

## **CONFERENCE ON THE ECONOMICS OF AIRPORTS AND AIR NAVIGATION SERVICES**

(Montreal, 19 - 28 June 2000)

- Agenda item 2: Organizational issues**  
**Agenda item 5: ICAO policy**  
**Agenda Item 5.2: Elements for consideration with regard to ICAO policy**

### **PRIVATIZATION IN THE PROVISION OF AIRPORTS AND AIR NAVIGATION SERVICES**

(Presented by the Secretariat)

#### **SUMMARY**

This paper presents a summary of a Study on Privatization in the Provision of Airports and Air Navigation Services. Suggested action by the Conference is at paragraph 2.1.

## **1. Background**

1.1 At Appendix A is a summary of a Study on Privatization in the Provision of Airports and Air Navigation Services prepared by a consultant in close cooperation with the ICAO Secretariat. The study:

- clarifies the concepts and meanings of various terms used in connection with privatization
- analyses the developments taking place in different parts of the world in ownership and management in the provision of airports and air navigation services, including price regulation and application of funds generated from private participation and privatization
- describes different forms of private participation and privatization and the options available to States
- discusses major issues to be considered while preparing for a change in ownership and management

- draws attention to responsibilities which rest with States in accordance with principles contained in the *Convention on International Civil Aviation* (the Chicago Convention) as well as in other relevant ICAO policy regardless of the organization or ownership of the airport or air navigation services concerned.

1.2 The study places emphasis on the regulatory responsibilities of States in the areas of safety, security and, taking into account the monopolistic nature of airports and air navigation services, economics (particularly as regards equity in charging). In this context, the study suggests strengthening of the regulatory provisions and also the regulatory bodies in States where autonomy or privatization of service providers is envisaged.

1.3 Some relevant findings and conclusions of the study have been reflected in various Secretariat working papers for the present Conference, including suggestions for strengthening the wording of some of the *Statements by the Council to Contracting States on Charges for Airports and Air Navigation Services* (Doc 9082/5)<sup>1</sup>.

1.4 The intention is that, taking into account any comments received at the Conference, a fuller version of the study, with additional detail and case studies, will be published as an ICAO Circular towards the end of this year. The findings and conclusions also suggest some revision and expansion of the *Airport Economics Manual* (Doc 9562) and *Manual on Air Navigation Services Economics* (9161/3).

## 2. Action by the Conference

2.1 The Conference is invited to note this paper, the attached study and the approach to dissemination of related guidance, and comment thereon.

-----

---

<sup>1</sup>Proposed by the Secretariat in ANSCConf-WP/4 to be retitled *ICAO Policies on Charges for Airports and Air Navigation Services*.

**APPENDIX A**

**STUDY ON PRIVATIZATION IN THE  
PROVISION OF  
AIRPORTS AND AIR NAVIGATION SERVICES**

# INTERNATIONAL CIVIL AVIATION ORGANIZATION

## TABLE OF CONTENTS

	Page
1. Introduction . . . . .	1
2. Description of terms . . . . .	1
3. Analysis of developments in ownership and management . . . . .	2
4. Responsibilities of States . . . . .	5
5. ICAO policy guidance . . . . .	7
6. Ownership and management options . . . . .	8
7. Preparing for change in the ownership and management structure . . . . .	9
8. Selection of private operator and contract documentation . . . . .	11
9. Concluding remarks . . . . .	12
Appendix – Glossary of Terms . . . . .	13

## **STUDY ON PRIVATIZATION IN THE PROVISION OF AIRPORTS AND AIR NAVIGATION SERVICES**

### **1. Introduction**

1.1 Changes in the ownership and management structure in the provision of airports commenced in the late sixties. Initially, comprehensive government involvement was reduced through the establishment of autonomous authorities, with these authorities continuing to be owned by governments. However, in the recent past, private participation and privatization are gaining momentum, especially in Asia, Europe and Latin America. In the case of air navigation services, changes in the ownership and management have been limited. Presently, in most countries the services continue to be provided directly by government. In a limited number of States where changes in the management have taken place, it is through establishment of autonomous entities and ownership remains with government, except in one State (Canada).

1.2 Presently, airports and air navigation services in different States are operated under various organizational formats. Considering the diverse circumstances involved, ICAO does not recommend one organizational format over another but rather it provides guidance to States by describing relevant aspects of each format. Nevertheless, keeping in view the experience gained worldwide, ICAO recommends that governments may wish to explore the possibility of establishing autonomous entities to operate their airports and air navigation services where this is in the best interest of providers and users (Statements by the Council to Contracting States on Charges for Airports and Air Navigation Services, Doc 9082/5, paragraphs 6 and 27 refer).

1.3 The purpose of this study is to analyse the developments taking place in different parts of the world in ownership and management in the provision of airports and air navigation services, clarify the concept and meaning of different terms used in this context, and describe different forms of private participation and privatization and options available to States. The study also discusses major issues to be considered while preparing for a change in the ownership and management. As airports and air navigation services are monopolistic in nature, and safety and security are a major concern, the study brings to the notice of States important provisions of the Chicago Convention and other ICAO policy and guidance documents, and the need for providing safeguards. Finally, it suggests strengthening of the regulatory provisions and also the regulatory bodies in States where autonomy or privatization of service providers is envisaged.

### **2. Description of terms**

2.1 In the context of changes in the ownership and management in the provision of airports and air navigation services taking place in the world, a number of terms are currently being used with different meanings assigned in various forums. Accordingly, it is necessary to define major terms used in this context to remove any ambiguity.

2.2 **Privatization** is the most common word presently used in connection with the changes taking place in the ownership and management in the provision of airports and air navigation services. Often, the word privatization is loosely interpreted as any move away from government ownership and management. Strictly, privatization connotes either full ownership or majority ownership of facilities and services. Therefore, a management contract, a lease as well as minority participation in the equity of airports and air navigation services should not be interpreted as privatization but only as private participation or private involvement since the ownership control rests with government.

2.3 **Private participation and private involvement** are two other phrases commonly used in connection with changes in the ownership and management. The normal meaning of these two phrases, which are in essence synonyms, is that the private sector has a role in the ownership and/or management in the provision of airports and air navigation services but that majority ownership remains with government. However, management of a commercial concession at an airport by a private entity should not be considered as private participation or involvement.

2.4 **Autonomy** refers to the powers of the managers of airports and air navigation services in regard to utilisation of revenues generated from the operation of various services and taking independent managerial decisions without any reference to or intervention by the government. It does not refer to any specific organizational format. However, in the context of provision of airports and air navigation services, the word autonomy is used in relation to government-owned facilities and services.

2.5 **Corporatization** means creating a legal entity outside the government to manage airports and/or air navigation services, either through a specific statute or under an existing general statute, such as the company law. Normally, ownership of the corporation remains with government. However, in a corporatised body private sector participation is possible. It depends upon the provisions of the statute under which it is established and the policy of the government.

2.6 **Commercialization** is an approach to management of facilities and services in which business principles are applied or special emphasis is placed on developing commercial activities. It generally refers to a change in the approach to management of facilities and services without involving the private sector. Commercialisation should not be equated with private participation or privatization. While the former connotes an approach to management, the latter refer to change in the ownership or control of management. Commercialisation is often considered as an alternative to private participation and privatization.

2.7 A Glossary of Terms used in connection with private participation and privatization of airports and air navigation services is provided in the **Appendix**.

### 3. **Analysis of developments in ownership and management**

3.1 **Rapid growth of air transport.** The post second world war state of the aviation industry and growth thereafter can be realized from the fact that in the whole world in 1945 only nine million passengers travelled on scheduled services, whereas in 1998 almost 1.5 billion passengers were carried, a 166-fold increase. Initially, the requirement of airport infrastructure was minimal and consequently the level of investment involved was small. The airports were owned and operated by governments or local bodies. They were generally considered as public utilities and also of strategic importance.

3.2 **Autonomous authorities.** The introduction of jet aircraft in the late fifties led to a revolution in the aviation industry and an upsurge in the demand for air services. This was followed by a large scale expansion of airports and air navigation services, which were financed by many States with considerable difficulty because of fiscal constraints. Although aviation infrastructure developments continued with greater speed, changes in managerial aspects were much slower. British Airports Authority, a corporate authority wholly owned by the Government, which was established in 1966, was the first major public corporation to manage airports. The objective of the United Kingdom Government in establishing this authority was to improve managerial and financial autonomy and provide access to capital markets without foregoing the ownership (subsequently the authority was privatized in 1987 as BAA plc). Gradually, the number of airports managed by autonomous authorities has grown. Financial and operational autonomy have empowered the providers of services and brought about a business culture in the management of airports, leading to a

general improvement in the quality of services provided. Autonomy has helped in recycling of various aviation charges and reducing the financing burden on governments. Furthermore, it has helped in creating a clear distinction between the regulator and the provider of services. Nevertheless, for various reasons (national economic policy, limited traffic volume, public service considerations, etc.) a large number of airports are still managed directly by governments.

3.3 **Private participation and privatization part of global trends.** In recent past there has been a further move towards liberalization in the ownership and management in the provision of airports and to a limited extent in the provision of air navigation services by involving the private sector. This is a part of the general process of globalization and liberalization of the economies of the world and a move towards privatization of commercially oriented industries and services which were hitherto managed by States or State owned entities.

3.4 **Motivation for private participation and privatization.** The financial problems faced by many States in airport development and their realization that privatization can be a source of revenue to cover or reduce budgetary deficits created further motivation for private participation and privatization. Furthermore, the general realization of the business community and the financiers that an airport can be a sound investment proposition has led to a gradual emergence of a global airport management industry, which is helping in a faster move towards private participation and privatization in the provision of airport services.

3.5 **Move towards private participation and privatization in stages.** In most States private participation and privatization in the provision of airport services has been in stages and not directly from government ownership to private participation or privatization. For example, in the United Kingdom major airports were initially transferred to a government corporation; several years later they were transferred to a government-owned company; thereafter the shares of this company were sold to private sector. In other European countries the airports were first transferred to separate companies owned by the State but the divestiture of the shares has been gradual. In New Zealand, the airports were first transferred to individual companies and after a few years a major part of the shares was sold to private entities. China, Malaysia and South Africa are following the European model and the divestiture is gradual. In Australia also, the major airports were first transferred to a government-owned corporation (Federal Airports Corporation); after a few years the airports managed by the Federal Airports Corporation were offered for leases. However, in Latin America private participation is mainly taking place directly from government ownership, primarily through leases.

3.6 **Formats of private participation.** Private participation in the provision of airport services has taken basically three forms, management contract, lease (which is sometimes called concession) and transfer of minority ownership. **Management contract** is not a very common method of private participation.

3.7 **Leases.** Leases or concessions are common in Australia, Canada, Latin America and western Africa. The payment terms of leases or concessions differ widely. In some cases it is all down payment while in other cases it is partly down payment and partly annual payment or only annual payment. In almost all cases the responsibility for expansion and development of airports is with the lessee. While in some cases, the detail of development works to be undertaken is listed in the contract, in other cases this is left to be decided on the basis of traffic growth. The duration of leases also varies widely. In Australia, the period of lease is 50 years with an option for another 49 years. In Latin American countries the period of lease varies from 12 years in Chile to 50 years in Mexico.

3.8 **Transfer of minority ownership.** Private participation through transfer of minority ownership can take place either through sale of shares to a strategic partner or through flotation of shares. Minority

private participation has taken place with Kansai Airport in Japan, and airports in South Africa and various European countries. Malaysia has decided to float 28 percent of its shares in Malaysia Airports Holdings in installments. China has floated a part of its shares in Beijing Airport.

3.9 **Privatized airports.** Apart from certain airports which are historically owned by private entities, fully privatized airports or airports with majority private ownership are limited. These primarily include seven airports managed by BAA plc and certain other airports in the United Kingdom, which are wholly owned by private sector. For Auckland and Wellington airports in New Zealand majority ownership is with the private sector. A new international airport recently built in Macau (now a Special Administrative Region of China) has majority shareholding in private hands. In Canada, smaller airports have been sold to local communities. In Germany, one of the airports in Berlin is proposed to be developed in the private sector. Zurich airport in Switzerland is to be fully privatized soon.

3.10 **Price regulation.** In almost all the States where private participation or privatization in the provision of airport services has taken place, regulatory authorities exist or have been established to ensure that monopoly power is not abused, especially in the case of aeronautical charges. For example, in the United Kingdom, the aeronautical charges are controlled by the Civil Aviation Authority by applying a Retail Price Index (RPI) minus X formula (ie the charges are capped on an annual basis according to a percentage, X, less than general inflation). The X factor is adjusted every five years, taking into account *inter alia* major investment projects, when the Civil Aviation Authority is also required to refer the rates for review by the Monopolies and Mergers Commission. For Manchester airport, it is the average yield per passenger which is capped.

3.11 In other European States similar formulae with a few more parameters including growth in traffic have been adopted. Thus for example, Vienna Airport takes a tariff basket approach in which inflation and traffic are the guiding parameters. In Portugal, the tariff basket includes airport costs, traffic growth, commercial income and inflation. In South Africa, aeronautical charges may increase at the same rate as inflation for the first two years after private participation, followed by three years at RPI minus X (presently 2 percent); guidelines have been provided to the Regulating Committee in regard to valuation of X. In Australia, provision has been made for reduction in aeronautical charges in real terms over a period of five years by capping it with RPI minus X. In Colombia, a system of indexing has been provided which takes into account a number of parameters. However, in Canada no defined mechanism has been established and the issue is left to be settled between the airport operators and the airlines through consultation.

3.12 Regulation in regard to rents and other charges, including ground handling charges, is generally loose or nonexistent.

3.13 None of the formulae for price regulation can be considered perfect but all the formulae presently include an objective of reduction in aeronautical charges in future in real terms. To enable the system to work effectively, it is necessary that the base level of charges is fixed correctly on the basis of comprehensive and transparent cost data. Moreover, there should be a general review of the charges after a few years, taking into account both the cost of providing the services and the need to provide a reasonable return on investment.

3.14 **Application of funds raised.** In several States, especially in developed ones, such as the United Kingdom, other European States, Australia and New Zealand, the funds generated through private participation and privatization in the provision of airports have been credited to the treasury without any commitment to use them for the development of the aviation industry. In Canada, the proceeds from privatization of air navigation services have also been credited to the treasury but a major part of the ground rent collected from international and other major airports is being earmarked for development of smaller airports. In developing

States, which often have financially unviable airports to be maintained on economic, social and political grounds, many governments have indicated their intention to use the proceeds from private participation for the development and operation of financially weaker airports. For example, India has announced that the revenue earned from leasing the major airports would not go to the general exchequer but to the Airports Authority of India to finance the development of smaller airports across the country. Similarly, Côte d'Ivoire the funds generated from privatization of the major traffic airport, Abidjan, are being utilised for the development of other airports. Thailand has a proposal to utilise the funds generated through privatization of airports for building a new airport in Bangkok.

3.15 **Air navigation services.** The basic characteristics of air navigation services operations differ fundamentally from those of airport operations in two respects. Firstly, unlike airports, air navigation facilities and services provided by a State generally extend over the whole territory of the State concerned or even beyond, and they are frequently also dependent on facilities and services provided in other States. Secondly, in most States all or most of the air navigation services are not provided by a single entity. Instead, several entities may be involved although only a few are major service providers. Furthermore, air navigation services are considered as more connected with safety of aircraft operations and to have national defence and external relations implications; they are also perceived as closely related to the sovereignty of the State. Consequently, most governments favour maintaining their control over this service. Only Canada has privatized its air navigation services through a not-for-profit trust.

3.16 **International cooperation in the provision of air navigation services.** As air navigation services present considerable potential for international cooperation, international agencies have been established by the States in certain regions for the operation of air navigation services, notably route facilities and services. Examples of such agencies are, the Agence pour la Sécurité de la Navigation Aérienne en Afrique et à Madagascar (ASECNA) in Africa, Corporación Centroamericana de Servicios de Navegación Aérea (COCESNA) in Central America and EUROCONTROL in Europe.

3.17 As regards economic regulation of air navigation services, the only private corporation, NavCanada, is a nonprofit making organization and overseen by the airlines customers by means of membership of the Board. In other States, the government retains control over air navigation services charges and other issues.

#### 4. **Responsibilities of States**

4.1 For the development of safe, secure, efficient and economical air transport services, the responsibilities of the States are of paramount importance. To ensure this, the *Convention on International Civil Aviation* (Chicago Convention) has placed a number of obligations on contracting States.

4.2 **Responsibility for development of airports and air navigation services.** In the context of private participation and privatization in the provision of airports and air navigation services the most important provision in the Chicago Convention is Article 28 which places on each contracting State the responsibility for the provision of airports and air navigation services in its territory in accordance with the standards and practices recommended or established from time to time, pursuant to the Convention. Thus, the ownership and management of airports and air navigation services may be delegated to private sector but the overall responsibility for the provision of the services in accordance with ICAO Standards and Recommended Practices remains with the States.

4.3 **Nondiscrimination.** Nondiscrimination between contracting States is a basic principle enshrined in the Chicago Convention and included as one of the objectives of the International Civil Aviation

Organization (Article 44(g)). Further, Article 11 of the Convention lays down that the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality.

4.4 **Basic charging principles.** Article 15 of the Chicago Convention establishes the basic policy regarding airport (and air navigation services) charges and reinforces the concept of freedom of access and nondiscrimination in the use of facilities and services. It lays down that every airport in a contracting State which is open to public use by its national aircraft shall likewise be open under uniform conditions to the aircraft of all the other contracting States.

4.5 This Article further lays down that any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher than those that would be paid by its national aircraft engaged in similar international operations. Also, no fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

4.6 **Standards and Recommended Practices.** Under Article 37, each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

4.7 **Reporting requirements.** Another important obligation of the States under the Chicago Convention is reporting of financial and traffic data. In this regard Article 67 of the Convention lays down that each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

4.8 **Chicago Convention binding on States.** The provisions of the Chicago Convention are binding upon all the signatory States and no State can exempt itself from applying any of the principles contained therein. The Chicago Convention, however, does not debar the contracting States from delegating some of the functions for which they are responsible under the provisions of the Convention to private entities but the responsibility for ensuring that all the provisions of the Convention and its Annexes which contain Standards and Recommended Practices (unless differences have been notified) are fully complied with, rests with the States.

4.9 **Other international treaties and agreements.** In addition to the Chicago Convention, there are likely to be other international treaties and agreements signed by a State which refer to some aspect of the provision of airports or air navigation services. Accordingly, it is essential that before any move towards private participation or privatization in the provision of airports and air navigation services is made, arrangements through legislation or regulations should be made to ensure that the provisions of the Convention and other international obligations of the State are fully complied with by the operator of airports and air navigation services.

4.10 **Safety and security.** The world community attaches a very high priority to safety and security aspects of air transport operations. States must have appropriate legal powers to intervene, whenever needed, for ensuring safety of operations. The State aviation regulations should include the requirement for certification of aerodromes open to public use. With private participation and privatization in the provision of airport

services, the airports would need to be certified by the regulatory authorities. ICAO is currently in the process of developing a manual on licensing/certification of aerodromes, which is likely to include model regulations for the States to adopt.

## 5. ICAO policy guidance

5.1 **Cost basis for charges.** On the basis of principles contained in the Chicago Convention, ICAO has developed policy guidance on charges for airports and air navigation services which are contained in the *Statements by the Council to Contracting States on Charges for Airports and Air Navigation Services* (Doc 9082). Further guidance on the subject is available in the *Airport Economics Manual* (Doc 9562) and *Manual on Air Navigation Services Economics* (Doc 9161). An important general observation made in the Council Statements is that there should be a balance between the respective interest of airports and airlines in view of the importance of air transport to States. Among the basic principles included in the Statement concerning the cost basis for airport charges is the principle that it is desirable, where an airport is provided for international use, that the users shall ultimately bear their full and fair share of the cost of providing the airport. The cost to be shared is the full cost of providing the airport and its ancillary services, including appropriate amounts for cost of capital and depreciation of assets, as well as the cost of maintenance and operation and management and administration expenses, but allowing for all revenues, aeronautical and non-aeronautical, accruing from operation of the airport to its operators. The Council Statements also include a similar principle for air navigation services charges. Furthermore, the Statements provide for consultation with users, both in advance of proposed increases in charges and on major investment projects.

5.2 The Council Statements differ in status from the Chicago Convention in that an ICAO contracting State is not bound to adhere to the provisions and recommendations in the Statements. However, because of the widespread endorsement of the policies therein by worldwide conferences and their practical value in avoiding discrimination and potential dispute, there is a strong moral obligation for States to ensure that their airport cost recovery practices conform to the policies and philosophy set out in the Council Statements.

5.3 **Monopoly.** Airports and air navigation services are in essence local monopolies on which the users - aircraft operators, passengers and shippers alike - are highly dependent. In certain States, such as landlocked countries with a single international airport or States separated from others by water or other physical barriers, airports play a critical role in the economy. If these services are privatized or private participation is permitted, it must be ensured that monopoly power is not misused. An unregulated private monopoly can be more harmful than a relatively inefficient public monopoly. Accordingly, regulations must provide for price controls or capping in regard to at least aeronautical charges. In regard to certain major services required by the airlines, such as ground handling services competition should be encouraged. ICAO recommends that the government needs to retain an ability to inspect the airport company's accounts to the extent necessary to prevent potential abuse of the monopoly power.

5.4 **Quality control.** For airports to operate efficiently, whether by public or private sector, there is a need to be able to monitor the quality of services provided to various users. In case the services are provided by the private sector, a responsibility devolves on the State to closely monitor the quality of services provided, especially because a conflict may arise between the need to maintain and improve the quality of services and the financial interest of the private operator. Some guidelines in regard to developing indicators are available in the *Airport Economics Manual* (Doc 9562) and the *Manual on Air Navigation Services Economics* (Doc 9161).

5.5 **Statistical data.** Statistical data reporting requirements are elaborated in the *Manual on the ICAO Statistics Programme* (Doc 9060, which is in the process of updating following a comprehensive review of the ICAO Statistics Programme). Apart from the reporting requirements included in the ICAO Manual, States may have additional needs to monitor the performance of private operators and for other purposes.

## 6. **Ownership and management options**

6.1 Broadly, States have the following ownership and management options for their airports:

- a) Government ownership. This may take the forms of direct control and management, management by a government body with financial and operational autonomy, an autonomous corporation established under the provisions of a special statute, or a company established under company law.

Management contract, such as management of the entire airport system at Indianapolis International Airports in United States by BAA plc.

- b) Leases. Leases can be for short-, medium- or long-term. Long-term leases can be expected to yield higher revenues to the lessor. Build, Operate and Transfer (BOT) and its several derivatives, excluding Build, Own and Operate (BOO) are essentially leasing arrangements (see Glossary in the Appendix).
- c) Private sector minority participation in equity.
- d) Private sector ownership and control. This includes majority or full ownership in equity and outright sale.
- e) A combination of the above alternatives, such as in Mexico where there is a lease and also a minority transfer of shares.

6.2 Theoretically, the same options apply to the provision of air navigation services, although at the present stage some of the options may be considered impractical for most States. While considering privatization or private participation in the provision of air navigation services, a more cautious approach is required.

## 7. **Preparing for change in the ownership and management structure**

7.1 **Planning.** If a State wishes to consider a change in the ownership or management structure of its airports, a number of issues will require to be considered. A change in the ownership and management may not solve all the problems which an airport or a group of airports may be facing. If not considered and planned properly, the change in the ownership and management could possibly have adverse effects on the airports in the long-run.

7.2 **Study of financial and managerial situation.** In the first place, an in-depth analysis of the present stage of the aviation infrastructure in the country and the problems faced by it, including financial and managerial problems needs to be made. This should include preparation of a detailed profit and loss account of the airports and air navigation services separately, even if they are managed together. As the situation at all the airports may not be the same, it will be desirable to make separate analysis of individual airports, especially the larger airports with a substantial volume of traffic. Moreover, as it may not be sufficient to base a change in the ownership and management on the basis of the existing situation alone, future projections should also be taken into account.

7.3 **State to decide on options.** It is not feasible to generalise the specific situations in which a particular option may be suitable. The choice will have to be country specific and probably airport specific. The most appropriate choice can possibly be determined only after a specific study, taking in to account the financial and managerial situations of the airports, the political and economic system in the country and also the long-term objectives. Basically, it is for the State to make a choice after a proper study.

7.4 **Gradual change.** As mentioned earlier, in most States change in the ownership and management has taken place with caution and in stages. The limited evidence suggests that States have generally benefited from this approach. Accordingly, it may be prudent for the States to proceed slowly and in stages.

7.5 **Management of residual facilities and services.** The private sector is essentially interested in profit making facilities and services or in those services which have the potential to make a profit. Simultaneously with a decision to place the profitable airports in a different basket, it may therefore be important to decide how the remaining airports and other services are to be managed and financed. Much will depend upon what is left and what is the financial requirement. There can be several options, including retaining the airports with government, creating an autonomous authority for the airports, creating an autonomous authority for the air navigation services, etc. It may also be possible to have private participation in the remaining airports and select an agency which demands the least subsidy to operate them.

7.6 **Utilization of revenues from private participation and privatization.** The revenue generated from private participation and privatization should be utilized for meeting capital and recurring revenue deficits of the remaining airports and other services. It may be appropriate to place the revenue generated from private participation or privatization in a special fund to be drawn on from time to time to finance development of the remaining airports and other services. In some States with limited volume of traffic the amount generated from private participation or privatization may not be sufficient to meet the financial requirements of the remaining airports and other services. In such a situation, it would be for the State to provide for the remaining essential requirements.

7.7 **Change in legal framework.** In most States a change in ownership and management structure would require a change in the existing legal framework for the civil aviation. The nature of change will depend

upon the existing legal system in the State, including constitutional provisions, the legal structure for civil aviation and the objective of the proposed change. After a decision has been taken about the option, immediate action should be taken to prepare the necessary legal framework, either through an amendment of the existing law or new legislation. The new legal framework should provide for the ICAO and other regulatory requirements outlined above.

7.8 **Regulatory authority.** With growing private participation and privatization in the provision of airports and air navigation services, the responsibility of the State to monitor and also to take corrective action as a regulator has increased considerably, in the fields of safety, security and economics alike. Accordingly, the existing regulatory body within the concerned State will need to be refocused and may need to suitably strengthened, not only quantitatively but also qualitatively. The regulatory body should be backed by appropriate legislative framework and preferably be independent to avoid conflict of interests.

7.9 **Human resource issues.** Human resource planning and training are essential for safe, secure, efficient and economical provision of airports and air navigation services. The basic requirement of qualified and trained personnel does not materially change whether the airports and air navigation services are managed by government, autonomous authorities or the private sector. However, if the airports and air navigation services are privatized, there may be an increase in the training requirements in certain disciplines, depending upon the background of the new managers and other personnel employed by the private operator. The priority attached to the training aspects may differ from bidder to bidder.

7.10 While short listing the potential bidders, their philosophy and policies in regard to the training of their personnel should be given due consideration. However, the details, including the institutions to be utilised for training purposes, should be left to the private operator to decide. The State should be primarily interested in the end result in regard to the quality of services and ensuring that safety and security are provided and necessary licensing and other requirements are adequately met.

7.11 Privatization of airports and air navigation services may have some impact on the future of the existing training institutions owned and operated by the government, because the private operator may not use all the facilities provided by the government. On the other hand, the private operator may wish to take over the existing training facilities, either partly or fully. After considering the philosophy and policy of the private operator, the State should examine the changes required in the existing training set up and the facilities. Also, with private participation or privatization the cost recovery of government training facilities becomes important as any under recovery would mean subsidizing the private operator.

7.12 **General aviation and aerial work communities** may possibly be adversely affected in some countries by the private participation and privatization of airports as they may not be able to enjoy certain benefits which they enjoyed when the airports were owned and operated by government. They may face problems of access and/or large increases in charges (on the basis of related costs incurred). General aviation and aerial work activities provide an essential service in many States. It will be for individual States to consider how the difficulties, if any, faced by general aviation and aerial work communities should be mitigated.

## 8. Selection of private operator and contract documentation

8.1 **Requirements of bidders.** Initially the essential requirements from potential bidders should be considered and laid down. Should any restrictions be placed on the shareholding of the bidding companies? Should the company bidding be registered in the country which is inviting the bids? Should there be any limit on the number of foreign directors of the company? Should airline participation in the bidding company or consortium be permitted and if so, to what extent? There may be other issues on which decisions may be needed.

8.2 **Transparency.** Private participation and privatization in the provision of airport services can be a relatively detailed and complicated process for a State. Therefore, the project has to be handled carefully and not implemented in a hurried manner. Governments should provide all relevant information, including those relating to traffic, finances, charges, concessionaires, physical condition of the infrastructure, etc., and by no means least the planned regulatory framework, to the potential bidders so that they understand the situation and offer realistic bids. Any supplementary information provided in response to a query by a bidder should be copied to all the interested bidders. The whole process of private participation or privatization should be transparent, including dissemination of information and bidding. This will tend to increase the economic value of the transaction and also create confidence in the bidders. Further, the tender document to be submitted by the interested parties should be well prepared and provide for all the relevant information for taking a decision. It is especially important to clearly state what the government expects from the bidders, such as fixed fees or annual fees or a combination of the two, financing of capital programmes, etc. The bidders could be asked to provide the broad basis of their financial bids. This would help in evaluating abnormally high bids. At the same time, care should be taken to avoid asking for too detailed information, which may be difficult or costly to provide.

8.3 **Short-listing of bidders.** The selection of a suitable operator through the tender system is normally done in two stages, one to short-list the eligible bidders and the other to invite financial bids from the short-listed bidders. The first part is the most crucial one and the success of the process depends upon it. Accordingly, it is important to ensure that short-listing of suitable bidders is done carefully.

8.4 **Contract documentation.** The contract document between the State and the private operator is the key operative document for the smooth management and operation of the facilities and services. Accordingly, it has to be prepared carefully. It is particularly important to ensure that the government has a right to terminate the contract and resume control of the facilities and services in certain grave situations without paying undue compensation to the private operator.

8.5 **Expert outside advice.** Since private participation and privatization in the provision of airport services is a complex process in which many States may not have sufficient expertise, it may be desirable and advantageous to obtain the advice of one or more external consultants. However, it needs to be ensured that the consultant is sufficiently experienced in the area of required expertise, including knowledge of ICAO policies and guidance, and has no affiliation with the bidders for the airport.

9. **Concluding remarks**

9.1 Airports and air navigation services are a service industry, the primary objective of which is to provide, safe, secure, efficient and economical services to aircraft operators, passengers, shippers and other users. There are several ownership and management options for the provision of the services and such options should be considered as a means to achieve the end result. There is no “best option” for global application; the best option will vary from case to case. Accordingly, a State should choose the option which is best suited for it to achieve the above objective. Selection of the option should be done after a careful consideration and planning and preferably provide for the changes in evolutionary stages. However, regardless of the organizational form or the legal status given to airports or air navigation services, the State remains ultimately responsible for safety and security.

-----

## APPENDIX

### GLOSSARY OF TERMS

**Airport authority:** A corporation-like entity with legal powers to manage one or more airports but wholly owned by government. An airport authority can also be made responsible for managing air navigation services.

**Autonomy:** Power to take independent decision in financial and operational matters without any reference to or intervention from government.

**Build, Operate and Transfer:** An ownership and management system by which a private entity obtains a certain facility on lease to build and operate and on expiry of the lease returns it to the owner.

**Build, Own and Operate:** A system of ownership and management by which a private entity builds a certain facility, owns it and operates it on a perpetual basis.

**Build, Own, Operate and Transfer:** This is similar to Build, Operate and Transfer except that the private entity takes over ownership of the facility during construction.

**Build, Transfer and Operate:** An ownership and management system by which a private entity designs, finances, and builds certain facility and retains its ownership during the construction period. After completion of construction the ownership is transferred back to the original owner and thereafter the private entity leases the facility and operates it.

**Business principles:** An approach to management of facilities and services in which commercial considerations have priority.

**Buy, Build and Operate:** A system similar to Build, Own and Operate except that some facility may be existing which the private operator buys before building commences.

**Civil aviation authority:** An independent authority to perform regulatory functions. Sometimes it is also made responsible for management of airports and/or air navigation services.

**Commercialization:** An approach to management of facilities and services in which business principles are applied or emphasis is placed on development of commercial activities.

**Corporatization:** Creation of a legal entity outside government to manage certain facilities and services, either through a specific statute or under an existing statute such as company law.

**Divestiture:** Transfer of ownership of a facility from government to the private sector through sale of shares (which can be in stages).

**Equity:** An interest of an ownership nature, as distinguished from an interest of creditor nature.

**Franchising:** A system of ownership and management in which a private entity is delegated the responsibility of ownership, financing and operation of certain facilities.

**Freehold sale:** Sale of a facility without any encumbrances.

**Initial Public Offering (IPO):** The first offer of shares in an entity on the stock market.

**Joint sector participation:** An ownership and management structure in which the private and the government sectors both participate.

**Joint venture:** An enterprise with more than one major partner. The partners may be private entities, States or private entities and States

**Lease:** The right to occupy certain defined premises or possess some equipment for a fixed period, which may be used for business purposes. The premises or equipment are returned to the owner on expiry of the lease, generally without paying any compensation.

**Lease, Develop and Operate:** A system similar to Build, Operate and Transfer but with a relatively longer-term lease.

**Management Contract:** A system of management by which a private entity takes over the management of a facility for a fixed period on the basis of predetermined payment terms.

**Majority stake in equity:** More than 50 percent share in the equity of a company.

**Minority stake in equity:** Less than 50 percent share in the equity of a company.

**Privatization:** Transfer of full or majority ownership of facilities and services to the private sector.

**Private entity:** A private individual, a partnership firm, a private company or any other organization almost wholly owned by individuals.

**Private participation/Private involvement:** These two phrases are to be treated as synonyms. Minority participation or involvement in the ownership of certain facilities and services. Private participation or involvement may also take the forms of management contract or lease.

**Sale of equity:** Sale of shares in a company.

**Share flotation:** Offer of shares for sale in the stock markets.

**Wraparound addition:** Expansion and improvement of an existing government facility and management by a private entity.