Globalization and Its Impact On Indian Economy

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Scheme of the Discussion

- Course Objectives and Course Structure
- Linking of the Course to Recent Developments
- Globalization and its Impact on Domestic Governance
- Globalization and its Impact on India
- Impact of Globalization on Civil Aviation
- WTO, GATS and Air Transport Industry
- Domestic Implementation of Global Financial Regulations in India

Objectives of the Course

- The Aviation Law and Air Transport Management course has been developed specifically for those aviation professionals who are currently working in the aviation and associated industries.
- This course satisfies the requirements of Aviation Lawyers, Aviation Managers, pilots, aircraft engineers, air traffic controllers, airport operators in terms of their workplace duties and associated legal and regulatory responsibilities.
- This course also provides a general overview of the law and legal systems including contract and tort law and also areas of corporate and criminal law.
- Students undertaking aviation-related studies would benefit from this course as it presents all the areas of the law that impinge upon aviation activities.

DESCRIPTION Of The COURSE STRUCTURE

- The Master's programme of Aviation Law and Air Transport Management is a unique blended version of '***Onsite and Online***' modules which is spread across two years and divided in four semesters. The rigorous program comprises of twelve papers along with Dissertation.
- The structure of the Masters programme is as follows:
- **SEMESTER I:**
  - General Principles of Law
  - International Air Law
  - General Principles of Management
  - Airport Management

Course Structure Cont..

- **SEMESTER II:**
  - Domestic Air Laws in India
  - Aviation Safety, Security and Liability Laws
  - Airline Management
  - Air Space & Air Traffic Management
- **SEMESTER III:**
  - Aviation Contracts and Tenders
  - Aviation Corporate Laws
  - Air Transport Economics and Statistics
  - Aviation Marketing
- **SEMESTER IV:**
  - Dissertation

Dissertation

- The spectacular developments in aircraft technology in the 20th century, made law-making necessary in this new field of transportation.
- The course extensively tries to encompass numerous aspects of Aviation Law and Management. Given the nature of the course, there are numerous contemporary aspects of the aviation law and management that cannot be discussed in detail.
- Heance, Dissertation has been introduced which allows the student concerned to pursue mandatory research in a topic in the field of aviation of his or her own interest and to draw a critical legal analysis of the policies and the regulatory framework and examine the impact of its concern on field.
- This component also allows us the assist the students in developing their research and writing skills, assess them on this count and to provide a platform for creative legal scholarship and can be refined and submitted for publication in scholarly journals or even serve as the basis for full length dissertations in doctoral programmes.

What is Globalization?

- Globalization is the term used to characterize the processes of growing interconnection and interdependence among the different nations of the world. It offers to the increased flow of trade, people, investment, technology, culture, ideas among countries and creates a more integrated and interdependent world
- Joseph Nye and John Donahue: "Globalism is a state of the world involving networks of interdependence at multi continental distances."
- World Bank: Globalization is the growing integration of economies and societies around the world.
- Globalization of markets involves the growing interdependency among the economies of the world; multinational nature of sourcing, manufacturing, trading, and investment activities; increasing frequency of cross-border transactions and financing; and heightened intensify of competition among a larger number of players

Bretton Conference and Globalization

- Why Bretton Woods Conference ?

  Economic Policies of late 19th early 20th Century- beggar-thy neighbor, Great Depression, World War II let to set back to international trade and business activities.
- Establishment of the IMF, its objectives, structure functioning and criticism etc
- Establishment of the IBRD (IFC, IDA, ICSID & MIGA) its objectives, structure functioning and criticism etc
- Establishment of the ITO/ GATT,
- How WTO is different from the above Institutional setup
- WTO and its impact on Globalization
- GATS and Services including Banking, Insurance and Financial Services

Impact of Globalization

- Globalization has been catalyzed by developments in technology, communications and international trade, which have also changed the traditional understanding of trade and commerce.
- In this age of globalization and interdependence, principles of international business transactions affect all states, small and large, rich and poor, weak and powerful alike.
- Many of the structural changes that have taken place in the world economy since the early 1980s resulted liberalizing of capital markets and the capital remains no longer domestic; it moved freely across borders. Manufacturing was also no longer a domestic process.
- This lead to the loss of control on local markets, goods, financial services including the banking sector by the National governments.

Positive and Negative Impact of Globalization

On the positive side, it generated by growing international economic, cultural, and political cooperation and solved many global problems which were not answered. It also Lower prices for goods and services,

Improved Economic growth, Increase in consumer income, Countries specialize in production of goods and services that are produced most efficiently and Creates more jobs

- On the negative side, globalization also has profound implications for states such as the autonomy and policy-making capability of states is being undermined by economic and cultural internationalization.
- Concept of Sovereignty from Political to Economic
- Role of States have Changed from Law-maker to Law-takers
- Many governments see their role as not to regulate markets but to facilitate their expansion.
- Globalization and regional interactions are wiping out national borders and weakening national policies.

ASPECTS OF GLOBALIZATION

1. Economic perspective - globalization has created of high-tech jobs in wealthy nations and the lifting from poverty of some three billion people or half the world's population. At the same time, it is also perceived as the loss of jobs in wealthy nations and the exploitation of workers in poor nations.
2. Cultural perspective - it is the growth of cross-cultural understanding made possible by the increasing two-way flow of entertainment and news, and the development of human values that transcend those of any one culture. At the same time, it is also the erosion of local traditions and standards and their replacement by foreign ones.
3. Technological perspective - globalization is the spread of knowledge and the dramatic leaps in world communications and travel that has resulted in eradication of deadly diseases, saving of endangered species, the reduction of famine and the increase in world productivity to the benefit of all humankind. At the same time, it has also unleashed destructive forces leading to loss of species, spread of disease, environmental degradation, war, and terrorism.
4. Political Perspective – Creation of global and regional political organisations-- League of Nations and United Nations and Regional organisations like European Unions like NAFTA

Globalization Drivers

- **Global Market –** Common customer needs, Expanding global customers, Global market channels, Marketing transfers and global branding
- **Production & Supply Chain** - Taking advantage of economies of scale & scope, Sourcing efficiencies, Production factor cost differences, Product development costs, Application of rapidly changing economies
- **Government and Multilateral -** Role of GATT/WTO in trade liberalization, Unrestrictive trade and investment policies, Compatibility of technical standards
- **Competitive Advantage Drivers -** Global competitors in trade and investment, Interdependence among nations, Shrinking product life cycles and technology advances, Imports compete with domestic products
- **Human Resource Skills Drivers -** Readily available engineers and scientists abroad
- **Globalization of Technology Use -** Mergers & Acquisitions of complementary technologies, Access to the global phenomenon of shared technologies, Integration of company operations with new technologies of rivalry

Globalization and Changing Business Environment

- What sorts of guidelines and input should guide product design?
- How desirable are knowledge-sharing agreements?
- Joint development of technology and know-how?
- What are ideal features of international business partners?
- How should management monitor competitive activity?
- How can competitive advantages be created and sustained?
- What degree of attachment is optimal to alternative sourcing and production locations around the world?
- Management has to grapple with these and many other similar questions on an ongoing basis.
- In addition to implying a different nature of economic transactions and a diverse set of players, globalization of markets causes the individual firm to understand and operate within a more complex political, legal-regulatory, and cultural framework.

Globalization and Changing Business Environment

- **A. From Nation State to Individual Enterprise.** shifted from trade relationships among nations to activities of the individual enterprise. Such a shift in orientation requires greater attention from the legal professionals of the structure, strategy, and operations of the individual firm.
- Globalization challenges the legal professional to contribute to the global competitiveness of the individual enterprise through a better understanding of the business strategy-performance relationship.
- It also calls for greater input on the part of legal professionals in formulating strategic directions for the enterprise.
- **From Nation-Based Advantages to Firm-Based Competencies and Assets** In today's global competition, critical sources of competitive advantage are often firm specific.' These include such factors as the quality of management and leadership, ability to innovate and commercialize new products, ability to pinpoint and respond to emerging opportunities, and ability to organize monetary and HR
- These new realities of competition imply that legal professionals must develop a comprehensive understanding of firm assets and competencies.

Fundamental Shifts in Int. Business: Legal Challenges Contd…

- **C. From Rigid Operations to Flexible Operations.** A great advantage of multinational operations is the flexibility the firm gains in terms of sourcing and manufacturing. The firm is free to market, produce, and source wherever it wishes, responding to low-cost, low-tax, and favorable infrastructure environments. Such flexibility allows it to better respond to opportunities and variations among national markets.
- This mode of international operations confounds the issue of territory and jurisdiction for international trade lawyers.
- It implies that they will need new definitions of legal jurisdiction. It also challenges them to design organizational and legal entities that are optimal under a broadened set of environmental variables.

Fundamental Shifts in Int. Business: Legal Challenges Contd…

- **D. From Transactions to Relationships.** The focus of management attention is rapidly moving away from an emphasis on transactions to relationships among firms. The interface between international business partners (e.g., buyer-seller, manufacturer-distributor, franchisor-franchisee, licensor-licensee) should be carefully nurtured and maintained.
- Legal agreements and contracts are not sufficient in maintaining harmonious and fruitful relationships among business partners. If they would like to remain central to international business operations, legal professionals will need to be sensitive to relationship building. In the case of international strategic alliances, legal arrangements among the partners are likely to be project based.
- **E. From Competition to Cooperation.** While free markets always implied competition among firms, today there are good reasons for companies to collaborate. In the age of collaboration, the legal profession needs to shift its attention to the formation and maintenance of partnerships. It needs to assume a proactive role in defining the parameters of successful collaboration.
- How should these ventures be structured? How should disclosure of proprietary knowledge be protected? What should be done by the partners to prevent conflicts and divorce?

Fundamental Shifts in Int. Business: Legal Challenges Contd…

- **F. From Market Diversity to Market Homogenization.** Market homogenization opens up new opportunities for firms in terms of product standardization, economies of scale in manufacturing, and simultaneous market entry.
- For the legal profession, it implies a more favorable environment for harmonization of product standards, advertising regulations, and legal processes
- **G. From Multilateral to Bilateral Trade Relationships.** A key macro-level trend of the past two decades has been the establishment of bilateral arrangements in trade. Countries have resorted to two party negotiations in order to resolve trade interests.
- Bilateral relationships may, in fact, enhance the chances of resolution in international trade conflicts. They may also enable trade lawyers to be more effective in resolving conflicts.

IMPACT OF GLOBALIZATION ON DOMESTIC INSTITUTIONS

- No industry has escaped the impact of globalization.
- Some have been hit hard, for example; automobiles, chemicals, electronics, steel, textiles, and tires. Others, such as food and beverages, paper, pharmaceuticals, and industrial machinery and equipment, have fared better.
- An ongoing restructuring was put in motion as a result of the globalization of markets. Downsizing, consolidation, and reconfiguration are common terms used to describe the current state of affairs in all industries.
- The new realities of global marketplace have prompted business organizations to be constantly in search of enhanced productivity and new sources of competitive advantage. Such efforts to critically examine one's capabilities can be classified into several thrusts

Industrial Policies Before LPG

- Since its independence 1947, India implemented six major industrial policies, the most recent being announced July24, 1991. The first five police were designed to create and continue a self-sufficient and independent economy. India strived to be a socialistic democracy. These policies did recognize the need for foreign capital and enterprise but provided that these should be carefully regulated by the government to ensure that they were in the national interest.
- The Policy Resolution, 1948--the first Industrial Policy--states, for example: " A s a rule, the major interest in ownership and effective control should always be in Indian hands; but power will remain to deal with exceptional cases in a manner calculated to serve the national interest.

Restrictive Regulations Under MRTP and FERA

- Indian industries have been highly regulated by government agencies. The establishment of an industry, as well as the expansion or diversification of existing industries required an industrial license.
- In addition, companies meeting the definition of "dominate undertaking" under the Monopolies and Restrictive Trade Practice Act, 1969 (MRTP) required government clearance for new undertakings, expansions, mergers, amalgamations, take-overs, and appointment of directors. MRTP clearance was also required before an industrial license could be granted.
- The Foreign Exchange Regulation Act, 1974 (FERA), designed to regulate foreign exchange and securities and the import and export of currency and bullion, was expanded to cover the corporate sector and its dealings in 1973. [With the rupee not convertible, permission of the reserve bank was needed for release of foreign exchange.
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Procedural Problems

- Besides having restrictive regulations with respect to foreign investment, India had a reputation for red tape, bureaucratic delays, and bribery. The procedure of setting up a foreign investment or technical agreement was itself enough to scare away potential investors. The required industrial license see supra part I(A)II began with an application for a "Letter of Intent."
- For foreign companies, the additional clearances needed were usually capital goods and import clearance, foreign exchange permission from the Reserve Bank of India, clearance under the Monopolies and Restrictive Trade Practice Act (MRTP),

India and LPG

- *Devaluation:* The first step towards globalization was taken with the announcement of the devaluation of Indian currency by 18-19 percent against major currencies in the international foreign exchange market. In fact, this measure was taken in order to resolve the BOP crisis
- *Disinvestment*-In order to make the process of globalization smooth, privatization and liberalization policies are moving along as well. *Under the privatization scheme, most of the public sector undertakings have been/ are being sold to private sector*
- *Allowing Foreign Direct Investment* (FDI) across a wide spectrum of industries and encouraging non-debt flows.
- *Non Resident Indian Scheme* the general policy and facilities for foreign direct investment as available to foreign investors/ Companies are fully applicable to NRIs as well.

India and LPG contd…

- *Throwing Open Industries Reserved For The Public Sector to Private Participation.* Now there are only three industries reserved for the public sector
- *Abolition of the (MRTP) Act*, which necessitated prior approval for capacity expansion
- *The removal of quantitative restrictions on imports*.
- *The reduction of the peak customs tariff* from over 300 per cent prior to the 30 per cent rate that applies now.
- *Wide-ranging financial sector reforms* in the banking, capital markets, and insurance sectors, including the deregulation of interest rates, strong regulation and supervisory systems, and the introduction of foreign/private sector competition.

Globalization and India

- India Globalized its economy in 1991 With Mounting problems- huge fiscal deficits, BoP crisis and foreign exchange crisis, Foreign investors and NRIs had lost confidence in Indian economy
- Major measures as a part of the Globalization strategy, Devaluation of Currency, Disinvestment, Dismantling of The Industrial Licensing Regime, Abolition of the MRTP Act , Allowing Foreign Direct Investment, Wide-ranging financial sector reforms
- Reforms relating to the banking system-- Capital base of the banks were strengthened by recapitalization, public equity issues and subordinated debt, Prudential norms were introduced and progressively tightened for income recognition, classification of assets, provisioning of bad debts, marking to market of investments, New private sector banks were licensed and branch licensing restrictions were relaxed., Credit delivery was shifted away from cash credit to loan method

Globalization and India Cont..

- Exchange Control and Convertibility-- Exchange controls on current account transactions were progressively relaxed culminating in current account convertibility.,
- Foreign Institutional Investors were allowed to invest in Indian equities subject to restrictions on maximum holdings in individual companies.,
- Restrictions remain on investment in debt, but these too have been progressively relaxed., Indian companies were allowed to raise equity in international markets subject to various restrictions.,
- Indian companies were allowed to invest a small portion of their assets abroad, Indian companies were given access to long dated forward contracts and to cross currency options.(Derivatives)
- Reforms in the capital market SEBI- the apex regulator of the Indian capital markets□ Regulations were framed for insider trading□ Abolition of capital issues control□ Introduction of free pricing of equity issues□ On-line trading was introduced at all stock exchanges

Globalization in Different Regions

- Since the passing of the De Regulation Act of 1978 in the United States of America, the international air transport is undergoing the most dramatic changes in its history. Globalization, deregulation, liberal bilateral air transport agreements, international alliances, privatization of airlines and airports, and economic constraints are some of the factors challenging established management and business practices.
- Globalization process, each region plays variations on a common theme. In North America, air travel is the normal way of moving people, mail and increasingly, freight.
- In the European Union, we have liberalization, consolidation, concentration and decentralization.
- Civil aviation in Eastern Europe and the Former Soviet Union is being restructured and needs strengthening –while adjusting to a free market economy.
- Impressive Aviation expansion is seen in India, China and ASEAN. Latin America shows promise.

De-Regulation in USA

The deregulation process in the USA stared first in air cargo sector in 1977, followed by the passenger deregulation by passing deregulation Act, in 1978

The aim of the above act was that the market place should determine the airlines business decisions in the future. This fundamental change in policy meant that the U.S.Government's role in the new regulatory environment would be to protect the competitive process, not individual competitors.

The scope of regulatory reform was limited essentially to commercial meters, such as pricing (which include fares, rates, and charges) market entry, capacity and frequencies, but did not include any relaxation of government controls over such matter as safety, air traffic control, airworthiness, personnel licensing and aircraft maintenance.

Liberalization in other countries

- Under the influence of deregulation in the United States, other industrialized countries, such as Australia, Canada, European Union (EU) countries and Japan adopted policies to liberalize the aviation industry and to bring about a more competitive environment.
- The structural changes in the Canadian airline industry bear a great similarity to developments in the US. In a period of de facto deregulation, starting in 1984, the airline industry in Canada moved rapidly toward a high degree of market concentration, before the new National Transportation Act came into effect in 1987.

Liberalization in EU

- A major landmark was the decision of the European Court of Justice in the Nouvelles Frontieres case in April 1986, that air transport agreements are subject to the competition rules of the Treaty of Rome, Signed in 1957 by six European Countries. This meant that airlines may be prosecuted for violation unless exemptions have been granted to them under policies agreed upon by the Council of Ministers.
- The implications of this judgment put considerable pressure upon the European Community (EC), presently European Union (EU, to develop and agree upon an air transport policy. In December 1987, the Council of Ministers adopted a package of legal instruments put to them by the Commission and thus took the first step toward a general liberalization of the European air transport industry[6]

EU Aviation Regulations

- There are three different regulations:
- Regulation NO. 2407—the licensing regulation, dealing with the requirements for the issue and revocation of operating licenses to air carriers established in the Community
- Regulation No. 2408—the access regulation, giving access to intra-Community routes to Community air carriers, and
- Regulation No. 2409—the fares regulations, whose purpose is to abolish government intervention in the determination of fares on intra-Community routes[7].(3 ,see Aviation Industry Developments 1997,p.115)
- As a result, all air services within EU countries may be regarded as having a special status under the EU third aviation package a domestic traffic and thus providing EU-based airlines with the opportunity to open new routes, whereas non-EU airline services within EU-countries may be considered cabotage traffic. This could bring about a new dimension in future negations concerning air service agreements.

Impact on Developing Countries

- The most serious impact of deregulation and liberalization of the aviation industry is being felt by airlines in developing countries.
- This lead to the formation of regional airlines from a number of small carriers in order to improve efficiency and productivity, to reduce cost and to maintain market share. Alternatively airlines also combined operations and joint projects, such as joint scheduling, sharing of equipment, crews and ground facilities, pooling of aircraft parts and support equipment, and cooperative arrangements for aircraft overhaul and maintenance.
- The rapidly changing environment of world air transport makes it essential that governments of developing countries and airline management should be very clear about their objectives and the need for close cooperation and sharing of scarce national resources.

Impact on Asia/Pacific Region

- It is Generally Viewed that 19th century belongs to Europe, 20th century belongs to USA and now the 21st century is Asians century more particularly the **Indian century.**
- The Asia/Pacific region offers abundant opportunities as the fastest growing aviation region in the world.
- The reasons for this optimism includes the strong economic expansion, significant ethnic ties with various countries, increase in leisure time, moves towards air transport liberalization and vigorous efforts to promote tourism to/from the region.
- The size and economic potential of the region has acted as a catalyst for development of new aircraft types, and manufacturers foresees a big market for future new aircraft

WTO/GATS and Air Transport

– Uruguay Round and WTO
– Goals of Uruguay Round
– Uruguay Round: Problems and Prospects
– Uruguay Round Establishment of the WTO and put important treaties as Annexes to the WTO
– Annex1A-Trade in Goods
– Annex 1B- Trade in Services
– Annex 1C-TRIPS
– Annex 2 -DSU/DSB
– Annex 3-Trade Policy Review Mechanism
– Annex 4- Plurilateral Agreements

Overview of GATS

- Why GATS?
- The GATS is Part of WTO and it laid down the first ever set of multilateral treaty rules governing international trade in services.
- GATS operates at Three Levels:
- (1) Framework Agreement set out the general principles and obligations (29 Articles, VI Parts)
- (2)Various Annexes (VIII) contain rules for specific service sectors
- (3) Schedules list each signatory country's specific commitments and exemptions

The Forms (or “Modes") of Trade in Services

- Cross-border trade in services: a firm deals with a client in another country (e.g. electronically) without crossing the border;
- Consumption abroad: a client travels to a firm's country of operation to consume a service;
- Commercial presence: a firm establishes an operation in the market of another country; and
- Temporary movement of a natural person: a firm travels to the client's country of operation to provide the service.

WTO/GATS and Air Transport

- the GATS Air Transport Annex covers three so-called "soft" rights, namely
- aircraft repair and maintenance,
- selling and marketing of air transport, and
- computer reservation system (CRS) services.
- The WTO Council for Trade in Services, which oversees the operations of the GATS, is presently reviewing the developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in the sector.

ICAO,WTO and Air Transport

- ICAO has maintained an active interest in the evolution of trade in services negotiations. It has discussed this matter at several Sessions of its Assembly.
- Its current policy is contained in Assembly Resolution A35-18. In addition, the ICAO Council adopted, on 22 November 1999, a Council Resolution on Trade in Services Negotiations addressed to both ICAO Contracting States and the WTO.
- The ICAO Secretariat attended and/or monitored closely a number of meetings of the Council for Trade in Services (CTS) of the WTO which addressed the review and expansion of the GATS Annex and provided substantive contributions to the WTO Secretariat on the review process.

Domestic Implementation of International Financial Regulations in India

- Why Domestic Implementation?
- Changing Notions of State Sovereignty
- Independent States to Interdependent States
- Law Makers to Law Takers
- Role of States have changed from Regulator to Facilitator
- Status of IL is changing from a weak (unenforceable) to strong (enforceable) Law
- How Domestic Implementation Happens?
- Domestic Implementation of I.L
- Various Theories and Constitutional provisions
- Domestic Implementation of ITL
- Implementation of WTO

Globalization and Indian Financial Sector

- Customs Tariff Act, 1975;
- FEMA, 1999
- The Foreign Trade (Development and Regulation) Act, 1992
- The Foreign Trade (Regulation) Rules, 1993
- The Foreign Trade (exemption from Application of Rules), 2002; The Conservation of Foreign Exchange And Prevention Of Smuggling Activities Act, 1974;
- The Customs and Excise Revenue Appellate Tribunal Act, 1986;
- The Smugglers and Foreign Exchange Manipulator (Forfeiture of Property) Act, 1976
- The Special Cess Act, 1986;
- The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zone Act, 1976.

Financial Legislative Structure in India

- India has over 60 Acts and multiple rules / regulations that govern the financial sector – Still not satisfactory.
- Many laws from the 1950s and the 1960s have an emphasis on banning certain financial activity, rather than on establishing regulatory structure for it.
- The RBI Act and the Insurance Act were enacted in 1934 and 1938 respectively and the Securities Contracts Regulation Act, 1956 – Not suitable to current situations – amended acts - complex, ambiguous, inconsistent, and occasionally open to regulatory arbitrage.
- Reforms in Financial Sector:
  - Increase in financial globalization & complexities of financial regulation.
  - concerns arising from terrorism-related financial activities.
  - The new obligations under the Financial Action Task Force (FATF) and Combating the Financing of Terrorism (CFT) regimes
  - necessitates coordination between domestic law and international law to bring financial stability.
  - Need for the creation of efficient and stable financial institutions and markets.

Thank You