



UNIDADE DE GESTÃO DE PROJETOS ESPECIAIS

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International Aviation Expert For the preparation of regulatory framework for the Civil aviation sector of Cabo Verde

TERMS OF REFERENCE

1. Context

Cabo Verde, as an archipelagic country, with an extremely small market, cannot, in general terms, achieve its economic success, outside of a context of great economic openness and a dynamic insertion in the global economy.

For this purpose, the Government has chosen as one of the main strategic objectives for the sustainable development of Cabo Verde, its transformation into an International Business Platform, taking advantage of its privileged strategic location in the Middle Atlantic, between Europe, Africa, North America and South America.

In this context, the Strategic Plan for Sustained Development (PEDS) is committed to economic development based on the economy of circulation of products and services, in which the Air Platform constitutes one of the main foundations of this economy of circulation.

Air transport in Cabo Verde had, until 2019, notable growth in terms of the movement of planes, passengers and cargo, interrupted in March 2020, due to the severe impact of the Covid19 pandemic on the world civil aviation industry.

However, the removal of Covid19 restrictions worldwide has been contributing to the continued recovery of the air transport industry, with positive signs in 2022 and especially in the first quarter of 2023, getting closer and closer to the level of 2019, as IATA data. This is despite the effect of the war in Ukraine. In Cabo Verde, the total movement (international and domestic) of aircraft and passengers in 2022 grew 78% and 162% respectively compared to 2021, very close to the level of 2019 (78%).

The air transport industry, being a complex and extremely capital-intensive sector, needs a regulatory framework that can reconcile operational safety with its competitiveness and resilience, in order to boost the growth of the air transport sector and the development of the country.

In 2021, the Government of Cabo Verde, with the support of the World Bank, prepared the Study on the Legal and Regulatory Framework for Civil Aviation within the framework of the Transport Sector Reform Project. The study assesses the regulatory framework and the role of

the Civil Aeronautics Agency (AAC), identifies the most critical areas, points out ways and makes recommendations that may help to improve this framework and contribute to stimulating the competitiveness and resilience of the aviation sector. air Transport.

The focus of this consultancy is to evaluate each of the recommendations of the Study on the Legal and Regulatory Framework for Civil Aviation and to present concrete proposals in terms of legal and regulatory initiatives, which contribute to stimulating the competitiveness of the air transport sector, through a better adequacy from the current regulatory framework to the best international practices and the specific reality of Cabo Verde (without overloading, encumbering or discouraging investment and growth in the sector), aiming to make the processes of licensing, certifications, approval and supervision of operations more flexible and streamlined, whether in its aspect of technical-operational, administrative and economic regulation.

2. Scope of Work

The consultancy should develop technical proposals in terms of regulatory framework to improve the civil aviation administration regulations, making the air transport sector of Cabo Verde more attractive, competitive and resilient. The deliverables should be based on international best practices and the recommendations of the study on the regulatory framework for Cabo Verde, supported by the World Bank Group, and executed by iOS Partners in July 2021, titled “ Assessment of Cabo Verde’s Civil Aviation Legal Framework”.

3. Tasks

3.1. Analysis and Preparation of Legal and Regulatory Framework.

In conjunction with the local legal adviser, and technical team of the MTT and Civil Aviation Authority, and taking into account the recommendations of the above mentioned study the consultant must review the existing legal and regulatory provisions, that have been the subject of analysis within the scope of the study, identify the legal and regulatory framework (Aeronautical Code, regulatory decrees of the Government and other regulatory instruments) that need to be subject to improvements (introduction of proposed amendment texts) and prepare concrete proposals for legal and regulatory framework in various areas of economic, administrative and aviation safety regulation, in order to stimulate the competitiveness of Cabo Verde air transport sector. .

According to the current civil aviation framework, the Civil Aviation Authority (CAA) is responsible for the economic regulation. Notwithstanding the ICAO has defined the Guidance on International Air Transport Economic Regulation, it leaves each state the power to define its economic regulation system. In some countries the economic regulation system is under the responsibility of a civil aviation authority, but there in some others this responsibility is separated from the safety and security oversight. In any case, governments always have the power to, through air transport policies, define the economic regulation system. In fact, the economic regulation has the objective to: (i) stimulate domestic and international connectivity, business, and competitiveness; (ii) regulate market access, taxes policy, concurrency law,

public service obligation. In this context, it is asked to the consultant to assess the current situation and the IOS recommendation, and make, taking into account the best international economic regulation practices, concrete proposal on the best economic regulation system. The government's desire is to attract the private sector and see the aviation sector reach its true potential. In addition to the tasks outlined below, the consultant should develop the best regulation organizational framework.

Although the role of an aeronautical authority is to guarantee a regulatory framework that complies with the standards and recommendations of international civil aviation, and the strict compliance with these established standards and requirements, it must have a pedagogical role and a relationship and communication mechanism with the services providers and operators, that is reliable and friendly.

To this end, it is important that AAC has sufficient technical capacity in terms of human resources and management tools, in order to reinforce its response capacity at different levels, namely licenses approval and issuance of certificates, analysis of operating manuals, risk analysis and management deviation requests analysis, audit and inspection, etc.

In this sense, and considering the recommendation of IOS, it is expected that the consultant can propose concrete measures and instruments, which can contribute to improve the regulation environment, reinforcing AAC's technical capacity and streamlining approval, licensing and certification processes.

The work will be performed in absolute correlation with the activities undertaken by the Cabo Verdean legal support indicated by the MTT and will use this resource to ensure the applicability of the recommendations under the existing national legislation and will outline any conflicting legislation and means of mitigation.

The consultant must, based on his knowledge and technical experience on ICAO standards and recommendations and best international civil aviation practices, evaluate and technically substantiate, in conjunction with the local legal consultant, the insufficiencies, inefficiencies and recommendations highlighted by the study of IOS in relation to the civil aviation regulatory system in Cabo Verde and justify each of the legal and regulatory measures and provisions that may be necessary, in order to reinforce the AAC's response capacity and make the approval, certification and regulation processes of civil aviation, more flexible, practical and faster, at its different levels.

Thus, the consultant should develop and fundament the following specific tasks:

Economic Regulation

- Prepare technical proposal to support the legal and regulatory initiatives aimed at improving the economic ecosystem of the air transport sector, making the air transport industry in Cabo Verde more competitive and attractive;
- Draw up technical proposals that regulate good practices, which can stimulate air transport business and competitiveness, as well improve the quality of service provided and that protect consumers against abusive practices;

- Work on regulatory proposals, which reinforce the Government's role in defining economic regulation policy, which promotes competitiveness, stimulates the development of the air transport industry, supports the nation's economic growth and defines the guiding axes of the exercise of the regulatory function economics of regulatory agencies, namely AAC and ARM;
- Prepare proposals, which define guidelines on how to establish economic activity in air transport in Cabo Verde (air transport services, general aviation, handling services, maintenance services, training organizations, airport infrastructure, etc.);
- Prepare, taking into consideration the most recent ICAO Policy and Guidance on International Air Transport Economic Regulation, the reality of Cabo Verde, the Government air transport policy, a guidance on air transport economic regulation system, which shall include: (i) airports operation and management; (ii) air navigation; (iii) airlines operations and other services providers; (iv) bilateral and multilateral aviation agreement to improve the connectivity and the competitiveness; (v) tax and tariff regulation;
- Prepare proposals, which improve the institutional framework and define guiding norms, which contribute to streamline, through computerization, the process of approval, issuance and validity of the Exploration License.

Administrative Regulation

- Propose automation solutions aimed to simplify and increase transparency of CAA's administrative procedures for submission, evaluation, licensing, certification and approvals. Aimed to enhance the efficiency of the institution and approval process, eliminate personnel overloading and excessive bureaucracy, possibility to correct the documentation without to initiate a new approval process, accelerate the license and certification processes approval and save time and cost for the services providers and operators.
- Prepare guiding legal measures, which separate the purely administrative process from that of operational safety, preventing any failures of an administrative nature from delaying or conditioning the assessment of operational safety.
- Propose guiding legal measures and financing mechanisms that address the core institutional separation issues identified in the iOS Partners analysis, which privilege transparent mechanisms of institutional relationship between the Ministry, the regulator (CAA) and the regulated services providers and aviation operators, which contribute clearly defining the civil aviation regulatory system in accordance with international best practice.

The consultant should make implementable recommendations on separation of economic and oversight functions overseen between the Ministry and CAA, to avoid any conflicts of interest and align the institutions to international best practice, in line with ICAO recommendations.

Operational Regulation

- Wet Lease: define new policy and regulatory framework to flexibilize and align requirements for Wet Lease operations to international best practice, aiming to boost

civil aviation competitiveness and development and the country's economic growth, without compromising operational safety;

- Dry Lease: prepare guiding regulatory measures, in order to introduce alternative mechanisms that facilitate and speed up the long-term operational lease approval process and encourage the competitiveness of air transport, without jeopardizing operational safety.
- Aircraft registration: work on guiding regulatory measures, in order to introduce regulatory mechanisms that simplify the aircraft registration process, through the use of a computer system, separating the registration of the aircraft from the prior obtaining of a certificate of airworthiness.
- Risk Assessment and Management. Prepare guiding legal provisions, towards the development and application of risk assessment and management systems by the civil aeronautics authority, taking into account the country's reality and ICAO standards and best international practices;
- RPAS (Remotely Piloted Aircraft Systems)/Drones: develop a specific provision on RPAS for the Aeronautical Code and review the definition of aircraft concept, in order to include the definition of manned and unmanned aircraft;
- General Aviation (helicopters, private aircraft, recreational aviation, etc.): develop a more comprehensive provision on General Aviation into the Aeronautical Code, which encourages and facilitates the operation of helicopters and general aviation aircraft, as well as preparing a specific regulatory framework for operation of helicopters and that differentiates the different types of general aviation aircraft. This must reflect the best practices in terms of general aviation and encourage air transport investments.
- Prevention of External Shocks: propose a set of legal and regulatory initiatives of a preventive nature, based on best practices and recommendations from ICAO and IATA, which promote the resilience of Cabo Verdean civil aviation and allow a quick response to external shocks, resulting from pandemics, cyberattacks, wars and global economic crises;
- Bilateral and Multilateral Cooperation: propose a legal device that: (i) promotes and defines the standards and principles for bilateral and multilateral cooperation in the civil aviation sector, whether at the level of States or civil aviation authorities, in order to encourage air freedom, commercial and technical-operational partnerships and improve the competitiveness of air transport in the country; (ii) encourage the Cabo Verdean aeronautical authority to privilege agreements with aeronautical authorities with best practices in terms of operational safety, creating mechanisms for the exchange of knowledge and experiences in terms of regulatory processes, which facilitate the evaluation and validation of crew licenses, aircraft registration and certifications.
- Standards and Recommended Practices (SARP's): review the provisions of the Aeronautical Code related to the application of standards and practices recommended by the international civil aviation convention and propose legal and regulatory changes that reflect the best practices in this matter and are better suited to reality from Cabo Verde.
- Medical Evacuations (Medevac): propose a legal provision that defines a medical evacuation system (Medvac), involving the different players directly or indirectly linked to this matter, making a clear separation on patient transfer, organ transfer, transport of patients, emergency evacuation, as well as the responsibility of each of the players.

- Crew fatigue management: review and improve Decree-Law No. 66/2009, of November 28, in order to allow the AAC to define precisely the directives regarding the conditions of use of crew management, which reflects best practices in terms of use and management of crew fatigue and contributes to improving the competitiveness of the air transport sector in Cabo Verde;
- Review of the Aeronautical Code: identify, based on the Study on the Review of Civil Aeronautics and the best international practices, all articles that need to be revised and propose new articles that can better reflect and accompany technological innovations, ICAO recommendations, the specificity of the country's reality and stimulate the competitiveness of the Cabo Verdean airline sector.

3.2. Workshop

Conducting a workshop with the different stakeholders to present the proposal for a package of legal and regulatory initiatives for civil aviation and receive contributions for its improvement.

4. Deliverables

Deliverable	Minimum Content	Delivery timing	Payment (%)
P1 – Inception Report	Work plan with details of tasks and execution schedule.	2 weeks after signing the contract	10% with approval by MTT/WB
P2- Interim Report	Analysis of each of the legal and regulatory provisions related to each of the previously identified areas of civil aviation, as well as a list and justification of each of the legal and regulatory initiatives that will be the subject of a proposal, aiming at improving the regulatory framework for civil aviation and the competitiveness of the Cabo Verdean air transport sector	8 weeks after signing the contract	20% with approval by MTT/WB

<p>P3- Draft of the legal and regulatory framework at the level of each of the areas of economic, operational and administrative regulation</p>	<p>Concrete legal text, taking into account the Study on the Legal and Regulatory Framework of Civil Aviation and international best practices, of revision texts of legal and regulatory provisions, as well as new legal and regulatory diplomas, whether in terms of the Aeronautical Code, regulatory decrees of the Government and which focus on the different areas of economic, administrative and operational safety regulation</p>	<p>12 weeks after signing the contract</p>	<p>50% with approval by MTT/WB</p>
<p>P4. Workshop with the different stakeholders to present, in Power Point, the Package of proposals for Legal and Regulatory initiatives, aiming to reflect best international civil aviation practices to improve the competitiveness of the air transport sector in Cabo Verde.</p>	<p>In person presentation of a regulation draft socialization session</p>	<p>13 weeks after signing the contract</p>	
<p>P5. Final Report and Support to the Government in the presentation and approval of the new civil aviation regulatory framework</p>	<p>Final report of the consultancy and structured diploma for due diligence and publication</p>	<p>16 weeks after signing the contract</p>	<p>20% with the approval of the Final Report provisions of the legal and regulatory framework for civil aviation.</p>

4. Consultant's profile

QUALIFICATIONS:

- Considerable experience (ten years or more) working in a civil aviation-related environment.
- Demonstrate a high level of technical knowledge, has working experience at national and/or international level, in a field relevant to the International Civil Aviation Organization's work
- Significant experience acquired in an international or regional aviation safety organization, or in a civil aviation authority, holds exceptional knowledge of air operations oversight.
- Strong analytical capacity and excellent substantive knowledge of international aviation policy and institutional legal framework;
- Expertise in the drafting and implementation of a civil aviation regulations, following ICAO regulations and recommendations;
 - Strong evidence of project management achievement in the civil aviation sector.
 - Experience in developing and implementing a national civil aviation policy and legal framework.
 - Experience in effectively communicating with a variety of audiences on an international basis, in cultivating productive relationships, and handling sensitive national aviation policy situations with diplomacy and tact.
 - Experience in the provision of aviation policy-related assistance and support to State authorities, airports, airlines, etc.
- Be able to work well in a multicultural team
- Demonstrates professional competence and mastery of subject matter; Is conscientious and efficient in meeting commitments, observing deadlines and achieving results;

PLANNING AND ORGANIZATION:

- Develops clear goals that are consistent with agreed strategies; Identifies priority activities and assignments; Adjusts priorities as required; Allocates appropriate amount of time and resources for completing work; Foresees risks and allows for contingencies when planning; Monitors and adjusts plans and actions as necessary; Collaborates effectively with external parties and other consultants.

COMMUNICATION:

- Speaks and writes clearly and effectively in English; Knowledge of Portuguese is a significant advantage;

- Be able to deliver presentations to large audience and prepare high quality presentations.

Education

University degree (preferable master's degree or equivalent) and ten years' experience or more in a civil aviation-related field, international aviation organizations, public administration or or in a related field, is required.

6. Work management and logistics structure

The technical follow-up of the consultancy's tasks, as well as the evaluation and validation of the deliveries made by the Consultant, is the responsibility of the MTT. For this purpose, the MTT will designate a focal point who will be in charge of direct technical interactions with the Consultant for the purpose of following up operations, as well as facilitating consultations and working meetings with the main institutions.

7. Place and Language of Work

The consultancy will be carried out in Cabo Verde. The consultant undertakes to deliver to MTT all deliverables, namely reports, legal and regulatory diplomas in Portuguese.

8. Complementary Information and Supporting Documentation

To carry out this consultancy, the consultant must take into account, among others, the following documents:

- Study on the Review of the Legal and Regulatory Framework for Civil Aviation;
 - The Aeronautical Code of Cabo Verde, approved by Legislative Decree No. 01/2001, of August 20, amended by Legislative Decree No. 4/2009, of September 7, namely Articles 47, 97, 265, 173rd;
- Decree-Law No. 47/2019, of October 28 on the Statutes of the AAC
- Decree-Law No. 66/2009, of November 28, grants the AAC the power to decide autonomously on some practices that determine the Flight Service Period (PSV) and the Flight Time Limitation (LTV) of the crew, which are accepted by EASA and the FAA.
- CV-CARs, , Directives, Instructions and Regulations issued by the AAC, namely CV-CAR 9.B.310, of 6/August and Directive 001/DSV/2015, of 6/August, CV-CAR 4, of 6 /August/2015 (Aircraft Registration) and (Airworthiness), CV-CAR 4.B.145, CT-33-001, Regulation No. 03/AAC/2021, Regulation No.1/AAC/2022, which regulates the application General Aviation License
- Decree-Law No. 5/2023 of January 17, which regulates the Granting and Maintenance of Operating Licenses to Air Carriers
- Decree-Law No. 23/2018, of May 14, which provides for the recognition and acceptance of transfer agreements made by third States;
- Law No. 64/IX/2019 of August 12, which establishes the legal regime for the concession of public airport service;
- No. 52/2019, which establishes the basis for the concession of Public Airport Service;

- Decree-Law No. 5/2023 of January 17, which regulates the bases for the public service concession of regular domestic air transport for passengers, cargo and mail, including the bases for public service obligations.

It will be up to the consultant to collect additional information that he considers relevant for carrying out the consultancy. MTT may provide and/or indicate supporting documentation relevant to the work to be carried out.

9. Duration of the Consultation

The consultancy will last for 120- days, for an estimated workload of 40 days.

10. Type of Agreement

The contract to be signed will be for a fixed amount. Compensation payments are linked to approval of deliverables, and payment of reimbursable expenses is made upon presentation of receipts for expenses incurred at actual cost.