



Post-pandemic airports accountability: a wake-up call for airport CLOs

Eduardo Carvalhaes
LEFOSSE ADVOGADOS
May 29, 2024

HOSTED BY:



Lefosse

Airport Concessions in Brazil

Historical Background



In the past, all federal airports in Brazil were operated by **INFRAERO**, a federal state-owned company.

Since 2011, Brazil has changed its federal public policy on the management and maintenance of airports and started a process to grant to the private sector the right to exploit the largest airports under a concession regime.



Initially, granting the private sector the right to expand and operate airports aimed to promote investments for the **2014 World Cup** and **2016 Olympic Games**.

Since then, concessions for **59 airports** have been granted to the private sector.

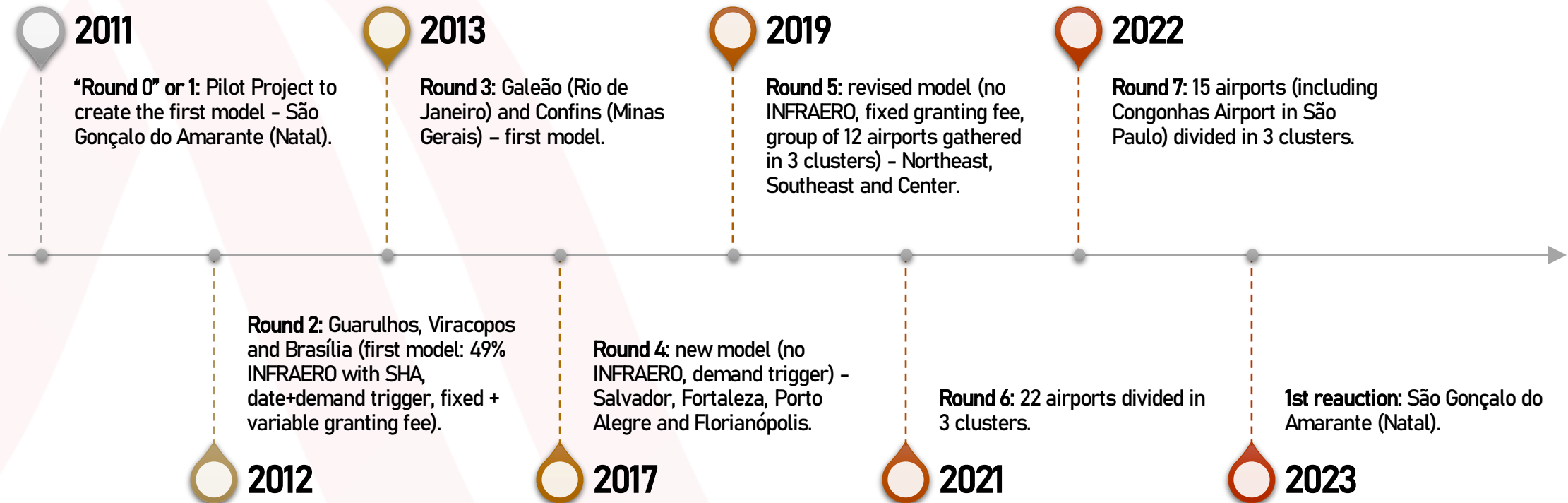


Airport concessions aim to attract investments to expand and improve Brazil's airport infrastructure.

The service quality levels determined for these airports, based on international standards, are provided for in the concession contracts, which are managed and inspected by the **National Civil Aviation Agency (ANAC)**.

Airport Concessions in Brazil

Privatization Rounds



Airport Concessions in Brazil

Privatized Airports

ZÜRICH AIRPORT

Round 5 - Vitória (ES) and Macaé (RJ)

First reaction - São Gonçalo do Amarante - Natal (RN)

Zurich Airport
Brasil



Round 4 - Florianópolis (SC)

VINCI AIRPORTS

Round 4 - Salvador (BA) -
Concessionária do Aeroporto de
Salvador S.A.

Round 6 - Manaus (AM), Tabatinga
(AM), Tefé (AM), Rio Branco (AC),
Cruzeiro do Sul (AC), Porto Velho (RO),
Boa Vista (RR)

CCR
AEROPORTOS

Round 6 - Goiânia (GO), Palmas (TO),
Teresina (PI), Petrolina (PE), São Luís
(MA), Imperatriz (MA), Curitiba (PR),
Foz do Iguaçu (PR), Londrina (PR),
Bacacheri (PR), Navegantes (SC),
Joinville (SC), Pelotas (RS),
Uruguaiana (RS) and Bagé (RS)

aena

Round 5 - Recife (PE), Maceió (AL),
João Pessoa (PB), Aracajú (SE),
Campina Grande (PB) and Juazeiro do
Norte (CE)

Round 7 - Congonhas (SP), Campo
Grande (MS), Corumbá (MS), Ponta
Porã (MS), Maestro Wilson Fonseca
(PA), João Corrêa da Rocha (PA),
Carajás (PA), Altamira (PA),
Uberlândia (MG), Montes Claros (MG)
and Uberaba (MG)

INFRAMERICA

Round 2 - Brasília (DF)

xp

Round 7 - Campo de Marte (SP) and
Jacarepaguá - Roberto Marinho (RJ)

VIRACOPOS
Aeroporos Brasil

Round 2 - Viracopos - Campinas (SP)

GRU AIRPORT

Round 2 - Guarulhos (SP)

Fraport

Round 4 - Fortaleza (CE) and Porto
Alegre (RS)

Socicam
Aeroporos

Round 7 - Belém (PA) and Macapá
(AP)

BH Airport
Aeroporto Internacional
de Belo Horizonte

Round 3 - Confins - Belo Horizonte
(MG)

COA
Centro-Oeste
Airports

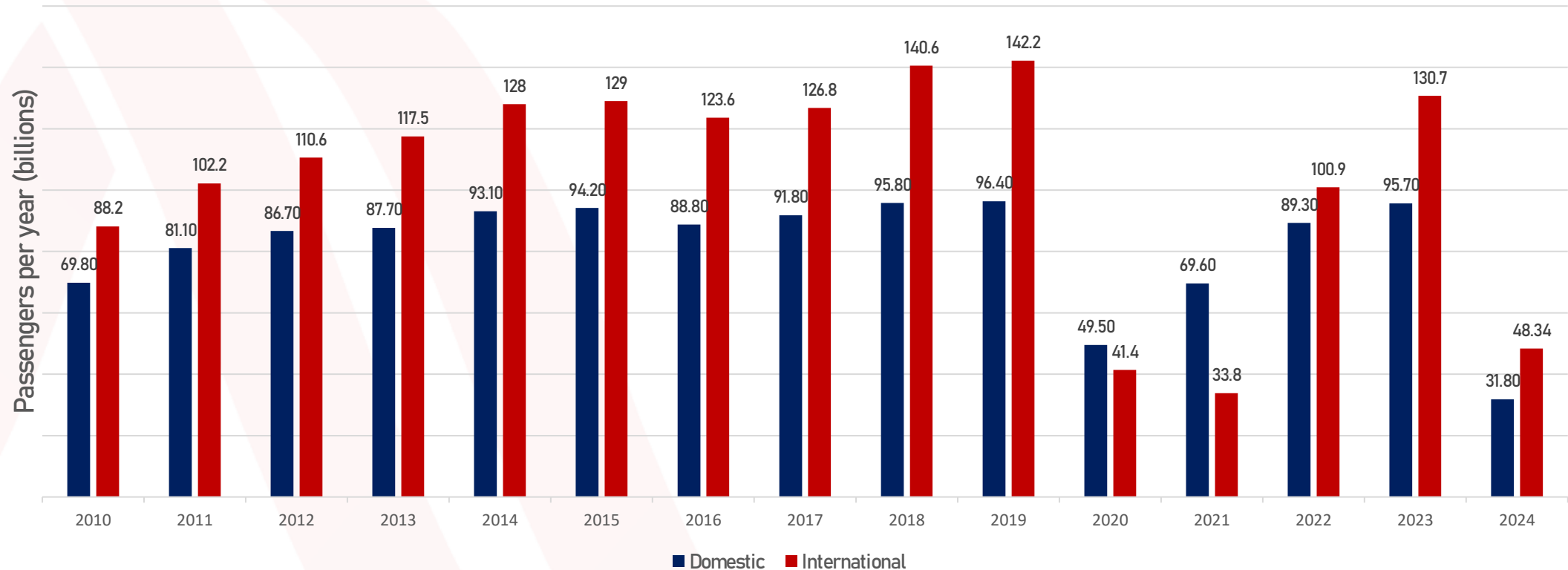
Round 5 - Cuiabá (MT), Sinop (MT),
Rondonópolis (MT) and Alta Floresta
(MT)

RIOGALEÃO
aeroporto
internacional
tom jobim

Round 3 - Galeão - Rio de Janeiro (RJ)

Historical Demand Growth

Domestic and International Flights



Source: [ANAC](#)

Impact of the COVID-19 Pandemic

INITIAL RECOVERY AND SETBACKS

After the initial impact of the COVID-19 crisis in 2020, the Brazilian aviation sector began to show signs of recovery in 2021. However, a resurgence of the pandemic in the second half of the year halted global aviation recovery efforts, making air transport one of the most affected economic activities in Brazil.

ANAC'S RESPONSE

Despite ongoing limitations and uncertainties, ANAC continued its efforts to mitigate the pandemic's impact on civil aviation, ensuring safe operations and driving sector activities while adhering to national and international health guidelines and restrictions.

REGULATORY CHANGES IN RESPONSE TO THE PANDEMIC

The experience gained from pandemic response measures highlighted the need for **urgent update outdated regulations** that no longer reflected the realities of the Brazilian civil aviation sector. These regulations sometimes hindered ANAC's ability to keep pace with market dynamics and innovations.

ANAC'S NEW REGULATORY INITIATIVES

Notable initiatives such as **Responsive Regulation** and **Simple Flight Program** gained momentum and visibility. Their primary aim was to foster closer collaboration between ANAC and regulated entities.

Addressing Pandemic Challenges

Provisional Measure No. 1,089/2021

A significant step towards reform was taken with the introduction of **Provisional Measure No. 1,089/2021** at the end of 2021. This measure was conceived in response to the challenges posed by the COVID-19 pandemic, aiming to update and streamline processes and procedures in the aviation sector, thereby enhancing service efficiency and fostering civil aviation development.

Alignment with International Standards

PM 1.089/2021 aligned with international best practices, simplifying and updating legislation to ensure greater effectiveness in the aviation sector while maintaining high levels of operational safety. It aimed at improving the business environment, attracting investments, enhancing connectivity, and reducing costs for both the sector and administration, crucial for the Brazilian civil aviation recovery post-pandemic.

Aviation Recovery

Throughout 2021, ANAC's efforts were primarily focused on promoting and providing the necessary support for the sustainable, structured, and consistent recovery of the aviation sector. This involved ensuring safety standards while adhering to necessary health measures and mandates.

Positive Signs

By December 2021, the domestic air network had reached **84.7% of pre-COVID-19 levels**, marking the sector's best performance in 21 months. This indicates significant progress towards recovery despite ongoing challenges.

Economic Rebalancing

SUPPORTING CONCESSIONAIRES

ANAC approved requests for economic rebalancing from concessionaires of 13 airports, ensuring compliance with concession contracts and maintaining service provision to society.

Investment Continuity

Approved rebalancing measures ensured the continuity of investments and service provision despite passenger demand declines due to the pandemic.

PROMOTING SECTOR GROWTH

Published in December 2021, MP 1,089/2021 introduced various changes and innovations, enhancing the business environment, attracting investments, increasing connectivity, and reducing costs for the sector and administration, crucial for Brazilian civil aviation recovery post-pandemic.

Voo Simples Program

With nearly 70 actions, the Voo Simples Program aimed at streamlining processes, reducing burdens, and promoting competitiveness in the Brazilian civil aviation sector.

Responsibilities of Airport Managers in Brazil

The Concessionaire is **exclusively responsible** to ANAC for compliance with the Concession Agreement and the regulations applicable to a airport operator of a public civil aerodrome.

General Obligations

- **Boarding and Landing Services:** Managing boarding and landing processes.
- **Landing and Stay Services:** Administration of landing, parking, and cargo handling services.
- **Exploitation of the Airport Complex:** Maximizing non-tariff revenues and providing necessary support infrastructure.
- **Infrastructure Maintenance:** Maintaining installations, equipment, and assets in accordance with current regulations.
- **Execution of Improvements:** Implementing planned improvements to expand and upgrade infrastructure.
- **Compliance with Specifications:** Ensuring that infrastructure and services meet minimum specifications provided in the concession agreement.
- **Capacity Provision:** Providing adequate capacity in terminals, aprons, runways, and access roads.

Services excluded from the Concession Agreement

- **Aeronautical Information Services (AIS):** Responsibility of the Public Authority.
- **Air Traffic Management (ATM):** Exclusively managed by the Public Authority.
- **Meteorology (MET):** Meteorological services provided by the Public Authority.
- **Communications in Air Traffic Terminal Areas (COM):** Managed by the Public Authority.
- **Search and Rescue (SAR):** Coordination and execution by the Public Authority.
- **Auxiliary Flight Protection Services:** Including specific services except visual aids (PAPI, VASIS, ALS, etc.).

Operational responsibilities

Prior Consultation with DECEA: Conduct prior consultations with the Department of Airspace Control whenever intending to make changes to the airport infrastructure that might affect airspace control activities.

Prior Consultation with COMAER: Conduct prior consultations with Aeronautical Command whenever intending to use special areas, where Airspace Control Detachments, radars, and other air navigation aids are installed.

Pre-notification of Users: Provide advance notice to users about the schedule of works to be carried out at the Airport Complex to ensure predictability of infrastructure operations.

Authorization of Access for Public Agents: Authorize access for employees or third-party agents of public bodies responsible for activities in airport site areas, in accordance with current regulations.

Investments and Operational Actions: Make necessary investments and operational actions to ensure adequate capacity during the execution of the concession agreement.

Expropriation and Indemnification: Expropriate necessary properties, compensate owners, and request necessary decrees and powers as per applicable law.

Accountability Obligations of the Airport Manager

Access and Transparency: Provide information to ANAC, ensuring access to all facilities at any time.

Tariff Changes Notification: Inform public and users of tariff changes 30 days in advance.

Periodic Reporting: Submit reports with concession details, traffic statistics, and tariff revenues.

Electronic Database Maintenance: Maintain an updated electronic database for report generation, ensuring ANAC's uninterrupted access.

Incident Reporting: Inform ANAC of any non-compliance or legal/regulatory violations, and incidents affecting safety within 24 hours in writing, and immediately verbally.

Document and Contract Availability: Provide ANAC with all concession-related documents and agreements for audits.

Financing Disclosure: Inform ANAC about financing conditions and legal execution instruments.

Technical Documentation: Maintain an updated technical archive with as-built projects, manuals, and documentation.

Airport Movement Information: Follow ANAC Resolution No. 464/2018 for airport movement information. Provide additional details such as baggage carousel and boarding gate codes and docking times.

Network Infrastructure: Maintain necessary infrastructure for an information exchange network. Join blockchain technology network if requested by ANAC.

Service Quality Indicators

DIRECT SERVICES

- Security Inspection Waiting Time.
- Assistance for Passengers with Special Needs (PSN), according to ANAC Resolution No. 280/2013.

EQUIPMENT AVAILABILITY

- Operational availability of elevators, escalators, and moving walkways.
- Efficiency and availability of the baggage processing system for departing flights.
- Efficiency and availability of the baggage claim system for arriving flights.

AIRSIDE FACILITIES

- Quality and efficiency of boarding bridge services.

PASSENGER SATISFACTION

- **Mobility:** Ease of navigating the terminal and accessing flight information.
- **Basic Services:** Cleanliness and availability of restrooms, availability of official airport operator Wi-Fi, etc.
- **Environment:** Comfort in the boarding area, thermal comfort, acoustic comfort, and overall airport cleanliness.
- **Access:** Ease of vehicle drop-off and sidewalk access to the terminal.

Regulatory Measures at Salgado Filho Airport – Porto Alegre/RS

Closure of Salgado Filho Airport

ANAC closed Salgado Filho Airport, in Porto Alegre, State of Rio Grande do Sul, indefinitely for civil aviation safety. The closure, effective from May 20, 2024, prohibits landings and takeoffs of fixed-wing aircraft until operational conditions are restored.

Reason for Closure

ANAC's decision was motivated by the heavy flooding that occurred at the end of April in the State of Rio Grande do Sul, rendering the airport's runway system unusable.



Regulatory Measures at Salgado Filho Airport – Porto Alegre/RS

Ensuring Continuity of Air Services

The Ministry of Ports and Airports (MPOR) and ANAC are focusing on create and expand a minimal emergency flight network in the state's airports and facilitate commercial aviation operations at the Canoas Air Base (RS).

Monitoring and Safety

ANAC is continuously monitoring Salgado Filho Airport and Canoas Air Base operations to ensure safe handling of the exceptional situation until Salgado Filho can resume operations.

Regulatory Measures at Salgado Filho Airport – Porto Alegre/RS

Civil Aviation Operations at Canoas Air Base

Fraport Brasil, the operator of the Porto Alegre airport, will manage civil aviation operations at Canoas Air Base during the closure of Salgado Filho Airport.

Safety and Adequate Conditions

Considering the limitations of the air base's facilities, Fraport must ensure safety and proper conditions for passenger processing and baggage handling.





HOSTED BY:



Thank you!

Eduardo Hayden Carvalhaes Neto

Eduardo.Carvalhaes@lefosse.com

LEFOSSE ADVOGADOS

Partner