

Project Completion Report

USAID Airport Concessions in Bulgaria
Contract No. PCE-I-00-97-00037-00, Task Order No. 807

Period of Performance: June 2, 2003 – July 30, 2004



BearingPoint, Inc.
November 30, 2004
Volume I



1676 International Drive
McLean, VA 22102-4828
Tel: +1.703.747.3000
Fax: +1.703.747.8500

www.bearingpoint.com

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Ms. Rayna Dimitrova, Senior Bank Specialist / CTO
USAID Mission to Bulgaria
NDK Office Building, 5th Floor
One Bulgaria Square
1414 Sofia, Bulgaria

SUBJECT: Bulgaria Airport Concessions
Contract No.: PCE-I-00-97-00037-00, Task Order 807
Project Completion Report

Dear Ms. Dimitrova:

Enclosed you will find the Project Completion Report for the Bulgaria Airport Concessions project. If you need additional copies of this report or require further information, please feel free to contact me by phone at (703) 747-5821, by fax at (703) 747-8514 or by email at Richard.Longstaff@bearingpoint.com. Alternatively, you may contact the Project Manager, David Spira, by phone at 359.2.9409548, by fax at 359.2.9875677 or by email at David.Spira@bearingpoint.com.

Very truly yours,

A handwritten signature in black ink that reads "Richard Longstaff".

Richard Longstaff
Emerging Markets Managing Director

cc: Mr. Clem Bucher, USAID/Budapest Contracting Officer, Bulgaria
Mr. Mark Karns, SEGIR Privatization II, USAID/DC
USAID PPC/CDIE/DI
Project File

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I. Introduction

This project was initiated in June 2003 as a continuation of earlier work provided under a USAID-funded privatization project. Under that project, Advisors worked closely with leadership and experts within the Ministry of Transportation and Communication (MTC) to determine the strategic objectives of the MTC with respect to the Black Sea Airports located at Bourgas and Varna (the Airports), to conclude a feasibility study for a concession for the Airports, and to begin work on the implementation of that concession.

The specific goal of this project is to support the initiation of a transparent and competitive concession transaction which transfers substantial rights and obligations for airport operation, development and investment to an experienced, highly-qualified private-sector international airport operating company while maintaining necessary and effective control by appropriate State institutions. This goal is consistent with international and European best practices for airport development and can deliver essential capacity upgrades to the Airports, coupled with significantly improved airport operation and efficiency and enhanced commercial development.

As one of the first infrastructure concessions in Bulgaria, this project also serves as a model for future concession transactions across multiple sectors – the Government of Bulgaria has indicated a substantial willingness to undertake concession transactions as a way to leverage private sector expertise and financial capabilities for the development of the country's considerable infrastructure requirements.

The project is focused on several key areas of activity:

- Establishment of the necessary legal environment for airport concessions.
- Improvements to available airport data;
- Completion of required concession and tender documentation;
- Support to transaction initiation and implementation;
- Capacity building and training for counterparts and others; and
- Implementation of a coordinated public awareness program.

II. Summary of Actions and Achievements

In June 2003 the project was required to develop a revised strategy for establishment of the enabling legal environment for airport concessions in Bulgaria following the narrow defeat of the amendments to the Civil Aviation Act at first reading in Parliament. The new strategy included the revision of the necessary amendments to include issues related to EU accession in addition to airport concessions, and the submission of the proposed amendments through the Council of Ministers. These two actions would demonstrate Government commitment to the proposed legislation and broaden its likely support in Parliament. The amendments would be further supported by an active information and public awareness campaign, specifically within the key committees of Parliament (Transport and Economic Policy) and through multiple media outlets (including the education and training of media professionals as well). To this end, Advisors prepared several news articles on airport concessions which were published in the Bulgarian press beginning summer 2003 and distributed to key constituents throughout the term of the project – these articles provided essential background on international experience and the rationale on airport concessions for Bulgaria and proved extremely effective. **Please see attachment 1: news articles (2) on airport concessions prepared by Advisors for publication and distribution.**

In early July the project organized and led the successful participation of a high-level Bulgarian delegation to the Airports Concession Workshop in Dubrovnik, sponsored by the American Association of Airport Executives (AAAE). Advisors accompanied a delegation of 13 Bulgarian officials, including 9 Members of Parliament (both Economic Policy and Transport Commission Heads) and 4 representatives from Government ministries. In addition to the main presentations, Advisors succeeded to organize several key side meetings for the delegation with investor and industry representatives who could answer specific questions of interest for the delegation. The Bulgarian delegation took home several key messages from the Workshop, including:

- airports are critical to regional and national development, and airport revenues must be made available for airport development,
- private operation of airports is much more than just financing – it frequently leads to improved operations and results due to the skills of the operating company,
- there is no single best or most appropriate transaction structure, and there are numerous examples of concessions throughout Europe,
- smaller airports, like those in Bulgaria, are particularly appropriate for concessions,
- safety, security and other Government concerns can and are satisfied under private operation of airports, and
- simplicity and clarity in transaction structure are highly desirable.

Looking back at this event, the project benefited tremendously from the participation of Members of Parliament, who gained critical knowledge and afterwards lent their considerable support – such would have been impossible to realize through any number of



efforts and meetings strictly between Advisors and Parliamentarians in Bulgaria. The improved relationship between project personnel, including both MTC experts and leadership and Advisors, and Members of Parliament was critical to the project's legislative success.

A Government reshuffling in July resulted in a new Minister of Transport and Communication (Minister Nikolay Vassilev, also Deputy Prime Minister) and a new deputy minister responsible for concessions (DM Nikola Yankov). The incoming Minister in his initial public comments and first meeting with the Parliamentary Transport Commission confirmed his support for airport concessions and his intention to complete this transaction as a priority. As part of the adjustment to new leadership, the Advisors prepared briefing papers and had initial meetings with new counterparts. Deputy Minister Yankov will take over the main project leadership responsibilities within the MTC for this transaction. Advisors reported to USAID their opinion that the new MTC leadership will be more capable to push for, initiate and complete the airports concession transaction, and that this transition will be favorable for the project. **Please see attachment 2: briefing package for DM Yankov.**

Advisors prepared a Project Workplan for submission to USAID, identifying key actions and issues for project success. The workplan was enacted to a large extent, although delays in the passage of enabling legislation limited the project's ability to initiate the transaction during the project's term. **Please see attachment 3: project workplan.**

Advisors and MTC experts in August 2003 completed a completely revised draft of the proposed amendments to the Civil Aviation Act, which were then submitted throughout the Government for review and comment. Written opinions were collected at the end of the month. Key provisions of the draft amendments are:

- **Collection of infrastructure charges:** Although the Concessions Act clearly establishes the principal of concessions over airports, it does not address this key point. The amendments permit a concessionaire to collect these infrastructure charges (currently collected and retained by the State) in whole or in part consistent with its requirement to invest in and develop infrastructure. Each concession transaction may require different commitments from a concessionaire, therefore the amendments are non-specific, leaving it to the specific concession decision by the Government to decide what percentage of infrastructure charges to allocate to the concessionaire.
- **Improvement of tender procedure:** The Concessions Act creates a tender procedure that is generally acceptable for relatively simple concessions but is not adequate for concessions in infrastructure, such as over airports. The amendments improve the tender process specifically for airport concessions, including such provisions as pre-qualification to ensure only qualified bidders participate, payment of the necessary tender deposit during the final stages of the tender, and the participation of consortia not registered in Bulgaria during the tender process (but registering upon selection).
- **Alignment with EU civil aviation directives:** The CAA amendments will additionally make Bulgarian aviation law consistent with that of the EU, thereby,



facilitating Bulgaria's entry to the EU and enabling Bulgaria's aviation industry to continue to make adjustments necessary for its operation and competition within the EU framework.

Advisors prepared passenger surveys for use at the Varna and Bourgas airports during the 2003 peak season, and the MTC contracted with local survey firms for their implementation. *This is the first detailed airport service-quality survey that the MTC has ever conducted.* The completed surveys provide baseline information to the Civil Aviation Agency about passenger service quality and also provide valuable information to potential investors which they may use to develop their technical proposals. Approximately 1,000 surveys were conducted during the month of August. The findings indicated that the overall level of service was thought to be acceptable (somewhat surprising), but that the airports themselves were not to be compared to 'European airports'. So while expectations of service were generally met, such expectations were set extremely low. The survey findings did indicate specific areas of relative strength and weakness within the airports and allow for the establishment of benchmarks upon which future service quality improvements can be measured *Please see attachment 4: arriving and departing passenger surveys.*

Advisors completed the revised financial model for the bundled concession transaction in August and delivered it to MTC counterparts. This model, which is consistent with international standards and practices, will be used by the MTC to review the financial implications of the proposed concession, to compare bids received by investors during the tender process, and to assist the CAA during its financial regulation of aeronautical activity. *The financial model was also a key source of training for the project and MTC experts during the term of the project.*

Also in August, Advisors and MTC counterparts conducted a site visit to the airports to review operations during the high traffic season. The site visits were extremely informative and enabled the team not only to review the complete facilities at both airports, but also to engage in constructive discussions with management and technical experts at both airports. We remain convinced that new investment, coupled with internationally experienced airport management, will make significant improvement in the quality and safety of airport operations as well as improve dramatically the quality of service to passengers. A picture of the current (and regular) level of crowding at Bourgas Airport is attached below.

Figure 1: Departure line at Bourgas Airport, August 2003



In late September 2003, the MTC supported by project advisors organized a public forum for presentation and discussion of the draft amendments to the Civil Aviation Act, which drew larger-than-expected attendance and reflected the MTC's improved approach to liaison with the business community. Deputy Minister Martinova, responsible for the aviation sector, led the forum, which included members of Parliament, the aviation business community and media representatives. Advisors assisted the MTC in its interactions with the media, including providing brief interviews and supported by written materials explaining the planned concession transaction and relevant international experience.

In late October and after thorough Government review, the Council of Ministers provided unanimous approval for the draft amendments to the Civil Aviation Act. At a press conference following their passage, Minister Vassilev highlighted key aspects of the proposed amendments. By early November the amendments were submitted to Parliament for review and consideration. At this time, Advisors prepared a White Paper for submission to Parliament during its consideration of the amendments to the Civil Aviation Act. The document explained the key concession-related provisions within the amendments and provided essential background information on the rationale for airport concessions, the depth of European experience and the numerous provisions in the concession transaction and concession contract which will protect the interests of the State and airport users. The White Paper served to frame discussions on the amendments and persuasively address several of the known criticisms and concerns regarding this transaction. **Please see attachment 5: White Paper on amendments to the Civil Aviation Act.**



Advisors supported the MTC's participation in the annual Airports Privatization and Development Conference which took place in Vienna on October 20 – 24. This remains the most significant annual event for government officials, airport managers, airport operators and investors and airport consulting firms to present information and make contacts regarding the airport sector. Deputy Minister Yankov was a featured panelist on airport concession opportunities in central and Eastern Europe, which included representatives from Poland, Hungary and the Czech Republic, and distinguished himself by the quality of his presentation. Advisors prepared talking points for the DM's presentation as well as handout materials on the upcoming concession opportunity in Bulgaria. The DM's presentation was very well-received and the DM and Ralitsa Marinova were able to gather considerable information on relevant international experience for the project's benefit. Considering the relatively small universe of international airport operators active in this region, this event can be considered a large portion of the international transaction marketing that will be necessary, and it was extremely successful. *Please see attachment 6: presentation given at Vienna Airports Conference.*

Advisors and USAID representatives discussed the need for alternate plans in the event that the concession transaction does not take place. Advisors acknowledged that they have considered this possibility but remain focused on developing and supporting the concession transaction. Nevertheless, Advisors prepared a note on alternate strategies for review by USAID only, and for possible use during the latter stages of the project or by the MTC directly if the enabling legislation or the concession transaction itself fails to achieve necessary support. *Please see attachment 7: alternate strategies for airports development.*

The most significant step in the passage of the amendments to the Civil Aviation Act was achieved in February 2004, when the key Parliamentary commissions agreed to hear the amendments. Advisors met with Mr. Jordan Mirchev, Chairman of the Parliamentary Transport Commission, and participated in an informal discussion session with members of the Parliamentary Economics Policy Commission, during which Commission members each received a package of materials providing valuable background information on airport concessions and the amendments. Shortly following these meetings, the Parliamentary Economics Commission and the Transport Commission both reviewed and approved at first reading the proposed amendments, setting the stage for the first reading by the full Parliament. Deputy Minister of Economy Hadjinikov, who is responsible for the tourism industry, spoke strongly in favor of the amendments at the Economics Policy Commission, indicating both broad Government support and the critical role of airport development to the tourism industry. Actions in Parliament on these amendments and in general have been highly politically charged, resulting in difficulties to predict the timing of voting and the outcomes.

Advisors supported counterparts to organize and conduct a meeting with major tour operators and airlines to explain and build support for the concessions transaction in late February 2004. Attendees included senior managers and key persons responsible for policy within these

organizations, while the MTC was represented by DM Yankov, supported by Mr Barzov (Head of the Civil Aviation Authority) and DM Hadjinikov (Ministry of Economy). More than 15 operators/airlines were represented and good feedback was received. All present supported urgent development of the airports and acknowledged a role for the private sector, although some concerns were expressed regarding protections afforded to airport users. MTC leadership requested the continued and vocal support from business community members both with passage of the amendments in Parliament and the implementation of the transaction, and indicated its willingness to incorporate stakeholder opinion in the development of the transaction.

On March 2004 the amendments to the Civil Aviation Act were passed at first reading in the main plenary hall of Parliament. The vote totals were 109 in support, 42 against and 16 abstentions. Members of the main governing parties voted as a block in support of the amendments, as did many members of the reform-oriented opposition parties, a key target of our lobbying efforts - only the socialist party voted as a block against the amendments.

Advisors supported Ministry leadership in the implementation of a site visit to Aeroporti di Roma (AdR), the concessioned airport in Rome, Italy, for journalists, members of Parliament and representatives from the regional authorities of Varna and Bourgas. The site visit took place in late March 2004, one week after passage at first reading of the Civil Aviation Act and provided further momentum to the amendments within Parliament. Advisors prepared a short briefing paper for all those in attendance about AdR and its successful concession and also arranged a meeting for MPs with Macquarie Bank, a major strategic and financial investor in airport concessions and the majority shareholder of AdR. This meeting and the discussion session that followed proved extremely effective, as the Bulgarian delegation was able to hear directly from potential investors about their attitudes and experiences in airport concession transactions.

The amendments to the Civil Aviation Act were finally passed through Parliament over the course of two sessions in late May. Discussion on the Parliamentary floor was generally constructive and accurate with respect to the facts and circumstances justifying concessions in Bulgaria. The amendments were passed with a large majority, including support from right-wing opposition parties, and substantially unchanged from the form in which they were presented to Parliament by the Council of Ministers. Members of Parliament on both sides of the aisle were gracious afterwards, and wished both MTC leadership and our team success with the transaction. **Please see attachment 8: amendments to the Civil Aviation Act (now law).**

While the amendments to the Civil Aviation Act were moving through Parliament, Advisors were actively completing the required concession analyses for the transaction, including separate technical, legal, social, environmental and financial analyses. This critical task involved the development of a revised capital investment program for the airports and revised assumptions for future traffic growth based on up-to-date analyses of tourism development



trends. The revised legal analysis required the incorporation of the improved legal enabling environment, and the technical analysis incorporated changes to the airports property complex and a detailed analysis of peak passenger movements at the airports. Following the passage of the CAA amendments, the updated concession analyses were submitted to the MTC Internal Working Group (mid-June 2004), which consisted of representatives from each of the relevant MTC departments and technical experts from the Civil Aviation Authority, after which Minister Vassilev submitted the complete package to other Government ministries for their review and comment, as required by law. Counterparts expressed their satisfaction and appreciation to the Advisory team for the hard work of preparing the complete concession analyses and incorporating technical and editorial comments in a timely manner. **Please see Concession Analyses submitted as accompanying CD files.**

In June 2004 Advisors and MTC counterparts prepared a timeline for implementation of the airports concession transaction. This timeline coincides with the legal requirements of the Concessions Act and other specific MTC and Government objectives, which include having the transaction completed before the 2005 tourism season and before the 2005 general election. The timeline indicates that the transaction can be completed during the first quarter of 2005. This timeline was provided to USAID for its review and incorporation into technical advisory assistance planning.

With Advisor support, in late June the MTC Concessions Department issued a public procurement for international legal advisors to provide legal support for the implementation of the transaction, particularly the preparation and negotiation of the concession agreement. Advisors prepared a list of suggested Bulgarian and international law firms to which the MTC should send procurement invitations – this list included firms with substantial experience closing infrastructure transactions such as ours. The deadline for receipt of proposals is mid-August, and the MTC's intention is to have international legal advisors in place throughout the implementation of the concession transaction.

In mid-July Advisors were invited by Minister Vassilev to support MTC leadership during a meeting with representatives of the Bourgas Airport and Bourgas region in Bourgas, including the preparation of talking points for the Minister. The purpose of the meeting was to provide additional information about the upcoming concession transaction, address concerns by labor and others about the future status of the airports, and in general to increase the region's support for the concession transaction. MTC leadership was represented in its entirety, including relevant deputy ministers and the head of the Civil Aviation Administration. The Minister spoke on several issues, most notably about the protections of the independent status of the Bourgas Airport and protections for its workers, who were represented by the Head of the Podkrepa National Labor Union. **Please see attachment 9: talking points for Minister Vassilev prepared by Advisors.**

In July, Advisors and MTC counterparts completed the preparation of the draft Council of Ministers Decision governing the implementation of the transaction, including its review by

relevant ministries throughout the Government. Advisors prepared supporting notes and participated in meetings on several specific issues, including bundling of the airports (to which there was considerable resistance) and the possibility of dual military-civilian use of airports under concession (perfectly acceptable). The complete concession documentation package, including concession analyses and draft COM decision, was submitted to the Council of Ministers on July 23, and approved on July 29. *This approval clears the way for the initiation and public announcement of the airports concession tender. **Please see attachment 10: Council of Ministers Decision to initiate airports concession transaction.***

The final COM decision is generally consistent with the structure and strategy of the planned concession as we recommended to the MTC:

- output-driven investment requirements to encourage investor ingenuity;
- concession fees effectively capped to protect stakeholder interests (particularly maintenance of low charges);
- dual-till charge regulation to encourage commercial development, and
- bundling of the airports to maximize investor interest (size matters)

However, certain decisions were included in the final COM decision that were not consistent with our recommendations, whether for political considerations or based on legitimate differences of opinion. This includes the requirement that the key airport operator maintain at least 50% of the equity in the consortia and may not be changed throughout the concession term, and also the absence of any language on lender step-in rights, which would provide additional financial security to project lenders when assets may not be used as collateral (such as in a concession). We remain extremely confident that the transaction is highly attractive to the numerous interested and qualified investors which have been patiently waiting and preparing for the transaction's opening.

Passage of the COM decision is effectively the final step leading to the initiation of the airport concession tender. The Concessions Act requires that public opening of the tender take place within 30 days of publication of the decision, and no further delays are expected. Advisors and MTC experts have prepared the transaction documentation and conducted critical marketing efforts to ensure the tender's timely implementation and hopefully its successful outcome. As of the preparation of this report (September 2004), the concession transaction has been publicly opened with broad public support and considerable investor interest.

III. Training Activities

1. Advisors completed a 3-day workshop on financial modeling for individuals from the MTC, the Civil Aviation Authority, the Ministry of Finance and the Council of Ministers. The workshop took place October 15 – 17 and was attended by a total of 18 persons. As the title indicates, the primary focus of the workshop was to improve attendees' understanding of key concepts related to financial models and project finance to support them in their diverse roles within the Government: as developers of financial models (primarily MTC), as reviewers of financial models (Ministry of Finance, Council of Ministers) and as users of financial models for regulatory purposes (Civil Aviation Authority). Additionally, the Advisors delivered information on the rationale for undertaking concession transactions, basic elements of their structure, key regulatory provisions and specific arguments in support of the planned concession of the regional airports. We believe that the workshop was very useful for all involved, particularly as its application was not limited to airport concessions, and feedback from attendees was very positive.

Figure 2: List of Participants, Financial Modeling Workshop, October 15 – 17, 2003

	Ministry of Finance	Title / Responsibility
1.	Vesela Daneva	Supervisor - <i>Real Sector Finance Department</i>
2.	Angelinka Vassileva	Chief expert – <i>Real Sector Finance Department</i>
	Council of Ministers	
3.	Marieta Nemska	Adviser – <i>Economic Policy Department</i>
4.	Nikolay Netsov	Adviser – <i>Economic Policy Department</i>
5.	Mariana Rangelova	Adviser – <i>Economic Policy Department</i>
	MTC	
6.	Ralitsa Marinova	Department Manager
7.	Mihayl Dragiev	Department Manager
8.	Albena Ignatova	Chief expert
9.	Simona Bozhilova	Chief expert
10.	Tsvetan Tanev	Chief expert
11.	Kalina Miladinova	Junior expert
12.	Yana Saleva	Junior expert
13.	Veneta Markova	State expert
14.	Galya Pesheva	State expert
15.	Konstantin Iliev	State expert
	CAA	
16.	Velichka Ivanova	Department Manager – <i>Financing & Legal Department</i>
17.	Sofia Valkova	Chief Accountant

18.	Lyudmil Manasiev	Department Manager – <i>Airports and Air Traffic Department</i>
19.	Ivan Bambov	Chief Inspector - <i>Airports and Air Traffic Department</i>

2. In mid-November 2003, Advisors and MTC counterparts completed a critical workshop on airport concessions for journalists and other members of the media. The workshop was held outside of Sofia and was attended by all relevant MTC leadership, including Minister Vassilev. Approximately 4 hours of presentations were delivered by both the Advisors and by MTC representatives, in addition to a written packet of materials and significant informal discussions between Advisors and journalists. Most journalists were appreciative of the event and the opportunity to learn about airport concessions; however, the most important result was the noticeable improvement in the quality and accuracy of the reporting on airport concessions, as well as a noticeable improvement in media attitude towards the project.

Figure 3: Excerpt from media training. November 15-16, 2003
Private Sector Participation in European Airports by Country



KEY:

Countries in dark green

Significant private sector participation in airport development and management.

Countries in light green

Decision to introduce private sector to airport development and management has been taken; now at various stages of implementation phase.

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Countries in yellow

Currently debating whether to introduce some form of airport privatization.

Airport Concessions to be Extremely Beneficial for Bulgaria

The Ministry of Transportation, supported by technical advisors paid for by USAID, has prepared a project to issue concessions for the Varna and Bourgas Airports. This project has been more than one year in development, and has included input from various Government ministries, management of the airport operating companies, tour operators, and international organizations involved in civil aviation.

The project is based on existing legislation in Bulgaria, including the Concessions Act and the Civil Aviation Act, both of which contain numerous provisions allowing and governing the issuance of concessions for civil airports. Concessions are not new to Bulgaria (they have been extremely popular for natural resources), and concessions for airports are one of the common means by which Governments have transferred airport investment and operation responsibilities to qualified, financially strong international airport operators. And let us be quite clear, private operation of airports is the model for airport operation, throughout the world, and throughout Europe.

Airports in Bulgaria, like elsewhere in the world, are designed to be self-financing – this is a principal of the International Air Transport Association (IATA), and it is followed here. Self-financing means that over time airport revenues should be sufficient to cover airport expenses, including necessary and expensive capital expansions and frequent technical modernization. However, self-financing does not mean that investments are funded only by current cash flows – in fact, airports almost always need to tap sources of outside funds, either through the State, through loans or through private investment. In this way, airports are similar to other commercial businesses, which frequently sell equity or borrow money to fund necessary investments. At the Sofia Airport for example, the Government undertook a 192 million Euro project to expand and modernize the terminal and add a runway – this project required that the Government commit to more than 130 million Euro in State-guaranteed loans and pay up-front more than 30 million Euro from the State budget. Over time, 20 years in this case, airport revenues should be sufficient to pay back these loans, after which the airport will likely require a new capital expansion or modernization, and the process will repeat itself. During this period, the State will not receive any monies from airport revenues – they will be set aside to pay principal and interest on the loans.

However, the State budget cannot afford to guarantee loans or make direct and sizable investments in all its airports. Diverse transaction methods must be sought to allow the State to balance its financial obligations while achieving its objectives of airport development. Concession transactions allow the State to transfer this significant investment responsibility to private firms, which are then compensated by airport revenues over time. In the case of the Varna and Bourgas Airports, the investment program agreed between the CAA and airport management foresees more than 120 million Euros of capital investment during the next 8 years, with 220 million Euros to be invested over the next 20 – 25 years. The investment program will be mandatory for the concessionaire, including the requirement to invest more if airport traffic requires it. The concessionaire will also pay a concession fee to the State, allowing the State to receive income based on the overall revenues of the airports. Airport charges will continue to be set by the State, allowing it to regulate the rate of return the

Attachment 1: Articles on Airport Concessions for Publication (prepared by Advisors)

concessionaire achieves during this period, which is a standard practice for infrastructure operation. So if airport traffic grows to new heights, the airport users will benefit through lower charges and the State through increased concession fees – the concessionaire will continue to make his regulated rate of return on airport operations.

Private operation of airports is now the standard not just because of the heavy requirements to invest in airport infrastructure. It is widely acknowledged that private operators can provide a higher quality of airport services, can operate airports more efficiently, can improve airports financial performance, can create more activity and jobs tied into the airports and can frequently improve the traffic growth rates at the airport. The airports in Bulgaria are critical infrastructure for Bulgaria's growing tourism industry – tourists expect quality of service not only at the resorts but at the airports as well, and Bulgaria needs to deliver on all fronts if it is to continue its recent success.

The State will continue to fulfill substantial control and regulatory responsibilities for the airports under the proposed concession transaction. This control will be exercised primarily by the Ministry of Transportation, the Civil Aviation Agency, the Ministry of Interior and other State bodies. Rights and responsibilities of the State and the concessionaire will be clearly listed in the concession contract. The setting of airport charges will remain the responsibility of the State. The State will remain responsible to ensure that airport and flight safety and security requirements are observed and followed. The concessionaire will also be responsible to follow all applicable legislation in Bulgaria, including the labor and commercial codes, anti-monopoly practices, and specific airport regulations that are in force.

The Concession Act requires that the Council of Ministers approves the decision to issue a concession and requires significant detail regarding the implementation of the concession tender to select the preferred candidate. The COM decision will establish an independent tender committee made up of representatives from several Government ministries. The tender is anticipated to include a pre-qualification process which will ensure that only experienced, financially secure international airport operators are able to participate in this process. The submission of final proposals will include separate technical and financial proposals which will be scored separately against several different criteria, with the candidate with the highest combined score being declared the preferred candidate. International advisors will assist the Ministry of Transportation and the tender committee throughout this process to ensure that standards of best practice are strictly followed. Once the tender is complete, the Ministry of Transport will undertake to sign the concession agreement with the winning bidder. The concession agreement will include the bidder's original proposal and numerous other terms and conditions which are then binding on the concessionaire through the term of the concession.

Many of the best international airport operators have expressed an interest to invest in Bulgaria and in these airports. This interest needs to be capitalized on to facilitate the transition of the airports from 1960s era facilities to 21 century points of connection for Bulgaria with the rest of the world. Many of these international airport operating companies own or manage airports in multiple countries on multiple continents, and their expertise includes innovative airport planning, quality and efficient airport operation, commercial and

Attachment 1: Articles on Airport Concessions for Publication (prepared by Advisors)

regional development, traffic growth initiatives, customer satisfaction, and other relevant skills. These first tier companies are prepared to provide significant financing for airport capacity expansions, technical modernization and full development of the airports' commercial potential. They are prepared to bring to these airports their substantial experience and expertise in operating some of the largest, most successful airports in the world. They are prepared to work closely with tour operators and airline companies to further develop Bulgaria's tourism and travel market. They are prepared to bring to the airports' the quality, variety and reliability of service that tourists coming to Bulgaria should reasonably expect and that Bulgaria should desperately want to provide.

Following this general explanation of the Ministry of Transportation's intentions to issue concessions for the airports in Varna and Bourgas, some facts are worth repeating to be sure that they are well-understood.

Airport infrastructure, including that built by a concessionaire, will remain public ownership at all times. The concessions will only transfer the right to operate the airports, together with the responsibility to make specific investments, provide appropriate levels of service, and abide by all applicable legislation and regulation.

Airport concessions remain the most popular transaction worldwide to realize the benefits of private sector financing and operation of airports. In Europe the experience is mixed between true privatization transactions and airport concession transactions. For those countries that do not permit or desire private ownership of airport infrastructure, concessions have been the model for private operation. That includes major airports in Italy, Switzerland, Greece, Malta, Turkey, plus specific airports in the United Kingdom, Germany, France, and elsewhere.

The money that the State receives from the airports, after paying for airport-related expenditures, is not sufficient by itself to implement the investment program that the airports require to expand capacity, upgrade security and modernize airport technology. This money would have to be set aside for several years to make the necessary investments or otherwise capacity could be expanded a small portion at a time, perhaps reaching the target level in 10 years or more. This is not realistic in today's environment. Outside financing for airport investments is required.

The concessionaire will not be free to set prices at its sole discretion for airport services. All ground handling charges must be cost-based and will be subject to review by the CAA and if necessary, by the Competition Committee within Bulgaria. Any airport customer will have the right to challenge prices set by the concessionaire, and if found to be excessive or inappropriate, prices will be adjusted. These provisions are included in the concession contract and are standard practice throughout the industry.

The concessionaire will earn money from operating the airports, in direct proportion to the amount of investments that it makes. However, positive cash flows for the concessionaire would be realized only during the later years of the concession, when the value of those cash flows is much less. This set-up is by design and will protect the State in the unlikely event

Attachment 1: Articles on Airport Concessions for Publication (prepared by Advisors)

that problems arise. There is no chance that the concessionaire will be able to walk away with more money than the concessionaire is entitled to. More likely, the concessionaire will become a valued investor in Bulgaria, making serious investments and reasonable profits in many years time and contributing greatly to Bulgaria's economic development in and around the airports. Everything that the State is doing is to ensure this result.

Transaction Structure: Concession of Varna Airport and Bourgas Airport

Structure Element	Proposal and Description
Term of Concession	<ul style="list-style-type: none"> - 35 years, the allowed maximum as per Law on Concessions, with option to extend if desired by both parties.
Airport Operations	<ul style="list-style-type: none"> - Concessionaire will apply for and receive licenses to become the airport operator for both Varna and Bourgas Airports (operation of both airports by single Concessionaire). - Concessionaire will be responsible for airports operation, management and development (all necessary investment), under supervision of CAA. - Concessionaire will be solely responsible to provide core ground-handling services without 3rd-party ground handling providers (until passenger thresholds are reached). - Concessionaire will provide additional services at the airports (non-core ground-handling and commercial revenues).
Airport Operational Standards	<ul style="list-style-type: none"> - The Concessionaire shall be obligated to operate the airports and make necessary investments so as to attain not later than the end of year 4, and so as to maintain categories not lower than the following: <ul style="list-style-type: none"> Overall Airport Category - 4E for Bourgas Airport and 4D for Varna Airport; Passenger Service Category – C for both airports; Fire and Rescue Category – 8 for both airports. <i>According to the classifications and recommendations of IATA and ICAO.</i>
Required Investments by Concessionaire	<ul style="list-style-type: none"> - Tender documentation shall specify the minimum investment objectives and deadlines for their completion without detailed minimum values. - Tender documentation may specify overall minimum investment value for initial investment program (years 1 – 10). - Proposals shall require an investment program (by type of activity, amounts and deadlines) for 10 years, and investment projections for out years. - Proposal of the Winning Bidder becomes binding through the Concession Agreement. - Concessionaire shall prepare a Master Plan during first year of the concession. State may require Master Plan concurrence with investment program or permit/require adjustments. Master Plan, once approved, becomes binding on the Concessionaire. Master Plan subject to renewal every 5 years. - <i>Expected investments in airport infrastructure projected at €130 million for 10 years and in excess of €260 million over life of concession.</i>
Concession Payments	<ul style="list-style-type: none"> - Initial payment – €3 million. - Annual concession fee: Minimum 12% of gross revenues of all activities of the Concessionaire; actual percent applied from proposal of Winning Bidder. - Absolute minimum concession fee – not less than percent concession fee proposed by the Winning Bidder * gross revenues of the airports for 2003, adjusted for inflation.

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Social Obligations	<ul style="list-style-type: none"> - Employees of the airport operating companies shall be transferred to the Concessionaire and employment shall be deemed as continuous with terms and conditions not less than the existing labor agreements.
Concessionaire Revenues	<ul style="list-style-type: none"> - Concessionaire will collect airport fees (aircraft landing and parking fees, passenger departure fees) as set by the State. - Concessionaire will set prices and collect revenues for all other services it provides at the airports.
User Fees	<ul style="list-style-type: none"> - The State shall regulate and set airport fees only (dual till regulation). - Rates for ground handling services shall be subject to applicable law for competition and fair pricing. - Prices for non-aeronautical commercial activities are unregulated. - The State will set airport fees for 5-year periods, to coincide with Master Plan approvals. - Tender documentation shall quote a cap for airport fees for the initial 5-year period of the concession. - At certain exceptions defined in the Concession Agreement, the State shall have the right to adjust fees during this 5-year period. - Airport fees shall be calculated by the formula: <ul style="list-style-type: none"> Operating and Capital Expenses for aeronautical till (including depreciation, interest and concession fee) + Return on Equity. - The State shall determine an acceptable percentage (1%) for operational efficiency to be applied during calculation of airport fees.
Regulation of the Return on Equity for the Concessionaire	<ul style="list-style-type: none"> - The required Return on Equity for the Concessionaire for the life of the concession and for the aeronautical till shall equal 30% less the concession fee percentage. - <i>The link between the concession fee and the equity return is reciprocal and does not allow bidders to offer excessive bids at the expense of airport users.</i>
Required Ownership by Consortium Leader (experienced airport operator)	<ul style="list-style-type: none"> - The participation of the Leader in the Consortium shall be not less than 25%.
Equity requirements	<ul style="list-style-type: none"> - There shall be a minimum debt/equity requirement valid for the full term of the concession - 65 / 35 %. - There shall be an absolute minimum equity contribution – €20 million by year 3 of the concession.
Performance Guarantees	<ul style="list-style-type: none"> - The Concessionaire shall post a performance bond throughout the concession period linked to the required investments and projected concession fee payments for the period of the master plan.

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Tender Procedure	<ul style="list-style-type: none">- Competition in two stages:<ul style="list-style-type: none">1st stage: Pre-Qualification of Bidders, with emphasis on the Leader of the Consortium, which must be an airport operator with proven experience and financial stability:2nd stage: Evaluation of Proposals (technical and financial).- The Technical Proposal shall be evaluated both quantitatively and qualitatively, by numerous factors (investment program and its timing, impact on fees, management program, transition plan, social plan, etc.).- The Financial Proposal shall only be evaluated quantitatively -- proposed concession fee payment (%).- Combined weighting to Technical and Financial Proposals determines Winning Bidder.
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Summary of Transaction Terms and Conditions

General Objectives

The Republic of Bulgaria and the Ministry of Transport and Communications desire a modern and efficient transport infrastructure. In this context, upgrading the existing airport facilities in the Black Sea region, namely the Bourgas and Varna Airports, and improving their overall management and operation is a top priority. Specifically, the MTC has determined that the Airports need:

- (a) Capital investment in airfields, terminal buildings and airport operational technology;
- (b) Modern managerial know-how and capability for the operation and development of international airports; and
- (c) The best possible marketing of the Airports, supportive to increased passenger and cargo traffic volumes, the provision of diverse commercial services, and continued economic development throughout the region, consistent with and supportive to other regional development initiatives currently taking place.

The MTC has decided that a transaction with a strategic investor possessing substantial international airport operating experience would best accomplish the above objectives. The MTC has determined that a long-term master concession with the winning participant selected through a competitive tender would be the best means for implementing this transaction.

Specific Objectives

The Concession will have a term of 35 years with an option for extension up to 15 additional years and will have the following specific objectives:

- (a) Engage a highly competent Concessionaire who will operate the Airports in accordance with international best practices and market the Airports to fully realize their passenger and cargo traffic potential;
- (b) Maintain the operational and safety standards of the Airports through regular and continued investments in the airfield and related airside facilities (runways, taxiways, aprons);
- (c) Provide for a capacity and level of service upgrade through the expansion and renewal of terminal facilities and improvements to passenger service quality;
- (d) Enhance the provision of services to airport customers and develop the commercial revenue generation potential of the airport properties; and
- (e) Contribute to continued economic development throughout the region.

The scope of the Concession will include the responsibilities of Airports management and operation currently being met by the existing airport operating companies, and the additional responsibilities to prepare and submit master plans, to undertake capital investments as may be required to maintain and develop airport infrastructure and to perform certain additional functions related to airport operation and development. The complete responsibilities of the Concessionaire are described in the Concession Contract, some of which are referenced below.

Revenues and Regulation

It is intended that the Concessionaire shall as part of the Concession become entitled to all commercial revenues which are currently being collected by the existing airport operators, plus aeronautical charges levied on airport customers for specific use of airport facilities (landing, parking and passenger fees).

Aeronautical charges are regulated by the State and determined by statute. Regulatory principals for this Concession are based on a dual-till system with the aeronautical till subject to regulation based on cost recovery for operational and capital expenditures inclusive of the provision of an adequate rate of return on capital. This rate of return shall be determined through the tender process for selection of a Concessionaire, set in the Concession Contract and determined for the life of the Concession. There will be no cross-subsidies between the Airports and financial reporting and regulation will be separate for the Airports.

The actual level of aeronautical tariffs to be charged as landing and passenger fees will be set by the Council of Ministers, upon recommendations from the CAA. Tariffs will be determined through the master planning process for each successive five-year period and in consultation with the Concessionaire. Tariffs will be based on forecasts for traffic and projected operational expenditures and required capital investments. Tariffs may be adjusted by the State during the five-year period if actual operating results of the aeronautical till differ from projections to a degree that causes a material impact on rate of return. Notwithstanding the above, the tender will impose a ceiling on airside tariffs during the first five years of the concession term.

Aeronautical tariffs are currently collected for the account of the central budget. It is expected that concomitant with the implementation of this Concession, legislation will permit the Government of Bulgaria to allow airport operators to retain such aeronautical tariffs as revenues essential to the operation of the airports and the fulfillment of necessary investment requirements.

The Concessionaire will be allowed to set additional fees and charges for services not included within the aeronautical tariffs (unregulated till). Charges related to the provision of ground-handling services by the Concessionaire shall be cost-based and all commercial charges will be subject to review against comparable airports operating in the region and according to existing competition regulation.

Payments

In return for the Concession, the Concessionaire will make payments to the State. The payments will be structured as follows:

- (a) An initial payment of 3 million Euros, due within 30 days of signing the Concession Contract by the parties.
- (b) A regular payment, not less than twice per year (to be specified in the Concession Contract) for the right to conduct airport operations and collect airport revenues, which is the higher of:
 - (i) A variable payment equaling the Euro equivalent of Y% of the Gross Revenues collected by the Concessionaire during the period and beginning on Commencement. The value of "Y" will be set in the Concession Contract and determined through the competitive tender and will be not less than 12%;
 - and

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- (ii) A fixed payment of Euro Z (To be calculated at 100% of 12 million Euros - approximately equal to existing airport revenues at this time), adjusted for the required number of payments per year, and indexed for inflation as necessary.
- (c) An additional annual payment which shall be considered an adjustment for the previous year's concession payments due, and shall be determined based on audited financial statements and due within 30 days of submission of audited financial statements as shall be required.

The Concessionaire will be required to undertake competitive, arms-length procurements for any subcontracting of revenue-collecting businesses at the Airports. All revenue-collecting businesses operating at the Airports and majority owned by the Concessionaire or its shareholders will have their revenues included into the gross revenue calculation.

The concession fee is considered an unsubordinated operating cost.

Airport Operating and Development Requirements

(a) Airport Operations

The Concessionaire will be responsible for operation, development and maintenance of the Airports in accordance with all laws, regulations, and best practices. The Concessionaire will be responsible to provide the range of ground handling services currently provided at the airports and for which the MTC does not provide 3rd party access. The Concessionaire will be responsible to provide and pay for key components of airport security. The Concessionaire is also expected to promote the Airports in order to achieve Bulgaria's objectives. The Concessionaire will be able to enter into agreements with Airports' users and suppliers; however, any agreements that exceed the term of the Concession must be approved by the MTC.

The Concessionaire's scope of responsibilities will include, but be not limited to:

- (i) Airfield maintenance:
- (ii) Ramp operations and other ground handling services for which no 3rd party providers are authorized by the MTC
- (iii) Perimeter and airfield security:
- (iv) Terminal maintenance and janitorial:
- (v) Terminal operations:
- (vi) Passenger and baggage screening:
- (vii) Terminal and off-terminal concessions:
- (viii) Grounds maintenance:
- (ix) Car parking and ground transportation within the airport perimeter:

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- (x) Planning and engineering;
- (xi) Airports land development (as and when appropriate); and
- (xii) Airports finance and administration (e.g. finance and accounting, public relations, human resource management, purchasing and contract management and information systems).

Fire and rescue services will remain the responsibility of the Ministry of Interior. The Concessionaire will reimburse the Ministry of Interior for all direct costs related to the provision of this service, through a mechanism to be specified separately.

All airport operational and capital expenditures that impact the regulated toll or the provision of ground-handling services will be subject to procurement requirements applicable for civil airports in Bulgaria, including the procurement of key construction works, such that efforts will be made to secure the lowest cost satisfactory provision of goods and services.

(b) Capacity Upgrade

The Concessionaire is expected to accomplish the Airports' capacity upgrade through the immediate renewal/replacement of the passenger terminal at Varna Airport and the immediate expansion/renewal of the existing passenger terminal(s) at Bourgas Airport. The existing terminal at Varna Airport is over 30 years old and requires immediate renewal to meet projected demands. Reasonable forecasts have indicated that at Varna Airport a terminal with capacity to handle 1.4 million passengers, primarily charter traffic, and peak hour capacities of 1,800 persons, is required and justified. Approximately 15,000 square meters of terminal space is considered to be the minimum necessary at Varna Airport. At Bourgas Airport the terminal(s) should have sufficient capacity to service 1.2 million passengers annually and to service a peak hour capacity of approximately 1,400 persons. At both airports, consideration should be given to future capacity expansion requirements, such that terminals can reasonably be expanded to accommodate future traffic. [note: these figures may need to be reviewed in light of 2003 passenger growth patterns].

The Concessionaire will be required to renew and/or redevelop the terminal infrastructure at its own cost and expense. The terminals should meet the demand levels described above at a level of service equivalent to IATA Level C or better, taking into consideration the heavy charter traffic and other specific considerations of this air travel market. It is intended that the Concessionaire will commence the terminal development programs immediately following approval of the Master Plan.

(c) Airfield Rehabilitation Plan

The Concessionaire will be required to immediately initiate a capital maintenance and investment program for the Airports' runways, taxiways and aprons, such that they become fully compliant with the ICAO standards under which the Airports are currently certified. Varna Airport is a Category I airport and is classified as ICAO Code 4D. Bourgas Airport is a Category II airport and is classified as Code 4E. Minimum requirements for airfield rehabilitation are specified in the tender documentation.

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Quality of Service

As a primary quality of service requirement, the Airports' terminal capacities are to conform to IATA level C for the realized annual and peak traffic flows, as determined by international practice and consistent with the specific requirements of the Airports' customers, and as agreed by the Government. IATA level C is defined as a 'good level of service: condition of stable flow; acceptable delays; and good level of comfort'. IATA recommends level C as meeting minimum design objectives for providing good service at a reasonable cost. The Concessionaire in its tender proposal will be required to propose minimum capacity standards that are consistent with this requirement.

In order to ensure that the Concessionaire will be providing an acceptable level of service to airport users, service quality shall be regularly monitored:

- (a) The Concessionaire shall conduct surveys of airport customers including both airlines and passengers during the first peak season from Commencement in order to establish the initial quality of service at the Airports, including criteria that can be objectively measured (e.g. availability of trolleys, check-in queue length, baggage delivery time) as well as criteria based on customers' assessment (e.g. satisfaction with cleanliness, airport signage, courtesy of airport staff):
- (b) The Concessionaire shall consult with the MTC on the form and manner of such surveys. The MTC may require that the Concessionaire hire independent, qualified specialists to undertake such surveys:
- (c) Ongoing annual surveys will be conducted by the Concessionaire and used by it and the regulator as a means to determine the ongoing quality of service and level of satisfaction of airport customers: and
- (d) If the level of satisfaction in respect of any particular aspect of airport services has deteriorated below the level indicated by the previous survey to a material extent, the Concessionaire shall take action within its mandate to remedy the deterioration as soon as practical. The Concessionaire shall report such actions to the MTC, including, if necessary, in advance of such actions.

In addition to the above, regular performance reviews will take place. The Concessionaire shall on a not less than semi-annual basis attend meetings with the MTC to provide reports of its operational performance and the performance of its obligations under the Concession Agreement.

Master Plan

Within 9 months from Commencement, and following the completion of one peak season, the Concessionaire will prepare and present to the MTC separate and distinct Master Plans for Bourgas Airport and for Varna Airport that will contain the Concessionaire's detailed forecasts, plans and proposals for the Airports, including the capacity upgrade and other investments over the term governed by the Master Plan. The Master Plan will outline the major developments of the Airports in meeting the projected traffic and facility demands of the Airports. The Concessionaire will update the Master Plan no less than every 5 years and more frequently if circumstances require.

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The Master Plan must also include a funding plan that details the sources of financing, whether equity, debt, or otherwise, and the anticipated costs associated with the proposed means of financing. The Master Plan will also include estimates for operating costs of the airports and substantiated forecasts for airport traffic volumes during the term of the Master Plan. The MTC will use such information to determine aeronautical tariffs for the term of the Master Plan, which will be consistent with its requirement to set regulated tariffs based on operating and capital costs for the provision of aeronautical services, plus the required rate of return on related invested capital.

The Master Plan must be based on the Concessionaire's Proposal during the tender. If the Master Plan contains significant departures from the Proposal, the MTC will have the right to request changes that will bring the Master Plan in conformity with the Proposal. Notwithstanding the above, the Parties may discuss and adopt by mutual agreement any changes that may be in the best interest of the Airports and of Bulgaria, as well as any corresponding amendments to the terms and conditions of the Concession Contract.

In addition to the Master Plan, the Concessionaire will provide rolling five-year capital project plans every year for approval. These capital project plans will detail precisely the nature, size and scope of the capital projects to be implemented by the Concessionaire.

Airport Employees

Current employees of the Varna and Bourgas airports operators will be transferred to the Concessionaire. Employment shall be seen as continuous and employees shall retain all rights and obligations they enjoyed under their previous employer. The Concessionaire will bear all the costs of any employment changes that it conducts in accordance with applicable statutes.

Custody and Transfer of Assets

The Concessionaire must pledge to maintain and safeguard, in accordance with international best practices, all the assets it receives custody of under the Concession. The MTC will have the right to regularly inspect all assets and request remedial actions that must be carried out promptly by the Concessionaire. The Concessionaire must take out and maintain for the duration of the Concession all appropriate and customary insurance to protect the assets and the unimpeded function of the Airports.

At the end of the Concession period, control over all assets must be returned to the MTC in good condition in accordance with their normal useful life. The MTC will reimburse the Concessionaire for the residual value of their equity investment portion of such buildings and structures only if and to the extent so explicitly agreed in the Concession Agreement or a separate agreement pertaining to this arrangement, as the case may be. In the event that the Concession is terminated prior to its scheduled completion, the Concessionaire will be required to continue operating the Concession for a reasonable period until such time as the MTC confirms that it is able to take over operation or assign such operation to another party.

Concession Vehicle

The Concessionaire will be a Bulgarian registered legal entity in compliance with all applicable statutes.

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The Concessionaire shall maintain separate and detailed records for the operations of each of the Airports and shall allocate shared costs accurately between the Airports in a manner agreed by the MTC.

The Concessionaire shall be responsible to get and maintain all necessary licenses for airport operation in Bulgaria and for those additional handling services it is required to provide under the contract.

Contract Structure

The MTC will affect the transfer of operational control for all necessary fixed property associated with the operation of the Airports. Through the Concession Agreement, the MTC shall grant a concession to develop and exploit such assets, as may be required by Law, for the duration of the Concession Period. Moveable assets that are not subject to concession under Bulgarian law may or may not be made available to the Concessionaire. The status of these moveable assets is still under consideration.

The MTC shall monitor compliance by the Concessionaire with its obligations under the Concession Agreement.

The CAA shall monitor compliance of the Concessionaire in its duty as operator of the Airports, a fundamental obligation within the Concession Agreement.

The primary duties and responsibilities of the Concessionaire as specified in the Concession Agreement may not be assigned or subcontracted to another entity during the period of the Concession. Other duties and responsibilities may be assigned or subcontracted in compliance with all applicable legal requirements.

Guarantees

The Concessionaire will be required prior to Commencement to post an initial bank guarantee as security for the performance of its obligations under, pursuant to and/or in connection with the Concession Agreement, including the penalty clause contained therein.

Bidding Terms and Conditions

1. Objectives for Determining the Winning Bid

While the bidding conditions for the international airport concessions tendered to date have had different approaches (see attached matrix of international experience), in almost every case the winning bid has been selected from criteria that are designed to ensure the following:

- The airports are operated according to best practices.
- needed improvements are delivered.
- the government maximizes its concession fee potential.
- the concessionaire gets an adequate profit.

...all without pricing the destination out of the market.

There are three defining characteristics of the concession opportunity for Bourgas and Varna airports that should frame the criteria for selecting the winning bid:

- Both airports require important capital and operational improvements at the onset of the concession.
- The airports are in a price sensitive market: they are almost exclusively served by holiday charter carriers whose underlying business competes with other destinations.
- Currently commercial (non-aeronautical) activity makes little contribution to airport revenues.

⇒ As with international practice and conforming to the objectives of the Ministry, the bidding conditions for Bourgas and Varna should therefore force bidders to submit a proposal that:

- guarantees the airports will be managed according to best practice.
- uses capital quickly and cost-effectively to provide needed capacity.
- adds significant commercial value to the airports.

2. Proposal Structure and Scoring

Airport concessions elsewhere have applied a variety of methods to measure the importance of the technical and financial portions of tender bid submissions (see attached matrix). The approach in individual countries has generally been determined by the objectives of the government and applicable laws. Governments tendering concession opportunities with characteristics similar to Bourgas and Varna have tried to weigh the technical portion of the bid along with the financial portion, in order to give the government the flexibility to select the proposal that maximizes all of its stated objectives. Among the earliest international concessions where the winners have failed during the concession term to deliver the proposed financial offer (e.g. Argentina, South Africa), the governments had awarded the concession based on the highest financial offer without adequate consideration of the feasibility of the proposal. Subsequent tenders elsewhere have tried to learn from this experience.

⇒ It is recommended that for the concession of Bourgas and Varna airports, the technical portion of the bids, including an investment plan and a management plan, be scored and subsequently weighted with the financial offer. (See attached suggested scoring and weighting structure).

3. Financial Offer

Depending on the priorities of the government issuing the tender, the concession fee in concessions elsewhere has been featured more or less importantly in the overall structure of the financial offer.

In some tenders, particularly those with no immediate capital improvement needs, international practice has been to define in advance the absolute level of regulated user taxes in order to protect the interests of airlines and passengers and to provide a level playing field for bidding concession fees and investment plans. Other tenders, particularly those for airports with important capital investment needs, have chosen to allow bidders to propose user taxes based upon set guidelines to level the playing field but allow the absolute level to be linked to their investment proposal.

Regardless of how tenders are structured, all previous international concessions have forced bidders to implicitly compete on required rate of return. International practice has decidedly moved in favor of a dual till approach to the airport business in order to incentivize the operator to develop commercial non-aeronautical activities. The dual till structure nevertheless does allow for the operator to subsidize the rate of return requirement from regulated activities vis-à-vis the concession fee by developing unregulated commercial revenues to augment the overall project rate of return.

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Because operating cost is an important component of user tax calculation, some international concessions have included an efficiency factor in the rate-making calculation to incentivize the operator to manage costs that are otherwise a pass-through to the user. (See attached matrix of previous international experience).

⇒ It is recommended that bidders submit a concession fee figure expressed as a %. This percentage is to be applied to actual gross revenues of both regulated and unregulated tills of the airports.

By fixing a cost-plus rate for user taxes in the tender documents, bidders will have the parameter needed to determine the percentage level of concession fee they can propose. In selecting their proposed concession fee percentage figure, bidders will be competing on their required rate of return on the aeronautical till, while maintaining a level playing field for comparing bids with differing investment plans.

⇒ Taking into consideration Bulgarian law, ICAO and IATA guidelines, and international practice, it is recommended that a cost-plus regulatory regime be implemented for determining regulated user taxes resulting from the Master Plan improvements, specified in the tender documents as the actual aeronautical till costs (interest, depreciation, and operating expenses) plus a predetermined rate of return on equity for the concessionaire. (The concession fee is treated as an unsubordinated operating expense).

The introduction of the concessionaire will change the operating cost profile of the airports from their current level, and the nature and level of costs will change again upon delivery of the principal capital improvements. In a cost-plus regulatory regime, the costs pass through to the user. Nevertheless, it is important to incentivize the concessionaire to manage the ongoing operating costs of the aeronautical till efficiently.

⇒ It is recommended that the user tax regulation include an efficiency factor that assumes 1% operating cost efficiency per year in the first 5 years after the first year of completion of the principal initial improvements specified in the Master Plan.

Due to the important level of capital improvements required at the onset of the concession, it is recommended that the absolute level of user taxes not be predetermined in the tender documents for Bourgas and Varna airports, as it would constrain the flexibility of international operators to develop innovative, state of the art solutions in their proposed investment plans. However, bidders should be discouraged from proposing

any increases that are unsustainable and which may materially diminish the competitive position of the airports.

⇒ Recognizing that Bourgas and Varna are in price competition with other holiday destinations, it is recommended that the absolute level of user fees driven by the bidder's investment plan be given a weighting in the assessment of the offer. (See attached suggested scoring and weighting structure). It is further possible to specify in the tender documents that user taxes will remain constant at a pre-determined level during the initial concession period up until mandated capital improvements are delivered.

4. Technical offer

Investment Proposal

As with many international airport concessions, both Bourgas and Varna airports will have important capital requirements at the onset of the concession. This has been addressed in a number of ways by tendering authorities elsewhere. In all cases, the government has had to balance the desire to guaranty the concession will deliver the needed improvements with the benefit of allowing the bidders the flexibility to offer innovative solutions. Minimum service levels based on ICAO standards are typically used. In addition, some concessions have set mandatory minimum investment hurdles by cost or by type of improvements.

⇒ It is recommended that the tender documentation include specified service levels based on ICAO standards as well as a schedule of mandatory baseline improvements that must be included in the investment plan submittals.

⇒ It is recommended that bidders submit for each airport a plan for providing the necessary infrastructure improvements, including demand forecasts, a design vision, phasing, cost assumptions, funding plan, and required level of regulated user taxes.

⇒ This submission serves as a preliminary indication of the output of the Master Plan that will be undertaken immediately on commencement of the concession. It should be judged on the technical merits as well as feasibility. (See attached suggested scoring and weighting structure).

Until the Master Plan is completed, actual scope of works and costs will not be known to an absolute degree. However, in order to ensure the winning bidder delivers sufficient improvements and does not burden the project with excessive debt, it is recommended that the concession of Bourgas and Varna follow international practice and require a minimum paid-in equity, with proposed debt and equity commitments to be specified in a Funding Plan.

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⇒ Given the value of the anticipated investment requirements of each airport, it is recommended that minimum paid-in equity be set in the tender documents as 20€M by the close of Year 3. (This number will have been arrived at from the assumptions in the financial analysis).

The end result of the Master Plan process undertaken upon commencement of the concession cannot be precisely predetermined. However, the investment plan submitted by the bidders should be sufficiently binding.

⇒ It is recommended that the terms of the concession agreement specify that the government can require that the Master Plan produced by the concessionaire conform to the investment plan submitted with their winning proposal. However, the government can allow divergence from the plan if both parties mutually conclude it is in the best interests of the airports. In this case, the government can then require justifiable changes to other concession terms if this materially affects the business arrangement between the parties.

Management Proposal

Recognizing that quality of service to passengers and airlines is driven by good management as well as capital investment, previous international airport tenders have required bidders to submit as part of the technical proposal a management plan demonstrating how they intend to manage and maintain the airports, with emphasis on intellectual property transfer to bring international best practices to the airports management.

Typically in international concessions, the management plan is broken down into the following subcategories of activity:

- **Operating and Maintenance Plan**

It is essential that the airport infrastructure be maintained in top condition, in order to provide efficient service and comfort to users. The concessionaire should further be prepared to introduce best practices to improve the management of the airports in all areas of activity, including safety, security, Crash/Fire/Rescue, and the environment.

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⇒ It is recommended that the tender require bidders to submit an O&M plan that includes a proposed strategy for ongoing maintenance, customer satisfaction monitoring, safety and security, crash/fire/rescue, and environmental mitigation.

- **Transition Plan**

Transitioning the airports from EAD control to the new operator must be as rapid, seamless and smooth as possible.

⇒ It is recommended that the bidders be required to submit a plan with key milestones for all areas of activity, such as signing employment contracts, submitting applications for all necessary licenses and certificates, securing liability insurance, etc.

- **Commercial Plan**

Airports as a business consist of aeronautical and non-aeronautical components. International practice has been to regulate the rate of return an operator can achieve from the aeronautical "till" in order to protect the airline customers from monopoly exploitation. However, in order to incentivize the operator to improve the commercial development of the airport, it has been international practice to separate the non-aeronautical side of the business (both revenues and costs) from the regulated rate-making mechanism for user taxes.

While a dual till is proposed for Bourgas and Varna, the bidders in a competitive tender will take into account their expectations for improving the non-aeronautical till when determining the level of concession fee to bid to the extent that the bidder sees significant upside potential in the non-aeronautical till, they can subsidize the rate of return they require from the regulated aeronautical till, and subsequently bid a higher concession fee.

In addition, concession fees are taken as % of gross revenues from both tills, so it is in the interest of the State to assess the feasibility of proposed unregulated revenues.

⇒ It is recommended that the bidders be required to submit as part of the commercial plan a marketing plan demonstrating their strategy for targeting new air service routes, developing value-added services to existing airline users, and working in coordination with tour operators, resort developers, and the Bulgarian government to further develop the flow of customers to the Black Sea tourism industry.

⇒ It is recommended that bidders submit for each airport a pro forma commercial plan and forecast for non-aeronautical revenues and expenses. This submission should be judged in order to determine its feasibility and to what extent the actual concession fees paid to the government will benefit from commercial development. (See attached suggested scoring and weighting structure).

▪ Human Resources and Social Plan

To ensure that private sector discipline and operating efficiency can be fully introduced to the airports, it is best practice to allow the concessionaire flexibility with regard to staffing levels and terms. Nevertheless, as employees are also stakeholders of an airport, it is equally important to be able to assess the bidder's proposals with regard to transitioning and training of employees, retention rates, collective bargaining and terms and conditions of employment relative to current EAD practice.

⇒ It is recommended that bidders be required to submit a social plan with indicative commitments to minimum levels of staffing, terms and conditions of employment, and employee development.

It is essential that the concessionaire provide the airports with a sufficient level of ex-pat support and expertise, particularly in the early years of the concession. A successful concession will require not only a commitment of financial capital, but also intellectual capital in the form of proprietary systems and processes that introduce state of the art management at the airports.

⇒ It is recommended that bidders be required to demonstrate in the HR plan the level and quality of expats to be assigned to the project as well as the level of intellectual property transfer. Organizational charts demonstrating reporting lines and the level of cross-utilization of specialists should also be included.

5. Pro Forma Financial Statements

In order to understand and assess the overall relationship between the bidder's proposals for investment, operating expense budgets, commercial revenue development and the subsequent impact on user fees, it is necessary for the bidders to include pro forma operating financial statements for the entire concession period.

⇒ In order to compare like-to-like, it is recommended that the RFP include templates to be completed and submitted by bidders.

RECOMMENDED		SELECTED PREVIOUS INTERNATIONAL CONCESSIONS										
	BOURGAS/VARNA BULGARIA	LARNACA CYPRUS	ROME ITALY	ATHENS GREECE	LUTON UK	ISTANBUL TURKEY	MALTA	AUSTRALIA	ASUR MEXICO	LIMA PERU	MUSCAT OMAN	SANTIAGO CHILE
TENDER STRUCTURE												
capex requirement	service-driven with set minimum	service-driven	service-driven	BOT tender	service-driven	BOT tender	service-driven	service-driven	service-driven	set minimum	service-driven	set minimum
capex bid	binding bid with final MP approval	binding bid	none	bid binding EPC	indicative bid subject to MP	EPC bid	none	indicative bid subject to MP	binding bid subject to MP	binding bid	indicative bid	binding bid
aeronautical opex	at cost with efficiency factor	at risk	at cost	at cost	at cost	at risk	at cost	at cost with efficiency factor	at cost with efficiency factor	at risk	at cost	at risk
concession fee	bid % gross rev annual	bid % gross rev annual	10% gross rev annual	none n.a.	bid upfront	none n.a.	bid upfront	bid upfront	5% gross rev annual	bid % gross rev annual	bid % profits annual	bid % of pax fee annual
aeronautical ROI	implicit in bid	implicit in bid	regulator set	implicit in bid	implicit in bid	implicit in bid	regulator set	price cap	price cap	price cap	implicit in bid	implicit in bid
user fees in bid	Y1-Y6 preset, indicative Y6-Y35	preset	none	indicative bid	indicative bid	preset	none	preset Y1-Y6	preset Y1-Y6	preset	indicative bid	binding bid
rate making period	cost-plus 5-year rolling per masterplan	cost-plus term	cost-plus by decree	cost-plus unregulated	market one year	fixed bid	cost-plus by decree	cost-plus 5-year rolling	cost-plus 5-year rolling	fixed term	cost-plus term	binding bid term
CONSORTIUM STRUCTURE												
min. paid-in equity	EUR 20M	set min	bid	bid	bid	bid	bid	bid	bid	\$40 Million	bid	bid
min. operator share	25%	set min	none	bid with TSA	none	bid with TSA	bid with TSA	bid with TSA	25% with TSA	15% with TSA	35%	set min
SELECTION METHOD												
technical bid	scored	ranked	none	scored	scored	pass/fail	scored	pass/fail	pass/fail	scored	ranked	scored
financial bid	scored	ranked	ranked	scored	ranked	ranked	scored	ranked	ranked	scored	ranked	scored
combined	weighted	sequential	n.a.	weighted	weighted	sequential	weighted	sequential	sequential	weighted	sequential	weighted

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OTHER INTERNATIONAL PRACTICE

FINANCIAL VARIABLES	LONDON	USA	FRANKFURT
	UNITED KINGDOM		GERMANY
capex	service driven	airline driven	service-driven
aeronautical opex	efficiency factor	at cost	at cost
concession fee	IPO	none	none
aeronautical ROI	CAPM	none	regulator set
user fees	regulator set	user negotiated	regulator set
ongoing determination	<i>cost-plus</i>	<i>cost</i>	<i>airline agreement</i>
variable method	<i>inflation-X</i>	<i>inflation</i>	<i>regulator set</i>
period	<i>5-year rolling</i>	<i>airline use agreement</i>	<i>interim accord</i>
Non-aeronautical till	single till	single till	at risk

Airports Concession Project Workplan

I. Introduction

This project was initiated in June 2003 as a continuation of earlier work provided under a broadly-applied USAID-funded privatization project. Under that project, advisors worked closely with leadership within the Ministry of Transportation and Communication (MTC) and experts within multiple MTC directorates and departments to support the implementation of concession transactions for the airports located in Varna and Bourgas on the Black Sea coast (Airports). The MTC supported by advisors accomplished several key objectives during that earlier project, and the current project is a continuation of much of that work with the specific goal of supporting the completion of a significant concession transaction transferring substantial rights and obligations regarding the Airports while maintaining necessary and effective control by appropriate State institutions.

The project is scheduled to operate until the end of May 2004.

II. Main Activities (in support of MTC)

A. Establishment of necessary legislative environment

Creation of the enabling legislative environment remains essential to initiate the concessions transaction. At the inception of this project (June 2003) amendments to the Civil Aviation Act (CAA) were narrowly defeated in Parliament, based on poor political organization within Parliament and lingering misunderstandings about concessions. Immediately however, members of Parliament expressed their support for the amendments and suggested the re-submission of the amendments to Parliament. Passage of this legislation remains the highest priority for the project. Actions in support:

- Support the redrafting of the CAA amendments to address concerns raised in the initial readings in Parliament and other changes as may be required, including possibly the inclusion of provisions necessary to bring the law into compliance with relevant EU directives.
- Support the use of public forums, targeted workshops and high-level meetings to explain the CAA amendments to key stakeholders and members of the media.
- Support the passage of the amendments through the Council of Ministers.
- Provide support to MTC leadership in Parliamentary debate on the CAA amendments, including participation as may be necessary in informal meetings with key groups within Parliament.

B. Specific actions to improve the quality of information on the Airports

Considerable work with the Civil Aviation Authority and the management of the Airports operating companies is necessary to improve the understanding of the Airports' operations, project assumptions and the data that is made available to

Attachment 3: Project Workplan

interested investors. This work is essential to improve the overall implementation of the concession transaction. Specific actions include:

- Implementation of independent passenger quality of service surveys at the airports during the 2003 season.
- Completion of site visit to the airports to review operations and levels of crowding during the 2003 season.
- Development of improved traffic growth forecasts with participation of Bulgarian tour operators.
- Review of existing airports investment plan and revisions as may be necessary.
- Matching of airport-based costs with the appropriate airport-generated revenues.
- Revision of the financial model for the airports transaction.

C. Completion of necessary tender documentation and other supporting materials

The tender documentation necessary for this transaction include documents both for approval of the transaction by the Council of Ministers and also for approval and use by the appointed Tender Commission and distribution to investors. Existing draft documents must be updated to reflect the conditions at the actual time of issuance of the tender, as well as the final decisions of the Council of Ministers and the Tender Commission on transaction terms and conditions. Specific work products include:

- Essential updates and revision to concession analyses initially prepared in 2002.
- Draft decision on the concession transaction for approval of the Council of Ministers.
- Terms of Reference for the transaction (preliminary version already prepared).
- Information Memoranda for the transaction (preliminary version already prepared).
- Draft concession contract for the transaction (work in progress).

D. Support to transaction implementation

The Advisors are to support the MTC in all phases of transaction implementation, beginning with the initiation of the tender by the Council of Ministers and, resources permitting, the transition of airport operations from the State to the Concessionaire. Specific actions include:

- Technical work with the MTC, Civil Aviation Authority and management teams at the Airports to resolve issues relating to the complete terms and conditions applicable to the airports and their operation under concession.
- Support to the MTC to market the transaction to the international investor community, including enabling the MTC to solicit feedback on proposed transaction terms and conditions prior to transaction initiation.
- Advice to the tender commission on the approval of tender documents and on finalizing selection criteria for the transaction.

Attachment 3: Project Workplan

- Support to the MTC on interaction with investors and interested parties during the implementation of the tender.
- Support to the MTC to manage the due diligence process by pre-qualified investors.
- Confidential advice to the Tender Commission on the review of submitted proposals and tender commission decisions and actions.
- Support to MTC to negotiate and conclude contract with selected investor.
- Support to MTC and Civil Aviation Authority to implement transition of airports operational responsibilities, *if sufficient time remains under this project.*

E. Capacity building and training for counterparts

The specific Airports concession transaction is just one of countless opportunities for the development of public-private partnerships in the operation of traditional public infrastructure. As such, a key component of this project is to transfer knowledge and skills to specific counterparts within the MTC and to general counterparts within other Government ministries, including the Council of Ministers, Ministry of Finance and other institutions as appropriate. This is done primarily through regular on-the-job collaboration and cooperation to implement the Airports concessions transaction, and also through specific, targeted training, workshop and development activities for local counterpart groups. Specific actions include:

- Participation by Advisors, key MTC counterparts and members of relevant Parliamentary commissions in one or more international workshops on airport concessions, at which time participants can review the international experience in private sector operation of airports and interact directly with multiple, experienced practitioners.
- On-the-job review and discussion sessions with MTC counterparts regarding the proposed terms and conditions of the Airports concession transactions and their underlying rationale.
- Regular review and discussion with key MTC counterparts of international experience in private sector operations of airports and its applicability to Bulgaria.
- Implementation of one or more formal workshops on key topics related to concession transactions, including financial modeling, concession contracts and possibly others; this activity should be open to participation by a broader group of relevant Government persons, as applicable.

F. Implementation of coordinated public awareness program (support to MTC)

Public awareness of the planned Airports concession transaction is essential for the success of the project and is an integral part of the project workplan. This includes the development of targeted and coordinated public awareness activities with numerous project stakeholders. Advisors will play a supporting role to MTC counterparts on the implementation of public awareness and consider the development of counterpart capacity essential to the self-sustaining success of this project and other important activities within the MTC. Specific actions include:

Attachment 3: Project Workplan

- Development of public awareness plan(s) targeting the passage of legislation in Parliament and the implementation of the transaction.
- Implementation of formal workshop on concessions for members of the media to broaden their understanding of the economic importance of concession transactions for Bulgaria and to improve their specific understanding of the background for the planned Airports concession transaction and the supporting amendments.
- Preparation of written materials for direct or indirect use by MTC counterparts and for publication in local newsmedia (through MTC).
- Incorporation of international experiences in private sector operation of airports into public debate on airport concessions.
- Ongoing public awareness activities to support transaction implementation.

III. Key Issues

A. Legal Advisors

Although some project resources (expat LOE) have been allocated to legal advisory services, the scope of work for this project does not include comprehensive international legal advisory services which the MTC may additionally require to implement this transaction. This fact has been acknowledged by the MTC, which has indicated its intention to secure legal advisory services separate from but in coordination with the technical advisory services provided under this project. The Advisors intend under this project (though not indicated above) to support the MTC to procure these services. The final decision to pursue outside legal advisory services, however, remains squarely with the MTC.

B. Timing of Legislative Action

Parliamentary actions and their timing are difficult if not impossible to predict and to control. Although the MTC may influence the process, it cannot dictate to members of Parliament their priorities or their votes. And as elsewhere, voting actions are often dependent not on the merits of individual bills but on other political interests and battles. Actions by the Advisors are primarily focused on advising and supporting MTC leadership, and, as necessary, appearing directly before Parliamentary committees as independent experts.

C. Counterpart Capacity

The project cannot nor should not take the place of MTC departments in the fulfillment of their responsibilities to implement this concession transaction. In the course of preparing this transaction with counterparts, genuine understanding and decision-making by counterparts take longer to achieve than if complete draft documents were simply prepared and provided to the MTC for approval. Real benefit and much of the real work of this project is the generation of that capacity within the MTC, now and for the future.

D. Completion of Transaction

There is a distinct possibility that this transaction cannot be completed prior to the end-date of the project. As such, the Advisors will need to do all they can to ensure that the MTC has the information and documentation it needs to implement its strategy for the concession transaction. Additionally, the Advisors may provide advice to MTC counterparts on appropriate transition strategies for the use of outside transaction advisors to assist the MTC to complete this transaction. Although this may cause some delay, it is unlikely that we would recommend the MTC to complete this transaction without having its own team of international advisors to provide assistance and guidance.

IV. Timeline of Main Project Activities

Although supporting private sector development in a number of ways as indicated above, the project's primary objective is to support the MTC to initiate and complete the Airports concession transaction. This involves the successive completion of a series of actions by the Government, by Parliament and by the MTC. *The timing of the implementation of this workplan is to a large extent governed by the individual prerequisite steps, many of which are outside the direct control of the Advisors.* Nevertheless, the Advisors will work to ensure not only that the prerequisite steps are completed as quickly as possible, but also that all elements of the workplan are implemented to the extent possible.

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Attachment 4: Arriving and Departing Passenger Survey

Question three

How did your airport experience compare with your overall experience in Bulgaria?

Less favorably	Same	More favorably
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Please elaborate: _____

sh

Arriving Passenger Satisfaction Survey

Please help the Bulgarian Ministry of Transport and Communications improve your experience at this airport by responding to the questions according to the following scale:

- 5 Highly satisfactory**
- 4 Satisfactory**
- 3 Adequate**
- 2 Unsatisfactory**
- 1 Highly unsatisfactory**

Attachment 4: Arriving and Departing Passenger Survey

Question one

Concerning quality of the facility and adequateness of space provided:

▪ Plane to terminal bus	1	2	3	4	5
▪ Immigration area	1	2	3	4	5
▪ Bag claim/Customs area	1	2	3	4	5
▪ Meet & Greet/ Curbside bus access	1	2	3	4	5

Please elaborate:

Question two

Concerning quality of service provided:

▪ Cleanliness of washrooms	1	2	3	4	5
▪ Overall appearance of airport	1	2	3	4	5
▪ Way finding/ signage	1	2	3	4	5
▪ Announcements/ Public Address system	1	2	3	4	5
▪ Range of arrival shops and services	1	2	3	4	5
▪ Value for money of shops/services	1	2	3	4	5
▪ Courtesy/Helpfulness of airport staff	1	2	3	4	5

Please elaborate:

Attachment 4: Arriving and Departing Passenger Survey

Question three

How did your airport experience impact your overall impression of Bulgaria?

negatively	no impact	favorably
------------	-----------	-----------

Please elaborate: _____

Question four

How did your airport experience in Bulgaria compare with the experience at the airport you departed from?

negatively	same	favorably
------------	------	-----------

Please elaborate: _____

Departing Passenger Satisfaction Survey

Please help the Bulgarian Ministry of Transport and Communications improve your experience at this airport by responding to the questions according to the following scale:

- 5 Highly satisfactory**
- 4 Satisfactory**
- 3 Adequate**
- 2 Unsatisfactory**
- 1 Highly unsatisfactory**

Attachment 4: Arriving and Departing Passenger Survey

Question one

Concerning quality of the facility and adequateness of space provided:

▪ Curbside access	1	2	3	4	5
▪ Check-in area	1	2	3	4	5
▪ Customs and immigration area	1	2	3	4	5
▪ Security screening area	1	2	3	4	5
▪ Gate/departure waiting area	1	2	3	4	5

Please elaborate:

Question two

Concerning quality of service provided:

▪ Cleanliness of washrooms	1	2	3	4	5
▪ Overall appearance of airport	1	2	3	4	5
▪ Way finding/ signage	1	2	3	4	5
▪ Announcements/ Public Address system	1	2	3	4	5
▪ Range of food and beverage, retail shops	1	2	3	4	5
▪ Value for money of shops	1	2	3	4	5
▪ Courtesy/Helpfulness of airport staff	1	2	3	4	5

Please elaborate:

2003 DRAFT AMENDMENTS TO THE CIVIL AVIATION ACT PROVISIONS REGARDING CONCESSION OF AIRPORTS

Summary

The purpose of this paper is to describe the provisions regarding airport concessions in the 2003 draft amendments to the Civil Aviation Act, the need for these amendments to the Act, the resulting benefits of airport concessions, and the mitigation of risks associated with airport concessions.

Note that the draft amendments also contain important provisions related to other issues, including harmonization of Bulgarian legislation with EU directives per the pre-accession protocols; this paper does not address these other provisions.

1. The Rationale for Airport Concessions

States across Europe and throughout the world have long recognized the important role that airports play in national and regional economies. **Underfunded and underperforming airports do not allow the regions served by them to develop to their full extent possible, limiting economic development and impacting regional employment and prosperity.**

Due to growing worldwide traffic and continued technological developments, airports require regular and significant capital investment in order to provide essential capacity and service quality to users. The International Air Transport Association (IATA) estimates that airports worldwide will require upwards of 300 billion Euros now through 2010 to expand and modernize airports worldwide.

Although airport infrastructure charges can be used to cover the periodic financing costs of required investments over time, **capital expenditure on major works such as terminal and airfield infrastructure require access to significant funds upfront, which can only come from outside debt and equity.** Therefore either the State or the private sector must step in to fund these investments. The State must make tough choices about which projects and sectors to fund directly, including many for which there is no alternative but State funding. **Because airports have potential to be viable commercial businesses, they can attract private sector investment and management in ways that other areas of activity within the State sector (such as hospitals and schools) cannot.** For this reason the trend in Europe and worldwide has

been towards private sector participation in airport development, operation, and management.

In addition to easing public finance constraints, international experience in airports management conclusively shows that operation by the private sector results in increased airport operating efficiency, increased growth in airports' commercial activity, increased contribution by the airports to traffic growth and increased regional development, all provided with no increased costs to airports users, including airlines and their passengers. **This is the essence of maximizing the airports' contribution to regional economic growth and development.**

European experience:

- Over 200 million passengers travel through privately operated airports in Europe each year. *(See attached appendix 3.1 for partial list of privatized European airports and appendix 3.2 for partial list of airports under private concession).*
- There are many different types of transactions to introduce the private sector to airports development and operation, including concessions, full or partial trade sales, and public share offerings. The type of transaction undertaken is linked to national legislation, government objectives and specific airport circumstances. **All transaction methods can deliver the key benefits of private sector airport operation indicated above: access to finance and improved airport performance.**
- Many of the holiday destinations the Black Sea Coast competes with are served by airports under full concession: Athens, Malta, several airports in Italy, to name a few. And recently Cyprus announced it has awarded its two airports serving international holiday charters as a bundled concession. In addition to these, Istanbul and Antalya in Turkey have granted concessions for the operation of airport terminals and other key facilities.
- Likewise, most of the tourists visiting Bulgaria are originating at airports owned and operated by the private sector: major airports sending passengers to Bulgaria's holiday destinations from UK, Germany, Scandinavia, Austria are private.

The Airports on the Black Sea Coast:

- **The Bulgarian Constitution specifically precludes privatization of public State property, including airports. The Concessions Act was adopted by Parliament in 1995 so that private sector capabilities can be introduced to certain public state property such as airports via concession arrangements.**
- **At both Varna and Bourgas, significant and immediate investment in terminal and airfield infrastructure and airport equipment is desperately needed. (See attached appendix 1 for a description of the current poor level of service at the airports relative to the requirements as defined by IATA and ICAO, and attached appendix 2.1 for amount of investments needed at the airports over ten years by category.)**
- **As the general case throughout the world, the airport infrastructure charges collected are not able to fund essential capital investments without external equity and debt financing to leverage them. Given the restrictions on the State budget and the limited availability of sovereign (State) guarantees and their use for other critical projects, the State does not have the means or the incentive to undertake this financing.**
- **Essential performance improvements necessary at these airports are not limited to capital investments. Modern managerial techniques can be applied throughout the airports' operations to develop the airports' business and increase their performance, resulting in clear and noticeable improvements in service orientation, customer satisfaction, commercial development and quite possibly, increased passenger traffic.**
- **Existing tourism demand already exceeds the capacity of the airports, and future growth in the tourism economy and all of its economic and social benefits will depend directly on the ability of the airports to provide adequate infrastructure and services. Given European precedent, the Bulgarian legal environment, and the requirements at the airports, private sector involvement by concession is the best way to achieve this on the Black Sea Coast.**
- **There is significant interest in the concession of Varna and Bourgas airports from the international airport business community. They are ready to invest in the development and operation of the airports and would like to see this happen as soon as possible. Companies interested in becoming the concessionaire at Bulgaria's airports are willing to invest capital upfront and spread out their return on this investment over a longer term in order**

to keep user charges low. *(see attached appendix 2.2 for the potential financial profile of the concession of Varna and Bourgas Airports).*

2. The proposed legislative amendments to the Civil Aviation Act:

The provisions on concessions in the proposed amendments address only those changes to existing legislation necessary to undertake airport concessions successfully. Per the Concessions Act, terms and conditions of any tender and eventual transaction will be addressed in a decision by the Council of Ministers (COM) and ultimately codified in the specific tender documents which must be approved by the tender committee, itself established by the COM. Before its signing, the concession contract must also be approved by the COM. *(see attached appendix 4 for an analysis of how the tender documents will protect the interests of the State, as well as other stakeholders with legitimate interests including airlines, employees, local community).*

Key points in the amendments concerning concessions:

Collection of airport infrastructure charges

- Currently, user charges for airport infrastructure in Bulgaria are transferred directly to the State budget. This is not typical international practice, and international aviation organizations such as IATA and ICAO strongly discourage this.

Collection of these fees by the airports under concession is essential to making the capital improvement of the airports possible. **Without this basic control over the collection of airport revenues, investors will not participate in the concession and banks will not lend to the project.**

The amendments allow the State to link the portion of user charges collected to the party responsible for providing the various infrastructure and services at the airports. The COM decision will determine the responsibilities of the concessionaire, and thus the portion of charges the concessionaire will collect.

Prequalification of tender participants

- Existing concession legislation doesn't specifically permit a prequalification stage. The amendments will allow for an open, transparent prequalification procedure as part of the tender process. **This is necessary to ensure only experienced airport operators with the financial means to undertake the required investments are allowed to participate in the**

competition. This prequalification of bidders is standard international practice.

Clarifications during the tender procedure

- Existing legislation doesn't specifically permit formal communication between the tender committee and tender participants. It is international practice to allow formal written requests for clarification and comments throughout the tender process according to prescribed rules. This is necessary to ensure that tender procedures and transaction terms and conditions are clearly understood by the participants and to ensure transparency during the tender process.

Participation of foreign consortia in the tender

- Existing legislation requires the legal entity selected in the tender be the party who signs the concession agreement. Furthermore, the party to the concession agreement must be a Bulgarian registered corporation. Because typical qualified participants in tenders for airport concessions are international consortia which will not have registered as Bulgarian corporations prior to the tender, a legislative change is necessary to allow the winning consortium to register as a Bulgarian corporation (of identical shareholding as the winning bidder) subsequent to selection as preferred bidder and prior to formal award of the concession by signing of the concession agreement. **In order to ensure that qualified international airport operators can participate in tenders, this has been standard international practice.**

APPENDIX 1.1

Actual vs. recommended area per passenger during peak times at Black Sea airport

	Actual Area (sq. m)	PAX	Actual sq.m/PAX	Level E [IATA]		Level C [IATA]	
				Target sq.m/PAX	Area Reqd. sq.m	Target sq.m/PAX	Area Reqd. sq.m
Check-In Area	384						
1540-1620		1002	0.38	1.0	1002	1.4	1403
1650-1800		1158	0.33	1.0	1158	1.4	1621
1800-1840		745	0.52	1.0	745	1.4	1043
Baggage Claim Area	250						
1450-1553		826	0.30	1.2	991	1.6	1322
1626-1723		1184	0.21	1.2	1421	1.6	1894
1751-1834		816	0.31	1.2	979	1.6	1306
1900-1939		877	0.29	1.2	1052	1.6	1403
Immigration	400	1184	0.34	0.60	710	1.00	1184

Level C: Good level of service, conditions of stable flow, acceptable delays, good level of comfort

Level E: Inadequate level of service, unstable flow, unacceptable delays, inadequate level of comfort

Service below Level E considered as SYSTEM BREAKDOWN

This data comes from Bourgas Airport on 12 August 2002. It is indicative of the situation at both Black Sea airports during the peak season. The table above shows the actual available space per passenger in key areas of the terminal. This number is then compared with the area required to meet IATA (International Air Transport Association) guidelines for service level C (acceptable) and E (inadequate and unacceptable). Currently the airports do not even meet level E specifications and their level of service at these times would be classified as SYSTEM BREAKDOWN. This is a routine scenario at both Varna and Bourgas airports.

As the photo in Appendix 1.2 demonstrates, the figures in the table above translate to a complete failure of the airports to accommodate the tourists in an acceptable manner.

Similarly, without new airfield infrastructure at both Varna and Bourgas, the number of aircraft arriving during peak operating times cannot grow to meet the demand. This fact is holding back the growth of the Black Sea tourism industry.

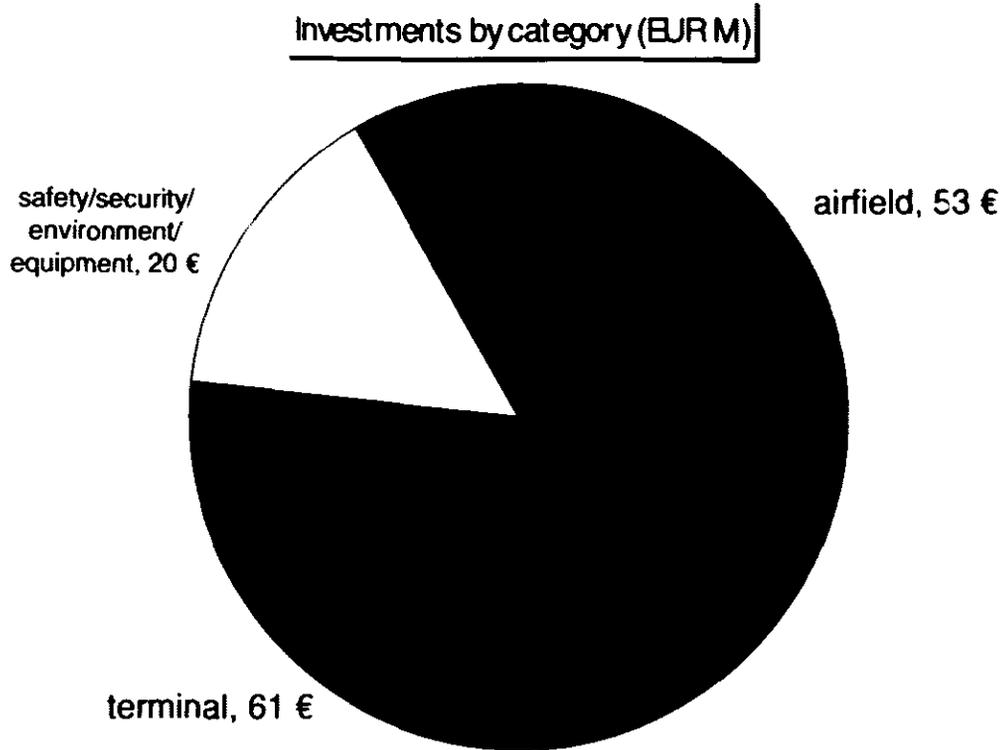
APPENDIX 1.2

Photo of typical passenger departure queue during peak time



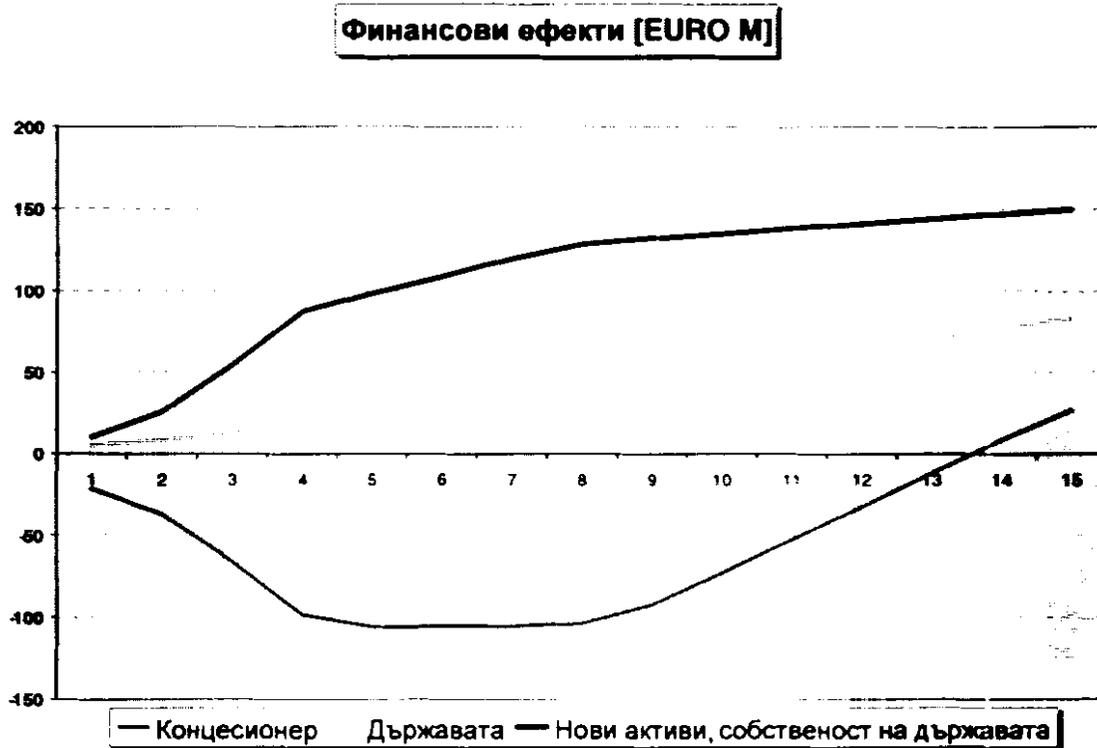
APPENDIX 2.1

10-year investment requirement at Varna and Bourgas Airports



APPENDIX 2.2

Cumulative annual financial profile of concession of Varna and Bourgas



As the blue line indicates, most of the investment at Varna and Bourgas is needed in the first 10 years of the concession. The concessionaire will provide a mix of equity and debt to finance this investment.

In order to keep user fees to an acceptable level, the regulatory regime will force the concessionaire to recoup its investment slowly over the life of the concession (green line). Given the upfront investments required and the price sensitive nature of the tourism market, the concessionaire will not become positive in net present value terms until much later in the concession term. For this reason, a 35-year term may be required.

In addition to owning the improved assets (blue line), the State will receive annual concession fees based on airport revenues as well as corporate taxes from the concessionaire (red line).

APPENDIX 3.1

Partial list of privately owned and operated airports in Europe

	passengers 2002	total sales € 2002
<u>Austria</u>		
Vienna	12M	320M
<u>Germany</u>		
Frankfurt	48M	1,903M
Hamburg	10M	250M
Hannover	5M	N.A.
<u>Switzerland</u>		
Zurich	18M	338M
<u>Denmark</u>		
Copenhagen	18M	290M
<u>Belgium</u>		
Brussels	14M	256M
<u>Sweden</u>		
Skavsta	1.5M	7M
<u>UK</u>		
London (LHR/LGW/STD)	120M	2,800M
Birmingham	N.A.	N.A.
Bristol	3M	N.A.
Cardiff	2M	35M
Belfast	4M	43M
Newcastle	3.4M	N.A.
<u>Slovenia</u>		
Ljubljana	0.9M	19M

APPENDIX 3.2

Partial list of airports under private concession in Europe

	passengers 2002	total sales € 2002
<u>UK</u>		
Luton	6M	104M
<u>Greece</u>		
Athens	12M	230M
<u>Italy</u>		
Roma (Fiumicino & Ciampino)	20M	330M
Napoli	4M	N.A.
Firenze	1.4M	23M
Torino	2.8M	53M
<u>Malta</u>		
Valetta	3M	30M
<u>Turkey</u>		
Antalya (Bayandir terminal)	N.A.	N.A.
Istanbul (TAV Ataturk terminal)	14M	N.A.
<u>Cyprus (contract signing pending)</u>		
Larnaca and Paphos	3M	N.A.

APPENDIX 4

Protecting the legitimate interests of stakeholders

In accordance with international practice and the specific needs of Bulgaria, the interests of all stakeholders (State, concessionaire, airlines, passengers, tour operators, employees, local community) will be protected in the concession contract. Terms and conditions for airport concession contracts should include the following contract provisions:

Investments and airport charges

- Approval of investment plan by State and regional authorities. Airlines will have formal opportunity to review as well.
- State will own the improved assets (and all original airport assets).
- Failure by the concessionaire to deliver the approved investments on time will result in default and cancellation of the concession.
- Setting of airport infrastructure fees and charges by State on a cost-recovery basis in accordance with Bulgarian law to ensure users get value for money.
- Concessionaire's profits from airport infrastructure charges to be regulated by State. Concessionaire's return on investment to be spread over long-term period to ensure low user charges.

Monopoly protections with regard to other airport services

- Airports under concession will be subject to EU directives on ground handling competition.
- Airlines and other users will have recourse to State regulator in the event a commercial agreement with the provider of handling services cannot be reached between the parties in order to prevent abuse in pricing and provision of ground handling and other services.

Financial and other Guarantees

- Concessionaire to post significant performance bond to State.
- No State guarantee on financing raised by the airports.

Attachment 5: White Paper on Airport Concession Transaction and CAA Amendments

- State budget to receive annual concession fee based on gross revenues, as well as corporate taxes from concessionaire.

Safety and security

- As signatories to the Chicago Convention of 1944, States bear ultimate responsibility for aviation safety and security. However, States can and often do delegate the implementation of portions of that responsibility (including passenger and baggage screening, crash/fire/rescue emergency services, and perimeter security) to private sector airport operators. This is the norm at major airports throughout Europe.
- In accordance with international practice, State will monitor those areas of responsibility for safety and security delegated to the concessionaire. State will also retain direct operational responsibility for certain areas of safety and security.
- Concessionaire to carry significant liability insurance and indemnify State against liability claims.

Labor Issues

- No change in employment status: per Concessions Act, all workers to transfer to concessionaire, who must abide by existing collective bargaining agreements
- Bidders in tender to be required to include social plan as part of their technical proposal

Issues potentially arising from the bundling of airports into a single concession

- If multiple airports are concessioned as a single package, legitimate local and regional interests can and will be protected in the concession contract. There is significant international precedent with this (London - three airports under one private owner/operator, Rome - both airports under one concessionaire, Cyprus - both holiday charter airports under one concessionaire), and it is possible to ensure fair and equal treatment for each airport in a multiple-airport concession.
- Cross-default provisions in the contract will ensure that the concessionaire will fulfill its obligations to invest in and develop each airport according to

Attachment 5: White Paper on Airport Concession Transaction and CAA Amendments

the contract and the approved investment plans. Each airport will have its own investment plan.

- Prohibition of transfer pricing will ensure the concessionaire cannot commercially favor one airport over another.
- Independent regulation of each airport by the CAA will ensure each airport is operated according to international standards and consistent with the long-term interests of the local stakeholders and the region it serves.

**Ministry of Transport and
Communication
Republic of Bulgaria**



**Investment Opportunity
Bourgas and Varna Airports
Bulgaria's Black Sea Coast**

The Investment Opportunity

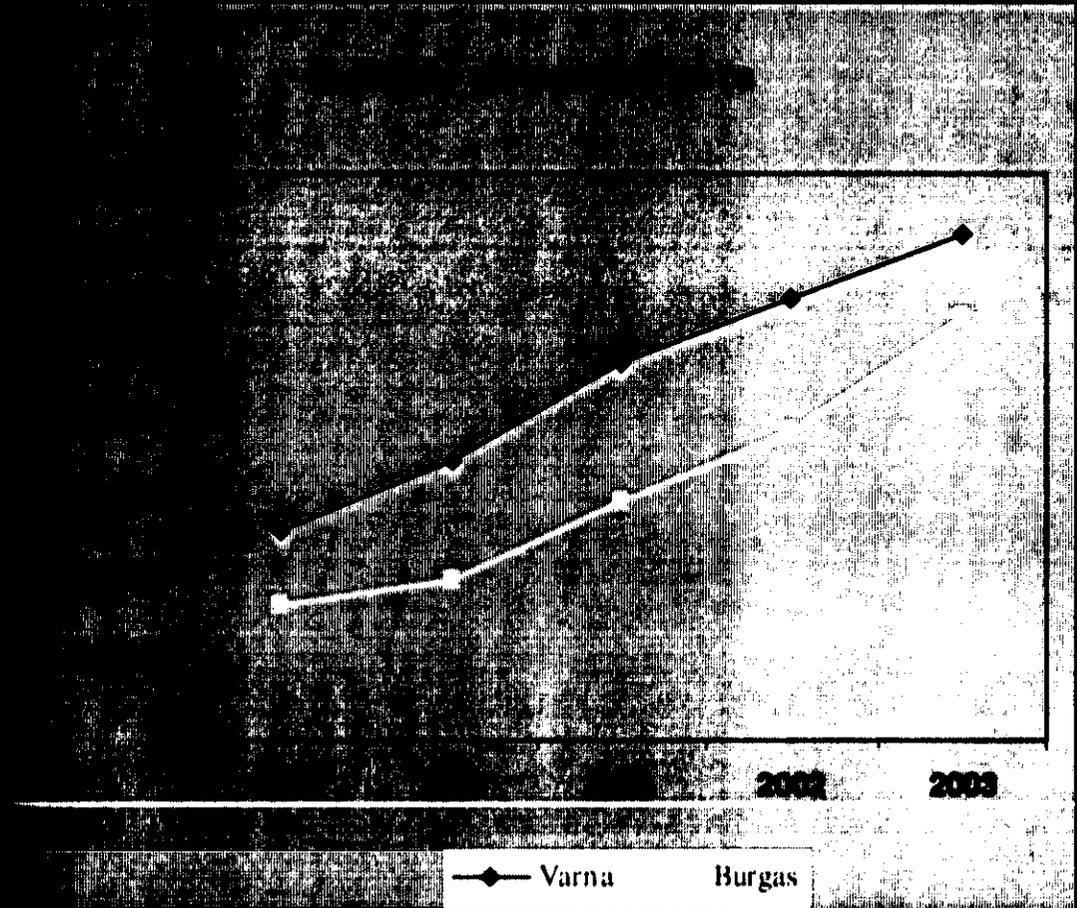
- Long-term concession of the airports at Varna and Bourgas – more than 2 million PAX.
- Significant forecasted traffic growth.
- Broad mix of predominantly European passengers and more than 80 international routes in 2003.
- Opportunity to significantly improve traditional commercial revenues.
- Property development opportunities.
- Steadily improving macroeconomic conditions and reduced country risk.

Macroeconomic Conditions

- Stable democratic country, with increasing rule of law and stable political and social relations internally and externally.
- Stable currency, successfully pegged to Euro.
- Low and declining corporate tax rate – presently 25% total.
- Solid economic growth – nearly 5% annually last 3 years.
- Educated workforce, stable wage growth from relatively low base.
- Integration policy with international organizations (NATO in 2004, EU in 2007)

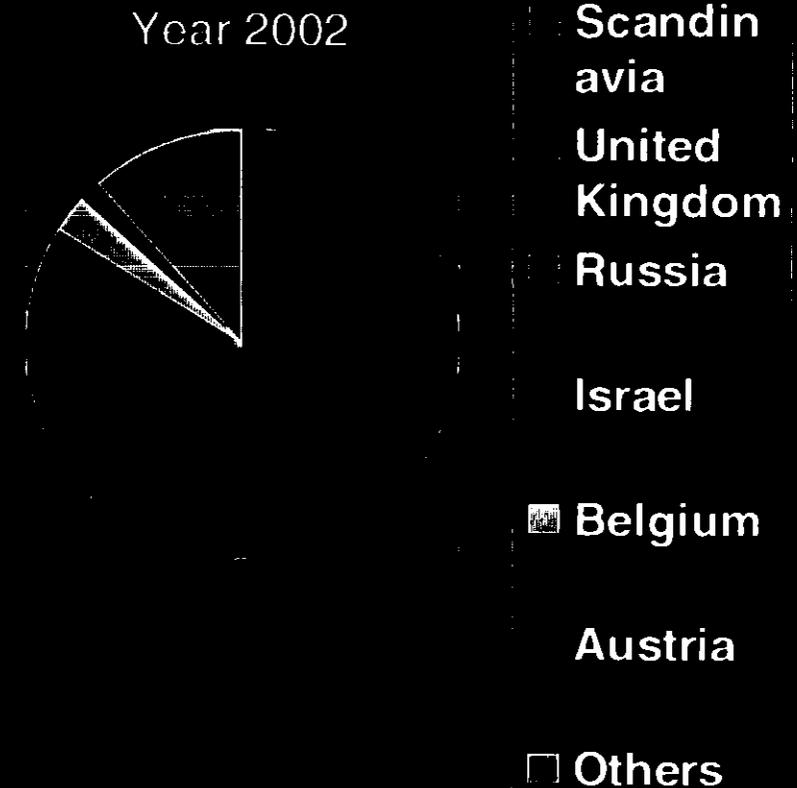
Significant Traffic Growth

- High recent traffic growth linked to tourism sector.
- Successful expansion of the tourism season into April and October.
- Continued high investments in tourism industry - over 350 kms. of coastline.
- Ministry of Economy Forecasts 7 - 12% growth through 2005.



Attractive Passenger Mix

- Germany, Scandinavia, UK and Russia are top four countries/regions of origin.
- Trend toward broader passenger mix.
- Passenger wealth and spending habits extremely varied.



Bourgas and Varna Airports

- Concentration of passengers during extended summer season.
- Primarily charter traffic on value-driven package tours, *though not exclusively*.
- Regular high pressure on airport capacities and infrastructure during season.
- Significant capital under-investment last 10 years.
- Investment requirement estimated at 130 million Euro.

Immediate airports investment and service-level improvements essential.

Government Objectives for Airports Development

- To facilitate immediate investments in airport infrastructure without State financing or guarantees.
- To improve the quality of airport services.
- To promote the development of commercial activities.
- To ensure efficient, cost-based provision of airport infrastructure and related services.
- To transfer commercial risks related to airport operation and investment.
- To maximize overall State budgetary revenues (fees, taxes, etc.), inclusive of capital investment program.

Proposed Transaction Structure

- Long-term master concession for 35 years.
- Development of master plan by Concessionaire for approval by State.
- Significant near-term investment requirements, specified as key outputs to be achieved by Concessionaire.
- Ongoing minimum quality of service targets.
- Dual-till regulation, with aeronautical till regulated by the State at 'cost-plus', with efficiency factor.
- Concession fees paid to State on gross revenues (aeronautical and commercial).
- Core ground handling activities provided by Concessionaire.
- Airports employees transferred to Concessionaire.

Tender Process

- Tender Committee selected by Council of Ministers.
- Mandatory Public announcement of tender.
- 2-stage tender process to ensure qualified bidders only.
- Winning bidder selected based on technical and financial proposals:
 - Technical offer to include management, operations and investment program;
 - Financial offer limited to concession fee percent (linked to required rate of return).

Target Investors

- Experienced international airport operating companies.
- Track record of international airport management outside of home airport.
- Demonstrated financial strength and stability.
- Experienced successfully managing implementation of major capital investment program.
- Experienced operating airports in a competitive tourism environment.

Airports Concession Project Timeline

- Amendments to the Civil Aviation Act to enable collection of infrastructure charges by Concessionaire now before Parliament.
- Once amendments have passed, Council of Ministers will approve key transaction parameters.
- Transaction to begin one month following approval of concession by Council of Ministers.
- Adequate time provided to ensure due diligence process by pre-qualified investors and submission of proposals.
- Development of supporting regulations concomitant with project implementation.
- BearingPoint Incorporated has mandate to advise the Bulgarian Government on this transaction.

Transaction estimated to be initiated early 2004.

Alternate Strategies for Development of the Black Sea Airports

Introduction

The Ministry of Transport and Communications (MTC) remains committed to the implementation of concessions for these airports in accordance with the Concessions Act and the Civil Aviation Act as to be amended by Parliament during its current term. However, there remains a possibility that the MTC will not be able to carry out its intentions and that alternate strategies will need to be developed. Alternate strategies must address the following MTC objectives: (1) upgrading airport capacity and level of service through immediate capital investment, (2) modernizing airport management and operation, and (3) maximizing the airports' contribution to regional economic and social development.

If it becomes apparent that the preferred strategy of concessions cannot be realized, then Advisors will discuss alternate strategies with MTC leadership and make a recommendation on a course of action for the MTC to follow, supporting its implementation as appropriate. Strategies which the Advisors believe are most appropriate are indicated in bold.

Alternate Strategies

Management/Operations Related: These strategies could show immediate impact on airport operations and be a first step toward greater private sector involvement in the airports. State willingness to support significant airport investments might also be improved under proper airports management. Possible downsides include no immediate actions to address infrastructure constraints and difficulties to identify and coordinate the roles and responsibilities of the parties.

1. Short-term Consulting Contract

Airports operator (EAD) and Civil Aviation Authority (CAA) would authorize the hiring of an appropriate firm to observe the airports and their operations over a fixed period of time (a portion of a season most likely) and to make specific, targeted recommendations on improvements in airport operations that can be made by the existing management teams. This alternative could provide EAD management and the CAA with ideas on improvements but management would be on its own to implement improvements. This transaction could result in operational improvements but it would be up to existing management teams to make this happen.

2. International Recruitment of New Managers

EAD Board of Directors (representatives from the CAA and the MTC) would announce an international tender for qualified persons interested to manage the existing EADs. This would replace top-management and, if properly empowered, could result in materially improved airport management and performance. Personnel changes could be resisted and managerial/operational improvements might be limited to term of new managers – sustainability of improvements unclear.

Attachment 7: Alternate Strategies to Concession

3. Technical Services Agreement

This would involve the completion of a contract between the EAD and a qualified firm to provide on-going technical and consulting services. Such contracts are industry standard practice and allow for considerable skills transfer and improved operation. Should be done in line with public procurement, but otherwise standard contracts are readily available. Improvements would be limited by EAD and CAA willingness to implement change.

4. Concession without amendments to existing legislation

This would involve the selection of a qualified firm to manage and operate the airports on behalf of the State, similar to a management contract or lease, and conducted according to the Concessions Act. This would transfer significant operational control to the managing firm, thereby delivering significant improvements. Would require all the steps of a concession, and could face resistance by vested interests.

Investment Related: These strategies would address the immediate and high priority need for capital investment, invariably making a major impact on the quality of the airports. Funding should be readily available for the airports which are attractive investments, whether to the private sector or to the State. However, the lack of management and operational improvements would still leave considerable problems at the airports. The downside to this strategy concerns the effectiveness of major capital investments without addressing management issues, and that once investments are made the State may feel poorly motivated to address management and operational problems. Additionally, an internationally experienced operator-led investment program would be more reflective of developing airport trends and efficiencies than those put forward by the State.

5. Airports Loan Program

The State would secure private sector funding for airport capital investments – the terms and conditions of such funding would be highly variable. State guarantees and/or equity commitments could be necessary. Projects with State guarantees could be on attractive terms, but the State would retain all traffic-related risks (and rewards). State loans can be cumbersome and slow to utilize and reduce overall creditworthiness. Efficiency of loan usage could be an issue (see Sofia Airport project).

6. State-implemented Investment Program

The State would implement necessary investment program without seeking financing from the private sector or international financial institutions. The ability to implement any investment project would be solely dependant on the State's ability to allocate and commit the necessary resources. Investment program would be conditional on availability of State funding and could be driven by political and budgetary pressures, rather than infrastructure needs. Risk of persistent under-investment and resulting under-development, as is the case today.

Autonomy Related: These strategies would provide greater autonomy for the airports which could be a productive *intermediate* step to actions that would more directly address

Attachment 7: Alternate Strategies to Concession

management and operational concerns and the need for infrastructure capacity investments. Greater autonomy could make airport development decisions more insulated from the political process and place them in the hands of those bodies most motivated in airport operation and development. Downside to autonomy provisions includes the creation of off-budget, bureaucratic entities and the concentration of critical decision-making in inherently limited and politically influenced public institutions. Steps toward airports autonomy would not in and of themselves impact airport management or infrastructure.

7. Creation of Public Authority with asset ownership

Amendments to the Civil Aviation Act (and possibly others) could allow airport infrastructure charges to be retained by the CAA for use only on civil aviation. Such changes would ensure that such revenues do not go 'off airport' and into the budget as they do today and could depoliticize investments in airport infrastructure. The Authority would still be both the regulator and the owner of airports and could face insufficient checks on its investment decision-making as a State institution. Financing activities would still require the involvement of the CAA and possibly the State.

8. Transition of Public Property to Airports EAD

This strategy would likely require a legal amendment to reclassify airport infrastructure from public to private State infrastructure, thereby allowing the EADs to directly collect charges and invest in airport infrastructure. Full or partial privatization of the EADs and thus the airports would then become a possibility. This would require a substantial set of amendments and adjusted thinking about the nature of public State property and which property is appropriate for privatization – the Concessions Act is presently the generally accepted means in Bulgaria for attracting private sector investment in public infrastructure.

9. Transition of Public State Property to Public Municipal Property

This reclassification of public property would transfer its management from the central level (MTC) to the regional and/or municipal level. It is not clear how this would impact the allocation of infrastructure charges. This is a common model for airports ownership as local authorities are frequently more keenly interested in regional airport development. Concessions Act would still govern private sector involvement. Several municipalities would share responsibility for a regional airport, possibly shifting political issues from a national to a local level (and thus accomplishing very little). Little precedent for this type of asset transfer in Bulgaria.

Act on changes and additions to the Civil Aviation Act

(published in State Gazette, # 94 OT 1972; amendments in # 30 /1990; amendments and additions in # 16 / 1997;
85/1998; #12 / 2000; #34 and 111 / 2001)

§ 1. In Art. 2, Section 2 the word "zones" is replaced by "restricted and unsafe zones".

§ 2. In Art. 5, Section 4 changes as follows:

"(4) The terms and procedures¹ for defining registration and notification signs shall be set in a regulation issued by the Minister of Transport and Communications".

§ 3. In Art. 7, the phrase "aviation operators" is replaced by "air carriers".

§ 4. In Art. 10, Section 2, a new second sentence is created: "The cases which require prior approval by the CAA, and terms and procedures for prior approval shall be set in a regulation issued by the Minister of Transport and Communications".

§ 5. The following amendments and additions are made in Art. 16a:

1. After the phrase "air navigation" follows a comma and the new word "as":

2. In Par. 3 the phrase "and the surrounding area of airports and air tracks" is struck:

3. Par. 4 is abolished:

4. Par. 7 changes as follows:

"7. establishes with regulations the terms and procedures for issuing, amendment, restriction, and suspension of certificates, proofs, approvals, permits and licenses subject to this Act:

5. Par. 10 changes as follows:

"10. issues a regulation for the general rules for indemnification of passengers in case of rejected board access by a regular-flights air carrier":

6. Par. 11 changes as follows:

"11. in regulations, establishes requirements to tariffs for regular and charter air flights, as well as the general rules for introduction and use of computer systems for reservation purposes":

7. New Par. 13 and 14 are created:

"13. approves investment programs of legal entities, which use facilities pursuant to Art. 120":

"14. issues a regulation for the working hours of registered aviation personnel.

§ 6. A new Art. Art. 16b is created:

"Art. 16b. (1) The CAA shall perform the regulatory and controlling functions of the state related to provision of air navigation safety and security, and shall:

1. perform functions as a civil aviation administration in compliance with any international civil air navigation agreements, on which the Republic of Bulgaria is a party;

2. control the civil air navigation, civil airports and airfields, civil air navigation facilities and devices on the territory of the country, regardless of ownership, as well as the aviation personnel;

3. control compliance with this Act and the bylaws, as for this purpose shall issue compulsory prescriptions in the cases provisioned by the law;

4. control actions of the physical and legal entities related to safety and security of civil air navigation;

5. keep registers as provisioned by the law;

6. coordinate construction plans for facilities to be built at the airport area and their surroundings, as well as on air tracks, in connection with provision of air navigation safety and security;

7. investigate accidents with aircrafts in the country, or issue an order for investigation to be carried out by an air carrier, aviation operator, airport administration, air traffic control, which are line institutions for the accident. Following completion of such investigation, the CAA shall communicate the results to the specialized unit pursuant to Art. 16d:

8. develop and propose regulations, norms, rules and procedures in the area of civil air navigation to the Minister of Transport and Communications;

9. carry out coordination between institutions and legal entities in the area of air navigation regarding flight safety and security;

10. control the provision of security services in the restricted zones of civil airports.;

11. maintain a uniform database and issue i.d cards and passes to physical persons, legal entities and vehicles required for access to the restricted zones of civil airports for public use:

12. control the implementation of the requirements for streamlining the procedures for passenger handling, processing and handling of aircrafts, baggage, cargo and mail:
 13. control the execution legal entities' functions, for which the state is liable pursuant to international agreements, in compliance with the current standards, conditions, rules and categories for provision of air navigation:
 14. coordinate the investment programs of persons who use facilities pursuant to Art. 120, Section 1 and 2 in connection with provision of air navigation safety and security, and shall control their implementation:
 15. impose a hold on aircraft's take-off in the cases provisioned by the law:
 16. organize data entry, update and delivery of specialized data about the objects (sites) pursuant to Art. 32, Section 1, Par. 1 of the Cadastre Act and the property register and creation of specialized maps, registers and information databases:
 17. collect charges in the cases provisioned by the law:
 18. perform other functions, as provisioned by this Act.
- (2) Controlling functions of the CAA shall be performed via air navigation inspectors, appointed by an order of the Head of CAA.
- (3) Inspectors shall have the right to:
1. free access to the persons and sites under their control by carrying out inspections of air navigation safety and security:
 2. demand data, information, explanations, operational and other information from the respective institution representatives, including about registration/certification of personnel, as well as any other information related to law compliance in the civil air navigation area:
 3. issue deeds/acts for violation of administrative procedures subject to this Act:
 4. issue compulsory written prescriptions for the implementation of regulatory provisions in the air navigation area and provision of civil air navigation safety and security, where they shall prescribe required deadlines and abatement of flight safety nuisance:
 5. make proposals for hold, termination and suspension of permits, certificates, licenses, proofs and approvals.
- (4) Inspection results shall be included in a Protocol of Findings, with attached evidence gathered. The Protocol shall be delivered to the person subject to the inspection, as the person shall have the right to file explanations and objections within 7 days from protocol delivery.
- (5) Based on inspection results, the head of CAA shall impose administrative sanctions or compulsory administrative measures, or shall terminate the rights deriving from issued licenses, approvals permits, certificates or proofs".
- § 7. A new Art. 16c is created:
- "Art. 16c. (1) Applications for obtaining licenses, permits, certificates, approvals or proofs shall be submitted to the CAA and shall be reviewed within 45 days.
- (2) When an applicant meets the requirements, the head of the CAA or a person authorized by him shall issue a respective deed (act) within 10 from expiration of deadline subject to Section 1.
- (3) Deeds subject to Section 1 shall be personalized and non-transferable.
- (4) Rights deriving from, deeds issued pursuant to Section 1 shall be terminated:
1. upon a decision of the head of the CAA or a person authorized by him:
 - a) when the person or the site for which they are issued ceases to meet the requirements for their issuance:
 - b) when the deed was issued on the basis of untrue documents or documents with untrue content:
 2. upon violation of any law or statutes related to the issuance of the deed/act:
 2. upon application by the holder:
 3. with termination of the operations of the person.
- (5) Upon establishment of violations of safety and security requirements and breach of other obligations provisioned in the law, by a person who has obtained a document subject to Section 1, the head of the CAA or a person authorized by him may, as a compulsory administrative measure, restrict or temporarily impose a hold on the rights related to the issued deed until abatement and completion of the issued compulsory prescriptions. Restrictions shall be imposed in case performance of limited activities shall not jeopardize safety and security of air navigation and shall not comprise an opportunity for causing damages or for hazard to people's life and health.
- (6) the head of the CAA or a person authorized by him shall temporarily impose a hold on the rights related to the issued deed until abatement and completion of the issued compulsory prescriptions, in case continued operations will jeopardize safety and security of air navigation and comprise an opportunity for causing damages or for threat to people's life and health

(7) Explicit or silent denial to applications for issuance of deeds subject to Section 1, as well as their restrictions, hold on their validity or suspension shall be subject to appeals pursuant to the Administrative Proceedings Act”.

§ 8. A new Art. 16d is created:

“Art. 16d. (1) For the purpose of investigating aviation events, a new unit is established at the Ministry of Transport and Communications, which shall:

1. maintain a system for mandatory and voluntary reporting of aviation events: aviation accidents, serious accidents and accidents;
2. organize and control the technical investigation of aviation accidents, serious accidents and shall support the work of the commissions established for such purposes;
3. keep an archive of investigations and shall maintain an information database of aviation events;
4. prepare and distribute an information bulletin about aviation events;
5. upon investigating aviation events, analyze the activities of physical and legal persons in the air navigation area and proper functioning of sites and facilities related to the specific event.

(2) Operational costs of the specialized unit subject to Section 1 shall be covered by the MoTC budget.

(3) the specialized unit subject to Section 1 and the CAA shall notify each other upon receipt of information about any aviation event.”.

§ 9. New Sections 5 and 6 are created in Art. 23:

“(5) Upon export of aircrafts listed in the register, the CAA shall issue an export certificate for operational fitness.

(6) The Minister of Transport and Communications shall issue a regulation for the terms and procedures for issuance of export certificate for operational fitness”.

§ 10. The following amendments and additions are made in Art. 24:

1. In Section 4, the phrase “only by an internationally accredited body” are replaced by “by the respective foreign air navigation administration”;

2. Section 5 changes as follows:

“(5) The Minister of Transport and Communications shall issue a regulation for requirements to the items comprising the operational fitness of newly produced aircrafts, as well as to maintenance and certification of operational fitness of aircrafts and their components”.

3. A new Section 6 is created:

“(6) The regulation pursuant to Section 5 shall also provision the terms and procedures for issuing certificates for aviation noise level and air pollution level of aviation engines”.

§ 11. A new Art. 24a is created:

“Art. 24a. (1) Production and/or recovery (repairs) of aircrafts and their components shall be performed by physical persons or legal entities who are holders of standard-type certificate.

(2) The head of the CAA or a person authorized by him shall issue a standard-type certificate for production or repairs of aircrafts and their components, if the persons meet the following requirements:

1. professional competence;
2. financial stability.

(3) The Minister of Transport and Communications shall issue a regulation which shall set the terms and procedures for issuing standard-type certificates for production or recovery (repairs) of aircrafts and their components”.

§ 12. The following changes and additions are made in Art. 25:

1. A new Par. 3 is created in Section 5:

“3. candidates (applicants) have presented proof of financial stability”;

2. Sections 6, 7 and 8 are abolished.

§ 13. In Art. 25a, Section 1 the word “three” is replaced by “five”.

§ 14. Art. 30 changes as follows:

“Art. 30. (1) Any aircraft, which performs international flights, as well as any aircraft with maximum take-off mass over 750 kg which performs domestic flights shall, during a flight, have the following documents on board:

1. registration certificate (license plate);
2. operational (flight) fitness certificate;
3. permit for exploitation of aircraft radio station, if there is radio equipment on board;
4. registration certificate (license) of each crew member;
5. insurance documents;
6. flight log;
7. flight plan (route);

8. list of passengers, with respective travel source and destination point, in case there are passengers on board;
9. manifesto and like cargo declarations if there is cargo on board.

(2) The Minister of Transport and Communications shall issue a regulation which list other documents in addition to those subject to Section 1, which shall be available on board of the aircrafts, pursuant to the requirements of Euro-control International Convention for Cooperation on Air Navigation Safety dated 1960, amended by protocol dated 12 February 1981, enacted with a law (State Gazette # 13 / 1997), and the regional agreements of ICAO.

(3) The regulation subject to Section 2 shall establish the documents which must be on board of aircrafts with maximum take-off mass below 750 kg upon performing domestic flights".

§ 15. Art. 32 changes as follows:

"Art. 32. (1) Physical persons, who perform all activities related to provision and services in the civil air navigation shall be deemed aviation personnel.

(2) Requirements, terms and procedures for issuing of registration certificates (licenses) to persons comprising aviation personnel, which are required to obtain registration certificates, as well as the terms and procedures for keeping a register of such persons, shall be established in a regulation issued by the Minister of Transport and Communications".

§ 16. B Art. 34, Section 1 и 2 се изменят така:

"Art. 34. (1) Aviation personnel, which are required to obtain registration certificates, must be Bulgarian citizens. This requirement shall not apply to crew members of aircrafts which are registered in the Republic of Bulgaria:

1. upon performance of non-commercial flights;
2. when an aircraft is leased to a foreign aviation operator.

(2) With a permit by the CAA, foreign citizens may also be granted access to work and training at the civil air navigation".

§ 17. In Art. 38, Section 1, a new second sentence is created: "Aircraft crew members, shall work under labor contract with an aviation operator, save for the cases when an aircraft is leased together with the crew members."

§ 18. In Art. 39, Section 2, after the word "aircraft (vessel)" follows a comma and the new text "which is not included in the list of admissible denials with the flight exploitation manual for the respective aircraft type".

§ 19. The following amendments and additions are made in Art. 43:

1. B Section 2, Par. 2 the phrase "maximum take-off weight" is replaced by "maximum take-off mass";
2. A new Section 7 is created:

"(7) Airfields shall be used to service flights without passengers, of aircrafts whose maximum take-off mass is up to 5700 kg against payment or free of charge, as well as for technological purposes of the owner, free of charge".

§ 20. The following amendments and additions are made in Art. 43b:

1. In Section 1 the phrase "airport companies" is replaced by "airport operators", and after the phrase "pursuant to the Concessions Act" follows the new text "and of this Act";

2. In Section 2, after the phrase "under the terms and conditions of the Concessions Act" follows the phrase "and of this Act";

3. In Section 3 after the phrase "for granting a concession of civil airport for public use" follows the new text "appoints a commission to carry out a tender or auction";

4. New Sections 4, 5, 6, 7, 8, 9, and 10 are created:

"(4) Upon granting a concession on civil airport for public use, the CoM decision pursuant to Art. 7 of the Concessions Act shall determine the applicable requirements to an airport operator and ground handling operator of one or more activities, which are performed by the concessionaire on the entire territory or over a self-contained part of the airport. The decision shall determine the rights and obligations related to the activities pursuant to Art. 48a, Section 3, which are assigned to the concessionaire, as well as the terms and conditions, under which the concessionaire shall collect airport charges pursuant to Art. 120, Section 1, including the respective part of those charges, to be collected for his benefit in connection with performance of the assigned activities.

(5) When a concession on civil airport for public use is granted by a tender, the decision pursuant to Art. 7 of the Concessions Act may foresee a prequalification procedure and establish the prequalification criteria for candidates.

(6) Consortia may also participate in the tender or auction for granting a concession on civil airport for public use. In case a concession candidate is a proprietor – foreign entity or a consortium - foreign and/or local entities, and such a candidate is selected as a winning bidder in the tender or auction, the concession shall be granted to the company, registered under the Commercial Act, in which the foreign entity or consortium members have 100% equity, in a ratio defined in their consortium agreement. In such a case the concession contract shall be signed with the newly established company, which shall be bound with the proposal of the winning bidder of the tender or auction.

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(7) Upon conducting a tender with a prequalification process, application of candidates pursuant to Art. 12, Section 1 of the Concessions Act shall be also accompanied by documentation determined by the tender commission and listed in the notification pursuant to Art. 11, Section 2 of the Concessions Act, to prove compliance with the pre-qualification criteria. In those cases no proof of paid deposit shall be attached to the application. Deposit for participation in the tender shall be paid only by candidates who were admitted to submission of proposal, and proof of deposit payment shall be submitted together with the proposal pursuant to Art. 15, Section 1 of the Concessions Act. Proposals, which are not accompanied by proof of deposit payment, shall not be reviewed.

(8) In the cases pursuant to Section 5, the Tender Commission shall, in its decision pursuant to Art. 14, Section 1 of the Concessions Act, determine the candidates who meet the prequalification criteria and have the right to submit proposals pursuant to Art. 15 of the Concessions Act.

(9) Upon conducting a tender with a prequalification process, the tender commission shall, in its decision pursuant to Art. 11, Section 3 of the Concessions Act, determine the part of the tender documentation which is to be provided to all candidates, and the part of it, which is to be provided to pre-qualified candidates only, as well as the terms and conditions for delivery to candidates.

(10) Upon conducting a tender, the tender commission may request and receive additional written clarifications on proposals of one or more candidates by listing the questions in writing and specify same deadline to all candidates for submission of clarifications. Responses by candidates shall become part of their proposals, but may not comprise additions or amendments to submitted proposals”.

§ 21. The following amendments and additions are made in Art. 44:

1. In Section 1, at the end of the sentence, after the word “navigation” follows a comma and the new text “as well as the systems and facilities for servicing passengers, and technical support to aircrafts, loading and unloading of baggage and cargo”;

2. Section 3 changes as follows:

“(3) The terms and conditions for certification of operational fitness of airports, airfields, navigation systems and facilities, as well as the systems and facilities for servicing passengers, and technical support to aircrafts, loading and unloading of baggage and cargo, as well as requirements to such type of sites, shall be established by a regulation issued by the Minister of Transport and Communications.”

§ 22. In Art. 46, Section 2, Par. 2, the phrase “construction and zoning plan” are replaced by “a detailed zoning plan”, and the phrase “Territorial Zoning and City Planning Act” is replaced by “the Territorial Zoning Act”.

§ 23. A new Art. 46a is created:

Art. 46a. The Minister of Transport and Communications, in coordination with the Minister of regional Development and Public Works, shall issue a Regulation to establish the content of the specialized map and the Register, which is to be created on the basis of data pursuant to Art. 32, Section 1, Par. 1 of the Cadastre and Property Register Act and the terms and conditions for their creation and maintenance.

§ 24. The following changes and additions are made in Art. 47:

1. A new Section 5 is created:

(5) Cost incurred for of removal of impediments pursuant to Section 3 shall be made at the account of the entity who breached the la, while cost in case of construction of a new airport or expansion of existing airport shall be at the account of the airport operator.

2. Current Section 5 becomes Section 6.

§ 25. The following amendments are made in Art. 48a:

1. In Section 3, Par. 3 the phrase “operators of airport activities” are replaced by “ground handling operators”;

2. In Section 4 the phrase “airport company” is replaced by “airport operator”.

§ 26. Art. 48b changes as follows:

Art. 48b. At the territory of an airport for public use, commercial activities shall be performed by airport operators or ground handling operators”.

§ 27. Art. 48c changes as follows:

“Art. 48b. (1). The civil airport management and operations, pursuant to Art. 43, Section 2, Par. 1 and 2, shall be performed by commercial entities registered under the Commercial Act, which have obtained a license as an airport operator.

(2) The airport operator shall provide access, at equal conditions, to any aircraft, which has been granted permission to carry out a flight.

(3) The airport operator shall receive and service aircrafts, which are in a state of emergency, as well as state-owned aircrafts.

(4) The CAA shall oversee the performance of the obligations pursuant Section 2 and 3.

(5) Un case of persistent breach of obligations, and in connection with prevention and remedies of damages caused by such breaches, the CAA shall, as a compelling administrative measure, terminate the activities of the airport operator related to airport management and exploitation.

(6) The terms and conditions for granting a license pursuant to Section 1 shall be determined by a regulation, issued by the Minister of Transport and Communications”.

§ 28. Art. 48d changes as follows:

“Art. 48r. (1) The license of an airport operator shall certify that the organization, equipment, technologies and personnel of the licensed person meet the standards and requirements for safe and high-quality maintenance of the operational fitness of the airport.

(2) The license of an airport operator shall be issued on condition that:

1. the airport has obtained an operational fitness certificate;

2. the person has submitted proof of financial stability;

3. the personnel of this person has the required qualification, professional expertise and experience in order to perform the activity;

4. the organization, equipment and technologies enable the person to meet the established standards and procedures for provision of flight safety and security at the respective airport;

5. the person has a manual for management and exploitation of the respective airport, which is approved by the CAA.

(3) In the cases when, the applicant for an airport operator’s license is not a sole proprietor, with a state property, or a state-owned company under the definition of Art. 62, Section 3 of the Commercial Act, prior to issuing the license, a decision shall be made to award a concession under the terms and conditions of the Concessions Act.

(4) The decision for granting a concession pursuant to Art. 7, Par. 10 of the Concessions Act shall also specify the requirements pursuant to Section 2, and the concessionaire determined by the CoM shall also obtain a license as an airport operator.

§ 29. Art. 48e changes as follows:

Art. 48e. (1) A ground handling operator’s license shall be issued in case the applicant meets the following requirements:

1. the personnel of this person has the required qualification, professional expertise and experience in order to perform the activity;

2. the applicant has submitted proof of financial stability;

3. the applicant has established organization, equipment and technologies which enable the person to meet the currently valid standards and procedures for provision of flight safety and security at the respective airport;

4. the applicant has a manual for management and exploitation of the respective airport in place, which is approved by the CAA.

(3) Ground handling license is to be issued for each of the following activities:

1. ground handling administration and monitoring (supervision);

2. servicing passengers;

3. baggage handling;

4. cargo and mail handling;

5. apron service to aircrafts;

6. service to aircrafts;

7. fuelling and lubricant service;

8. technical support to aircrafts;

9. flight operations and crew administration;

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10. ground transportation;
11. board catering service.

(3) Any person, who has obtained a ground handling license, shall have access right to the ground handling market at a given airport for public use.

(4) At an airport with 2 million passengers per year, or annual cargo turnover exceeding 50.000 tons, the number of operators, who have obtained ground handling licenses and who provide to third parties services related to baggage handling, cargo and mail handling, apron service to aircrafts, fuelling and lubricant service to aircrafts, may not be less than two for each one of those activities, unless no other service suppliers submit an application.

(5) In case ground handling operators pursuant to Section 4 are two or more, then at least one of them should not be directly or indirectly controlled by:

1. the airport operator
2. an air carrier, which has more that 25 % of the passengers or cargo market of a given airport throughout the year, preceding the selection;
3. a body, controlling or controlled either directly or indirectly by the airport operator or the air carrier.

(6) At an airport with annual passenger flow exceeding 1 million passengers or with a cargo turnover of more than 25.000 tons, the right for self-handling baggage, cargo and mail, apron service to aircrafts, fuelling and lubricant service to aircrafts, shall be granted to at least two aviation operators unless no other candidates are in place. Only one aviation operator shall have the self-handling right below the above thresholds (limits).

(7) Upon a proposal by the airport operator, the CAA, may:

1. limit the number of operators, who provide ground handling to third persons and render one or more services different to those provisioned in Section 2, as limitations pursuant to Section 5 shall apply to the operator;

2. grant the right to render one or more services pursuant to Section 4 to only one operator which provides ground handling services to third persons;

3. limit the number of self-handling aviation operators, which render services other than those listed in Section 6;

4. prohibit self-handling or grant self-handling right to only one aviation operator of the activities pursuant to Section 6.

(8) Limitations pursuant to Section 7 may be imposed in case of insufficient technological space or capacity of a given airport, caused by overloaded space and congestion.

(9) Limitations pursuant to Section 7, Par. 1 may be imposed for a period not exceeding 2 years, whereas limitations pursuant to Section 8, Par. 2, 3 and 4 – for a period not exceeding 3 years.

(10) The CAA, upon a proposal of the airport operator, may once extend by 2 years the validity period of the limitations pursuant to Section 7, Par. 1.

(11) Regardless of passenger flow or cargo flow at the airport, and the imposed limitations (restrictions), the airport operator shall perform the ground handling activities, which are subject to the ground handling license he has obtained.

(12) The Minister of Transport and Communications shall issue a regulation to establish the terms and conditions for provision of access to the ground handling market. The regulation shall establish the terms and conditions for granting ground handling license, define ground handling activities, as well as the terms and conditions, under which access limitations may be imposed.

(13) On condition that it will not hamper the operations designated for the entire or technologically separated part of the civil airport for public use which is public state property, in coordination with the CAA the airport operator may render, on the airport territory, or permit to render such services, which are compliant with the commercial activities of the companies, whose location at the airport is justified by their connection with the traffic or traffic volume, which they create or by the services they render to clients”.

§ 30. A new Section 3 is created in Art. 49:

“(3) In the air transport, besides the International System (SI) measurement units, the measurements foot, nautical mile and knot may be used, as well as their derivatives”.

§ 31. In Art. 50, Section 2, the phrase “aviation operator” is replaced by “air carrier”.

§ 32. New Par. 9, 10, 11 and 12 are created in Art. 53, Section 2:

“9. air traffic service;

10. air navigation information service;

11. meteorological service;

12. metrological service”.

§ 33. A new Section 3 is created in Art. 59:

“(3) Throwing items and cargo off aircrafts shall be permitted in case emergency aid is provided to inhabitants during natural disasters, wrecks, industrial accidents and upon delivery of emergency aid to passengers who have survived aviation accidents, only with a prior coordination with the CAA.

§ 34. The following changes and additions are made in Art. 60:

1. Current text becomes Section 1 and after the word “tracks” follows the new text “and over inhabited areas”.
2. A new Section 2 is created:

“(2) Parachute jumps throwing cargo with parachute off aircrafts shall be permitted in case emergency aid is provided to inhabitants during natural disasters, wrecks, industrial accidents and upon delivery of emergency aid to passengers who have survived aviation accidents, only with a prior coordination with the CAA”.

§ 35. In Art. 64, Section 4 changes as follows:

“(4) Air carriers shall be enterprises which perform air navigation operations, as they shall be holders of aviation operator certificates and license for the respective activity, in the cases such a license is required”.

§ 36. Art. 64a changes as follows:

“Art. 64a. (1) Any air carrier shall have a registered capital of not less than BGN 160.000.

(2) Aviation operations license of any Bulgarian air carrier shall be issued only in case:

1. the air carrier is registered as an enterprise or was established by an act of the CoM in order to perform special-purpose flights:

2. air carrier’s core business is air transport, independent or together with other type of exploitation of aircrafts or repairs and technical support (service) to aircrafts:

3. the air carrier presents a viable business plan to support its operations:

4. the air carrier has obtained an aviation operator’s license.

(3) Air carriers shall buy insurance to cover:

1. their aviation personnel against accidents and

2. their liability:

a) their passengers for cases of accidents:

b) cases of missing or damaged baggage, cargo and mail:

b) third parties.

(4) Aviation operators shall buy insurance for their aviation personnel to cover accidents and third party liability.

(5) The covered risks, exceptions from coverage and minimum insurance coverage amount of the insurance policy pursuant to Section 3 and Section 4 shall be established in a regulation issued by the Minister of Transport and Communications.

(6) Monopoly of an air carrier shall not be permitted for regular flights, unless otherwise provisioned by an international agreement, on which the Republic of Bulgaria is a contractual party. In case an international agreement contains provisions for only one Bulgarian air carrier, assignment of an air carrier (bearer of the national flag) on regular and irregular international flights shall be made by the Minister of transport and Communications by direct contract or by tender procedure.

(7) In case a carrier ceases to meet the conditions for obtaining a license or breaches the requirements for provision of information for the purpose of financial stability assessment, or over a 12-month period fails to meet ongoing or potential obligations, the head of the CAA shall impose a validity hold or shall suspend the license, or shall issue a temporary license until the financial stability of the carrier is recovered, on condition that flight safety is not jeopardized.

(8) The head of the CAA shall suspend the license of a carrier, which was declared insolvent or undergoing liquidation.

(9) The head of the CAA shall issue a temporary license to a carrier, which undergoes insolvency procedure, for the period of approval and implementation of a rehabilitation plan, and on condition that flight safety is not jeopardized and there is a possibility for rehabilitation of the enterprise.

(10) The head of the CAA shall impose a validity hold on or suspend the license of any air carrier, whose aviation operator’s certificate has been respectively terminated or suspended”.

§ 37. Art. 70 changes as follows:

“Art. 70. (1) In case an air carrier denies board access to a passenger of an aircraft which performs a regular flight, and the passenger has a valid ticket with confirmed reservation for the flight, and such a passenger has shown up for checking of ticket and baggage at a time requested by the carrier, such a passenger has the right to:

1. terminate the trip with a full refund of ticket cost for the unused part of the trip or
2. obtain a changed route to the final destination point at the first possible option on the same day or
3. obtain a changed route for another date at passenger's convenience.

(2) In addition to the right subject to Section 1, the passenger shall have the right to a compensation depending on the flight duration the destination airport, to the amount not exceeding the ticket price for this flight. The compensation shall be paid by the air carrier.

(3) In addition to the compensation subject to Section 2, the air carrier shall cover daily expenses and provide the passenger assistance to the destination airport.

(4) The provisions of Section 1 shall also apply in case of flight delays of a carrier. Delay shall be in place, in case a carrier has not provided launch of passenger's trip up to 2 hours from the flight time announced in the ticket - for flights up to 3 500 km. and up to 4 hours - for flights over 3 500 km.

(5) The provisions of this Article shall also apply in case of cancelled flight, save for the cases provisioned in Art. 69, Section 1, as well as other force majeure cases.

(6) Any air carrier shall not be liable for compensations in case a passenger travels free of charge.

(7) Any air carrier may deny transport to a passenger, free from the compensation liability pursuant to this Article, due to irregularity of passenger's personal papers and documents required by the state of transit and the state of destination airport.

(8) The air carrier shall provide a return, of a person who was not admitted by the immigration authorities, to the source airport, with the first possible return flight, at the carrier's account. "

§ 38. Art. 70a is abolished.

§ 39. Art. 77 is abolished.

§ 40. A new Art. 119a is created:

"Art.119a. Parachute jumps and flights performed as a sport shall be carried out in zones established by the CAA".

§ 41. A new Art. 119b is created:

"Art. 119b. (1) Training of athletes who practice air sports, as well as sport-purpose flights beyond the scope of Ministry of Defense or Ministry of Interior, shall be delivered by persons registered under the Commercial Act or under the Non-Profit Legal Entities Act, in order to carry out public service in the air sports field.

(2) Training shall be delivered under rules developed by the persons subject to Section 1 and approved by the CAA".

§ 42. A new Art. 119c is created:

"Art. 119c. Persons who organize sport tournaments in the air sports field and persons who deliver such tournaments shall secure safe conditions for the aforementioned activities, as well as third persons' safety conditions".

§ 43. A new Art. 119d is created:

"Art. 119d. Persons who carry out air-sport activities shall buy insurance coverage of the aircraft seats, as well as the aviation personnel and accident liability coverage of athletes and third parties".

§ 44. The following amendments and additions are made in Art. 120:

1. In Section 1, the phrase "the airport administration collects" is replaced by "airport (charges) are collected":

2. The following amendments and additions are made in Section 4:

a) after the phrase "servicing" follows the new phrase "and implementation of procedures"

b) Par. 2 changes as follows:

"2. Granting licenses to airport and ground handling operators.

c) In Par. 8 the word "licenses" is replaced by "certificates":

d) New Par. 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 are created:

"13. granting operational fitness certificates for the systems and facilities designed to handle passengers, handle and support aircrafts, load and unload luggage, cargo and mail;

14. issuing of permanent passes for security zones of civil airports for public use and identification cards to employees and vehicles;

15. issuing aviation carrier's licenses;

16. issuing of certificates for aviation noise to an aircraft;

17. issuing of certificates for pollution level of aviation engines;

18. issuing of certificates for operational fitness to newly introduced aircrafts or newly produced aviation equipment;

19. issuing of export certificates for operational fitness to aircrafts;

20. issuing of standard-type certificates for operational fitness to aircrafts

21. recognition of licenses, certificates and proofs by issuing a document verifying recognition:

22. legalization (registration) of licenses, certificates and proofs.

7. New Sections 5 and 6 are created:

“(5) Airport charges pursuant to Section 1 shall be collected :

1. by the Civil Aviation Administration, if not otherwise foreseen in a concession contract or international agreement, ratified and enacted by the Republic of Bulgaria;
2. by the concessionaire – under the terms and conditions determined in the CoM decision for granting a concession and the concession contract, when a concession is granted of a civil airport for public use;
3. in the case of an international agreement ratified and enacted by the Republic of Bulgaria – under the conditions of such agreement.

(6) in the cases pursuant to Section 5, Par. 2, the concessionaire may be granted the right to collect for his benefit full or certain part of the charges up to the amount determined in the Regulation pursuant to Art. 122”.

4. Current Section 5 becomes Section 7.

§ 45. Art. 122 changes as follows:

“Art. 122. (1) The CoM, upon a proposal by the Minister of Transport and Communications, in coordination with the Minister of Finance, shall determine a tariff of charge rates pursuant to Art. 120, Section 4, and the procedure and cases when charges are collected.

(2) The Minister of Transport and Communications, upon a proposal by the CAA and in coordination with the Minister of Finance shall issue a regulation to establish airport charge rates pursuant Art. 120, Section 1 and road tolls pursuant to Art. 120, Section 2, as well as the terms and conditions applicable for charge collection”.

§ 46. The following amendments and additions are made in Art. 122a:

1. In Section 3:

a) in Par. 9 the words “Par. 12” are struck;

b) a new Par. 10 is created:

10. payments of Third Party Liability Insurance premiums to third parties:

2. A new Section 5 is created:

“(5) In case aviation operators or aircraft owners owe road tolls payable pursuant to Art. 120, Section 2, the state owned company *Air Traffic Control* may request from the CAA to reject a request for flight permission in the air space of the country”.

§ 47. Art. 122b is abolished.

§ 48. The following amendments and additions are made to Art. 122c:

1. In Section 1, after the phrase “Ministry of Transport and Communications” follows a comma and the new text “save for the cases when otherwise provisioned in an international agreement or a concession is granted for a civil airport for public use and the CoM decision pursuant to Art. 7 and the concession contract provisions otherwise”;

2. In Section 2, Par. 1, after the phrase “pursuant to Art. 120, Section 1” follows a comma and the new text “collected by the Civil Aviation Administration, whereas in the cases when otherwise provisioned in an international agreement or concession contract– under the terms specified in that agreement”;

3. In Section 3, Par. 3, after the phrase “pursuant to Art. 48a, Section 3, Par. 1” follows the new text “while in case a concession is granted for a civil airport for public use - as stipulated in the CoM decision pursuant to Art. 7 of the Concessions Act and the concession contract”;

4. A new Section 5 is created:

“(5) Financing of services related to flight safety and security, construction, maintenance, development and operational cost of civil airports for public use for which a concession is issued, and the concessionaire was granted the right to collect for his benefit full or certain part of the charges pursuant to Art. 120, Section 1, shall be provided under the terms and conditions set in the CoM decision pursuant to Art. 7 of the Concessions Act and the concession contract”.

§ 49. Art. 122d changes as follows:

“Art. 122d. An airport operator, who performs functions of an airport administration, financed by the airport charges pursuant to Art. 120, Section 1, shall prepare and submit for coordination to the CAA a plan for required cost of loan repayment, for investment cost of infrastructure development and operational cost for airport administration”.

§ 50. The title of Chapter XII changes as follows: "Chapter Twelve. Aircraft Accidents. Search and Rescue Operations".

§ 51. Art. 139 changes as follows:

"Art. 139. (1) The Air Traffic Control (ATC) which has received a notification for or is aware of a condition of a jeopardy to or a disaster related to an aircraft, as well as upon aviation accident shall immediately notify:

1. the search and rescue team and the emergency and disaster rescue teams in the respective region;
2. the CAA";
3. the Ministry of Transport and Communications;
4. the specialized unit subject to Art. 16d.

(2) Crew members of the aircraft in emergency condition shall notify the ATC, as well as the authorities pursuant to Section 1, if in a condition to do so.

(3) In case an aviation emergency, serious accident or accident occur, the aviation operators, airport operators and ground handling operators registered in the Republic of Bulgaria shall notify the authorities subject to Section 1".

§ 52. The following changes and additions are made in Art.:

1. New Sections 3 and 4 are created:

"(3) Emergency and rescue operations on the airport territory and in the 5-kilometer parameter of the Control Point of the airport shall be managed by an airport emergency center.

(4) Emergency and rescue operations related to an airport emergency beyond the area subject to Section 3 shall be managed by the Situation Center of the MoTC".

2. Current Section 3 becomes Section 5.

3. Current Section 4 becomes Section 6 and the phrase "support to flights at the airport area are established" is replaced by "and medi-care support to flights at the airport area shall be established in a regulation, issued by the Minister of Transport and Communications".

4. Current Section 5 becomes Section 7 and after the word "communications" follows the new text "coordinated with".

5. Current Section 6 becomes Section 8.

§ 53. Art. 142 changes as follows:

"Art. 142. (1) Investigation of an aviation accident or serious accident on the territory of the Republic of Bulgaria shall be carried out by a commission, assigned by an Order of the Minister of Transport and Communications.

(2) The commission's work shall be coordinated by the specialized unit pursuant to Art. 16d.

(3) The terms and conditions for organization and carrying out investigations of aviation emergencies and serious accidents shall be established in a regulation issued by the Minister of Transport and Communications.

(4) In case of aviation emergency which has occurred in the air space beyond the jurisdiction of the Republic of Bulgaria, with an aircraft which is registered in the register of the Republic of Bulgaria, the Minister of Transport and Communications shall appoint one or more authorized representatives to participate in the investigation in the state where the event has occurred.

(5) Establishment of guilt and degree of guilt or liability shall not be subject to the investigation process".

§ 54. The following changes and additions are made in Art. 143, Section 1:

1. Par. 3 changes as follows:

"3. manages or is involved in the management, handling, support to an aircraft or handling of passengers, without having obtained a license, as well as persons, who issue and order for it or allow it to happen";

2. In Par. 4 the phrase "handling flight controls of an aircraft" is replaced by "handling flight controls of an aircraft, provision of service and support to an aircraft or in service to passengers";

3. New Par. 11, 12 and 13 are created:

"11. does not, at equal conditions, provide access of aircraft which has received permission to carry out a flight:

12. refuses to receive and service an aircraft in a state of emergency, or a state-owned aircraft;

13. carries out operations in violation of Art. 6".

§ 55. In Art. 144, Par. 7, the phrase "established by the airport administration" are struck.

§ 56. A new Art. 144a is created:

"Art.144a. Any person who, fails to implement written prescriptions or follow orders by the competent authorities pursuant to this Act, shall be subject to a fine or pecuniary sanction amounting to BGN 2000 to 100,000".

§ 57. A new Art. 147a is created:

"Art. 147a. Any legal entity's violation under the provisions of Art. 143, 144, 145, 146, 147, Section 1 shall be subject to a pecuniary sanction, whose size shall be equivalent to the fine applicable to the respective violation".

§ 58. The following changes and additions are made in the Additional Provisions:

1. In § 3:

a) Par. 1 changes as follows:

“1. “An aviation operator” shall mean a person registered under the Commercial Act or under the Non-Profit Legal Entities Act who is holder of aviation operator certificate, which certifies that the operator is professionally fit and has established an organization designed to secure the safe exploitation of aircrafts in carrying out the air navigation operations listed in the certificate”;

6) Par. 2 changes as follows:

2. “Aviation emergency” shall be an event related to aircraft use, which has occurred from the moment a physical person boards on the aircraft with the intention to fly, up to the moment when all physical persons have left the board of the aircraft, or during which the following has occurred:

a) death, or heavy or average degree of injury as a result of being on the board of the aircraft: direct contact with part of the aircraft, including with a part dropped from the aircraft: direct effect from the jet of the engines, save for the cases when, death or injury has occurred as a result of natural causes, or self-injury, or injury caused by other persons, or when persons injured were passengers without tickets who were hidden in places which are usually not used by the crew or passengers:

b) the aircraft has experienced damage (system failure) or break up (disintegration) of the aircraft body, during which the following has occurred: aggravation of aircraft body resistance, deterioration of technical parameters or flight control of the aircraft, which normally requires repairs or replacement of damaged components, save for the cases of engine failure or damage, when only the engine is damaged, or its aerofoil, or only engine's electrical generator, propeller, wing edges, antennas, tires, breaks, or aerofoil or when there are small surface damages such as dents or holes:

c) the aircraft is missing and its whereabouts are unknown or access to it is impossible”.

d) Par. 10 changes as follows:

“10. “Air navigation inspector” shall mean a person designated by the head of the CAA, who has the right to control the implementation of this Act and the bylaws based on it, an to issue compulsory prescriptions or acts (deeds) for any violations established”:

e) Par. 13 changes as follows:

“13. “Airport” shall mean a specific part of the land or water surface (including all buildings, facilities and equipment), fully or partially designed for arrivals, departures and movements of aircrafts on this surface and servicing aircraft passengers, cargo and mail”:

f) Par. 16 changes as follows:

“16. “Airport operator” shall mean an enterprise which is registered under the Commercial Act, and is a holder of license for the management and exploitation activities of a civil airport pursuant to Art. 43, Section 2, Par. 1 n 2”:

g) Par. 21 changes as follows:

“21. “Ground handling operator” shall mean an enterprise which is registered under the Commercial Act, and is a holder of a license for performing one or more ground handling activities.

h) Par. 22 changes as follows:

“22. “Designated carrier (bearer of the national flag)” shall mean an aviation operator, assigned by the Minister of Transport and Communications, pursuant to bilateral or multilateral agreements for air communications, to exploit and carry out regular and irregular international flights for transporting people, mail, baggage and cargo by air”:

i) Par. 24 changes as follows:

“24. “Aviation operations(activity) license” shall be an individual administrative act, which grants a right of an aviation operator to transport passengers, mail and/or cargo by air, as specified in the license, in exchange of remuneration or rent”:

j) New Par. 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 are created:

33. “Unsafe zones” zones shall be parts of the air space with established size, within the borders of which, the activities taking place at certain periods involve hazard to aircraft flights:

34. “Investigation” shall mean a process, carried out for the purpose of prevention of aviation emergencies and involves information gathering and analysis, preparation of conclusions, including establishment of reasons and development of recommendations for provision of air navigation safety:

35. “Serious accident” shall mean an accident, where circumstances demonstrate that an aviation emergency has nearly happened. The difference between an emergency and a serious accident is only in the consequences (the result):

36. “Air carrier” shall mean an aviation operator with a valid license for aviation operations (activity):

37. “Civil air space” shall mean the air space over the territory of the Republic of Bulgaria, including the territorial water and domestic waterways, save for the zones of the military airports and temporary designated zones of exclusive use by a given user, when such are activated. The civil air space includes the air space over the Black Sea, under

the jurisdiction of the Republic of Bulgaria pursuant to any regional agreement, as well as delegated air space of other countries pursuant to any international agreements”;

38. “Restricted zones” shall mean parts of the air space with established size over the ground surface or territorial water of the country, within the borders of which aircraft flights are prohibited”;

39. “Accident” shall mean any event, which is not an aviation emergency and is related to use of an aircraft, which has impact or may impact the air navigation safety and security.;

40. “Airport charges” shall mean charges, established pursuant to the International Civil Air Navigation Convention, which cover the cost for provision of the required conditions and meeting the standards for safe and secure landing and parking of aircrafts, as well as costs for provision of service and security to passengers, who launch a trip from the airport.;

41. “Knot” shall mean a speed measurement, equal to one nautical mile per hour;

42. “Nautical mile” shall mean a length measurement, equal to 1852 meters;

43. “Foot” shall mean a length measurement, equal to 0,3048 meters”.

3. In § 4 the phrase “Value Added Tax, excise tax, charges and customs charges for import of goods.” are replaced by “excise tax, charges, customs charges and Value Added Tax for chargeable shipments”.

§ 59. Everywhere in this act, the phrase “the Minister of Agriculture, Forests and Agricultural Reform” and “Minister of Agriculture, Forests and Agricultural Reform” are replaced by “the Minister of Agriculture and Forests” and “Minister of Agriculture and Forests”.

§ 60. The following changes and amendments are made in the Classified Information Protection Act (published in the State Gazette # 45 / 2002):

1. In Annex № 1 to Art. 25 “List of information categories subject to classification as a state secret”. Unit I “Information, Related to the Defense of the Country”, at the end of the sentence follows the new text: “save for the data listed in Par. 18a, Par. 18b, Par. 18c, Par. 18d, Par. 18e, Par. 18f, Par. 18g, Par. 18h, Par. 18i, Par. 18k и Par. 18l, related to information about air navigation safety in the coordinate system WGS-84”;

2. In Annex #1 to Art. 25 “List of Categories of Information Subject to Classification as a State Secret”. Unit I “Information Related to the Defense of the Country”, new Par. 18a, 18b, 18c, 18d, 18e, 18f, 18g, 18h, 18i, 18k and 18l are created:

“18a. Information about coordinates in the WGS-84 system, of the points on the region’s borders about flight information, of the points on the region’s borders of restricted zones, limited zones and unsafe zones (beyond the borders of controlled region /zones), shall be published with a precision of up to 1 min (one minute latitude – geographic latitude/length):

18b. Information about coordinates in the system WGS-84, of points on the region’s borders of restricted zones, limited zones and unsafe zones (on the borders of controlled regions /zones), of the points on the region’s borders of controlled regions/zones, of the points of navigation devices on a route and of reference points, of the points of waiting, of the points on schemes for take-off an fly over, of impediments on the flight routes, of the reference point of the airports/helicopter airports, shall be published with a precision of up to 1 s (one second – geographic latitude/length):

18c. Information about coordinates in the WGS-84 system, of navigation of airports/helicopter airports, of impediments on the rectangular route (the circle) of an airport/helicopter airport, of major impediments approach and take-off area, of reference points of the final approach and other important reference points of the IFR flight schemes, shall be published with a precision of up to 1/10 s (one tenth of a second – geographic latitude/length):

18d. Information about coordinates in the WGS-84 system, of (runway) thresholds for landing and take-off, points of the taxiways’ dividing line, aircraft stand points, setting/adjustment points for aircraft devices, geometric center points of touch and take-off area at a helicopter airport, shall be published with a precision of 1/100 s (one hundredth of a second - geographic latitude/length):

18e. Information about coordinates in the WGS-84 system and of elevation (absolute elevation /relative elevation) of GPS ground stations for navigation purposes, shall be published respectively with a precision of up to 1/1000 s (one thousandth of a second – geographic latitude/length) and up to 1/10 m (one tenth of a meter):

18f. Information about altitude (absolute altitude / relative altitude), of take-off and landing thresholds upon precise approach, of the geometric center point for take-off at a helicopter airport upon precise approach, of geoid wave of WGS-84 at the take-off and landing threshold upon precise approach, of the geoid wave of WGS-84 system of the take-off zone at a helicopter airport upon a precise approach of the geoid wave of WGS-84 system at the touch zone of a helicopter airport upon precise approach and relative altitude for flying over a threshold upon precise approach, shall be published with a precision of up to 0,5 m (half a meter):

18g. Information about the altitude (absolute altitude/relative altitude) of an airport/helicopter airport, of the geoid in the WGS-84 system at the altitude point of an airport/helicopter airport, of take-off and landing thresholds upon non-precise approach, of the geometric center point of take-off zone of a helicopter airport upon non-precise approach, of

the geoid wave in the WGS-84 system at the take-off and landing thresholds upon non-precise approach, of the geoid wave in the WGS-84 system in the take-off zone of a helicopter airport upon non-precise approach, of the geoid wave in the WGS-84 system in the touch zone of a helicopter airport upon non-precise approach, of the impediments in the approach and take-off region/zone, of impediments to a flight on the rectangular route (circle) and of the airport /helicopter airport, shall be published with a precision of up to 1 m (one meter);

18h. Information about altitude (absolute altitude / relative altitude) of impediments on the route of flights and of distance measurement equipment, shall be published with a precision of up to 3 m (three meters);

18i. Information about the angle and magnet angle, of navigation devices and airports /helicopter airports, shall be published with a precision of up to 1 degree (one degree).

18k. Information about length (distance/size) of a take-off and landing runway, of a touch zone at a helicopter airport, of take-off zone at a helicopter airport, of final stop area and area available for landing shall be published with a precision of up to 1 m (one meter).

18l. Information about the distance between крестовина сиртема of the ILS and take-off and landing thresholds, between the ILS glide path take-off and landing thresholds measured on the dividing line, between the ILS signal signs and take-off and landing thresholds, between the antenna of the distance measurement system matching the ILS and the take-off and landing thresholds on the dividing line, shall be published with a precision of up to 3 m (three meters)".

§ 61. In the Act on Limitation of Administrative Regulation and Administrative Control over Business Operations (State Gazette # 55 / 2003, amendments in # 59 / 2003), in the Annex to Art. 9, Section 1, Par. 2 "List of commercial activities, for which a license regime may be established" in Par. 35 the phrase "airport company" and "operator of an airport activity" are replaced respectively by "airport operator" and "ground handling operator".

Attachment 9: Talking Points for Minister Vassilev

Talking Points for Minister Discussion Session in Bourgas July 2004

1. Why concession the airports:

- Modernization of airport infrastructure and operations is essential to the Bulgarian economy. Recent studies by Airport Council International (ACI) confirm that underfunded and underperforming airports can reduce national and/or regional rates of GDP growth by as much as 2.5-3%.
- Significant investment in terminal and airfield infrastructure and airport equipment is urgently needed and external financing is necessary to undertake these investments. *High forecasted traffic growth means more capital investment required now.*
- Over 200 million passengers travel through privately operated airports in Europe each year. Many of the other destinations the Black Sea Coast competes with are served by airports under concession (Athens, Malta, Turkey, Cyprus pending, several airports in Italy, etc.). Likewise, most of the tourists visiting Bulgaria are originating at airports operated by private sector.
- Concession will allow the State to realize its key objective: **World Class Airports**
 - immediate and significant capital investments without State guarantee;
 - best practices in airport operation, development and commercial growth;
 - maximize airports' contribution to regional development;
 - maximize opportunities for job creation at the airports.

2. Recognition of Bourgas Airport and Region

- Highest traffic growth rates in Bulgaria (one of the highest in Europe) and soon to overtake Varna in annual passenger traffic.
- Airfield parameters make Bourgas Airport suitable for all ICAO code 4E aircraft (Varna is not).
- Airport location and weather conditions exceptional (better than Varna).
- Expansion of southern Black Sea Coast tourism development and regional economy excellent news for future of Bourgas Airport; (more tourism development potential than northern Black Sea Coast).

3. Protection of Labor under Concession Transaction

- **No change in employment status:** per Concessions Act and Labor Code, all workers to transfer to concessionaire, who must abide by existing collective bargaining agreements for not less than 1 year.

Attachment 9: Talking Points for Minister Vassilev

- Bidders in tender to be required to include social plan as part of their technical proposal, which will become binding through the concession contract (# of workplaces, types of benefits, training and development programs, etc.).
- Continued traffic growth plus development of additional commercial services and implementation of capital investment program will create additional jobs at the airports.
 - example: capital investments at Sofia airport linked to 500 workplaces; Bourgas can expect similar investment-related employment gains.
 - Reasonable estimate of 15% increased employment near-term at the airport, dependent on traffic growth and other key determinants.

4. Protecting Our Interests:

Interests of all stakeholders (State, employees, local community, airlines, passengers, tour operators) will be protected (by law and by contract):

Prerequisites to Success:

- Concession will be implemented by world class, experienced, financially secure international airport operating companies only.
- Competitive, open tender to select best concessionaire and to get the best technical and financial proposal for these airports and for Bulgaria.

Independent Operation and Development of Each Airport:

- Airport operating license separate and distinct for each airport; regulated by CAA.
- 24-hour, full-time operation of each airport mandatory, regulation by CAA for service standards and performance for each airport.
- Development of investment program and master plan separate and distinct for each airport; heavy involvement by local authorities and CAA.

Concessionaire Obligations to Ensure Success:

- Concessionaire to post significant performance bond to State, linked to capital investment and concession fee requirements.
- Concessionaire to carry liability insurance and indemnify State against all liability claims.
- Airports subject to EU directives on ground handling competition.

State protections of its Vital Interests:

- State will own all airport infrastructure (existing and newly built) during concession.
- Setting of airport infrastructure fees and charges directly by State.
- Concessionaire's profits to be regulated by State and spread-out over the duration of the concession contract.

Attachment 9: Talking Points for Minister Vassilev

- State budget to receive annual concession fee based on gross revenues, as well as income taxes from concessionaire.
- No State guarantee on financing raised by the airports – commercial risk taken by concessionaire.
- In accordance with international practice, State will closely monitor those areas of responsibility for safety and security delegated to the concessionaire. State will also retain direct operational responsibility for certain areas of safety and security.
- Immediate penalty provisions in case of non-performance by concessionaire; State ability to cancel contract if necessary to protect State interests.
- State ability to temporarily resume direct operation of the airports in case of military or national emergency (force majeure); all NATO requirements will be complied with in contract.

5. Why Bundling of Bourgas and Varna Airports.

- Top-tier international airport operators interested to develop airports with high traffic volumes and in locations of high potential; airport bundling will make this concession opportunity more attractive to world-class airport operating companies (each Bulgarian airport ranks outside the top 100 in Europe by traffic volume, and the airports on the sea coast together would only just reach top 100).
 - Bundling will enable reduced costs (procurement, materials, development, etc.) and improve coordination between the two airports; this will better position Bulgaria to compete for passengers with other tourism destinations (Greece, Turkey, Spain, etc.), growing the overall Bulgarian tourism market.
 - Tour operators and airlines will still control the flow of passengers to each of the airports, largely determining traffic growth for each airport.
 - Monopoly power will not be present; such concerns will be checked by the contract, by law and by the State as owner and regulator of the airports.
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**THE REPUBLIC OF BULGARIA
COUNCIL OF MINISTERS**

DECISION # 647

10.08.2004

**For awarding a concession of
civil airport for public use Bourgas and civil airport for public use Varna
- Public state property**

Pursuant to Art. 4, Par. 6, Art. 6, Section 1 and Art. 7, Section 1 of the Concessions Act, in connection with Art. 43b of the Civil Aviation Act

THE COUNCIL OF MINISTERS DECIDED THE FOLLOWING:

1. Awards a concession whose subject is a special right to use the following sites which are public state property:

1.1. *Civil airport for public use Bourgas*, including:

1.1.1. territory with total footage of 2 551 475 square meters, including land property as follows: real estate property # 07079.690.001; # 07079.690.017; # 07079.690.027 and # 07079.690.028, situated in the domicile of the city of Bourgas - Sarafovo quarter, and real estate property # 57491.360.001 and # 57491.360.003, situated in the domicile of the town of Pomorie, Bourgas District, as per the Cadastre Map and Cadastre Registers approved with Order # 300-5-2 of January 7, 2004 by the Executive Director of the Cadastre Agency dated January 7, 2004, which comprise an integral part of the tender documentation;

1.1.2. buildings situated on the terrain specified in item 1.1.1, described in details in Public State Property Deeds # 2789, # 2790, # 2791, # 2792 and # 2793 dated December 13, 2002, issued by the Bourgas District Governor;

1.1.3. facilities, equipment, accompanying infrastructure and accessories, specified in the tender documentation;

1.1.4. the subject of concession does not include public state property sites which are under the custody of the state-owned company Air Traffic Control-Sofia, and are specified in the tender documentation;

1.2. *civil airport for public use Varna*, including:

1.2.1. a territory with total footage of 2 254 533 square meters, including land property as follows: urban-type land property "Fueling Warehouse", located in Industrial Zone "Tepoli" at the city of Varna with footage, borders and neighbors detailed in Public State Property Deed # 4140 dated January 30, 2003, issued by the Varna District Governor and property # 00182 307.012; # 00182 307.027 and # 00182 307.028, situated in the domicile of Aksakovo village, Aksakovo municipality - Varna district, and property # 97662 193.001 and # 97662 214.011, situated in the domicile of Vladislavovo quarter, Varna municipality, as per the Cadastre Map and Cadastre Registers approved

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with Order # 300-5-11 dated February 9, 2004 by the Executive Director of the Cadastre Agency, which comprise an integral part of the tender documentation:

1.2.2. buildings situated on the terrain specified in item 1.2.1., with footage, borders and neighbors detailed in Public State Property Deeds # 4133 and # 4134 dated January 22, 2003, # 4139 dated January 29, 2003, # 4140 dated January 30, 2003, # 5044 dated February 12, 2004, issued by the Varna District Governor;

1.2.3. facilities, equipment, accompanying infrastructure and accessories, specified in the tender documentation;

1.2.4. the subject of concession does not include public state property sites which are under the custody of the state-owned company Air Traffic Control-Sofia, and are specified in the tender documentation;

1.3. The concession specified in item 1 also includes the buildings and facilities, which are to be built by the Concessionaire, at his own expense and in compliance with an endorsed detailed zoning plan;

1.4. The scope of this concession may be expanded by a decision of the Council of Ministers, in compliance with extension plans for a respective civil airport included in an endorsed detailed zoning plan.

2. Determines the concession term to 35 years.

3. The winning bidder shall be determined by a non-attendance tender. The tender shall be carried out within 8 months from publication of the Decision in the State Gazette.

3.1. Determines the following additional criteria for admission of bidders, as these criteria should be simultaneously met:

3.1.1. Bidder's or consortium member's experience, over the last five years, in the operations and management of:

3.1.1.1. at least two airports, each with not less than 2 000 000 passengers per year;

3.1.1.2. at least one airport with passengers in excess of 5 000 000 per year;

3.1.1.3. airports in at least two different countries;

3.1.2. successful implementation of airport investment programs in excess of 100 000 000 Euros over the last five years by bidder or consortium member;

3.1.3. bidder's, respectively each consortium member's financial soundness, proven with a long-term investment rating by an internationally acknowledged rating agency or with a letter by their banker.

3.2. Determines the following criteria for selection of a Concessionaire:

3.2.1. Investment proposal, with 40 per cent relative weight, including investment program, plan for its financing and assessment of financial impact of investments over users;

3.2.2. Business proposal, with 30 per cent relative weight, including the following components: social; operations and maintenance; safety and security; environmental protection; organization and management, commercial, and transition plan;

3.2.3. Concession fee proposal, with 30 per cent relative weight;

3.2.4. the assessment method by the individual criteria shall be set in the tender documentation.

4. Determines the size of a deposit to be made for participation in the tender to the amount of 300 000 Euros, payable by admitted bidders before the deadline for submission of proposals, to the

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bank account of the Ministry of Transport and Communications, whose details are specified in the tender documentation..

5. Determines the key rights and obligations under the concession, as follows:

5.1. Key rights of the Concessionaire:

5.1.1. to use the subjects of concession for the purpose of management and operations of the civil airports for public use, as well as to provide ground handling services:

5.1.2. to collect for his benefit the full amount of charges pursuant to Art. 120 Section 1 of the Civil Aviation Act:

5.1.3. to request and receive the assistance required from the Principal for the purpose of exercising the rights assigned to him and inform the Principal in case his rights under the concession contract are violated by third parties, under terms and conditions set in the concession contract:

5.1.4. to receive from the Minister of Transport and Communications certified copies of the required available technical, financial, project (implementation) and other documentation related to the airports' operations and the construction works delivered prior to the effective date of the concession contract:

5.1.5. to receive, pursuant to the provisions of the concession contract, a compensation for the improvements in the subject of the concession delivered with the prior consent of the Minister of Transport and Communications.

5.2. Key obligations of the Concessionaire:

5.2.1 to perform all functions of an airport administration at each of the sites specified in item 1, pursuant to the Art. 48a, Section 3 of the Civil Aviation Act and the concession contract

5.2.2. to comply with the regulatory requirements for obtaining airport operator's licenses and ground handling operator's licenses for the activities under Art. 48e, Section 3, Par. 3, 4, 5 and 7 of the Civil Aviation Act and perform those activities at each of the sites specified in item 1 until the concession expiration date:

5.2.3. to deliver investments, specified individually for each of the sites listed in item 1, as per the investment program provisioned in item 3.2.1 – integral part of the concession contract, while meeting the deadlines set in the contract and maintain, for the lifetime of the concession, categories not lower than those corresponding to the classifications and recommendations of the International Civil Aviation Organization and the International Aviation Transport Association as follows:

5.2.3.1. for civil airport for public use Bourgas - airport category - 4E: Fire/Rescue operations category - 8: passenger service level - C;

5.2.3.2. for civil airport for public use Varna - airport category - 4D: Fire/Rescue operations category - 8: passenger service level - C;

5.2.4. to secure year-round, 24 hours per day operations of the sites listed in item 1, for the purpose they are designed - civil airports for public use, which support international and domestic transport, as per the legislation in force:

5.2.5. on the basis of the investment program under item 5.2.3, to develop and submit for approval to the Minister of Transport and Communications annual investment programs for the subjects of concession, within deadlines set in the concession contract:

5.2.6 to pay to the Principal a concession fee pursuant to item 8, under terms and conditions set in the concession contract:

5.2.7. to use the subjects of concession as a good merchant, in compliance with the laws of the Republic of Bulgaria:

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5.2.8. to procure, at his own expense, the development and whenever required the update of, and submit for coordination to the Minister of Transport and Communications, individual Master Plans and detailed zoning plans for the subjects listed in item 1 as well as any design, technical, financial and other documentation required for the development of *civil airport for public use Bourgas* and *civil airport for public use Varna*, within the deadlines set in the concession contract;

5.2.9. to facilitate prior coordination with and obtain approval by the Minister of Transport and Communications for delivery of any improvements in the subjects of concession, which are not foreseen in the investment program under item 5.2.3;

5.2.10. to, at any time, facilitate access to the subjects of concession and provide to the Minister of Transport and Communications or his authorized representatives the reports and information on implementation of the investment program, engineering or technical designs, environmental or complex plans under terms and conditions set in the contract, as well as any other information and documentation related to the subjects of concession.

5.2.11. to immediately notify the Minister of Transport and Communications about any circumstances, which may cause threat to the national security, country's defense and public order, to the environment as well as to protected territories or sites, as well as any circumstances comprising threat to the safety of the civil aviation, under terms and conditions set in the concession contract;

5.2.12. to provide access to the subjects of concession to the respective authorities or persons authorized by the Minister of Transport and Communications, whenever required for carrying out emergency activities for public benefit or for protection of public safety and order;

5.2.13. to, in case of force majeure, tolerate temporary use of the subjects of concession or parts of them by third parties, designated by the Minister of Transport and Communications, without any right to receive a compensation for it, as the concession contract will foresee the consequences depending on the force majeure duration and type;

5.2.14. to procure insurance policy for the subjects of the concession at his own expense in favor of the Principal, for the entire term of the concession contract, in compliance with the regulatory requirements;

5.2.15. to provide a possibility for military aviation to use the two airports as reserve option for regular training flights and for crews on duty, under the procedures set in the concession contract;

5.2.16. to provide possibility for Varna Airport and Bourgas Airport to be used in fulfillment of State's obligations assumed under international agreements;

5.2.17. to take over and/or replace Bourgas Airport EAD and Varna Airport EAD in the existing contractual relationships connected with the purpose of the concession, under the terms and conditions set in the concession contract;

5.2.18. to procure from the current airport operators Bourgas Airport EAD and Varna Airport EAD, assets associated with the operations and management of the sites offered by the Principal, as per the tender documentation, under terms and conditions set in the concession contract;

5.2.19. to maintain a Performance Bond for the entire concession term, as per the concession contract;

5.2.20. to provide free of charge premises to border control authorities as specified in Art. 48a, Section 2 of the Civil Aviation Act, as required to fulfillment of their duties at the subjects of concession, under terms and conditions set in the concession contract;

5.2.21. to, upon termination of the concession contract, deliver the sites to the Principal in the respective condition, under the terms and conditions set in the concession contract;

5.2.22. to, upon termination of the concession contract, deliver to the Minister of Transport and Communications all designs, technical, financial, and other documentation related to the airports' operations and delivered construction works.

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5.3. Key rights of the Principal:

5.3.1. to assign to the Concessionaire all functions of an airport administration as per the Civil Aviation Act, as all relationships in this regard shall be detailed in the concession contract;

5.3.2. to receive concession fee pursuant to item 8 of this decision and the terms and conditions set in the concession contract;

5.3.3. to use the Bond and other guarantees posted by the Concessionaire in compliance with the concession contract;

5.3.4. to exert control over fulfillment of Concessionaire's obligations and the terms;

5.3.5. to receive statements and reports by the Concessionaire on implementation of the concession contract and have access to the subjects of concession and the Concessionaire's documentation in order to apply its powers of control;

5.3.6. to, in case of force majeure, use or designate third persons to temporary use the subjects of concession or parts of them, under terms and conditions set in the concession contract;

5.3.7. to unilaterally terminate the concession contract under the provisions of Art. 22, Section 1 of the Concessions Act, in case of default by the Concessionaire regarding material obligations or concession terms, upon suspension of an airport operator's license, as well as on any other grounds for unilateral termination pursuant to the concession contract;

5.3.8. to take over the subjects of concession following termination of the concession contract, under terms and conditions set in the contract.

5.4. Key obligations of the Principal:

5.4.1. to deliver the subjects of the concession to the Concessionaire under terms and conditions set in the concession contract;

5.4.2. to provide assistance requested by the Concessionaire in exercising the rights granted to him as per the legislation in force and under the terms and conditions set in the concession contract;

5.4.3. to pay the Concessionaire, under terms set in the concession contract, a compensation for the improvements in the subjects of the concession delivered with the prior consent of the Minister of Transport and Communications.

6. Establishes the following terms and conditions for implementation of the concession:

6.1. The Concessionaire must: be registered under the Commercial Act and compliant with the requirements of Art. 48c, Section 1 and Art. 48d, Section 2 of the Civil Aviation Act for each of the sites provisioned in item 1 obtain airport operator's licenses as provisioned in Art. 43b, Section 3 of the Civil Aviation Act and ground handling operator's licenses for the activities pursuant Art. 48e, Section 3, Par. 3, 4, 5 and 7 of the Civil Aviation Act; perform airport administration functions at the two sites as per Art. 48a, Section 3 of the Civil Aviation Act; as well as to carry out uninterrupted operations and management of the subjects of concession, meet the requirements and provide conditions for certification of their operational fitness.

6.2. When a bidder is a foreign entity or a consortium of foreign and/or local entities, and such a bidder is selected as a winning bidder, the concession shall be awarded to a company incorporated under the Commercial Act, in which the foreign entity (or members of the consortium) shall have 100% ownership of the company capital in a ratio reflecting the consortium agreement. In such a case, the concession contract shall be signed by the newly established company and this company shall be bound with the proposals made by the winning bidder

6.3. The rights and obligations under the concession contract may not be transferred with the exception of the cases provisioned by the law.

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6.4. In case the winning bidder is a consortium of foreign and/or local entities, the consortium member who meets the criteria of item 3.1.1. shall own equity share exceeding 50 percent of the commercial company-Concessionaire, over the entire concession term.

6.5. All requirements for environmental protection, protected territories and sites, national security, country's defense and public order, health and safety compliant labor conditions, as well as international and domestic safety requirements in the civil aviation area shall be adhered to throughout the implementation of this concession.

6.6. The newly constructed building and facilities and the improvements delivered on the public state property within the boundaries of the subjects of the concession or on the property which may be subsequently expropriated and included in the subject of concessions shall have the status of public state property.

6.7. The Concessionaire shall collect for his benefit the full amount of the airport charges pursuant to Art. 120, Section 1 of the Civil Aviation Act in connection with the performance of all functions as an airport administration.

6.8. In the process of airport charges regulation, as set pursuant to the International Civil Aviation Convention, a regulated rate of return as determined in the tender procedure shall be added to the cost incurred for meeting required standards/levels securing safety and safe aircraft landing and parking, as well as the cost of passengers service and safety, and concession fee cost.

6.9. The sum of regulated rate of return percentage as per item 6.8 plus concession fee percentage as per item 8.2 shall equal 30%.

7. Determines the following types of guarantees for the fulfillment of Concessionaire's obligations under the concession contract:

7.1. each year of the effective term of the concession contract, the Concessionaire shall post a validated, unconditional and irrevocable bank guarantee, issued by a bank, determined upon mutual agreement of the parties, to the amount of 15 000 000 Euros until Year 10 of the concession and 7 500 000 Euros for each subsequent year of the concession in order to guarantee the contract implementation, inclusive of the obligation for concession fee payment, the obligation for implementation of the investment program, and the obligation for payments of interest and remedies as provisioned in a contract.

7.2. Remedies shall be due in case of default or delayed or imprecise performance by the Concessionaire on the agreed obligations, as well as interest payments for delayed performance on financial obligations. The specific size of financial remedies and interest payments and the timing of default by particular obligations shall be set in the concession contract.

7.3. In any case of default by the Concessionaire, the Principal shall have the right to seek, in addition to the remedies pursuant to item 7.2 (compensations/penalties and interest payment), compensations under the common procedures, as determined by the legislation in force.

8. Determines the type, size and payment details of the concession fee as follows:

8.1. Flat concession fee at the amount of 3 000 000 Euros, payable within one month from contract signature.

8.2. Determines the annual concession fee, which is a percentage resulted from the competitive tender but not less than 12 per cent from the bigger of the two figures:

8.2.1. the total amount of revenues from all current year activities related to the use of the subjects of concession, or

8.2.2. the total amount of revenues from all charges of *civil airport for public use Bourgas* and *civil airport for public use Varna* as per Art. 120, Section 1 of the Civil Aviation Act and revenues from operations of the current airport operators "Bourgas Airport" - EAD, and "Varna

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Airport" - EAD, collected in 2003, inflation-adjusted for the respective period, as per the concession contract.

8.3. Annual concession fee as per item 8.2 shall be payable in not less than two installments, by a bank transfer, due as of the effective date of the concession contract.

8.4. The size of the annual concession fee pursuant to item 8.2 shall be determined in the Council of Ministers' decision for determination of a Concessionaire in compliance with the terms and conditions resulted from the tender.

9. Determines the concession commencement date as the effective date of the concession contract.

10. Applicable law to this concession shall be the Bulgarian law.

11. Authorizes the Minister of Transport and Communications to organize a non-attendance tender for selection of a Concessionaire.

PRIME MINISTER:

(Saxe-Coburg Gotha)

**CHIEF SECRETARY OF THE
COUNCIL OF MINISTERS:**

(Sevdalin Mavrov)

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