



WORKING PAPER

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Agenda Item 2: Examination of key issues and related regulatory framework

Agenda Item 2.7: Economics of airports and air navigation services

**COMMERCIALIZATION AND PRIVATIZATION OF AIRPORTS
AND AIR NAVIGATION SERVICES PROVIDERS**

(Presented by the Secretariat)

EXECUTIVE SUMMARY

This working paper discusses the governance, ownership and control structures, and management of airports and air navigation services providers (ANSPs), as well as the selection of an appropriate format and the importance of good corporate governance. It describes recent developments with regard to airport and ANSPs commercialization and privatization and provides updated information on ICAO related work and policy guidance in this area.

Action: The Conference is invited to:

- a) review the information and assessments presented in this paper; and
- b) adopt the recommendations presented in paragraph 4.

References:	ATConf/6 reference material is available at www.icao.int/meetings/atconf6 .
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1. INTRODUCTION

1.1 Many changes have occurred in the past two decades in ownership and management in the provision of airports and, to a lesser extent, air navigation services; the changes have generally been described as “privatization.” However, these changes can take various forms, and while they generally reflect a move away from government ownership and management, they do not necessarily (indeed rarely) denote outright privatization, particularly with regard to ownership. In addition, changes in ownership and control can also have implications on the governance and performance of airports and air navigation services providers (ANSPs). This underlies the need expressed by States for guidance from ICAO in this area.

2. RECENT DEVELOPMENTS

2.1 The various organizational formats used by States can be regrouped into two main types. The first type falls under government or public ownership and control, and the second type is where private interests are involved. Government or public ownership may take the form of direct control and management, but government control can also be exerted through an autonomous (or commercialized) entity with financial and operational autonomy. While the establishment of an autonomous entity would not necessarily result in an

unprofitable airport or ANSP becoming profitable, feedback gained worldwide from these developments indicates that the autonomous entities have been able to:

- a) ensure that the revenues generated through the use of airport and ANSP resources are transparently re-invested in operating and developing the facilities;
- b) ensure that the users of the airport and the ANSP contribute directly to the maintenance and development of the infrastructure or facilities that they use (user-pays principle);
- c) reduce the financing burden on governments;
- d) encourage the growth of a business culture, thereby increasing efficiency and improving the quality of services;
- e) enable access to private capital markets, which may only become possible with a change in organizational format because of public sector borrowing restrictions; and
- f) establish a clear separation between the regulatory and operational functions.

2.2 This move toward more liberalization is part of the general process of globalization of the world economies, calling for more privatization of commercially oriented services formerly owned or managed by States. Among the different ownership and management business models existing for airports, States may decide to choose one of the following options:

- a) government ownership;
- b) management contract;
- c) lease or concession;
- d) transfer of minority ownership;
- e) public-private partnerships; and
- f) private sector ownership and control.

Theoretically, the same options apply to ANSPs, although at the present time, some of the options may be considered impractical for most States. When considering privatization or private participation in the provision of air navigation services, a more cautious approach is required because of cross border and other implications. Detailed guidance material on ownership, control and governance of ANSPs is included in Chapter 2 of the *Manual on Air Navigation Services Economics* (Doc 9161), while more details about the above-mentioned options, their main features and advantages can be found in Chapter 5 of the *Manual on Privatization in the Provision of Airports and Air Navigation Services* (Doc 9980).

2.3 In almost all States in which privatization for airports or ANSPs has taken place, existing or newly established regulatory authorities ensure that providers do not abuse any dominant position they may have, especially when dealing with aeronautical charges. However, it is noteworthy that regulations related to rents and other non-aeronautical rates and fees are either permissive or non-existent.

2.4 A summary of some analyses coming from ICAO's qualitative studies on airport and ANSP commercialization and privatization are in the Appendix.

3. ICAO WORK

3.1 The provisions of the Convention on International Civil Aviation (also known as Chicago Convention) are binding upon all Contracting States. Although they do not prohibit Contracting States from delegating some of the functions for which they are responsible to private entities, they are obliged to ensure full compliance with all provisions of the Convention and its Annexes. Article 28 of the Chicago Convention places on each Contracting State the responsibility for the provision of airports and air navigation services in

its territory in accordance with the standards and recommended practices (SARPs) established in the Chicago Convention. Thus, the ownership and management of airports and air navigation services may be delegated to the private sector, but the overall responsibility for the provision of services in compliance with the related SARPs remains with States.

3.2 The Conference on the Economics of Airports and Air Navigation Services (CEANS), convened by ICAO in Montréal in September 2008, examined the issues linked to commercialization and privatization of airports and air navigation services as well as to their economic performance. Among the recommendations adopted by CEANS, some played an essential role in enhancing cooperation between providers and users while improving the efficiency and cost-effectiveness in the operational management of airports and ANSPs around the world.

3.3 On the basis of the recommendations adopted by CEANS, ICAO updated and released the ninth edition of *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082) in April 2012. Based on experience gained worldwide, Doc 9082 reveals that where airports and air navigation services are operated by autonomous entities, their overall financial situation and managerial efficiency have generally improved (paragraphs 4 to 7 of Section I refer). Therefore, Doc 9082 recommends that where it is economically viable and in the best interest of providers and users, States should consider establishing autonomous entities to operate their airports or air navigation services. Furthermore, it reminds States that when considering the commercialization or privatization of airports or ANSPs, it should be borne in mind that States are ultimately responsible for safety, security and economic oversight of these entities, and States should ensure that ICAO policies are observed and that all relevant obligations, notably as signed in air services agreements, are fulfilled. It is noteworthy that for the economic oversight of providers, specific policies are contained in Doc 9082 related, in particular, to consultation with users, performance management and cost basis for implementation of charges.

3.4 Further, in accordance with a recommendation adopted by CEANS and endorsed by the ICAO Council at the Eleventh Meeting of its 185th Session (C-DEC 185/11), States are encouraged to incorporate the four key charging principles of non-discrimination, cost-relatedness, transparency and consultation with users into national legislation, regulations or policies, as well as into air services agreements. In the context of privatization, these steps are recommended in order to ensure compliance with these key principles by airport operators and ANSPs, regardless of the organizational business model (paragraph 1 of the Foreword to Doc 9082 refers).

3.5 As mentioned in paragraph 2, ICAO released Doc 9980 in August 2012. Doc 9980 is responding to the need expressed by States for guidance on airport and ANSP ownership and control in view of the developments that have taken place in the past decade. This manual updates the circular *Privatization in the Provision of Airports and Air Navigation Services* (Cir 284), which was published in March 2002. Doc 9980 presents information on developments taking place in various parts of the world in ownership and management in the provision of airports and air navigation services, while it provides definitions and analyses of the various available options and possible implications. It also discusses major issues to be examined by States when considering a change in ownership and management. Guidance contained in Doc 9980 takes into account the wide range of circumstances faced by providers of airports and air navigation services and brings to the attention of States other ICAO policy documents related to regulatory measures ensuring the appropriate safeguards in the context of airports and air navigation services management.

3.6 Furthermore, in accordance with a recommendation of the 2000 Conference on the Economics of Airports and Air Navigation Services (ANSConf 2000), which was endorsed by the Air Transport Committee in January 2002 (AT-WP/1924), ICAO has developed and subsequently regularly updated specific guidance material on airport and ANSP privatization. The publication "*Case Studies on Commercialization, Privatization and Economic Oversight of Airports and Air Navigation Services Providers*", which has received positive feedback from a broad range of civil aviation stakeholders and analysts, is a compilation of

studies describing the process of commercialization and privatization of airports and ANSPs in 26 States. These case studies describe experiences from States in all regions and include different models of commercialization and economic oversight of airports and ANSPs. The case studies are an informative tool for States, policy-makers, policy analysts, and air transport industry practitioners; several key points illustrated in the case studies are highlighted in the Appendix. This publication is available on line at http://www.icao.int/sustainability/pages/Eap_ER_Databases_CaseStudies_ANSPs.aspx.

3.7 Finally, the change of ownership, control and/or management of airports and ANSPs may have implications on the corporate governance of the entity. Policies on best practices of good corporate governance are described in Doc 9082 (paragraphs 9 and 10 of Section I) and detailed guidelines for an efficient corporate governance system are included in Doc 9980 as well as in the *Airport Economics Manual* (Doc 9562) and in the *Manual on Air Navigation Services Economics* (Doc 9161).

4. **RECOMMENDATIONS**

4.1 The following recommendation is proposed for consideration by the Conference:

- States should ensure full compliance with all relevant obligations of the State under the Chicago Convention, its Annexes and in air services agreements, and should ensure ICAO policies on charges are observed whenever an autonomous entity is established.

4.2 The following recommendations pertaining to airports are proposed for consideration by the Conference:

- a) States should consider the establishment of autonomous entities to operate airports, taking into account their economic viability, as well as the interests of the users and other interested parties;
- b) ICAO should ensure that policies, guidance and other material related to governance, ownership, control and management of airports remains relevant, current, and responsive to the changing situation; and
- c) ICAO should continue to monitor changes in airport commercialization and privatization.

4.3 The following recommendations pertaining to ANSPs are proposed for consideration by the Conference:

- a) States should consider the establishment of autonomous entities to operate air navigation services, taking into account their economic viability, as well as the interests of the users and other interested parties;
- b) ICAO should ensure that policies, guidance and other material related to governance, ownership, control and management of ANSPs remains relevant, current, and responsive to the changing situation; and
- c) ICAO should continue to monitor changes in ANSPs commercialization and privatization.

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APPENDIX

KEY POINTS ILLUSTRATED BY THE CASE STUDIES ON COMMERCIALIZATION, PRIVATIZATION AND ECONOMIC OVERSIGHT OF AIRPORTS AND AIR NAVIGATION SERVICES PROVIDERS

1. The 26 States and regional organization included in the ICAO Airport/ANSP Case Studies database are as follows:

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| 1. Argentina | 13. India |
| 2. Australia | 14. Japan |
| 3. Belgium | 15. Jordan |
| 4. Bolivia | 16. Malaysia |
| 5. Brazil | 17. Mexico |
| 6. Cameroon | 18. Netherlands |
| 7. Canada | 19. New Zealand |
| 8. Chile | 20. Peru |
| 9. China | 21. Senegal |
| 10. European Union (Directive on
Airport Charges) | 22. South Africa |
| 11. France | 23. Thailand |
| 12. Germany | 24. Turkey |
| | 25. United Kingdom |
| | 26. United States |

2. The case studies illustrate several key points that are of interest for airport and ANSP commercialization. Firstly, different regions of the world appear to implement different types of airport and ANSP management and ownership reform. On one hand, the database reveals the appeal of the concessionary mode of airport privatization and commercialization in Latin America: all six case studies on countries located in this region (Argentina, Bolivia, Brazil, Chile, Mexico, and Peru) show that concessions were granted to operate either profitable individual airports or networks with profitable and unprofitable airports (the concession periods vary nevertheless). On the other hand, what can be seen in Europe is rather a privatization of, or a private participation in, airport shares through equity markets. All four case studies on countries located in Europe indicate that major airports have been commercialized through privatization (Belgium and Brussels International Airport Company; United Kingdom and Heathrow Airport Holdings Ltd; and private participation in France with Aéroports de Paris and in Germany with Fraport AG). Moreover, private participation and privatization in the provision of airport services has taken place in stages. For example, in the United Kingdom, major airports were initially transferred to a government corporation. Several years later they were transferred to a government-owned company. Soon thereafter, the shares of this company were sold to the private sector. In some European countries, the airports were first transferred to separate companies owned by the State and the divestiture of shares was gradual. The case studies finally show that this model has been transferred to other regions: China, Malaysia and South Africa are following the European model: the divestiture is gradual.

3. Secondly, the case studies also highlight the appeal of the price-cap form of economic oversight for airports, irrespective of whether they operate under single-till, hybrid-till or dual-till regimes. This model where price caps define certain tariffs in advance and fix them for a certain period of time,

increasing only at the rate of inflation and where tariffs would grow by no more than the consumer Price Index, possibly adjusted by an efficiency factor (x factor), has become more and more common in Europe (this model is used in the United Kingdom, France and Germany), but also elsewhere in the world: Latin America (Argentina, Mexico, Peru), Asia (China), Australasia (Australia), and Africa (South Africa).

4. Thirdly, a transversal view on the case studies indicates the emergence and the strengthening of some very active, trans-national players in the airport industry. For example, some companies have taken part in airport commercialization, privatization or management in the following countries (the list only concerns those countries studied in the database, but could otherwise be expanded): Aéroports de Paris in Cameroon, China, France, Jordan, Mexico and the Netherlands; Fraport AG in Germany, Peru, Senegal and Turkey; MAHB in Malaysia and Turkey; or MAP Airports in Australia and Belgium.

5. With regards to ANSPs, the studies demonstrate that most governments favour maintaining their control over air navigation services, because their provision generally extends over the entire territory of the State concerned. In addition, in many States the various air navigation services are provided by more than one entity. Finally, air navigation services have national defence and external relations implications with respect to the sovereign airspace of States. This explains a trend highlighted by the case studies: the majority of ANSPs are government departments, usually civil aviation administrations, or corporate authorities, or companies wholly owned by government. Only three case studies show a different path:

- a) there is minor participation of airlines in the equity of Thailand's air navigation services, AEROTHAI, for historical reasons, but the government controls the charges;
- b) Canada privatized its air navigation services through Nav Canada, a non-profit organization that is monitored by airline customers through membership on the board of directors; and
- c) in the United Kingdom, 42 per cent of the shares of the air navigation services provider were divested in 2001 to the Airline Group (formed by seven airlines) and 4 per cent to the airport operator BAA plc, with the Government retaining 49 per cent and 5 per cent allocated to employees.

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