

**59th CONFERENCE OF
DIRECTORS GENERAL OF CIVIL AVIATION
ASIA AND PACIFIC REGIONS**

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**AGENDA ITEM 8: CAPACITY DEVELOPMENT
AND IMPELEMENTATION**

**ENCOURAGING PRIVATE SECTOR PARTICIPATION IN THE
DEVELOPMENT OF THE CIVIL AVIATION AND AIR
TRANSPORT INDUSTRIES THROUGH PUBLIC-PRIVATE
PARTNERSHIP ARRANGEMENTS**

(Presented by Philippines)

SUMMARY

The importance of the participation and inclusion of the private sector in developing the civil aviation and air transport industries through public-private partnerships (PPP) is significant since it enables the State to utilize the expertise, financial resources, flexibility, and capacity for innovation of the private sector, while allowing the public sector to maintain regulatory control over the aforementioned industries. In fact, subjecting these industries to PPP model is becoming a globally preferred approach since it allows aviation authorities to focus on their regulatory oversight functions, leaving the management, operation, and development of civil aviation and air transport infrastructure and services to the hands of the private sector.

This discussion paper mainly delves into the advantages of PPP, particularly in the field of civil aviation and air transport, such as—(i) it separates civil aviation and air transport provision from civil aviation and air transport regulation; (ii) it increases efficiency and cost-effectiveness of the aviation sector; (iii) it mitigates potential adverse impact on aviation projects through risk sharing; and (iv) it fosters innovation and flexibility.

Ultimately, developing civil aviation and air transport industries through PPP would bring numerous advantages since it combines the strengths of both the private and public sectors to further improve the State's civil aviation and air transport systems for the benefit of the public.

ENCOURAGING PRIVATE SECTOR PARTICIPATION IN THE DEVELOPMENT OF THE CIVIL AVIATION AND AIR TRANSPORT INDUSTRIES THROUGH PUBLIC-PRIVATE PARTNERSHIP ARRANGEMENTS

1. INTRODUCTION

1.1 Globally, subjecting the civil aviation and air transport industries to public-private partnership (PPP) arrangements is increasingly becoming a preferred approach in developing, managing, and operating State-controlled commercial airports and air navigation services.

1.2 For instance, in the Philippines, there are currently six (6) airports operating under varying PPP contractual arrangements—*namely*, the Godofredo P. Ramos Airport, Clark International Airport, Mactan-Cebu International Airport, Cagayan North International Airport, Ninoy Aquino International Airport, and the New Manila International Airport. Meanwhile, there are five (5) other airports subject of unsolicited PPP proposals from the private sector that are actively being processed at present—*i.e.*, the Laguindingan International Airport, the New Bohol-Panglao International Airport, the Iloilo International Airport, the Puerto Princesa International Airport, and the Kalibo International Airport. There is likewise an unsolicited PPP proposal from the private sector to design, build, finance, and operate the Philippines’ Air Navigation Services that is currently being evaluated by the Civil Aviation Authority of the Philippines (“CAAP”).

1.3 In addition, Section 20, Article II of the 1987 Philippine Constitution expressly declared the recognition of “the indispensable role of the private sector, [encouragement] of private enterprise, and [provision of] incentives to needed investments” as a State policy. This established State policy led to the recent enactment of Republic Act No. 9497, or the PPP Code of the Philippines, with the end view of “providing an enabling environment for the private sector to mobilize its resources to finance, design, construct, operate, and maintain/or government infrastructure or development projects and services” for the furtherance of the State’s objective of continually providing affordable, accessible, and efficient public services.

1.4 The importance of private sector participation in capacity-building is increasing. Encouraging the private sector to enter PPP contracts with the Government will almost certainly result in more investments, technological advancement, reduction of costs on the part of the government, increase in employment opportunities, and overall progress and development, among others, while still maintaining government control and oversight over infrastructure and services imbued with public interest.

1.5 In consideration of the foregoing, this discussion seeks to explore some of the key benefits of encouraging private sector participation in the development of the aviation sector through entering into civil aviation and air transport service PPPs, with the end goal of ensuring States’ consistent upkeep with international civil aviation standards.

2. DISCUSSION

2.1 Separation of Civil Aviation and Air Transport Service Provision from Civil Aviation and Air Transport Regulation

Ideally, regulatory oversight in aerodromes, air navigation services, and air traffic services should be separated from service provision in order to avoid conflict of interest and somehow guarantee accountability and transparency. By separating these functions, civil aviation authorities can more impartially oversee and enforce established standards.

Verily, separation of civil aviation and air transport regulation from service provision will ensure that regulatory bodies and service providers operate independently of one another, thereby ensuring that safety, fairness, and efficiency in the aviation industry remains. Regulators can concentrate on setting and monitoring compliance with set standards, while service providers can focus on operational

efficiency and service rendition.

However, under the Civil Aviation Authority of the Philippines' ("CAAP's") current Charter, CAAP is still performing the dual function of being a regulator and an operator of aerodromes, air navigation services, and air traffic services. While legislative bills aimed at separating these functions are already being deliberated upon by the Philippine Legislature, passing the same into law would take time. Pending the promulgation of such legislative enactment, temporarily subjecting the operation and management of aerodromes, air navigation services, and air traffic services to PPP might help address the issues brought about by the commingling of the two aforementioned functions.

2.2 Increased Efficiency and Cost-Effectiveness of the Aviation Sector

One of the major advantages of subjecting civil aviation and air transport infrastructure and services to PPPs is the potential to increase overall efficiency and cost-effectiveness of the aviation sector. It enables willing private entities with specialized expertise, innovative practices, efficient management techniques, and sufficient assets to share their skills, expertise and capital for the improvement of the aviation sector, making the latter more efficient and cost-effective.

Verily, through PPP, private firms that are well-equipped with specialized knowledge and experience in handling infrastructure projects involving matters as complex as civil aviation would be able to contribute in strengthening the State's civil aviation and air transport system for the ultimate convenience of the public.

Furthermore, PPPs can help alleviate financial burden on the part of the government, especially when it comes to developing countries such as the Philippines. In a PPP, the private sector typically provides the capital needed for infrastructure projects or service delivery. This could lessen costs on the government, which might otherwise need to fund these projects. By allowing private entities to operate aerodromes, air traffic, air navigation and/or other air transport services, governments can somehow shift the operational and maintenance costs for the same to the private sector, allowing public funds to be allocated to other government priorities thus improving fiscal stability.

Also, since the private sector tends to focus on profit maximization, it may introduce cost-effective solutions that may in turn lead to improved rendition of public services at lower costs.

2.3 Mitigation of Potential Adverse Impact on Aviation Projects through Risk Sharing

Risk allocation and risk sharing are crucial aspects of PPPs, since the same may result to more stable and more effective public service delivery. Verily, proper risk management enables both the public and the private sector to focus on their respective areas of expertise, by allocating specific risks to the party best equipped to manage them, thereby mitigating any potential adverse impact on the project.

For instance, in PPPs involving development of airports, risk that design and/or construction quality is inadequate resulting in higher than anticipated maintenance and refurbishment costs could be borne by the private partner. Meanwhile, risk in delays in government contractual payments to the private partner arising from unavailability of government budgetary appropriations could be borne by the public partner. There are also certain kinds of risks that may be shared both the public and private partners. Good examples of such risks are risk of an unanticipated change in demand or risk of an unanticipated change in law or government policy.

Ultimately, risk sharing in PPPs would result to several advantages if the risks are properly allocated. Since PPPs combine the strengths of both the private and public sectors, any adverse consequences brought about by unanticipated issues that may arise during project implementation will most likely be mitigated, if not totally avoided. Also, effective risk management can lead to better project outcomes, including timely completion and reliable service delivery.

2.4 **Innovation and Flexibility**

The competitive nature of the private sector encourages introduction of innovative solutions and technologies. PPPs provide a platform for integrating new ideas and approaches that might not be pursued in traditional public sector projects.

Furthermore, PPPs often offer greater flexibility in project design and implementation. This adaptability can be helpful in responding to evolving needs and challenges, ensuring that aviation projects remain relevant and effective over time.

2.5 **Conclusion**

It can easily be summarized from the above discussion that developing civil aviation and air transport industries through PPP would bring numerous advantages. By utilizing the expertise, financial resources, and capacity for innovation of the private sector, and combining them with the public sector's regulatory oversight and social objectives, PPP model will significantly help in improving a State's air transport system.

3. **ACTION BY THE CONFERENCE**

3.1 The Conference is invited to:

- a) Encourage States/Administrations for participation of the private sector in developing the civil aviation and air transport industries;
- b) Encourage States/Administrations to establish clear frameworks and guidelines for PPPs to ensure effective collaboration and alignment of objectives between public and private partners;
- c) Urge States/Administrations to ensure that PPP contractual obligations will not in any way diminish the State's requirement to fulfill its international obligations.

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