



**CEREMONIAL SIGNING  
OF  
AIR NAVIGATION SERVICES AGREEMENT  
BETWEEN  
BAHAMAS AIR NAVIGATION SERVICES AUTHORITY  
AND  
FEDERAL AVIATION ADMINISTRATION**

**5 MAY 2021**

**OFFICIAL REMARKS  
DIONISIO J. D'AGUILAR  
MINISTER OF TOURISM AND AVIATION  
NASSAU, BAHAMAS**

Cabinet Colleagues  
Parliamentary Colleagues  
Senior Government Officials  
Charge D'Affaires and other officials from the US Embassy  
Officials from the FAA  
Officials from ICAO  
Members of the Press  
Ladies and Gentlemen

Good afternoon!

Simply put this is a historic day in the Commonwealth of The Bahamas!

Today, we are about to conduct a ceremonial signing of a historic Air Navigation Services Agreement between the newly created Bahamas Air Navigation Services Authority and the United States Federal Aviation Administration.

Today, we conclude decades upon decades of talks between The Bahamas and the United States about the management of the sovereign airspace of The Bahamas.

Today, The Bahamas will assume, for the very first time, the management of its sovereign airspace.

Commencing 1 May 2021, aircraft landing in and departing out of the sovereign airspace of the Bahamas, aircraft flying solely within the sovereign airspace of the Bahamas, and aircraft flying OVER the sovereign airspace of the Bahamas will start, for the very first time, to pay fees to an entity solely owned and operated by the Government of The Bahamas.

Ladies and Gentlemen, for that reason, this air navigation services agreement is historic. Never before in the history of an independent Bahamas has anyone paid anything to the Government of The Bahamas for the use of its airspace.

Today, that changes!

I am advised that back in 1952, almost 70 years ago, our colonial masters, Great Britain, the United States and Cuba gathered in Havana where it was decided that the provision of air navigation services over what is now the sovereign airspace of The Bahamas would be divided between the FAA from the United States and its equivalent, ECNA from Cuba.

As the diagram shows, the FAA was assigned the greatest portion of Bahamian sovereign airspace in which to provide air navigation services approximately 75%. and the Cubans were assigned the remaining 25%. The Bahamas was assigned NOTHING other than a small area around Nassau only up to 6,000 feet!

Aircraft using the sovereign airspace of the Bahamas paid fees directly to the FAA and the Cubans and, once again, The Bahamas received not one red cent from this arrangement.

In the minds of most right thinking Bahamians, this arrangement was unacceptable and, since assuming office in May 2017, this Minnis led administration, this Minister of Aviation, made it an absolute priority to conclude an agreement, like the one today, to correct the construct that left The Bahamas totally out of the loop as it relates to the management and fee collection for the use of its sovereign airspace.

How, after almost 50 years since Independence, were we able to reach this historic milestone today?

Well, it wasn't easy! And, I must say, everyone was extremely skeptical, that after many stops and starts, we would ever reach this point today.

The journey started with a change in direction. The focus had always been on the establishment of a Flight Information Region or

an FIR. A Flight Information Region is an area on the planet where air navigation services are provided.

Within the sovereign airspace of The Bahamas, the Americans operated their FIR, the Cubans operated their FIR and, quite naturally, we had a national aspiration to build the necessary infrastructure and hire and train sufficient Bahamian air traffic controllers to replace the Americans and the Cubans and operate our own FIR encompassing the entire sovereign airspace of The Bahamas.

And, to their credit, our FAA brothers and sisters, were fully supportive of this national aspiration to operate our own FIR.

But there was one simple problem! Before we could operate our own FIR, we needed to demonstrate to the world, we needed to demonstrate to the International Civil Aviation Organization (ICAO) who are directly responsible for such decisions that we had the ability and the capacity to manage a FIR and to demonstrate that capacity we needed substantial resources to build the necessary air traffic control infrastructure and we needed substantial resources to hire and train the necessary air traffic controllers.

So, here we were going around in circles, year after year, decade after decade, demanding the right to operate our own FIR over the sovereign airspace of The Bahamas, but not able to allocate the necessary resources to build the capacity to do so.

As a result, despite what anyone might say, there was very little movement on this issue and year after year passed and decade after decade passed, where we simply failed to realize any revenue from our sovereign airspace with which to build the necessary capacity to operate a FIR.

So, commencing in 2018, we changed direction.

Myself, and my negotiating team, met with the International Civil Aviation Organization in Montreal and they advised us to take a different approach.

Our first action was to assert our sovereignty over the sovereign airspace of The Bahamas. We asserted that airspace users and air navigation service providers could not and should not operate in the sovereign airspace of The Bahamas without interacting, in some way, with the Government of The Bahamas.

After all, Article One of the United Nations Convention on International Civil Aviation states “....that every State has complete and exclusive sovereignty over the airspace above its territory.”

In asserting our sovereignty, we deemed that all airspace users (mostly commercial aircraft like Bahamasair, American, Delta, United, JetBlue, British Airways, etc.) all airspace users would now begin to pay a fee to the Government of The Bahamas to use our sovereign airspace.

Given that the Government of The Bahamas is not currently in a position to provide the necessary air navigation services to the airspace users, the Government of the Bahamas, through its wholly owned Bahamas Air Navigation Services Authority, would enter, therefore, into agreements such as the one we are signing today where it would delegate the provision of the necessary air navigation services in Bahamian sovereign airspace to the FAA and ECNA.

The airspace users would pay the Bahamian Government and the Bahamian Government would, in turn, contract with the FAA and the Cubans to provide the air navigation services. Gone would be

the days where this activity would be conducted in the absence of the Bahamian government.

Our next step was to determine the fees that would be charged and paid by the airspace users.

To assist in this exercise, the Government hired an aviation consulting firm, ALG, to help it to determine what fees the airspace users should pay. Naturally, the Government had no experience in determining its fee structure since it had never charged any fees and ALG consulting proved exceptionally helpful in this exercise.

Prior to 1 May 2021, the provision of air traffic control services by Bahamian air traffic controllers to land and take off from Bahamian airports and fly within Bahamian airspace below 6,000 feet, was free of charge, the entire cost being picked up by the Government.

Based upon the fact that the provision of such air traffic control services attracts a fee in almost all jurisdictions of the world, on 1 May 2021, all airspace users that land and take off from Bahamian airports and fly within Bahamian airspace will now pay a fee of \$1 per arriving and departing passenger plus a flat fee of \$10 up to \$61 for each flight depending on the Maximum Take Off Weight (MTOW) of the aircraft. The aircraft that weighs less will pay less and the aircraft that weighs more will pay more.

Also, prior to 1 May 2021, all aircraft flying over The Bahamas, not landing or taking off in The Bahamas, but simply flying through our sovereign airspace paid the FAA directly \$61.75 per 100 nautical miles. After 1 May 2021, the airspace users will pay the Government of The Bahamas from \$8.50 to \$51.60 per 100 nautical miles based upon the Maximum Take Off Weight (MTOW) of the aircraft. Once again, the aircraft that weighs less and travels a shorter distance will pay less and the aircraft that weighs more and travels a longer distance will pay more.

Once the fee structure was determined, the Government conducted an ICAO mandated six (6) month consultation process with airspace users, which started last year on 31<sup>st</sup> of August 2020 with the publication of the Notice of Intent.

The consultation phase started with the publication of dissemination material explaining the Government's new initiative on the charging of fees to use its sovereign airspace.

The Government then held two (2) open consultation meetings with airspace users ensuring that, in each instance, it responded to comments received during and after the meetings.

Finally, when all of the consultation was completed all of the legitimate concerns addressed all of the acceptable adjustments made, the Government published, on 1 March 2021, the official fee structure that would be applied to airspace users using the sovereign airspace of The Bahamas which is displayed here today and which I described earlier.

It is important to note that all air space user fees collected by the Government can ONLY be used to fund the costs of managing and operating the civil aviation system in The Bahamas, a cost that, prior to today, was funded solely by the taxpayers of The Bahamas. Funds collected from airspace users CANNOT be deposited into the Consolidated Fund and used for purposes other than providing a safe and well managed aviation sector.

Finally, all fees charged must, according to the UN's Convention on Civil Aviation Article 15...be non-discriminatory i.e. all carriers will pay the same fee irrespective of their nationality. We could not, for example, charge one fee for Bahamian carriers and another fee for non Bahamian carriers.

I am sure that there will be the naysayers who will say that we could have charged more. I am confident that our process was methodical, well researched and stood up to the significant scrutiny to which it was subjected by all of the airspace users. I wish to categorically state, however, that the Government of The Bahamas is open and receptive to proposals from Bahamian companies that will add value to the airspace users and for which they will willingly wish pay more to receive.

The final step in this length journey in getting us to the point where we are today, was for the Bahamas Government to conclude agreements with the FAA and the Cubans.

As mentioned, we do not have the infrastructure nor the capacity to provide air traffic control services above 6,000 feet in our sovereign airspace. So, the agreement that we are signing today, is for the FAA to provide that service, on our behalf, for the next ten (10) years allowing us sufficient time to prepare ourselves to achieve our national aspiration of managing our own FIR.

Funds collected from the users of our sovereign airspace will be used to cover the current operating costs of civil aviation in The Bahamas but MUST also be used to build capacity.

It would be a travesty if all of the funds were simply used to pay even larger salaries to air traffic controllers, the funds should and must be used to build capacity to expand the capabilities of The Bahamas to provide air traffic control services from Grand Bahama in the north to Inagua in the south, and from the ground up to the sky.

I would be remiss if I did not thank a few individuals in getting us to this historic moment in Bahamian aviation history.

First, I would like to thank my good friend, lawyer Bryan Ginton and his negotiating team for getting us a deal with the FAA. Bryan Ginton, who is the Managing Partner in a local law firm, Ginton, Sweeting, O'Brian, took time away from this law practice and his family, to spend countless hours from 2017 to today, to get us to this signing. This truly was a labour of love of country for him, since as a Director of the Civil Aviation Authority Bahamas, his compensation was only the nominal fee paid to Directors each year.

He kept the process moving, a calming but relentless force, that has won numerous accolades from his counterparts at the FAA. I don't even know if his counterparts at the FAA truly understand that Bryan really has a very serious day job and was able to get us here today through his wonderfully pleasant personality, his perseverance, his tenacity, his experiences as an attorney trained in the United States and his ability to operate clearly and coherently, on very little sleep. Bryan, on behalf of a grateful nation, thank you!

Obviously, Bryan was assisted by numerous other Bahamas Government employees, both current and former, who also helped overcome the hurdles that had blocked us in the past. Those employees include:

Current Director General of Civil Aviation – Michael Allen

Former Director General of Civil Aviation – Charles Beneby

The current Director of BANSAs – Lenn King

Deputy Director of Legal Affairs in the Office of the Attorney General, Shane Miller

Current Head of Legal Affairs at Civil Aviation, Alex Ferguson.

I would also like to thank David Berkholder, the full-time employee on the FAA side, who kept his team, who kept his superiors focused on getting us to this historic moment today. He was responsive, he was accessible all hours of the day and night, even on vacation and The Bahamas is truly thankful of his help and support!

For almost 70 years, the FAA has provided air navigation services in the sovereign airspace of The Bahamas without any formal agreement with the Government of The Bahamas.

That, as indicated, changes today and this Air Navigation Services Agreement, between the Bahamas Air Navigation Services Authority (BANSa) and the FAA is for ten (10) years, with an automatic 36-month extension, if the Bahamas indicated, at the end of the ten (10) years, that it wished to use another Air Navigation Service Provider, highly doubtful, or wished to operate its own FIR, most probable!

Per this agreement and I quote, "the FAA will NOT charge the BANSa for the continued provision of air traffic services within the portion of Bahamian airspace for which the FAA currently provides air traffic service. Upon entry into force of this Annex, 1 May 2021 the FAA will end its collection of overflight fees for this airspace."

Ladies and Gentlemen, the FAA will continue to provide air navigation services in the sovereign airspace of The Bahamas...FREE OF CHARGE! Do you see why this agreement is so historic?

BANSa will pay the FAA a small annual fee so that it can generate the data, the details of what airspace users flew through the sovereign airspace in a particular month. We will, in turn, use that data to assist in our billing and collection of the fees.

I conclude my remarks today by stating publicly how delighted I am with the support that the Government of The Bahamas has received from the FAA. It has truly been a pleasure to interact with you all during this process. The level of engagement and support has truly been astounding.

Ultimately, it cements the wonderful relationship The Bahamas has with the United States and it also cements the wonderful relationship the Civil Aviation Authority of The Bahamas and now BANSA will have with their counterparts at the FAA.

Ladies and Gentlemen, let us now move to the signing of this Air Navigation Services Agreement and, on this day, at this time, make history in the Commonwealth of The Bahamas

Thank you and good afternoon.