



Case Study

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

Canada

Background (until the early 1990s)

Through the National Transportation Act of 1967 and the Aeronautics Act of 1919 (as amended), the Parliament of Canada provided a mandate to the Department of Transport (later renamed Transport Canada) to promote an economic, efficient, adequate and safe national civil air transportation system. Although these Acts did not require Government ownership, operation, or financial support of aviation facilities, the Canadian Air Transportation Administration (CATA), an arm of the Department of Transport, had owned and managed most airports and air navigation facilities, and made financial contributions to a range of facilities owned by non-federal jurisdictions.

In 1969, the Parliament authorized the division of the airports into two categories, those capable of paying their way and those requiring continued subsidization. Initially, full cost recovery was expected only for the airports of Toronto and Montreal, which were financed through a Revolving Fund (a means by which Parliament provided authorization for an operation largely funded by users). In 1979, the number of Revolving Fund airports was increased to 23. Other airports operated by the CATA were not expected to be self-sufficient but to recover costs from users to the extent possible. With an aim of financial self-sufficiency for the system as a whole, the Consolidated Revenue Fund was used to help balance under-recovery at unprofitable airports. As for the air navigation service, revenues raised by the air transportation tax (ATT) on passenger tickets had been applied against the cost of operation since 1974.

In 1986, the Airport Group replaced CATA. At the time of the late 1980s, the Government owned 135 of 466 licensed/certified land airports. Of these, it owned and operated 76 including all eight Major Federal Airports (MFAs), i.e. Halifax, Montreal (Dorval/Mirabel), Toronto (Pearson), Ottawa, Winnipeg, Calgary, Edmonton and Vancouver; contracted out the operation of 14; leased 21 to others for subsidized operation; leased 21 to others for unsubsidized operation; and had 3 operated by territorial governments under special agreement. It also subsidized 53 land airports owned by other operators, and operated 10 airports owned by others.

Commercialization/privatization: Airports

The policy framework for local transfer and commercialization of airports has evolved since the late 1980s to deal with large increases in Government's expenditures for the airport system. In 1987, Cabinet approved a set of eight principles to guide the establishment of airport authorities and transfer negotiations. These were followed in 1989 by 36 supplementary principles intended to give Transport Canada more direction on negotiating transfers. As a first round of airport transfer, Transport Canada leased out the management and administration of four major airports - Calgary and Vancouver in July 1992, Edmonton and Montreal (Dorval and Mirabel are considered one) in August 1992 - to four newly-incorporated Local Airport Authorities (LAAs), not-for-profit corporations.

The February 1994 Budget called on Transport Canada to review the potential for commercialization of its major activities. In July 1994, Transport Canada announced a National Airports Policy (NAP), which provided, for the first time, a clear framework that defines the

Government's role with airports. The NAP divided airports into five categories: those in the National Airports System (NAS), regional or local airports, small airports, remote airports, and Arctic airports. The NAS airports comprise 26 airports that include all national, provincial and territorial capitals, as well as airports with annual traffic of 200,000 passengers or more. These airports accounted for over 90 per cent of all scheduled and air-cargo traffic. Regional or local airports (71) serve scheduled passenger traffic but handle fewer than 200,000 passengers each year. Small airports (31) do not have scheduled passenger service, and many of these are used for recreational flying, while remote airports (13) and Arctic airports (11) provide the only reliable, year-round transportation link to isolated communities.

Under the NAP, the Government decided to commercialize the NAS airports through the transfer of responsibility for their operation, management and development to Canadian Airport Authorities (CAAs), not-for-profit, non-share capital corporations similar to existing LAAs. In transferring the NAS airports, the Government enters into long-term lease arrangements with CAAs but retains ownership of the airports. The term of the leases is 60 years, with an option to renew for an additional 20 years. In return for granting leases, CAAs (and LAAs) must pay a Crown rent to Transport Canada. Each NAS airport should be operationally self-sufficient within five years. By March 2003, all the 26 NAS airports have been transferred: 22 to CAAs (5 of them to LAAs in 1992), three to territorial Governments, and one to a municipality.

The NAP required that ownership of regional or local airports would be transferred to provincial and local Governments, airport commissions, private businesses or other interests. 64 of the 71 airports have so far been transferred with 7 additional airports planned. The Government gradually removed its operating subsidies from regional or local airports over a five-year period. Instead, an Airport Capital Assistance Program (ACAP), funded partially by lease revenues from NAS airports, was introduced to provide them with financial assistance for safety-related airside capital projects. The NAP also required that small airports would be transferred to local interests or closed within two years (30 of the 31 airports were transferred), while remote and Arctic airports would continue to be operated and funded by Transport Canada (eight Arctic airports were transferred to the territorial Governments in 1995-96).

In addition, there was one short-lived private ownership in the form of a build-own-operate-transfer (BOOT). The Government signed a public-private partnership (PPP) with the consortium Paxport/Claridge (Pearson Development Corporation, PDC), that would grant it the development and the operations of Terminals 1 and 2 of Toronto-Pearson airport with a 57-year lease and a minimal \$28 million annual payment to the federal government. But this PPP gave rise to protests and contestations and was cancelled a few months later, subsequent to the election of a new Government. The incoming Government transferred the airport to a not-for-profit CAA.

It should finally be noted that almost 20 years after the formulation of the NAP, the Standing Senate Committee on Transport and Communication released a *Report on the Future Growth and Global Competitiveness of Canada's Airports* (2012) in which it recommended: a) to revise and update the NAS; b) to phase-out ground rents completely for airports that are part of the NAS; and c) to transfer federally owned airports in the NAS to the airport authorities that operate them. Nevertheless, the Senatorial report expressed the view that the airport authority governance structure is working well, and it recommended to maintain and support this structure.

Commercialization/privatization: ANSP

Discussions regarding the commercialization of the air navigation services have been ongoing prior to 1991, when users and employee unions wrote to the Minister of Transport to indicate their dissatisfaction with the way in which the service met user needs. In late 1993, Transport Canada established a project team to assess the feasibility of commercialization of air

navigation services under the management of an independent entity. The February 1994 Budget also required Transport Canada to review all of its major activities to determine which of them could be commercialized. Among the areas selected was the air navigation system.

In May 1995, NAV CANADA was incorporated as a not-for-profit, non-share capital private corporation by the stakeholder group including employees, unions, pilots, airlines, Government officials, and other members of the aviation sector. In November 1996, the responsibility for air navigation services network and facilities were transferred from Transport Canada to NAV CANADA by means of a sale (C\$1.5 billion) in accordance with the Civil Air Navigation Services Commercialization Act of 1996. The system of governance at NAV CANADA is the result of a unique corporate structure intended to make the company a self-sustaining commercial enterprise that is accountable to its stakeholders. The Corporation is governed by a 15-member Board of Directors consisting of 10 directors nominated by stakeholders representing aviation users, bargaining agents and the Government, 4 independent directors and the President & CEO.

Economic oversight: Airport

The Air Services Charges Regulations (ASCR) under the Aeronautics Act continues to be applied at all airports or air terminals operated by or on behalf of the Minister of Transport. For such airports, Transport Canada fixes airport charges within a framework that gradually brings local revenues in line with local costs. This gradual approach to achieving financial self-sufficiency began with site-specific fee increases in 1996.

The ASCR is not applied at airports which were transferred from the Government to CAAs, LAAs or regional interests. At those airports, airport charges are no longer set by the Government but freely determined by each airport authority, subject only to charging principles stating that charges must be competitive and non-discriminatory, if traffic levels are to be maintained and market growth encouraged. Airports are also free to introduce local passenger fees as a means of generating revenues for capital improvements or expansions of infrastructure. Users do not have a right to file pricing complaints with the Canadian Transportation Agency (CTA).

Economic oversight: ANSP

NAV CANADA became fully responsible for recovering its costs from users (airlines and aircraft operators) in the form of service charges in November 1998, when ATT and transition-period payments by the Government to the company were abolished. Under the Civil Air Navigation Services Commercialization Act of 1996, NAV CANADA was given the right to impose charges on users for the availability or provision of civil air navigation services. The company may also introduce new charges or revise existing charges subject to the observation of a set of nine broad charging principles (such as no discrimination among routes or carriers, differentiation between the provision of services in relation to the aircraft landing and take-off and one in relation to aircraft in flight, and the requirement to relate charges to costs). Although NAV CANADA is not required to obtain approval to implement changes, it must give interested parties at least 60 days' notice of planned material changes and an opportunity to comment.

Unlike airport charges, a user, group of users or representative organization of users may appeal NAV CANADA's new or revised charges to CTA. CTA may decide to allow the appeal only if it is satisfied, on a preponderance of the evidence, that NAV CANADA failed to observe the charging principles. In making such a decision, CTA may order NAV CANADA to cancel the revised charge, re-establish the previous charge and provide a refund to each user who paid the cancelled charge. In the case of designated northern and remote services, planned material changes can be blocked by affected provincial or territorial Governments or by

users representing at least a third of the relevant revenues, with the concurrence of the Minister of Transport.

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