



## Annexure | Comments on the Draft Framework

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### Introduction and overview

At the outset, we commend the Ministry of Civil Aviation's ("MCA") move to release the [Draft Framework](#) of National Air Sports Policy ("NASP"). The Draft Framework provides clarity and regulatory principles to be followed for promoting and governing air sports such as aerobatics, aeromodelling, ballooning, drones, gliding, hang gliding, paragliding and skydiving in India.<sup>1</sup>

However, there are issues that we believe requires the Aayog's attention before it implements the Draft Framework.

### Key issues

**Governance of air sports** | The manner, membership, and internal processes of the proposed two-tier governance structure constituting Air Sport Federation of India ("ASFI") and Air Sports Associations ("ASA") are not clearly delineated.

- a. No clarity on requirement of ASA in each state and union territory of India: The Draft Framework provides that each ASA will elect its own President, Secretary and Treasurer. It further requires that the Executive Council of such ASA shall have 'presidents' of the said ASA from different States and Union Territories.<sup>2</sup> The specific wordings imply that ASA for respective air sport will have a different President (also, Secretary and Treasurer) in each State and Union Territory of India. The said requirement is not clearly worded and it remains ambiguous whether an ASA is required to maintain its presence in each State and Union Territory of India.
- b. ASA should include representation from Department of Sports: As per the Draft Framework, one of the responsibilities of ASA is to organize and oversee particular air sport related competitions at the national level. The ASA will also be responsible for enhancing participation and success of Indian sportspersons.<sup>3</sup> Currently, the promotion of sports is primarily the responsibility of of Department of Sports or the Ministry of Youth Affairs & Sports ("MYAS"). MYAS has the required experience in respect of conducting national competition for different sports. The Draft Framework envisages the Executive Council for ASA without any representation from Department of Sports of MYAS.
- c. Eligibility criteria: The Draft Framework does not provide any detailed eligibility criteria with respect to the appointment of President, Secretary and Treasurer of ASA. We believe this remains vague and absurd given the. There are multiple air sports stakeholders which will constitute membership of ASA. The Draft Framework should hence provide the clear eligibility criterion for appointing the Executive Council out of different stakeholders.
- d. Penalty imposing authority: The Draft Framework envisages two bodies under the governance framework: ASFI and ASAs. ASFI is the autonomous body under MCA with Chairperson being the Secretary of the MCA. The Draft Framework provides that the Chairperson of ASFI or the President of ASA may levy a penalty up to fifty thousand on a person or entity that contravenes or fails to comply with the proposed Draft Framework.<sup>4</sup> The Draft Framework is ambiguous about the cases in which

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<sup>1</sup> Clause 5 of the Draft Framework.

<sup>2</sup> Clause 8(b) of the Draft Framework.

<sup>3</sup> Clause 8(c) of the Draft Framework.

<sup>4</sup> Clause 20 of the Draft Framework.

the President of ASA or Chairperson of the ASFI will be the appropriate authority to decide penalty. The ASFI is an apex body governing Indian air sports whereas ASAs are bodies handling day to day activities related to their respective air sports. It is suggested that the Chairperson of ASFI and the President of ASA does not hold a position of same level in hierarchy. The Draft Framework may distinguish the cases in which particularly the Chairperson of ASFI will decide the contravention related penalty. Further, we believe that the Draft Framework may provide an independent authority with representation from judicial member to decide on contravention related penalties.

**Registration of air sports' equipment** | The Draft Framework requires stakeholders involved in providing air sports services to register as members with ASA. It further requires such members to get registration of key equipment with ASA.<sup>5</sup> It is unclear whether the registration of air sports equipment by different members with ASA is the sole registration process.

a. Multiple registration processes and duplicity of efforts:

The 'aircraft' is defined as any machine which can derive support in atmosphere from reactions of the air and includes balloons whether fixed or free, airships, kites, gliders and flying machines. The Aircraft Rules 1937 ("**Aircraft Rules**") does not allow a person to fly or assist in flying any aircraft unless it has been registered and bears mark of nationality.<sup>6</sup> Similarly, no person is allowed to operate a drone without the generation of a unique identification number ("**UIN**") as per the Drone Rules 2021 ("**Drone Rules**").<sup>7</sup> The UIN is generated as the operator gets registered drone on the digital sky platform.

Now, the Draft Framework also requires all person and entities have to get registered the key equipment used for air sports.<sup>8</sup> This gives rise to another process of registration for 'aircrafts' to be used for air sports. It is unclear whether 'aircrafts' or 'drones' to be used for air sports will be exempted from the requirement of registration given under the Aircraft Rules and the Drone Rules. We believe that MCA should consider providing the way of single registration for equipment to be used for air sports.

**Flight permissions on the basis of Digital Sky Platform** | The Draft Framework requires air sports practitioners to rely on the DGCA's Digital Sky Platform which segregates the airspace of India into red-zone, yellow-zone and green-zone.<sup>9</sup> The Draft Framework does not detail out the guidance on use of Digital Sky Platform by air sports practitioners.

a. Digital Sky Platform is specific to drones: Digital Sky Platform is an online platform hosted by the Directorate General of Civil Aviation ("**DGCA**") for various activities related to the management of unmanned aircraft system activities in India.<sup>10</sup> The platform is created with the aim to make it mandatory for pilots or operators of drone to verify zonal restrictions on real-time basis and take permission to fly in accordance to such zonal restrictions. The digital sky platform is dynamic in nature and therefore, the Drone Rules highlight verification requirements for such situations in detail. The Draft Framework has not mentioned requirement of any mandatory pre-flight verification for air sports practitioners. We urge the MCA flesh out the procedure of use of Digital Sky Platform by air

<sup>5</sup> Clause 13 of the Draft Framework.

<sup>6</sup> Clause 30 of the Aircraft Rules 1947.

<sup>7</sup> Clause 14 of the Drone Rules 2021.

<sup>8</sup> Clause 13 of the Draft Framework.

<sup>9</sup> Clause 14 of the Draft Framework.

<sup>10</sup> Clause 19 of the Drone Rules 2021.

practitioners. Further, the MCA should give the thought to certain features of the Digital Sky Platform that are particular to drones only and cannot be applicable to other air sports, in general.

- b. Mandatory permission from Air Traffic Control Authority: The Draft Framework contemplates mandating the requirement of permission from the concerned Air Traffic Control Authority for all air sports practitioners. The Draft Framework provides so given the most air sports involve operating at heights above 400 feet Above Ground Level (“AGL”). It is important to consider that air sports cover drone-based sports. The flight of each drone requires pre-flight verification as per the Drone Rules. The mandatory permission will create ambiguity with respect to the status of permissions that drone related air sports practitioners require. We believe that MCA should consider clarifying this part of the proposed Draft Framework.

**Import permissions for air sports’ equipment** | The Draft Framework acknowledges that most of the the complex equipment used for air sports such as aircrafts, helmets, etc. are imported in India. The Draft Framework recognizes the need to allow free imports for air sports equipment. However, the Draft Framework remains silent about the appropriate authority that will be responsible for issuing permission for imports.<sup>11</sup>

- a. Obtaining Permission to import air sports equipment: Currently, the responsibility for providing such permission of import / acquisition rests on two authorities particularly, the DGCA and the Directorate General of Foreign Trade (“DGFT”). The importers of aircraft components and spares require in-principal approval from the DGCA. The application of ‘in-principal’ approval goes through the Ministry of Home Affairs (“MHA”) and Directorate of Airworthiness (“DAW”).<sup>12</sup> After necessary clearances, the DGFT issues a letter of import license. The import of unmanned aircraft systems is also currently regulated by the DGFT and the government is expected to introduce further rules with respect to the same.<sup>13</sup> The Draft Framework remains silent on the appropriate authority that will be responsible for issuing permissions with respect to the import of air sports equipment. We firmly suggest the MCA to clearly specify the appropriate authority for permissions with respect to import permissions.

<sup>11</sup> Clause 16 of the Draft Framework.

<sup>12</sup> Air Transport Circular (“ATC”) No. 2 of 2017 and relevant Civil Aviation Requirements (“CAR’s”) (2019) [http://sarins.org/wp-content/uploads/2020/04/ATC02\\_2017R2.pdf](http://sarins.org/wp-content/uploads/2020/04/ATC02_2017R2.pdf).

<sup>13</sup> Clause 11, the Drone Rules, 2021. [229221.pdf \(egazette.nic.in\)](https://www.egazette.nic.in)