



NAFISAT SUPERVISORY COMMITTEE MEETING

MAHE SEYCHELLES 25-26 MARCH 2013

Agenda Item 9: Any other business

ADMINISTRATION TEAM OF VSAT TASK FORCE OPTIONS KCAA PROPOSALS MARCH 2013*(Presented by Kenya)*

WP1 OVERSIGHT MODEL

<u>ITEM</u>	<u>ICAO MODEL</u>	<u>AFISNET</u>	<u>CAFSAT</u>	<u>NAFISAT</u>	<u>SADC</u>	<u>SITA Service Provision Proposal (new):</u>	<u>AFISAT PROPOSAL (TASK FORCE)</u>
Type of Agreement	International treaty or Administrative agreement	Administrative agreement	Administrative agreement	Administrative agreement in the form of an MOU and Bilateral agreements between participating States, the Network Provider (ATNS and IATA) and ICAO.	Administrative agreement under Institutional framework of SADC Economic regional organization.	Administrative agreement	Administrative agreement
Institutional framework.	Organization to set up, fund, maintain and operate Network.	Network Management Committee with ASECNA as Network Provider.	Individual State ownership with Technical Committee	Supervisory Committee with ICAO as secretariat and Network provider	Supervisory Committee with ICAO as secretariat and Network provider	AFCAC and Network Provider	AFCAC as the implementing Agency to own Network and procure competitively a Network Provider who will operate the Network.
Funding mechanism	The costs involved are shared among the participating States in a fair and equitable manner	No common funding mechanism	No common funding mechanism	ATNS funded on behalf of States to finance the capital costs.	ATNS funded on behalf of States to finance the capital costs.	Get a loan to provide service	Contribute additional funds to existing ones for Pre implementation, operating and CAPEX.

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Oversight body	Define nature of organization to implement and manage facility	Network Management Committee (SNMC)	Technical oversight committee.	A Supervisory Board.	A Supervisory Board.	Use AFCAC as umbrella institution with a competitively procured Network Provider	Heads of Civil Aviation.
Mandate of Oversight body	Ensure set up, operation, maintenance, expansion and funding.	Concept, operation, performance, funding, adoption of annual report.	Technical implementation and performance	Concept, operation, performance, funding, adoption of annual report	Concept, operation, performance, funding, adoption of annual report	Ensure set up, operation, maintenance, expansion and funding.	Oversee the set up, operation, maintenance, expansion and management of Network.
Mandate of Network Provider	Functions and supporting services.	Collectively review technical and operational matters as well as the enhancements to be implemented by the network.	Technical and operational matters on existing and the modernization of the network	Oversees the performance of the Network Provider and approves the budget and any major developments.	Oversees the performance of the Network Provider and approves the budget and any major developments.	Provide the service as an agent.	Provide and operate the Network as an agent of AFCAC.
Any delegated ANSP aspects	Information on the expected consequences on the overall AFI air navigation system or any part thereof.	The participating States have delegated Service provision, cost recovery and facilities provision to ASECNA.	None.	Network management system to manage operations.	Network management system to manage operations.	Appoint a service provider to provide ANSP service in the AFI region.	Delegation of provision of regional links to AFCAC.
Handling of Pre-implementation cost	Determination of the costs attributable should be in a manner acceptable to all	ASECNA handles Capex and operational costs on behalf of States.	Each State handles its own costs.	The Network Provider handles all costs and transfers to States through	The Network Provider handles all costs and transfers to States through	The Service Provider handles all costs and transfers to States through	AFCAC to source funding or Participating States contribute.

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	the participating States.			cost recovery.	cost recovery.	cost recovery.	
Cost determination	Format of annual costs, i.e. Capex, operation, maintenance administrative overheads, depreciation and/or amortization and pre-implementation.	All expenses.	All expenses.	All expenses.	All expenses.	All expenses.	All expenses.
Cost sharing	Each State to assume responsibility for its share of the costs involved (partnership with users).	ASECNA handles through cost recovery mechanism.	Each State handles its own through cost recovery mechanism.	Network Provider handles through cost recovery mechanism.	Network Provider handles through cost recovery mechanism.	Service Provider handles through cost recovery mechanism.	States contribute equally for pre-implementation costs and CAPEX or AFCAC sources funds on behalf of the participating States.
Cost recovery mechanism	To be "multinationally" financed or prefinanced by a State, group of States or by an agency as established under the authority of an agreement by States.	Each participating entity applies its own cost recovery mechanism through general air navigation charges collected by ASECNA on behalf of States.	Each participating entity applies its own cost recovery mechanism through general air navigation charge	IATA collects on behalf of Network Provider but States that own their Terminal pay operational costs to ATNS.	IATA collects on behalf of States.	Service Provider collects on behalf of States.	AFCAC collects on behalf of States.
Budget approval	Proper financial control will require costs and revenues to be estimated in	ASECNA handles on behalf of States.	Each State individually handles its own.	Network Provider prepares for approval by Board.	Network Provider prepares for approval by Board.	Service Provider prepares for approval by Board.	AFCAC prepares for approval by Oversight body (Heads of ANSP).

ITEM	ICAO MODEL	AFISNET	CAFSAT	NAFISAT	SADC	SITA Service Provision Proposal (new):	AFISAT PROPOSAL (TASK FORCE)
	advance.						
Financial audit and taxation	Addressed in the context of the overall operations	ASECNA on behalf of Member States.	Each State individually handles its own.	Handled by Republic of South Africa as applicable to ATNS	Handled by Republic of South Africa as applicable to ATNS	As appropriate in State of operation of Service Provider.	As appropriate in State of operation of AFCAC
Weakness if any		Initiatives designed to improve AFISNET network difficult to implement in informal set up.	Team work hard to implement in absence of formal common management.	Arrangement needs to be renewed at the end of the MOU period	Arrangement needs to be renewed at the end of the MOU period and NAFISAT is handled as part of ATNS in operations and Financial accountability.	Funding and initial costs.	Willingness of States to contribute and capacity of AFCAC to procure and manage the Network.

WP 2: STATES' COMMITMENT:

Financial, managerial and other contractual aspects

The participating States would need to formalize in an agreement the terms under which the multinational VSAT Network is to be provided to ensure that the costs involved are shared among the participating States in a fair and equitable manner.

Types of agreements

An agreement could either take the form of a formal international treaty or an "administrative agreement".

A treaty requires the signature of the head of state or government and will also require the ratification or approval of the national legislative assembly, which, as a rule, is a time-consuming process.

An "administrative agreement", on the other hand, is at a lower level of requirement in respect of formalities and procedures than a treaty, can be signed by a minister or director of civil aviation or some other authorized person, and could be concluded by an exchange of letters or notes.

The agreement(s) should provide for easy subsequent amendments as developments may require.

Material of detail which is more likely to require modifications, and which will not affect the basic provisions of the agreement, should be contained in annexes or appendices.

- **Objective of the agreement:** In the introductory text the agreement should set out the objective underlying the participating States' decision to jointly arrange for the provision of the multinational VSAT Network.
- **Obligations of States party to the agreement:** The agreement should at the outset briefly set forth the basic obligations of the participating States to establish and operate the Network and all financial obligations.

- **Definition and description of the Network:** The agreement should contain a clear and accurate definition and description of the Network to be provided and the functions it is to perform.
- **Establishment and operation of the Network** The agreement should specify who will establish and operate the Network.
- **Legal responsibility:** If an international organization or agency is to establish and/or operate the Network, it will have to be endowed with proper legal responsibility to have the capacity to contract, to acquire and dispose of property and to institute and answer legal proceedings.
- **Liability aspects:** Closely related to legal responsibility are the liability aspects which may have to be addressed in the agreement. This involves such aspects as the determination of the extent to which liability is to be assumed in connection with the provision of the Network.

WP 3: LEGAL AND GOVERNANCE ISSUES:

- **Managerial aspects:**

Governing bodies and decision-making arrangements.

The nature of the governing body or bodies required to administer the agreement needs to be established and a description of their functions provided. Should a new agency be established to operate the Network, this would need to be stipulated in the agreement. Voting arrangements should be specified.

Organization and staffing.

The agreement should refer to the manner in which the entity actually operating the Network would structure or organize its functions. Other aspects to be considered, aside from the number and types of staff, are the various elements of conditions of service including status to be accorded to any expatriate staff, tax exemptions, etc., which will reflect on the overall costs of the venture.

Consultation. Provision should be made in the agreement to ensure adequate consultation with States being party to the agreement but not represented on the governing body, and appropriate aircraft operators' organizations.

- **Financial aspects:**

Pre-implementation considerations.

The determination and presentation of the costs attributable to the provision of the Network should proceed in a manner acceptable to all the participating States.

Once the Network has been implemented, these costs would be capitalized and then included as depreciation (together with accumulated interest) in the overall cost base to be shared among the States participating in the provision of the facility/service concerned.

Cost determination.

The agreement between the States participating in the provision of a Network should contain clauses referring to the determination of the related costs and the approach towards cost determination based on that recommended in Chapter 4 of the *Manual on Air Navigation Services Economics* (Doc 9161).

Cost sharing.

Once a State has supported and agreed to the implementation of the Network and is making use of it, it would be expected to assume responsibility for its share of the costs involved.

Recovery of costs from users.

Being “multinationally” financed or prefinanced by a State, group of States or by an agency as established under the authority of an agreement by States, any of these could recover the costs so incurred from users once the Network has been implemented.

Nevertheless, States may also choose to recover less than full costs in recognition of local, regional or national benefits (Doc 9082, paragraph 39 (i) refers).

Budgeting.

Proper financial control will require costs and revenues to be estimated in advance.

The itemization of the costs should basically correspond with that used for the presentation of costs and actual costs be compared with estimated costs, and actual revenues with those estimated.

Authority to approve the budget.

The agreement should also stipulate who has the authority to approve the budget and thus authorize the use of funds to meet operating expenses and capital expenditures. This authority would normally be vested in the governing body of the Network concerned.

Financial auditing.

The financial audit function forms an integral part of the determination of the costs to be shared and the cost share to be borne by each participating State as well as of proper financial control.

Taxation and other government levies.

The subject of tax exemptions and other aspects related to taxation will need to be addressed in the context of the overall operations of the Network.

- **Procedures for settlement of disputes.**

The agreement should contain stipulations setting out the procedures to be followed for settlement of disputes between the participating States arising from the provision of the service.

- **Accessions, withdrawals, amendments to and termination of agreement.**

The agreement should contain provisions, including those describing the financial implications involved, to:

— cover the subsequent accession by any additional qualifying State(s) after the agreement is in force; and

— specify the procedure to be applied when a signatory State wishes to withdraw from the agreement as well as procedures to follow in the event of termination of the agreement.

Similarly, the agreement should specify the procedures to be followed if amendments are to be made to the main text or to any annexes (for which different procedures would normally apply).

WP 4: MAINTENANCE: SUMMARY OF EXISTING OPTIONS.

- **Centralized maintenance** where the Network Provider handles all maintenance on behalf of participating States. **De centralized maintenance** where each State is responsible for the Maintenance of its Terminal.
- **A mixture of Centralized and Decentralized maintenance** as per choice of States
- **Subcontracting** of the whole process of maintenance to the supplier of the equipment, some other suitable service provider or State.