also tried to assess whether during the conceptualization and implementation phases, the interests of Government and its revenue have been protected. The decision to enter into a Joint Venture to develop and manage Indira Gandhi International Airport is first of its kind. The present Audit Report thus should be viewed in terms of lessons learnt for future guidance.

It is to be noted that at the time when OMDA and SSA were being considered and finalized, no Regulator was in place. The SSA recorded the intention of the Government to establish an independent Airport Economic Regulatory Authority (AERA). The AERA Act establishing such an Authority was passed in December 2008. The Act came into force on 1 January 2009. The powers and functions of AERA which are contained in Chapter III of the AERA Act, came into force on 1 September 2009.

The steps in the public private partnership process are shown in the flow chart below:

Formulation, Development and Design of PPP in AAI



1.3 PPP Projects of AAI

Presently, four airports in India have been allowed to be developed and run by private companies with equity participation from Airports Authority of India and respective State Governments. All these are based on revenue sharing model. The equity structure and revenue sharing model as approved by Government of India in respect of these four airports are as follows.

Modernization and restructuring of IGI Airport at Delhi

- 26 per cent equity by AAI
- 74 per cent equity by a strategic JV Partner
- 45.99 % Gross Revenue Share by AAI
- The airport being managed by Delhi International Airport Pvt. Ltd.

Modernization and restructuring of CST Airport at Mumbai

- 26 per cent equity particpation by AAI
- 74 per cent equity by a strategic JV Partner
- 38.7% Gross Revenue share by AAI
- The airport being managed by Mumbai Intenational Airport Pvt. Ltd.

Greenfield Airport at Bangalore

- 13 *per cent* equity participation by AAI
- 13 *per cent* equity partcipation by Government of Karnataka.
- 74 *per cent* equity by a strategic JV Partner (a consortium of Siemens, Unique Zurich Airport and Larsen & Toubro)
- 4% share of Gross Revenue to be paid to GOI
- The airport being managed by Bangalore International Airport Pvt. Ltd.

Greenfield Airport at Hyderabad

- 13 *per cent* equity participation by AAI
- 13 *per cent* equity participation by Government of Andhra Pradesh
- 74 *per cent* held by strategic JV partners (GMR and Malaysia Airports Holdings Berhad)
- 4% share of Gross Revenue to be paid to GOI.
- The airport being managed by Hyderabad International Airport Pvt. Ltd.

1.4 Audit Objectives

The main objective of the performance audit was to assess whether;

- Crucial decisions for fixing of the concession period, Right of First Refusal, fixing of upfront fee and leasing of land for commercial exploitation reflected public interest and equity;
- Development of the airport was carried out as per Master Plan including funding of the project through debt and levy of development fee was as per the agreement;
- Whether transaction documents like OMDA, SSA etc were properly structured to support PPP project and adequate due diligence was carried out to safe guard public interest under PPP; and
- Receipt of revenue share of 45.99 *per cent* to AAI was as per OMDA including share of gross revenue generated from outsourced services.

1.5 Audit Criteria

The Performance Audit was carried out with reference to:

- The terms and conditions laid down in Request for Proposal (RFP) issued at pre-bid stage, OMDA and the supporting agreements relating to concession period, levy of DF, tariff determination, leasing of land, Master Plan, project cost etc.
- Guidelines/ directions issued by MoCA, AERA and AAI, the Board minutes and Agenda papers of AAI,
- Records maintained at the Co-ordination Cell of AAI, Independent Engineer's Reports, Independent Auditor's Reports, MIS Returns, and records and information maintained by AAI for calculation of revenue share of AAI.
- Agreements and other returns of DIAL.

1.6 Scope of Audit and Methodology

The audit was conducted on documents available with Ministry of Civil Aviation and Airports Authority of India. The audit covered mainly the period from 2006 to 2011. The audit methodology and objectives were discussed in the entry conference with the Executive Director (Internal Audit and Co-ordination), AAI in July 2011. During the audit, discussions with Management were also held whenever necessary. The draft Audit Report was issued to the AAI/MoCA on 15 February 2012 and the reply of the MoCA was received on 12 March, 2012. Audit findings were discussed during the exit conference on 16 March, 2012 in which Chairman AERA, Secretary MoCA and other senior officers of MoCA, AAI, AERA and DIAL were present.

There have been significant improvements in services at Indira Gandhi International airport for the travelling public. The new terminal T3 was completed within time for the Commonwealth Games 2010. The Airports Council International has adjudged the airport as the second best in the world in the category of 25-40 million passengers per annum.

As per the agreement relating to revenue share with AAI, DIAL is to pay 45.99 *per cent* of its gross revenue. Accordingly, DIAL paid ₹ 271.98 crore in 2006-2007, ₹402.72 crore in 2007-08, ₹ 445.63 crore in 2008-09, ₹ 538.92 crore in 2009-10 and ₹577.26 crore in 2010-2011 to AAI.

1.7 Acknowledgement

Audit acknowledges the co-operation and assistance extended by the Chairman AERA, Secretary, MoCA, Chairman AAI, Senior Officers and the staff of Ministry , Executive Directors of AAI and staff at all levels for providing assistance during the Performance Audit.