



**Agenda Item 6A: Governance**

**GOVERNANCE IMPROVEMENT: DEVELOPMENT OF OECD GUIDANCE MATERIAL AND  
BEST PRACTICES IN REGULATORY GOVERNANCE – ANAC/BRAZIL**

(Presented by the Secretariat)

| <b>SUMMARY</b>   |  |
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| <p>This information paper presents the OECD and ICAO’s assessment on the governance of civil aviation authorities in North America, Central America, the Caribbean, and South America, identifying strengths and areas for improvement. Building on these findings, the second phase of the project aims to develop practical guidance material to enhance regulatory independence, accountability, and transparency. Brazil’s Civil Aviation Authority (ANAC) shares its experience on the matter. To further strengthen governance, the project seeks funding of 210,000 EUR to support the development of tailored recommendations and best practices material for the CAA of the Region.</p> |  |
| <p><b>References:</b></p> <ul style="list-style-type: none"><li>- “The governance of civil aviation authorities in Latin American countries: Evidence from ICAO’s North American, Central American and Caribbean and South American regions” (2022), , OECD Regulatory Policy Working Papers.</li><li>- Report on the Seventeenth Meeting of Civil Aviation Authorities Oo the South American Region (RAAC 17)</li></ul>   |  |
| <p><b>ICAO Strategic Objectives:</b></p>   | <p>All ICAO Strategic Objectives are related to this Information Paper</p> |

**1. Introduction**

1.1 Effective governance in civil aviation authorities is essential for ensuring transparent, independent, and efficient regulatory frameworks. The OECD has emphasized these principles through various tools designed to assess and strengthen regulatory governance across sectors. At ICAO’s request, the OECD applied its Governance Indicators to civil aviation authorities in North America, Central America, the Caribbean, and South America. This

assessment<sup>1</sup> identified strengths and areas for improvement, providing a comprehensive view of governance structures in the sector.

1.2 Building on these findings, a second phase of the project aims to develop a practical guide to enhance governance in civil aviation authorities. Based on international best practices and OECD expertise, this guide will offer targeted recommendations to strengthen independence, accountability, and transparency. By implementing these measures, regulatory frameworks can become more effective, fostering trust, improving oversight, and supporting the sustainable development of air transport.

1.3 This information paper also brings the experience of Brazilian Civil Aviation Authority on its program on continuous improvement of governance.

## 2. Discussion

2.1 The OECD emphasizes that good governance serves as a fundamental building block for creating high-quality regulatory environments. These environments are designed to promote positive outcomes for markets and consumers, ensuring effective and transparent operations. Governance plays a critical role in strengthening the legitimacy and integrity of regulatory authorities by enabling them to make decisions that are evidence-based, technical, and objective. This independence is essential to avoid conflicts of interest, bias, or undue influence that could compromise their effectiveness. Recognizing the importance of these principles, the OECD has developed tools to evaluate and support the governance of regulators across different sectors.

2.2 One such initiative is the Indicators on the Governance of Sector Regulators, designed by the OECD Network of Economic Regulators (NER). These indicators capture high-level information about the governance of regulatory authorities, focusing on three key components: independence, accountability, and scope of action. By analyzing both the formal arrangements enshrined in legal frameworks (*de jure*) and the practical arrangements observed in day-to-day operations (*de facto*), these indicators offer a comprehensive overview of the governance structures of regulators. The International Civil Aviation Organization (ICAO) requested the OECD to apply these indicators to civil aviation authorities in the North American, Central American, Caribbean (NAM/CAR), and South American (SAM) regions. This exercise enabled civil aviation authorities to assess their alignment with good governance practices, identify potential areas for improvement, and benchmark themselves against international standards.

2.3 The findings of the study revealed several distinctive features among the participating civil aviation authorities. While some strengths were identified, the data also highlighted opportunities to enhance governance arrangements to help authorities better achieve independence and accountability. For example, strengthening mechanisms that prevent undue influence or improve decision-making processes could help build trust and enhance transparency. However, the appropriateness and applicability of governance improvements vary greatly between jurisdictions due to their unique legal, institutional, and cultural contexts. These factors must be analyzed in detail to develop tailored recommendations that effectively address the specific needs of each authority. Overall, this study underscores the critical role of context-sensitive reforms in supporting more effective governance across the region.

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<sup>1</sup> Available at <https://doi.org/10.1787/e8bdf362-en>.

## **Second Phase: Developing Guidance for Better Governance**

2.4 Following the initial assessment, a new phase of the study is being considered, focusing on the development of practical guidance to support States in improving their governance frameworks. This phase proposes the creation of a tailored guidance document specifically designed for civil aviation authorities. Building on the OECD's extensive expertise and established best practices for regulatory governance, the document will aim to provide actionable solutions to address the unique challenges and opportunities faced by civil aviation regulators.

2.5 The guidance will target governance areas identified as most relevant to the participating authorities. These include ensuring role clarity, which helps define the responsibilities and functions of regulatory bodies; preventing undue influence to maintain public trust and integrity; and improving decision-making processes and the structure of governing bodies to ensure efficient and transparent operations. Additionally, it will focus on the management of financial resources to guarantee sustainability, accountability, and transparency, fostering trust among stakeholders. Other priority areas include stakeholder engagement to promote collaboration and inclusiveness, as well as performance evaluation to ensure continuous improvement in achieving regulatory objectives.

2.6 By addressing these critical areas, the guidance document aims to equip civil aviation authorities with practical tools and strategies for institutional reform. The ultimate goal is to strengthen governance practices, enhance transparency and accountability, and foster better outcomes for civil aviation authorities, their stakeholders, and the broader public they serve. Through this next phase, the OECD seeks to provide a framework that supports effective governance tailored to the complexities of the civil aviation sector, setting the foundation for sustained improvement and alignment with international best practices.

2.7 The terms of reference for the second phase of the project were elaborated by OECD and submitted to SAM Regional Office and is expected to be fully delivered 12 months after its initiation. The investment in the project is estimated at 210,000 EUR (two hundred ten thousand euros), currently the project is seeking partners interested in funding.

### **National Civil Aviation Agency (ANAC/Brazil) experience**

2.8 As the OECD study has shown, Brazilian Civil Aviation Authority has scored above the average on relevant drivers of good governance.

#### **a) Independence**

ANAC's independence is ensured by law, granting it autonomy from ministerial control and safeguarding decision-making without external interference. Fixed leadership terms and a structured appointment process reinforce its legitimacy, while budgetary autonomy and strict selection criteria for its Board of Directors ensure competence and continuity in governance.

#### **b) Accountability**

Accountability is essential to ANAC's governance. The Agency must account for its activities and decisions to oversight bodies, the government, and society. This includes preparing periodic performance reports, undergoing internal and external audits, and participating in public hearings and consultations.

### c) **Transparency**

Transparency is another central element. The Regulatory Agencies Law and related decrees require ANAC to operate transparently, providing relevant information about its activities, especially its functioning, interaction with the public, and decisions. ANAC must also meet requirements regarding the availability of reports, statistical data, and other information of public interest, in compliance with data protection and privacy rules.

2.9 In case of Brazil, these major drivers of good governance identified by OECD are implemented hinged on the consistent application of statutes and their translation into robust internal rules and procedures. And count on a set of regulations and other measures within the scope of competencies of the CAA to support its governance.

2.10 Brazilian CAA has established Regulatory Quality Guidelines and incorporated new tools into its regulatory cycle<sup>2</sup>. Beyond developing standards, this effort includes defining regulatory priorities (regulatory agenda), managing the regulatory stock, and supervising the regulated sector (monitoring and inspection activities).

2.11 Among some of the good practice of Brazilian CAA, it is highlighted the following:

- **Planning** – The Regulatory Agenda sets priorities for a defined period, guiding regulatory studies and actions while ensuring stakeholder participation. Regulatory Stock Management organizes and reviews existing regulations to maintain quality, efficiency, and compliance, fostering a clearer regulatory environment.
- **Rulemaking Process** – Regulatory Impact Analysis (RIA) evaluates regulatory alternatives based on evidence, ensuring informed decision-making. Transparency is upheld through publicized Board meetings and accessible deliberation agendas, allowing stakeholder input.
- **Stakeholder Engagement** –involving stakeholders through consultations and public hearings, fostering transparency and legitimacy. A public participation guide outlines available engagement methods.
- **Monitoring and Retrospective Review** – Continuous monitoring of the civil aviation market enables to assess regulation effectiveness, collect data for evidence-based decisions, and conduct retrospective reviews to refine existing policies.
- **Responsive Regulation** –consists of applying flexible regulatory approaches, adapting enforcement based on industry behavior. Recent updates to enforcement rules enhance this adaptable, context-driven oversight strategy.

### 3. **Conclusion**

3.1 Good governance in civil aviation authorities is essential for fostering effective regulation, ensuring transparency, and strengthening institutional autonomy. As highlighted by OECD studies and demonstrated by Brazil's Civil Aviation Authority (ANAC) in this informational paper, strong regulatory frameworks enhance decision-making, improve oversight mechanisms, and contribute to the sustainable development of air transport. By implementing best governance practices, States can promote regulatory efficiency, strengthen industry trust, and create a safer, more competitive aviation sector.

3.2 In this context, States are encouraged to

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<sup>2</sup> More information on ANAC's regulatory quality policy is available on its website: <https://www.gov.br/anac/pt-br/aceso-a-informacao/participacao-social/governanca-regulatoria/melhoria-da-qualidade-regulatoria>

- a) actively engage in the second phase of this project, further strengthening governance frameworks and contributing to a harmonized, efficient, and resilient regulatory environment. Collaborative efforts in regulatory governance will not only enhance aviation oversight but also drive sustainable industry growth, ensuring the continuous improvement of air transport safety and development.

3.3

All participants are invited to:

- b) support the investment with financial resources to the implementation of the second phase of the project estimated at 210,000 EUR (two hundred ten thousand euros).

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