



## Case Study

*on Commercialization, Privatization and Economic Oversight of Airports and Air Navigation Services Providers*

# Brazil

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## Background

Brazilian airports used to be managed by the Empresa Brasileira de Infraestrutura Aeroportuária (or Infraero, Brazilian Airport Infrastructure Enterprise), a Brazilian Government corporation created in 1972 by the Law 5.862/1972. Infraero was historically responsible for Brazil's main commercial airports, air navigation stations, and cargo logistics terminals. The company was divided into seven regional areas in 1987, each with a head office responsible for the management of its geographic set of airports.

All State governments in Brazil have also their own transport department through which they manage the country's 121 secondary airports located in their territory (airports located in the State capital are directly managed by Infraero). Other secondary airports and airfields are managed by the cities' transport departments (131 airports fell in this category). Infraero did not operate either military airports, which are managed by the Brazilian Air Force or the Navy (one of these airbases, the Santa Maria Airport, has a civilian terminal with scheduled operations operated by the military).

Infraero has nevertheless remained the most important airport operator in Brazil. In 2009, it managed 67 airports which represented 97 per cent of Brazil's air transport activity.

## Commercialization/privatization: Airports

Until 1999, Infraero was under the direct supervision of the Ministry of Aeronautics (Air Force Department), and was thus military-run and structured. The end of the 1990s signals a decisive moment in the move toward Brazilian airports' commercialization. The Government of Brazil decided to implement a new management with the appointment of a new CEO with a strong background in privatization of public corporations, coming from the Brazilian National Economic and Social Development Bank. In 1999, Infraero requested its regional branches to operate their airports on a commercial basis.

If the current Brazil legislation does not allow the sale of airport infrastructure, making this form of privatization illegal, it remains possible under the Law n<sup>o</sup>. 7.565, of 1986, article 36, IV, to grant concessions or perpetual franchises to the private sector for airport operations. Among its legal functions, ANAC (National Agency for Civil Aviation, created in 2006, see below) provides the Government of Brazil with advice on new concession models, and the agency created a dedicated focus group on this issue in 2008. Ahead of the 2014 World Cup and the 2016 Olympic Games, the Government of Brazil approved plans to tender concessions for the management of some major airports in April 2011. The concessions would take the form of public-private partnerships in which the concessionaire would own 51 per cent of the shares and Infraero would own 49 per cent of the shares, thus holding veto right on strategic decisions in the joint-ventures. In order to manage Infraero shares in these joint ventures, the Government of Brazil is nearing the creation of federal airport concession management company InfraeroPar.

In February 2012, an auction was launched, where 11 consortia formed by 28 national and foreign companies entered. Three separate consortia won the concessions to operate and upgrade the following airports:

- São Paulo-Guarulhos Governador André Franco Montoro International Airport: a 20-year concession was granted to Infrastructure and Investment Holdings SA, a consortium comprising Brazilian company Invepar (90 per cent) along with Airports Company South Africa (ACSA, 10 per cent);
- Viracopos-Campinas International Airport (in the city of Campinas, São Paulo): a 30-year concession was awarded to Consórcio Aeroportos Brasil, which includes Triunfo Participações (45 per cent), UTC Participações (45 per cent) and France's Egis Avia (10 per cent);
- Brasília-Presidente Juscelino Kubitschek International Airport: a 25-year concession was won by Inframérica Aeroportos, established by the Brazilian Infravix (50 per cent) and by the Argentine Corporacion America (50 per cent). This consortium previously won the 25-year concession to build and operate São Gonçalo do Amarante-Natal International Airport (Rio Grande do Norte State), beating competition from three other bidders (differently from the privatization of other Infraero airports, in which Infraero retain 49 per cent of the shares, Consórcio Inframérica Aeroportos received 100 per cent of the shares in the case of Natal airport).

Altogether, these three auctioned airports comprise some 30 per cent of all civil aviation traffic, 65 per cent of all international passengers, and 57 per cent of all air cargo in Brazil. Moreover, the Government of Brazil has also plans to auction concession contracts for Belo Horizonte-Tancredo Neves International Airport and Rio de Janeiro/Galeão-Antonio Carlos Jobim International Airport.

The Government of Brazil also approved in December 2012 the international airport concessions of Galeão International Airport in Rio de Janeiro city (the country's second largest airport), and Tancredo Neves/Confins International Airport near Minas Gerais state capital Belo Horizonte. The long-term concessions will follow the model previously used for the airports in Sao Paulo, Campinas, and Brasilia, with the winning bidder holding 51 per cent and Infraero 49 per cent. The auction for Galeão and Confins is planned to happen in late October, 2013. Finally, secondary airports operated by States and cities can be privatized without need to refer to any federal law, regulation or policy. For example, some airports in the States of Bahia, São Paulo, and Rio Grande do Sul have already been commercialized through private concessions or privatization.

### **Commercialization/privatization: ANSP**

Air navigation services provision in Brazil is assumed by the Departamento de Controle do Espaço Aéreo (DECEA, Department of Airspace Control). DECEA is a governmental organization, subordinate to the Ministry of Defence and to the Brazilian Air Force. It is organized as a Government Department. DECEA provides aeronautical information system, air traffic management, aeronautical cartography, search and rescue, aeronautical meteorology, information technology, flight inspection, and aeronautical telecommunications.

### **Economic oversight: Airports**

In 2006, the Law nº 11.182 created a new agency in charge of civil aviation regulation and safety oversight: the Agência Nacional de Aviação Civil (ANAC, or National Civil Aviation Agency). ANAC incorporated the staff, the structure and the functions of the Air Force's Civil Aviation Department, the former civil aviation authority, and was constituted as a special autarchy with status of regulatory agency. ANAC is responsible for establishing, controlling,

monitoring and publishing the charges and fees regarding airport infrastructure services and operations.

More specifically, aeronautical charges (which include boarding fees, landing fees, parking fees, storage fees and cargo handling fees) are set by ANAC, which is empowered to set different charges at different airports or airport categories. ANAC integrates efficiency and service quality factors when establishing airport charges, and the three auctioned airports are subject to a price-cap regulation. Brazilian airports operate under the hybrid-till, where non-aeronautical revenues are partially directed to lower aeronautical charges.

With respect to the three airports auctioned in February 2012, the joint ventures are requested to provide pre-determined amount of investments ahead of the 2014 FIFA World Cup and the 2016 Olympic Games. In addition, the consortia are expected to pay their respective sums in inflation-linked instalments over 20 years. Finally, since the bid of the winning consortia were much higher than anticipated (Infrastructure and Investment Holdings SA bid for São Paulo-Guarulhos was 374 per cent above the minimum price demanded; Consórcio Aeroportos Brasil bid for Viracopos-Campinas was 160 per cent above; and Inframérica bid for Brasília-Kubitschek was 673 per cent above), some concerns were raised with regard to where the regulator would strike a balance between the consortia who will seek a return for the high investments, and users and passengers who expect a reasonable level of charges.

### **Economic oversight: ANSP**

The provision of air navigation services has not been privatized nor commercialized. DECEA is nevertheless subjected to the Act 8666 of 21 June 1993 (Law of Competitive Bidding) on public bidding for hiring or purchasing goods and services from third parties.