

Doc 9980



Manual on Privatization in the Provision of Airports and Air Navigation Services

Approved by the Secretary General
and published under his authority

First Edition — 2012

International Civil Aviation Organization



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## AMENDMENTS

Amendments are announced in the supplements to the *Catalogue of ICAO Publications*; the Catalogue and its supplements are available on the ICAO website at [www.icao.int](http://www.icao.int). The space below is provided to keep a record of such amendments.

## RECORD OF AMENDMENTS AND CORRIGENDA

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## FOREWORD

1. Many changes have occurred in the past two decades in ownership and management in the provision of airports and, to a lesser extent, air navigation services. The changes have generally been thought of as “privatization.” However, these changes can take various forms, and while they generally reflect a move away from government ownership and management, they do not necessarily (and indeed rarely) denote outright privatization per se, particularly as regards ownership. This underlies the need expressed by States for guidance from ICAO in this area.
2. This manual responds, in part, to that need. It: a) presents information on developments taking place in various parts of the world in ownership and management in the provision of airports and air navigation services; b) provides definitions and analyses of the options available, together with the possible implications of these options; and c) discusses major issues to be examined by States when considering a change in ownership and management. It also brings to the notice of States important provisions of the *Convention on International Civil Aviation* (Doc 7300) and other ICAO policy and guidance documents regarding regulatory measures and the need for providing safeguards.
3. The guidance in this manual takes into account the wide range of circumstances faced by providers of airports and air navigation services in various regions and individual States. It is nevertheless based on the international policies and principles on airports and air navigation services management that States have developed through ICAO. The basis for these policies and principles is set forth in Article 15 of the Convention. Extensive guidance for Contracting States was developed by the Council and is contained in *ICAO’s Policies on Charges for Airports and Air Navigation Services* (Doc 9082), the last edition of which was released in April 2012. The guidance material presented in this manual is consistent with and complementary to the guidance provided in both the *Airport Economics Manual* (Doc 9562) and the *Manual on Air Navigation Services Economics* (Doc 9161), and takes into consideration relevant recommendations adopted during the Conference on the Economics of Airports and Air Navigation Services (CEANS, Montréal, 15–20 September 2008) and subsequently approved by the Council.
4. ICAO’s first publication on this subject was the circular *Privatization in the Provision of Airports and Air Navigation Services* (Cir 284) which appeared in March 2002. In view of the developments that have taken place in the past decade, it was decided that the material should be updated and issued in the form of a manual. This publication was prepared by the Secretariat. Other ICAO publications referenced in the text were the principal sources, along with the *Case Studies on Commercialization, Privatization and Economic Oversight of Airports and Air Navigation Services Providers*, available on the ICAO website. These case studies describe the commercialization/privatization of airports and air navigation service providers (ANSPs) and explain the mechanisms of economic oversight for 26 States.



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# EXECUTIVE SUMMARY

## INTRODUCTION

1. Changes in the ownership and management structure in the provision of airports developed slowly until the late 1970s and were primarily limited to the establishment of autonomous authorities owned by governments. Private participation and privatization of airports began in the 1980s, gained momentum in the late 1990s and early 2000s, and slowed down in the late 2000s.
2. With privatization and private participation in the provision of airports and air navigation services, it is important for governments to ensure that service providers do not abuse any dominant position they may have.

## DESCRIPTION OF TERMS

3. In the context of changes in ownership and management in the provision of airports and air navigation services, a number of terms are currently being used in various forums with different meanings. Accordingly, it is necessary to define the principal terms used in this context to eliminate any ambiguity. Privatization, which is the most commonly used word in connection with the changes taking place, connotes either full ownership or majority ownership of facilities and services by the private sector. Two common phrases, private participation and private involvement, which are basically synonyms, describe situations in which the private sector plays a role in ownership, management or both, but majority ownership remains with the government. A number of other terms are defined in the Glossary.

## DEVELOPMENTS IN OWNERSHIP AND MANAGEMENT

4. Privatization and private participation in the provision of airport services have been part of the general process of globalization and liberalization of the economies of the world and the movement toward privatization of commercially oriented industries and services managed by States or State-owned entities. A number of other factors, such as financial problems faced by States in airport development, the need to reduce budgetary deficits and the emergence of a global airport management industry, have motivated States to move towards privatization and private participation (paragraphs 3.3 and 3.4 refer).
5. In almost all States in which privatization or private participation have taken place, regulatory authorities exist or have been established in some form to ensure that providers do not abuse any dominant position they may have, especially in the case of aeronautical charges. However, regulations in regard to rents and other non-aeronautical rates and fees are generally lax or non-existent (paragraph 3.8.5 refers).

## ICAO'S POLICIES AND GUIDANCE

6. The Convention on International Civil Aviation ("the Convention") is binding on all Contracting States, and while it does not prevent them from delegating functions to autonomous or private entities, the responsibility for ensuring that all the provisions of the Convention are fully complied with rests with States (paragraph 4.1.1 refers).

7. Certain safeguards are considered essential if privatization or private participation is to be undertaken. Of special significance is Article 28 of the Convention, which places on each Contracting State the responsibility for the provision of airports and air navigation services in its territory in accordance with ICAO's Standards and Recommended Practices. Articles 11 and 15 of the Convention provide for non-discrimination between Contracting States. Article 15 deals with basic charging principles (paragraph 4.1 refers).

8. ICAO's guidance material developed on the basis of the principles of the Convention, including policy guidance on charges for airports and air navigation services, is contained in Doc 9082, *ICAO's Policies on Charges for Airports and Air Navigation Services* (paragraph 4.4.7 refers). The *Airport Economics Manual* (Doc 9562) and the *Manual on Air Navigation Services Economics* (Doc 9161) provide practical guidance. Detailed information on commercialization and privatization of providers is contained in the *Case Studies on Commercialization, Privatization and Economic Oversight of Airports and Air Navigation Services Providers*, available on the ICAO website.

### OWNERSHIP AND MANAGEMENT OPTIONS

9. This manual does not specify the best option for global application. The choice of option would need to be country-specific and probably airport-specific. The most appropriate choice can be determined only after a specific study (paragraph 5.1.2 refers).

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

- a) government ownership;
- b) management contract;
- c) lease or concession;
- d) transfer of minority ownership;
- e) public-private partnerships; and
- f) private sector ownership and control.

11. Theoretically, the same options apply to the provision of air navigation services. However, when considering privatization or private participation in the provision of air navigation services, a more cautious approach is required (paragraph 5.3 refers).

### PREPARING FOR CHANGE IN OWNERSHIP AND MANAGEMENT STRUCTURE, INCLUDING REGULATORY ASPECTS

12. A change in the ownership and management structure in the provision of airport services may not necessarily solve all the problems that an airport or a group of airports may be facing. The change may be harmful in the long run if poorly planned. The objectives of any change should be clearly defined (paragraph 6.1 refers).

13. A number of major issues need to be considered before embarking on privatization or private participation. An in-depth analysis of the present state of the aviation infrastructure in the State, including a detailed profit and loss account, should be conducted. This analysis should also take into account growth forecasts. Simultaneously with a decision to place profitable airports in a different category, consideration should be given to how the remaining airports

and other services are to be managed and financed. Moreover, consistent with the increasing responsibility of the State consequent to privatization, the existing regulatory body should be suitably strengthened (paragraphs 6.3, 6.4 and 6.7 refer). Finally, States are ultimately responsible for the economic oversight of their airports and air navigation services providers, and should consider establishing an independent mechanism to perform this function (paragraph 4.4.4 and 6.8 refer).

## SELECTION OF A PRIVATE PROVIDER

14. In order for privatization or private participation to be successful, careful planning is required. The entire process of privatization or private participation should be transparent. Tender documents should be well prepared and include all information necessary for taking a decision. Careful consideration should be given to the short-listing of suitable bidders. Moreover, the contract document should provide, inter alia, for the termination of the contract and the resumption of control of facilities and services in grave situations without paying undue compensation to the private sector. 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 external consultants (paragraphs 7.3 through 7.6 refer).

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