



## ASSEMBLY — 36TH SESSION

### ECONOMIC COMMISSION

#### Agenda Item 41: Regulation of the provision of airports and air navigation services

#### ANSP GOVERNANCE AND PERFORMANCE

(Presented by CANSO<sup>2</sup>)

#### EXECUTIVE SUMMARY

Good ANSP performance rests with good governance, an essential consideration for government policy-making. Many Governments are looking at ways to improve their national ANS framework to meet today's high performance expectations in aviation. This paper proposes that policy-making must consider the various elements of governance that drive ANSP performance, rather than relying too heavily on regulatory oversight mechanisms.

**Action:** The Assembly is invited to:

- a) Recognise that good ANSP performance results from good ANS governance, and in turn, from good policy-making
- b) Urge States to consider the elements of good governance outlined in para. 2.2 that can promote superior ANS performance

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective D.
<i>Financial implications:</i>	Not applicable
<i>References:</i>	Doc 9082/7, <i>ICAO's Policies on Charges for Airports and Air Navigation Services</i> Doc 9161/4, <i>Manual on Air Navigation Services Economics</i>

<sup>1</sup> Language versions provided by CANSO.

<sup>2</sup> CANSO is the global voice of ATM. In 2006, CANSO Member ANSPs serve 61% of world airspace, controlled 84% of world traffic and handled 44 million flights. Full members include: Aena - Spain | AEROTHAI - Thailand | Airports Authority of India | Airservices Australia | Airways New Zealand | ANS of the Czech Republic | ATNS - South Africa | ATSA - Bulgaria | Austro Control - Austria | Avinor - Norway | AZANS - Azerbaijan | Belgocontrol - Belgium | CAA Uganda | DFS - Germany | DHMI - Turkey | DSNF - France | EANS - Estonia | ENAV SpA - Italy | Federal Aviation Administration - USA | HungaroControl | Irish Aviation Authority | Kazaeronavigatsia - Kazakhstan | LFV - Sweden | LGS - Latvia | LPS Slovak Republic | LVNL - the Netherlands | MATS - Malta | MoldATSA - Moldova | NAMA | NANSC - Egypt | NATS - UK | NAV CANADA | NAV Portugal | Naviair - Denmark | OACA - Tunisia | Oro Navigacija - Lithuania | PANSA - Poland | ROMATSA - Romania | Sakaeronavigatsia Ltd - Georgia | Serco | skyguide - Switzerland | Slovenia Control | SMATSA - Serbia | UksATSE - Ukraine

## 1. INTRODUCTION

1.1 Good ANS performance is enabled by good governance. And, good governance is in turn attributable to good government policy-making. Governance – the set of processes, customs, policies, laws, regulations and institutions affecting the way the ANSP is directed, administered and controlled – does not get the appropriate attention by policy-makers. Instead, too much focus is placed on regulatory mechanisms to ensure performance. It is important to note that regulatory oversight is only one element of the ANS governance structure.

1.2 Ownership and organisational form is also not judged to be a critical factor in ANSP performance. The different ownership and organisational forms that exist – principally, the government department, the autonomous authority, the corporatised entity and the private sector company – all have the potential to deliver superior service, as long as an appropriate governance structure is in place.

1.3 On the other hand, greater autonomy and commercialisation of ANS has resulted in improved performance. Autonomy empowers the management to take independent decisions on issues falling within its remit, including the use of revenues from operations. The less government interferes in management decisions for political or socio-economic reasons, the better the ANSP will perform. The process of commercialisation – an approach to management in which business principles are applied – has helped improve the performance of air navigation service providers.

1.4 Nevertheless, the absence of competitive market forces calls for prudent governance with respect to the provider in order to avoid abuse of monopoly power. The governance structure should therefore be designed to drive excellence in operations and is a key policy consideration when contemplating greater autonomy for the ANSP.

## 2. DISCUSSION

2.1 To achieve superior ANS performance, the focus of policy-making needs to be on management behaviour and how it is best influenced. Superior performance can best be achieved by a governance structure that clearly articulates the objectives for which the ANS entity is to be governed and holds management accountable for results.

2.2 In order to promote good ANSP performance, government policy needs to address the following key areas of governance:

2.2.1 *ANSP mission and objectives* – the emphasis needs to be on safety, capacity, cost-efficiency, customer-focused service, and increasingly, environmental responsibility, i.e. the expectations of the air navigation service. Government policy needs to address some fairly fundamental questions – "why does the ANS exist?"; "who is it to serve?" and "what is expected from the ANS?"

2.2.2 *Enabling legislation and regulation* – in the case of granting greater autonomy or corporatisation of the ANSP, the enabling legislation and/or regulation should specify the roles and responsibilities of the ANSP; its obligations in observance of international standards and agreements, especially in regards to setting fees and charges; and the regulatory oversight mechanism that can offer stakeholders the right of appeal in case of disagreements

2.2.3 *ANSP governance structure* – professional, independent and unbiased supervisory board or board of directors, that could comprise representation from the different stakeholder groups that have an interest in the success of the air navigation service, i.e. government, customer groups, labour, business interests, etc. The board should govern the overall direction of the ANSP, ensuring that its vision, mission, goals and objectives are in line with the international obligations of the State and expectations of stakeholders. It should also ensure the management is responsible and is held accountable

2.2.4 *Independent, empowered and professional management* – an empowered and qualified management is central to the success of any organisation. ANSP management should be responsible and accountable for the delivery of services in line with expectations. This will require professional management talent in human resources, operations, technology, finance, and customer service

2.2.5 *Customer relations* – a mature, transparent and meaningful relationship that is characterised by meaningful customer engagement and seeks agreement on goals and objectives relating to safety, capacity and cost-efficiency. Such a relationship is central to superior ANS performance and can serve as a substitute for more interventionist regulation by States. Many ANSPs recognise the benefits of strong customer relations and through CANSO are in the process of developing effective and transparent relationships

2.2.6 *Other stakeholder relations and social dialogue* – an appropriate interface must exist with stakeholders, which can be achieved through appropriate consultative bodies or other arrangements. A mature and constructive employer/employee relationship that fosters communications on work-related issues, exchanges of opinions, consultation and negotiation, is seen as an instrument for better governance

2.2.7 *Performance management* – an emphasis on performance measurement and benchmarking has a positive influence on ANS performance as it supports an improved understanding of actual performance against annual targets and long-term objectives, as well as industry benchmarks. The CANSO Global Benchmarking initiative promotes understanding of what drives good performance in ATM, and reveals best practice that will assist individual ANSPs in optimising their performance (refer to CANSO’s working paper on *ANS Performance Measurement and Benchmarking*.)

2.2.8 *Economic oversight* – in addition to effective safety oversight, an appropriate economic oversight mechanism may need to be established to ensure monopoly position is not abused. However, the nature, scope and extent to which such oversight may be required will depend on how the other elements of the ANSP’s governance structure have been addressed. Taking this into consideration, economic oversight can take on different forms, taking into consideration the specific circumstances in the State. Economic oversight can therefore simply be a legal framework that clearly sets forth the “rules of the game” – as in legislation or regulation – and allows for a binding (and perhaps punitive) independent appeals process when the rules are broken. This in turn should encourage proper governance structures and consultative mechanisms to be put in place in order to avoid the heavy hand of the law. On the other extreme, economic regulation can take the more intrusive form of rate-of-return or price regulation. While rate-of-return regulation may address the issue of excessive profits under monopoly, it may not provide clear incentives to improve performance and efficiency. Price regulation can provide incentives for cost efficiency, but could have a negative effect on capital investment.

### 3. **CONCLUSION:**

3.1 Good ANS performance results from good governance, and ultimately from good government policy-making. In order to drive performance in service provision, greater attention should be

focused on governance, and less on regulatory mechanisms, as the latter is only one element of the ANSP governance structure. Policy-making needs to address the following key areas:

- *ANSP mission and objectives* - emphasis on safety, capacity, cost-efficiency, customer-focused service, and environmental responsibility
- *Enabling legislation and regulation* - roles and responsibilities, and observance of international obligations
- *ANSP governance structure* - processes, customs, policies, laws, regulations, and institutions ensuring its vision, mission, goals and objectives are in line with obligations and expectations
- *Independent & empowered management* - empowered, qualified, responsible and accountable
- *Customer relations* - mature, transparent relationship that seeks agreed goals and objectives
- *Other stakeholder relations and social dialogue* - appropriate and meaningful stakeholder interface mechanisms
- *Performance measurement* - performance measurement and benchmarking has a positive influence on ANS performance
- *Economic oversight* - nature, scope and extent of such oversight depends on other elements of ANSP governance, taking into consideration the cost of such oversight

3.2 Despite the different ANSP ownership and organisational forms that exist around the world, considered attention to these areas of governance has proven to be highly effective in driving ANS performance in many States.

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