



International Civil Aviation Organization

WORKING PAPER

CEANS-WP/39¹
28/8/08
English and
Spanish only

**CONFERENCE ON THE ECONOMICS OF AIRPORTS AND
AIR NAVIGATION SERVICES**

Montréal, 15 to 20 September 2008

Agenda Item 1: Issues involving interaction between States, providers and users

Agenda Item 1.3: Consultation with users

FACTORS TO CONSIDER WHEN GIVING AIRPORTS IN CONCESSION

(Presented by member States² of the Latin American Civil Aviation Commission
(LACAC))

SUMMARY

This working paper highlights the need for interaction between air transport actors, that is, aeronautical authorities, airlines, airport operators, and regulatory bodies, and submits to the consideration of the Conference the work carried out by the Latin American Civil Aviation Commission regarding the factors that must be taken into account in airport and aeronautical infrastructure concession processes. In this sense, it recommends ICAO member States to consider said factors in concession processes.

Action by the Conference is in paragraph 3.

1. INTRODUCTION

1.1 The interaction between States, services providers, and users has been a topic of permanent discussion within the framework of airport management, because, *inter alia*, stakeholders could have conflicting interests.

1.2 According to Article 28 of the Chicago Convention, the States must make airports and navigation facilities available in their territory in order to provide public services to air transport users.

1.3 The Second Regional Air Transport Colloquium (LACAC/IATA/ALTA/ACI-LAC), held in September 2005, identified the need to establish a new regulatory framework that takes into account the new airport management scenario in the Region.

¹ Spanish language version provided by LACAC.

² Argentina, Aruba, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela.

1.4 In the Latin American Region, since the last decade of the 20th Century, the private sector has participated in airport management through the concessions. Thus, many airports have been given in concession (approximately 140), applying different business models, and including different services and obligations for the private sector. These processes have resulted in significant benefits for the States in terms of infrastructure, services, regulatory regimes and employment. Likewise, the cost of airport services has been affected in a different way.

1.5 Good relations between authorities, services providers, and users are very important for the successful development of air transport. However, airport planning and bidding conditions for giving airports in concession do not always take all stakeholders into account.

2. WORK OF LACAC INVOLVING AIRPORT CONCESSIONS

2.1 As a regional Latin American forum, LACAC has opened its doors to all air transport stakeholders (aeronautical authorities, airport operators, airlines, and regulators). Thus, its XVII Assembly formulated Resolution A 17-03 on “Factors to consider when giving airports in concession”.

2.2 This Resolution is a document that serves as a guide for States so that they can better undertake the airport concession process, since it contains a series of agreed recommendations based on the best practices in this field, and allows for the participation of all stakeholders in this process.

2.3 On the other hand, LACAC took on the task of monitoring and studying airport concession and aeronautical infrastructure issues, promoting the exchange of experiences so that the States could have sufficient elements of judgment for optimising their projects.

2.4 The **attached** document contains Resolution A 17-03 on “Factors to consider when giving airports in concession”.

3. ACTION BY THE CONFERENCE

3.1 The Conference is invited to:

- a) take note of this working paper and the **attached** LACAC Resolution A 17-03;
- b) submit the comments it may deem appropriate; and
- c) recommend to the States that are about to begin or review their airport or aeronautical infrastructure concession processes to apply the measures listed in LACAC Resolution A 17-03.

ATTACHMENT

RESOLUTION A17-03

FACTORS TO BE CONSIDERED WHEN GIVING AIRPORTS IN CONCESSION

WHEREAS Article 28° of the Chicago Convention gives States the responsibility of making available airports and navigation facilities within their territory for the provision of public services to air transport users;

WHEREAS airport concession processes in Latin America have resulted in significant benefits for the States in terms of infrastructure, services, regulatory application and employment. In a different way, they have also had an impact on the cost of airport services;

WHEREAS the concession process is of great help for the prompt solution of problems concerning the lack and obsolescence of infrastructure and the quality of service, which demands large investments that, in many cases, cannot be afforded by the States, but nevertheless certain criteria need to be adopted so that the amount of the investment is consistent with the expected growth of air transport demand;

WHEREAS airports must optimise their various services and, especially those given in concession, now seek reasonable profits based on a commercial approach to the airport business, balancing facilitation and user security, and offering comfort and different services to all their users;

WHEREAS States have the unrenounceable responsibility of ensuring compliance with the standards and recommended practices applicable to public services at airports, without detriment to that stipulated in concession contracts;

WHEREAS concession processes, whatever the scope of the functions assumed by concessionaires, must guarantee that both aeronautical and non-aeronautical services are provided more efficiently at said airport;

WHEREAS, according to Article 15 of the Chicago Convention, any airport that is open to public use in a State must offer equal conditions to aircraft of all States in terms of the charges levied for the use of the airport and air navigation facilities;

WHEREAS the abuse of monopolistic positions should be avoided both in airport concession and airport management processes;

WHEREAS the conclusions of the Second Regional Air Transport Colloquium (LACAC/IATA/ALTA/ACI-LAC), held in September 2005, revealed the need to establish a regulatory framework that takes into account the new airport management scenario in the region;

WHEREAS LACAC took on the task of monitoring and studying airport and aeronautical infrastructure concession issues, encouraging the exchange of experiences so that States could have sufficient elements of judgment to optimise their projects.

THE XVII ASSEMBLY OF LACAC RESOLVES

To urge member States that are conducting or about to start or revise airport and aeronautical infrastructure concession processes, to consider the following aspects in order to obtain the best results:

- a) To clearly establish the objectives and goals of the State when giving airports in concession and, derived from the above, to define the role and responsibilities required from the State to ensure the efficient and effective provision of airport services, in keeping with applicable international standards.
- b) The convenience of granting concessions for appropriate periods of time, commensurate to the investment made.
- c) To consider that the main purpose of airport infrastructure is to meet the operational requirements of aircraft and users; therefore, said requirements must not be unduly affected by commercial activities.
- d) To identify the aeronautical and non-aeronautical services to be transferred to the private sector and those that will remain in the hands of the State, describing the standards to be applied to define the quality of the services provided.
- e) To develop master plans and investment plans for airport concession that are sufficiently flexible to enable their revision based on demand, taking into account user needs, State requirements, and compliance with applicable international standards. These plans must give priority to the cost-effectiveness of concessions.
- f) The contract between the State and the private airport service operators must be the result of a competitive open bidding process that guarantees an efficient concession process, where all the required conditions, assessment formulae, and criteria used for awarding the contract are established with absolute transparency and are known to all stakeholders.
- g) The State should reserve the right to take relevant measures for the monitoring and control of the concession contract in all of its aspects, through auditable procedures.
- h) When giving airports in concession, the State must establish a neutral and independent entity to enforce the clauses of the contract and to make decisions based on technical, transparent, and predictable criteria. In case of conflict, users should have the right to appeal before the regulatory authority and have resource to arbitration.
- i) The State should take the necessary measures to avoid the rescission of the concession contract and, in the event that occurs, it should contemplate mechanisms for the continued provision of airport services.
- j) To include in the terms of the concession contract the necessary elements so that the concessionaire will be a subject of credit or funding by financial institutions and capital markets. To that end, applicable requirements and practices on this matter must be taken into account.
- k) Inasmuch as possible, the State must try to create competitive conditions for the providers of the various services, seeking mechanisms, such as third-party bidding and incentives so that airport

cessionaires will strive to achieve cost or other efficiencies. In case of monopolistic services, tariffs should be defined before giving the airport in concession, contemplating mechanisms for making readjustments.

- l) To the extent possible, States should avoid cross-subsidising airports that have deficits, since this distorts airport charges levied on users and might have a negative effect on the growth of the aeronautical activity.
- m) To establish policies that encourage the State to reinvest the income derived from the commercial aeronautical industry in the same sector, so that investments will make development sustainable and cover airport infrastructure and air traffic control costs.
- n) The concession system should be based on the State and the private sector assuming their respective risks in the implementation of airport projects.
- o) Airport charges for the provision of aeronautical services should be regulated:
 - 1) based on cost transparency and service management efficiency;
 - 2) in keeping with international agreements and the specific obligations of the State; and,
 - 3) in line with ICAO principles and policies concerning user fees.
- p) The State should offer a feasible business to private concessionaires, with traffic estimates and conservative business projections.
- q) To generate a balanced concession contract so that the rights, powers, and discretion of the State (technical and economic regulation, customs, migration, police and air control services, etc.) will not unduly restrict the activities of the airport operator.
- r) Airport concession contracts should allow for some flexibility in order to adjust to new market conditions resulting from a dynamic aeronautical industry and the long duration of said contracts.
- s) In airport concession processes, the State should clearly establish the difference between each type of user so that their unique characteristics are reflected in the regulations and charges.
- t) To adopt relevant measures so that the States will take into account the opinion of airport and air transport operators in commercial aeronautical policy discussions and negotiations on traffic rights.
- u) To define quality standards for the design, structure, and operation of concession contracts for the public and private services provided at airports.
- v) To take the necessary measures to prevent the problems that have arisen with some concession contracts in Latin America in relation to the timely payment of royalties, delayed investments, definition of competencies, and management coordination.
- w) The States should duly take into account the documents published by ICAO, especially:
 - 1) Airport Planning Manual (Doc. 9184)

- 2) Airport Services Manual (Doc. 9137)
- 3) Airport Economics Manual (Doc. 9562)
- 4) Manual on Air Navigation Services Economics (Doc. 9161)
- 5) ICAO's Policies on Charges for Airports and Air Navigation Services (Doc. 9082)
- 6) Privatisation of airports and air navigation services (Cir. 284)

This Resolution supersedes Recommendation A13-4 and Resolution A15-15.

— END —