



## Case Study

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

# South Africa

## Background (until the late 1980s)

At the end of the 1980s, there were approximately 150 licensed public-use airports, the majority of which were owned at a municipal level. The Government directly owned nine public-use airports, which were comprised of the three major international airports at Johannesburg, Cape Town and Durban, and the six domestic airports at Bloemfontein, Port Elizabeth, East London, George, Kimberley, and Upington. These nine Government-owned airports had been managed and operated as part of the Department of Transport (DOT). The Bantustans Governments also owned 14 provincial public-use airports upon the creation of the Bantustans.

As for air traffic and navigation services, under the Aviation Act of 1962, the Minister of Transport appointed the Commissioner for Civil Aviation (CCA) and delegated to CAA the function of designating airspaces. CCA has the authority to establish or permit the establishment of air traffic service units for the provision of air traffic and navigation services to civil aviation. In most airspace, and at Government-owned airports, DOT assumed responsibility for the operation and provision of such services and infrastructure. Some Bantustans Governments were also involved in the provision of services at designated airports, which were owned by them. At one or two airports, private persons provided aerodrome flight information services.

Since the Government directly owned major airports and was the main provider of air traffic and navigation services, it had been assumed that there was an automatic check on the abuse of their dominant positions. The Government prescribed both airport charges and air traffic and navigation service charges. It was recognized, however, that most charges were not based on the cost of providing services. Among the Government-owned airports, only Johannesburg Airport and Cape Town Airport, and possibly Durban Airport, were in a position to pay their own way. The loss-making airports were supported by cross-subsidization and direct financial subsidies.

## Commercialization/privatization: Airports

In the late 1980s, DOT started to conduct an investigation to assess the feasibility of commercializing airports. In July 1992, a policy document recommended that the nine Government-owned airports be transferred to a new State-owned Enterprises (SOE), in which DOT would be the sole shareholder.

In July 1993, the Airports Company South Africa Limited (ACSA) was established under the Airports Company Act (Act No. 44) of 1993. The ownership and responsibility for the operation of the nine Government-owned airports with all assets and liabilities were vested in ACSA (in 1998, ACSA was also granted a 35-year lease and concession to manage Pilanesberg Airport and, in April 1999, took over its management from the North-West Provincial Government). The incorporation of ACSA was followed by restructuring the company, tendering concessions for non-aeronautical services (including land transport) and liberalizing ground handling services. For the first two financial years, the company received subsidies totalling ZAR 58 million from the Government. Since then, it has been operated as a non-subsidized commercial entity at arm's length from the sole shareholder, the Government.

In August 1996, the Government issued a white paper on national transport policy stating that strategies to attract foreign capital, technology and management skills to ACSA be explored and that the company would not have to remain fully Government-owned. Planned was the two-phase sale of the company's minority stake to private entities, i.e. the acquisition of a Strategic Equity Partner (SEP) followed by the listing of its remaining shares on the Johannesburg Stock Exchange, with the Government retaining a 51 per cent stake. The competitive bidding for the selection of a SEP attracted many bids, *inter alia*, BAA plc, Schiphol Airport, Aeroporti di Roma (ADR, an Italian airports-management firm) and Frankfurt Airport. In April 1998, ADR won the bid and paid ZAR819 million for 20 per cent of the company's shares with an option to take up a further 10 per cent stake. In July 1998, a total 4.22 per cent stake was also sold to five empowerment consortia at ZAR172 million.

Since March 2001, however, the initial public offering (IPO) of ACSA has been postponed a number of times, despite continued solid and sustainable financial performance. In September 2005, ADR agreed with the Public Investment Corporation (PIC) for the sale of its 20 per cent stake in ACSA at ZAR 1,675 million. Reportedly, the decision of sale by ADR was due to the delays in the IPO. PIC is owned solely by the Government and functions as a non-bank provider of financial services and manages funds on behalf of the Government Employees Pension Fund (GEPF).

With respect to non-ACSA airports, the majority of them continue to be owned at a municipal level and their operating deficits have been subsidized from the municipal councils.

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

A policy document issued in July 1992 also called for the corporatization and commercialization of the Government's air traffic and navigation services. In August 1993, the Air Traffic and Navigation Services Company Limited (ATNS) was established as a SOE under the Air Traffic and Navigation Services Company Act (Act No. 45) of 1993. DOT transferred the responsibility for the maintenance and provision of air traffic and navigation services to ATNS, which is required to provide such services on a commercial user-pay basis.

The introduction of a user-pay system reflected the Government's priorities of policy development, economic restructuring, addressing social inequalities and reducing the burden on the general taxpayer. To lessen the impact of the introduction of user charges to aircraft operations, the Government provided subsidies of ZAR 50 million and ZAR 35.4 million for ATNS in the first two financial years. Since the third financial year 1995/96, the company has operated entirely from revenues generated from its customer base.

Different from ACSA, a national transport policy in August 1996 did not advocate the privatization of ATNS. Rather, it stated that ATNS would remain a fully Government-owned public utility operating with a focus on providing quality services and be able to recover the costs of its operation and provide for expansion. Since 1997, the Company has established itself as a key role player in the Southern Africa Development Community (SADC) on air traffic services as well as future planning.

### **Economic oversight: Airports**

The Airports Company Act of 1993 empowered the Regulating Committee, a semi-independent statutory body appointed by the Minister of Transport, to regulate ACSA's airport charges, prescribe service standards, and investigate complaints or conduct investigations. The aim of the Regulating Committee is to restrain ACSA from abusing its monopoly position and to encourage ACSA to increase efficiency of its operations without lowering the standards of its services or compromising the integrity of its business. Airports that do not belong to ACSA are outside the scope of the Regulating Committee.

The Regulating Committee set airport charges under a single-till model with a price-cap approach that nevertheless integrates some rate of return based characteristics. The Permission enables the company to levy airport charges, but simultaneously contains conditions on increases in such charges and service standards. It is valid for five years, and ACSA is allowed to increase airport tariffs annually as provided for within the Permission.

In 2010, ACSA went to court and successfully challenged the Permission granted by the Regulating Committee. The Minister of Transport subsequently established a Task Team, which proposed some key recommendations to the Minister, which that then put to the Regulating Committee for review.

### **Economic oversight: ANSP**

Under the Air Traffic and Navigation Services Company Act of 1993, the Regulating Committee is responsible for the regulation of ATNS's service charges, prescribing the company's service standard and the arbitration of complaints lodged by customers. The regulation of ATNS is done by the same way as that of ACSA, that is, by way of a Permission which authorizes the company to levy air traffic and navigation service charges, provide air navigation infrastructure and conduct air traffic and navigation services with the conditions on such charges and service standards.

From the beginning to March 2005, the regulated charges were comprised of en-route (area) charges, approach charges (applying only to ACSA airports), and air traffic service annual charges. After extensive consultations about new tariff structures, in April 2005, the regulated charges were changed to area charges, aerodrome charges (applying only to ACSA airports), and terminal control area (TMA) access charges by splitting approach charges into aerodrome charge and a TMA access charge and eliminating air traffic service annual charges.

The Permission set out a price cap that limits the increase in a basket of revenue weighted tariffs of the regulated charges. The principle and formula of a price cap are the same as that applied to ACSA's airport charges. In addition to a price cap, ATNS is required to maintain the level of service of any relevant activity at the level prescribed by the Permission.

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