

Chapter 6: Management of bilateral agreements and slot management

6.1 Bilateral agreements

The sovereignty of a country over the airspace above its territories is recognized by the International Civil Aviation Organisation (ICAO). Bilateral agreements are air service agreements between two countries which provide different degrees of freedom of air, which are a set of commercial aviation rights granting a country's airlines the privilege to enter another country's airspace. Therefore, the availability of rights under bilateral agreements to AIL and other national and foreign carriers and the extent of their utilisation can impact AIL.

International commercial aviation rights are usually expressed as "freedom of the air".

Freedoms of the air

The first two freedoms concern the passage of commercial aircraft through foreign airspace and airports, the other freedoms are about carrying people, mail and cargo internationally. The first to fifth freedoms are officially enumerated by international treaties, especially the Chicago Convention. Several other freedoms have been added, and although most are not officially recognised, under broadly applicable international treaties they have been agreed to by a number of countries. The lower-numbered freedoms are relatively universal while the higher-numbered ones are less common.

Freedom	Description	
1 st	The right to fly over a foreign country without landing.	
2 nd	The right to refuel or carry out maintenance in a foreign country without embarking or disembarking passengers or cargo.	
3 rd	The right to fly from one's own country to another.	
4 th	The right to fly from another country to one's own.	
5 th	The right to fly between two foreign countries on a flight originating or ending in one's own country.	
		<p>Blue circles: operating airline's domestic market</p> <p>Red or yellow circles: foreign markets</p>

6 th	The right to fly from a foreign country to another while stopping in one's own country.	
7 th	The right to fly between two foreign countries while not offering flights to one's own country	
8 th	The right to fly inside a foreign country, continuing to one's own country.	
9 th	The right to fly inside a foreign country without continuing to one's own country.	

As on March 2016, MoCA had signed bilateral agreements with 109 countries. Indian carriers operated in 36 of these countries with AIL having operations in 33 countries. Airlines of 48 countries operated in India.

Report No. 18 of 2011 of CAG of India titled 'Performance Audit Report on Civil Aviation in India' had highlighted the impact on Indian carriers particularly AIL of the significant enhancement of bilateral entitlements agreed to by India, after liberalisation of air traffic rights in 2003 and the considerably higher utilisation of these entitlements by foreign carriers vis-à-vis Indian carriers. The Report had pointed out the significant extent of 6th freedom carriage from/to India by foreign carriers as compared to "point to point" passengers. It was suggested that till India had its own effective and efficient hubs and Air India/other Indian carriers were able to exploit them effectively, entitlements for airlines/countries predominantly dependent on 6th freedom traffic (notably Dubai, Bahrain and other Gulf countries in the first instance) should be strictly frozen by MoCA if possible, subject to diplomatic and other considerations. The Public Accounts Committee 2013-14 of the Parliament in their 93rd Report also recommended that immediate corrective measures be taken to protect the commercial interests of AIL.

The extent of utilisation of 31 bilateral entitlements granted during the period 2010-11 to 2015-16 as listed in the table below was reviewed in the current audit.

Table 6.1: List of bilateral agreements reviewed in audit

Region	Name of countries whose bilateral agreements have been reviewed
Gulf/ Middle East	Dubai (UAE), Oman, Kuwait*, Bahrain*, Saudi Arabia*, Iran, Iraq, Abu Dhabi
Europe	UK*, Germany*, France, Switzerland*, Italy, Austria*, Slovenia, Kazakhstan
North America	Canada
South East Asia and Oceania	Singapore, Thailand*, Malaysia*, Hong Kong, Myanmar*, Australia*, New Zealand
Africa	South Africa*, Seychelles*, Mauritius*, Egypt
South Asia	Afghanistan*, Bhutan and Sri Lanka

*Entitlements were not revised during the period from 2010-11 to 2015-16.

Of the agreements listed in the table, 16 agreements had been reviewed earlier. Audit noticed that out of the 31 bilateral arrangements reviewed, there were no changes in arrangements with 15 countries. The details of remaining 16 cases, where the terms of the bilateral agreements had been altered during 2010-11 to 2015-16 are at Annexure 4.

The results of the audit review are given in succeeding paragraphs.

6.1.1 Sixth freedom carriage

Enhancements in bilateral entitlements between India and foreign countries had resulted in seat capacity allowed in the bilateral agreements significantly exceeding the “point-to-point” passenger traffic requirements between the two destinations. The details of passenger traffic to/from India carried by leading International airlines during April 2014 to March 2016 segregated between “point-to-point” traffic and 6th freedom traffic, as per information furnished by AIL, is at Annexure 5. Audit observed that sixth freedom traffic exceeded more than half of their actual passenger carriage for these two years in respect of the airlines indicated in the table below:

Table 6.2: 6th freedom traffic to/from India carried by leading International airlines

(in percentage)

Sl. No.	Name of Airline	2009-10 <i>(as at Para 5.1.8 of Report No.18 of 2011-12 of CAG of India)</i>	2014-15	2015-16
1	Qatar Airways	78.00	82.60	79.37
2	Gulf Air	79.00	80.45	81.03
3	Etihad	74.00	69.25	71.03
4	Emirates	59.00	61.96	66.60
5	British Airways	61.00	61.95	55.70
6	Air Arabia	NA	57.59	60.96
7	Singapore Airlines	49.00	53.37	58.31
8	Fly Dubai	NA	68.75	70.86
9	Turkish Airlines	NA	73.91	73.24
10	Cathay pacific	76.00	59.88	61.26
11	Malaysian Airlines	42.00	62.98	58.69
12	Air France	73.00	60.00	61.21
13	Austrian Airlines	86.00	75.00	66.97
14	Finnair	NA	75.34	61.70
15	KLM	76.00	78.16	73.48
16	Lufthansa	87.00	77.95	76.89
17	Swiss International Air Lines	63.00	65.53	65.22

Further analysis of the data indicated the following:

The sixth freedom traffic carried by the above airlines continued to significantly exceed the point-to-point traffic between the countries during the years 2014-15 and 2015-16. During

2014-15, 6th freedom traffic constituted 59.15 percent of the total carriage. This increased to 61.14 percent during 2015-16 as shown in Annexure 5.

There was marginal increase in percentage of utilisation for sixth freedom traffic during 2014-15 and 2015-16, compared to 2009-10 in respect of six airlines. However, the percentage of utilisation had reduced marginally in respect of six other airlines.

Although the proportion of sixth freedom traffic carried by Etihad Airways reduced marginally in 2015-16 compared to 2009-10 and that of Emirates increased marginally during the corresponding period, the number of sixth freedom passengers carried by Etihad Airways and Emirates in 2015-16 was high at 19.79 lakh and 36.03 lakh respectively. In view of this, Audit reviewed the extent of utilisation of bilateral entitlements in India-Dubai sector and India-Abu Dhabi sector. The results of the review are indicated below;

A. India-Dubai Sector

C&AG of India in Report No.18 of 2011, highlighted the increase in bilateral capacity entitlements for Dubai (UAE) from 10,400 seats per week each direction (PWED) in 2003-04 to 54,200 seats PWED (+2 percent) in 2008-09 and the high level of utilisation of the entitlement for 6th freedom traffic from India by foreign carriers. Thus, the total available entitlement for both India and Dubai put together was 110568 seats PWED. Air India had estimated the market potential between India and Dubai as 46,313 seats PWED for both sides combined (as on November 2013) and estimated a total requirement of 57,891 seats PWED (at 80 percent seat factor) for the sector. As a result, the entitlement available was already in excess by 91 percent of the total requirement by both sides. Audit noted that the Ministry, however increased the bilateral entitlements in February 2014 from 54,200 seats (PWED) to 66,504 seats PWED (an increase of 22.7 percent), i.e. raising the total available entitlement to 133008 seats PWED for both sides combined from the existing total available entitlement of 110568 seats PWED. This enhancement was based on the high load factor of Dubai carriers. Audit noticed that the enhancement led to an increase in the 6th freedom carriage of Dubai carriers during the period from 2010-11 to 2015-16 as shown in the table below.

Table 6.3: 6th freedom carriage from UAE based carriers

Airline	Carriage to/from India – April 2010/March 2011		Carriage to/from India – April 2014/March 2015		Carriage to/from India – April 2015/March 2016	
	Total carriage	6 th freedom carriage	Total carriage	6 th freedom carriage	Total carriage	6 th freedom carriage
Emirates	45,81,536	27,83,781	47,29,299	29,29,969	54,09,610	36,03,008
Fly Dubai	37,827	20,080	2,88,014	1,98,258	4,77,182	3,38,326
Total	46,19,363	28,03,861 (60.69 percent)	50,17,313	31,38,227 (62.34 percent)	58,86,792	39,41,334 (66.95 percent)

Source: Reply of AIL Management

As can be seen from the above table, the share of 6th freedom carriage of the airline has increased from 60.69 percent in 2010-11 to 62.34 percent in 2014-15 and further to 66.95

percent in 2015-16. The actual number of passengers carried on 6th freedom carriage also increased considerably during this period. There was 11.92 percent increase in the number of 6th freedom passengers in 2014-15 in comparison with the corresponding number in 2010-11- at the corresponding increase was 40.57 percent in the year 2015-16. The increase in 6th freedom carriage might adversely affect the market share and growth potential of Indian carriers in other markets (Europe, North America) as well.

In the absence of relevant information, the actual effect of high level of utilisation of sixth freedom traffic by foreign carriers on AIL, could not be quantified in audit. AIL however stated that the likely loss to AIL by it would be about USD 4.5 million per annum for every tranche of 1000 PWED granted to Emirates. The correctness of this estimate of loss could not be verified in audit.

MoCA stated (02 February 2016) that within a short time span of two years from February 2014, the entitlement was being fully utilised by Indian carriers and that the traffic patterns between India and Dubai seemed to have undergone a sea change during the last two years.

B. India-Abu Dhabi Sector

Audit noticed that MoCA enhanced the bilateral entitlements to Abu Dhabi from 13330 seats to 50000 seats PWED in April 2013 at the request of Etihad Airways. AIL estimated that the market potential (based on data from February 2012 to January 2013) for traffic between India and Abu Dhabi was 8110 PWED which would translate to a capacity requirement of 10,813 PWED for the sector at 75 percent seat factor. Against this requirement, available entitlements were 27,193 PWED, well over double the requirement and both sides had not exhausted the existing capacity.

The table below indicates the sixth freedom carriage by Etihad Airways for the period from 2010-11 to 2015-16:

Table 6.4: Sixth freedom carriage of Etihad Airways

Airline	Carriage to/from India in FY 2010-2011		Carriage to/from India in FY 2014-15		Carriage to/from India in FY 2015-16	
	Total carriage	Sixth freedom carriage	Total carriage	Sixth freedom carriage	Total carriage	Sixth freedom carriage
Etihad	5,43,350	4,43,221	16,49,407	11,41,917	27,86,377	19,78,563

Source: Reply of AIL Management

As can be seen from the above table, the sixth freedom carriage of the airline had increased 2.5 times during the period from 2010-11 to 2014-15 and 4.5 times during the period from 2010-11 to 2015-16. As there was considerable un-utilised capacity (the entitlement being 50,000 seats which could be increased by two percent), the quantum of sixth freedom passengers might increase further in the future to the detriment of Indian carriers and airports.

In the absence of relevant information, the actual effect of high level of utilisation of sixth freedom traffic by foreign carriers on AIL, could not be quantified in audit. AIL had estimated that by winter 2015, the diversionary loss to AIL due to the 375 percent increase in seat entitlement in the India-Abu Dhabi sector would be USD 636 million (₹ 3464 crore) per annum. The correctness of the estimates of diversionary loss could not be verified in audit.

MoCA replied (02 February 2016) that the current winter schedule 2015-16 showed that there was a big gap in utilisation of the entitlement by the designated carriers of the two sides. While Etihad was using about 46000 seats per week, the Indian carriers were using only about 19000 seats per week. MoCA also stated that this fact would certainly be kept in view while considering any proposal for further increase in entitlements in future.

MoCA replied (02 September 2016) further that the observation of the Audit, highlighting the issue of increase in the sixth freedom carriage by Dubai Carriers/Etihad airways with recent enhancement or bilateral entitlements, was noted. MoCA clarified that such utilisation of allocated traffic rights by the designated carrier of country was not in the control of India. It was largely dependent on the presence of certain factors, such as a strong Airline, transfer of passenger facility at Airports and geographical location of a country to be in a position to convert the traffic rights granted through bilateral negotiations in the form of sixth freedom.

During exit meeting of the Performance Audit on 'Turnaround Plan and Financial Restructuring Plan of Air India' held on 26 October 2016, MoCA stated that convenience and demand of passengers were of equal importance. There had also been a strong demand from the people and State Governments and Industry organisations to start international operations. Indian carriers found it difficult to compete with strong foreign carriers and hence, there was difference in utilisation. AIL had suffered due to their cash crunch and inability to use their capacity/ entitlements due to lesser number of aircrafts. Thus there was a need to fill the gap in demand and capacity deployment.

MoCA also stated that sixth freedom carriage could not be regulated because there were no ICAO guidelines in this regard. MoCA also mentioned that open sky offer had been made to about 70 countries and that India was receiving a positive response from a number of countries.

Audit observed that the Ministry of Civil Aviation had released the National Civil Aviation Policy 2016 (NCAP 2016) in June 2016, effective from the second quarter of 2016-17. The salient features of NCAP 2016 with regard to bilateral agreements included the following;

- a) The requirement for Indian carriers of 5 years of experience and 20 aircraft (5/20 requirement) to commence international operations was modified to deployment of 20 aircraft or 20 percent of total capacity (in term of average number of seats on all domestic departures put together), whichever was higher for domestic operations.
- b) Adoption of 'Open sky' Air Services Agreement (ASA) on a reciprocal basis with SAARC countries and countries with territory located entirely beyond a radius of 5000 km from New Delhi with unlimited flights above the existing bilateral rights being allowed directly to and from major international airports within the country as notified by

MoCA from time to time. However, the points of call at other airports under the existing ASA would continue to be honoured till the same were renegotiated.

- c) In respect of countries partly or fully within a radius of 5000 km, where the designated carriers of India had not fully utilised 80 *percent* of their capacity entitlements, but foreign carriers /countries had utilised their bilateral rights and were pressing for increase in capacity, a method would be recommended by a Committee headed by the Cabinet Secretary for the allotment of the additional capacity entitlements.
- d) Whenever designated carriers of India utilised 80 *percent* of their capacity entitlements and sought additional capacity entitlements, capacity entitlements (bilaterals) would be renegotiated in the usual manner.

6.1.2 Enhancement in seat capacity entitlements

The Group of Ministers (GoM) in June 2011 decided to constitute a committee of Group of Officers (GoO) under Ministry of Finance to examine the Turnaround Plan (TAP) and Financial Restructuring Plan (FRP) submitted by AIL. The report of the GoO (October 2011) stated that one of the assumptions of TAP was that the existing bilateral entitlements for foreign carriers should not be relaxed until Air India utilised a significant portion of its target bilateral and derived certain advantages vis-a-vis its competitors. The other condition was that Air India should have the first right of refusal of bilateral entitlement.

Audit analysed cases of enhancements in entitlements made by MoCA during the period from 2012-13 to 2015-16 to verify whether AIL had in fact utilised a significant portion of its target bilateral before such enhancements were made by MoCA. The analysis was constrained by the fact that AIL could provide data with effect from Summer season 2014 only and MoCA stated (November 2016) that information pertaining to Summer Schedule 2016 alone was available with the Ministry.

Review of the utilisation of bilateral rights by AIL in 16 cases where the terms of the bilateral agreements had been altered during the period from 2010-11 to 2015-16 and details of which are summarized at Annexure 4 indicated that in eight³⁷ of these cases, the utilisation of bilateral traffic rights by Indian carriers including AIL, prior to their enhancement was insignificant (below or equal to 60 *percent* utilisation). In the remaining eight cases, the utilisation of traffic rights by Indian carriers was reasonable.

6.1.3 Utilisation of bilateral entitlements by AIL

6.1.3.1 Under-utilisation of fifth freedom rights by AIL

The right to fly between two foreign countries on a flight originating or ending in one's own country is referred to as fifth freedom traffic rights. Fifth freedom was intended to enhance the economic viability by picking up and dropping off passengers along the way. There are three distinct types of 5th freedom traffic rights as given below:

³⁷ Iran, Iraq, Kazakhstan, Singapore, Hong Kong, Bhutan, Sri Lanka and Egypt.

- 'intermediate point', where the right is granted from a third country to a second one between the third and the grantee;
- 'beyond-point', where the country giving the right allows traffic to continue to third countries;
- 'behind-point' or 'anterior-point' where the grantor allows service between other destinations outside of the grantee's country of origin.

Designated carriers of India, including AIL, had been granted fifth freedom rights in a majority of the bilateral agreements. Out of 50 MoUs reviewed, Audit noticed that designated carriers of India had clear intermediate/beyond fifth freedom rights in 28 agreements. In another 15 agreements, fifth freedom rights had been allowed with the requirement that points of call be either mutually agreed or be specified by India. Thus, in 41 out of 50 countries reviewed, AIL had the option of utilising fifth freedom traffic rights.

Audit observed utilisation of fifth freedom rights by AIL was low. Fifth freedom traffic was being carried by AIL only on a single sector in the approved winter schedule of 2011-12, viz. the India-Hong Kong-Osaka sector. In the summer schedule of 2015, AIL carried fifth freedom traffic on three sectors (India-Hong Kong-Korea, India-Hong Kong-Japan, India-Bahrain -Abu Dhabi). Further, as per utilisation details in respect of Summer schedule of 2016 provided by MoCA, AIL (along with Air India Express) had utilised fifth freedom rights in six sectors (comprising 10 countries)- India-Hong Kong-South Korea, India-Hong Kong-Japan, India-Bahrain-Qatar, India-Bahrain-Kuwait, India-Uzbekistan-Kazakhstan, India-Abu Dhabi-Ras-Al-Khaimah. Thus out of 33 countries where Air India/ Air India Express was operating, Air India had been able to utilise fifth freedom rights only on six sectors/ 10 countries. In case of Dubai, although fifth freedom rights were available to Indian carriers (AIL) and 'Change of gauge facility'³⁸ at Dubai airport had also been agreed upon in the bilateral agreement signed in February 2014, AIL failed to utilise these entitlements.

MoCA replied (02 September 2016) that the fifth freedom rights were acquired at inter-Governmental bilateral negotiations between Governments of the two countries as part of quid-pro-quo to balance out the exchange of traffic rights between the countries. The availability of fifth freedom rights did not preclude its utilisation as the same depended on traffic potential, viability of operations, aircraft availability etc. At present, Air India and Air India Express were utilising some of the fifth freedom rights as per the schedule requirement. AIL was using 'beyond-rights' from Hong Kong to Osaka and Hong Kong to Seoul. Effective 15 August 2016, AIL has started a new connective Ahmedabad-London-Newark (AMD-LHR-EWR) which will enable it to use the fifth freedom right from London to Newark. Air India Express was utilising fifth freedom rights between Bahrain-Kuwait (BAH/KWI).

It was evident from reply of MoCA that utilisation of fifth freedom rights by AIL was still not significant.

³⁸ In air transport, a change of gauge for a passenger or cargo flight is a change of aircraft while retaining the same flight number. The term is borrowed from the rail transport practice of gauge change.

6.1.3.2 Utilisation of seat capacity by AIL

Air India operates flights to 33 countries as per summer 2016 schedule. Audit noticed under-utilisation of allocated traffic rights by Air India/Air India Express (AIE) (in summer of 2016) in 20 countries, (details are at Annexure -6). Audit noticed the following issues:

- Air India/Air India Express had utilised 100 *percent* of the allocated capacity vis-à-vis 13 countries (Oman³⁹, Kuwait, France, Germany, Italy/spain, South Korea, Hong kong, Australia, Sri Lanka, Austria, Kazakhstan/Uzbeskistan, Ras-Al-Khaimah, Dubai) Yet, the Company made no efforts at enhancements of these allocations to provide for future enhancements in capacity despite the significant increase in fleet size following procurement of aircraft.
- The utilisation of allocations by Air India/Air India Express was ‘nil’ for seven destinations i.e. Canada, Bangladesh, Iraq, Kenya, Malaysia, Thailand, Sri Lanka. The utilisation was less than 50 *percent* of bilateral entitlements in respect of Abu Dhabi, Bahrain, Kuwait, Russia and Singapore.
- In the India-Oman⁴⁰ Sector and in India –Qatar sector, MoCA withdrew 540 seats (March 2015) and 2615 seats (September 2015) respectively from AIL’s allocation and transferred it to Indigo airlines due to non-utilisation of allocated seats by AIL.

Management replied (02 February 2016) that the observations are factual and at a future date if AIL or its subsidiaries require any further increase in entitlements due to induction of capacity, the Government would be willing to give AIL/its subsidiaries entitlements from the balance available or by increasing the quota for both sides.

MoCA (02 September 2016) too has concurred with the views of management.

Audit observed that bilateral entitlements could not be fully utilised by AIL. This resulted in AIL forgoing its allocated capacity in favour of other private airlines in the India-Oman and India-Qatar sector.

6.2 Slot Management

Airport slot at a level 3⁴¹ airport is a key asset of an airline. A slot was a permission to use the full range of airport infrastructure necessary to arrive or depart on a specific date and time. An airline was entitled to retain slots on the basis of historic precedence if the slots had been operated at least 80 *percent* of the time during the period allocated in the previous equivalent season. Slots may be transferred or exchanged between airlines or used as part of shared operation subject to the provision of the guidelines and applicable regulations.

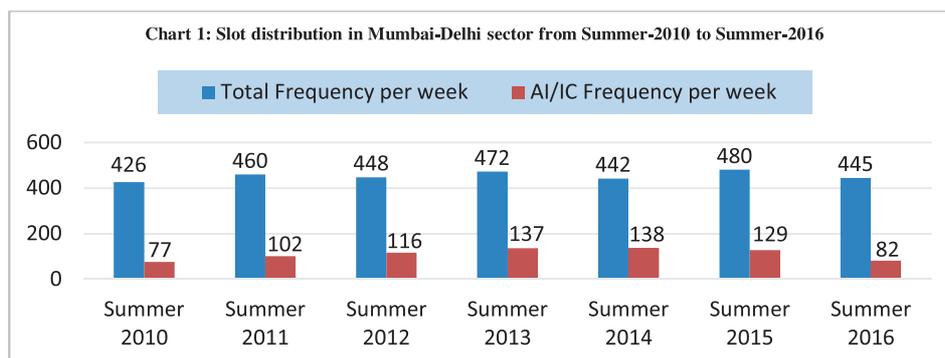
³⁹ On Oman route AIL could utilize 100 percent of its allocation whereas AIE could not utilize the allocated capacity.

⁴⁰ On Oman and Qatar sectors withdrawal of seats were in respect of AIE.

⁴¹ Level 3 means Airports where capacity provider have not developed sufficient infrastructure or where governments have imposed condition that make it impossible to meet demand.

6.2.1 Slot holding at Domestic Airports

Airports Authority of India managed the slots for domestic airports. For airports managed by Joint Venture Companies (JVC) in case of Delhi, Mumbai, Hyderabad, Bangalore etc. and defence airports, the respective JVC/defence body allocated the slots. IATA guidelines were followed in international airports. MoCA guidelines, which took into account the IATA rules, were followed in domestic airports. The passenger traffic in India was the highest in the Delhi-Mumbai sector. The slot-holding of AIL in these two airports vis-a-vis its domestic competitors is indicated in the chart below:



The slots held by AIL increased from 77 in summer 2010 to 129 in summer 2015 and then decreased to 82 in summer 2016. The share of AIL also increased from 19.01 percent in summer 2010 to 26.87 percent in summer 2015 and decreased to 18.43 percent in Summer 2016. The slots of Indigo increased from 112 to 119 and that of Jet airlines increased from 104 to 111 respectively during the same period.

Audit noticed from monthly reports on slot performance of Delhi International Airport Ltd. (DIAL) that performance of AIL on slot utilisation was poor. DIAL had requested AIL to take appropriate steps for improvement. No significant improvement was however noticed with performance on some slots in summer 2014 being as low as 5 percent. Audit did not find any communication from AIL to DIAL assuring better performance on slots.

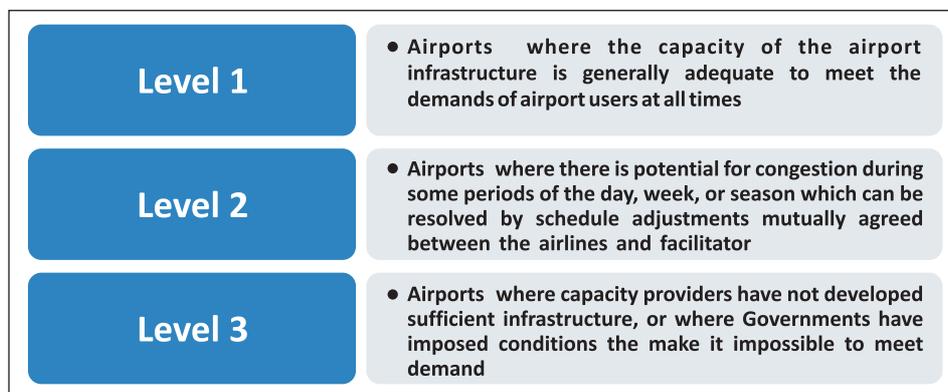
Management in its reply (02 February 2016) while accepting the poor slot performance of AIL stated that no action was being taken by DIAL against AIL on its poor performance. MoCA (September 2016), while concurring with the views of AIL stated that there was increase in the number of slots at Delhi Airport.

The number of slots of AIL decreased at Mumbai-Delhi from 129 (summer schedule 2015) to 82 (summer schedule 2016) and as per guidelines of IATA there was a possibility of slots being withdrawn in future on account of poor performance.

6.2.2 Slot holding of AIL at International Airports

Airports are categorized by responsible authorities according to three levels of congestion for the purpose of airport coordination. Slots at Level 3 airports were most sought after as the demand for slots there exceeded the availability.

Chart 2: Levels of Airport



Source: Guidelines for slot allocation (MoCA)

Air India operated at 18 Level 3 international airports (refer Annexure 7 for details). Management of slots by AIL in these airports was examined in Audit, of these, audit observations relating to Dubai airport are given below.

Dubai airport:

AIL could not retain its slot at Dubai with effect from February 2013 for Mumbai–Dubai sector. The Company reduced its frequencies on this sector from 18 in summer of 2012 to seven in winter of 2014. At the same time, Jet Airways increased its frequencies from 21 to 35, thus capturing a larger share of the market. With the increased number of aircraft with AIL (on account of new induction), there could be a future requirement of slots at Dubai airport. Dubai, however, was a slot constrained airport and the possibilities of additional slots in future would be remote as brought out in the course of the India-Dubai bilateral discussions.

Management (02 February 2016) and MoCA (September 2016) stated that though there was reduction in frequency, the seats offered to Dubai increased from 10244 per week in 2010 to 10382 per week in October 2015.

The increase in seats highlighted in the reply was only marginal. Besides, Dubai was a slot constrained airport and future availability of slots was remote.

6.3 Monitoring of Bilaterals and Slot management

6.3.1 Monitoring of bilateral rights

The Ministry of Civil Aviation was required to constantly monitor the utilisation of traffic rights allocated to various airlines. Audit noticed lack of adequate monitoring on the part of MoCA/DGCA as detailed below:

- MoCA called for details of only unutilised rights at the time of allocation of additional traffic rights to airlines for subsequent schedules. In fact, the proforma prescribed by MoCA did not capture the details of utilisation of rights allocated to an airline. DGCA also did not call for details of utilisation once a flight schedule had been approved and thus DGCA assumed the approved schedule of an airline as its utilisation.
- The Air Services Agreement stipulated that the aeronautical authorities of each Party should provide or cause its designated airline(s) to provide, to the aeronautical authorities of the other Party, statistics relating to the traffic carried during each month on the agreed services to and from the territory of that other Party showing the points of embarkation and disembarkation of such traffic. Such statistical information from foreign airlines was not found on record except in the case of Dubai.
- In case the available traffic rights were not sufficient to cover the requirements reflected in the applications, the allocation of traffic rights to various eligible applicants as per order of DGCA (July 2009) should be in the ratio of Available Seat Kilometres (ASKMs) deployed by the applicants on domestic scheduled air transport services during the last five years. Audit observed that in the case of Oman, where utilisation by Indian carriers was high, the traffic rights allocated to Indigo were curtailed without working out ASKMs deployed by Indigo on domestic scheduled services for the last five years.
- It was stipulated (in the DGCA order of July 2009) that after allocation of traffic rights on the international routes, the air transport undertaking should not reduce its ASKMs deployed on the domestic routes. In case of any reduction in the ASKMs on the domestic routes, the allocation of traffic rights on international routes should be reviewed and a decision, as deemed fit, should be taken. Audit observed that ASKMs deployed by Jet Lite depicted a decreasing trend during the period from 2012-13 to 2013-14. However, no evidence of any review of international traffic rights of Jet Lite was found on record.

The Ministry stated as follows in its reply (02 February 2016):

- A chart showing the capacity allocated and utilised by Indian carriers was readily available and was updated after each schedule period.
- ASKMs were taken into consideration and allocation was made in the proportion of ASKMs in case of Dubai.

The reply of the Ministry needed to be considered in the following context:

- The capacity utilisation for a scheduled period was indeed called for during consideration for additional entitlements. However, this was not done on a regular basis during the period of operation of these rights. Thus, timely reallocation of unutilised rights was not possible.
- While the Ministry stated that ASKMs were taken into consideration, Audit had pointed out the case of Oman where Indigo's traffic rights had been curtailed without any analysis by the Ministry on the basis of ASKMs.

6.3.2 Monitoring of slot management

Airlines should only hold slots that they intend to operate or use. Airlines were expected to return immediately any slots they would not use in order to ensure that scarce capacity was not wasted. It might be possible to reallocate returned slots to other operators even at short notice. Slot guidelines contained the following provisions to monitor the slot utilisation:

- Clause 5 (vii) guidelines on slot allocation, issued by Ministry of Civil Aviation (May 2013) stated that, in case airline did not utilise the allocated slot for one month, the allocated slot might be cancelled. DGCA informed that this was a part of CAR wherein airlines had to inform all concerned agencies the utilisation of slot and/or flights not operated for a considerable period for purpose of cancellation. However, Audit scrutiny did not reveal any steps taken by DGCA for cancellation of such slots.
- Rule 5 (vi) of Slot guidelines stipulated that amendments in schedule during mid-season might be discussed and finalised by a committee headed by Joint Secretary, MoCA, officials from DGCA, AAI and JVC of airports. The Committee should meet at least once in a month to discuss and finalise these amendments. Audit did not find any record in the Ministry/DGCA to assure that mid season amendments had been approved by the Committee in terms of above stated provision. Besides, it was noticed from records of Delhi International Airport Limited (DIAL) that mid season amendments were carried out by the operators of airports themselves.

Large scale enhancement of seat capacity entitlement, particularly in the Gulf region (Dubai and Abu Dhabi) beyond the point-to-point passenger traffic requirements between India and these destinations led to sharp increase in sixth freedom carriage to and from India.

AIL failed to utilise its allocated share of traffic rights which made it vulnerable to transfer of such rights to other Indian carriers. AIL also had significant fifth freedom rights which could have been effectively utilised to address the diversionary effect of sixth freedom carriage by foreign airlines. However, fifth freedom rights had not been significantly utilised by AIL so far.

