



WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

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Agenda Item 2: Examination of key issues and related regulatory framework

Agenda Item 2.1 : Market access

VIETNAM'S AIR TRANSPORT MARKET, LEGISLATIONS AND REGULATIONS AND POLICY DURING 2003-2013

(Presented by Viet Nam)

1. INTRODUCTION

1.1 With its favorable geographic location, situated in the center of the Asia-Pacific region, which is one of the fastest growing areas and the most stable in the world, the Vietnamese economy has experienced steady growth with GDP growth rate for the period of 2003-2012 was at 5-7 per cent per year.

1.2 During the global financial-monetary crisis of 2008-2009, as well as other economies in the world, Vietnam's economy was affected negatively with the GDP growth rate was only 5.5 per cent, the lowest level since 2003. Besides the direct impact on the economy, the recession has been accompanied by the decline in foreign investment and tourist, affecting the air transport market for the period of 2008-2009. However, the overview of period 2003-2012, with the trend of growth rate of the economy, the Vietnam's air transport market has achieved high growth rates of this period with an average growth rate at 16.1 per cent of passengers and 12.3 per cent of cargo.

1.3 In 2012, the Vietnam's air transport market reached 25.4 million passengers, 527 thousand tons of cargo, up respectively 3.8 times for passengers and 2.8 times for cargo compared to 2003.

1.4 Currently, there are 49 foreign airlines from 23 countries/territories operating to/from Vietnam with 54 international routes from 34 destinations to Hanoi, Ho Chi Minh City and Da Nang. The Vietnamese aviation market is attended by most of the big airlines in the world such as Singapore Airlines, Thai Airways, China Southern Airlines, Japan Airlines, Cathay Pacific, Korean Air, United Airlines, Air France, Lufthansa. Besides the full-services airlines, the Vietnam's aviation market also has the participation of a series of low-cost carriers such as AirAsia Berhad, Jetstar Asia, Tiger Airways, Thai AirAsia, Cebu Pacific, Lion Air, Indonesia AirAsia.

1.5 There are 4 vietnamese air carriers operating in Vietnam such as Vietnam Airlines (VN), Jetstar Pacific Airlines (BL), VASCO and VietJet Air (VJ), among of them, BL and VJ are operating as low-cost carriers (LCC) and VJ is the first private airline of Vietnam, owned by Vietnamese organizations and individuals. The Vietnamese air carriers, mainly Vietnam Airlines, currently operates 45 international routes to 26 cities in 15 countries/territories. For the domestic market, 4 vietnamese air carriers currently operate 40 domestic routes connecting Hanoi, Da Nang and Ho Chi Minh City with 17 domestic airport with the spoke and hub routing network. In addition to three major international airports, Vietnam upgraded and officially added 5 new international airports in major cities and localities of Vietnam, such as Hue (Phu Bai Airport), Nha Trang (Cam Ranh Airport), Can Tho (Can Tho Airport), Da Lat (Lien Khuong Airport) and Phu Quoc (Phu Quoc Airport).

1.6 As the end of February 2013, the Vietnam aircraft fleet is up to 94 units with an average age of 7.0 years, number of aircraft owned by Vietnam is 46 units, accounting for 49 per cent with average age of 6.5 years .

2. **LEGISLATION AND REGULATIONS OF THE AIR TRANSPORT**

2.1 The Civil Aviation Law of Vietnam in 2006 has marked the significant changes in aviation regulations in Viet Nam:

Regulation on the establishment of private airlines and ownership and operation of private aircraft

2.2 Ownership can be up to 100 per cent by Vietnamese organizations and individuals and the capital contribution by foreign investors are allowed (the foreign equity shall not exceed more than 49 per cent of charter capital of the air carrier or enterprise; or the equity held by one foreign individual or legal entity shall not exceed more than 30 per cent of the charter capital). By specific provisions of this Law, many of private airlines have been established in Vietnam engaged in both air transportation business (4 airlines with 100 per cent private capital from Vietnamese organizations and individuals) and general aviation operation (4 airlines) and 1 individual who owns and operates his aircraft.

Separating the State management functions from business functions

2.3 The Regional Airport Authorities have been established independently of the airport enterprises. The Airports Authorities are under the Civil Aviation Authority of Viet Nam and responsible for performing the state management functions at airports.

Enhancing the protection of consumers' interests

2.4 Specific regulations have been developed in relation to compensation in air passenger transportation by air carrier to passengers in case the passengers are denied boarding or their flights are cancelled.

2.5 The Civil Aviation Authority of Vietnam is in process of considering and reviewing the provisions of Vietnam Civil Aviation Law 2006 in order to amend and supplement the Law to make it more compatible with practices; strengthen the protection of consumers and encourage foreign investment in civil aviation activities in Vietnam.

3. INTERNATIONAL CO-OPERATION IN CIVIL AVIATION

3.1 With only twenty (20) Air Services Agreements (ASA) were signed by 1993, to date Viet Nam has signed 61 ASAs with countries and territories spreading from Asia, Europe, North America, Australia, Africa. In addition, multilateral aviation relationship are also paid attention to with the official signing of five (5) Multilateral ASAs (including CLMV Multilateral Agreement on Air Services; 3 ASEAN Multilateral Agreements on Air Services, Air Freight and Full Liberalization on Passenger Transportation; and Viet Nam – EU Horizontal Agreement). All most of the ASAs signed toward more liberalization, using modal clauses set by ICAO in the context of global air transport liberalization, including:

- a) designation of Airline. Viet Nam's policy is to allow the multi-designation of airline with more liberalization of airline ownership criteria means the designated airlines having its principal place of business in the territory of the designating country;
- b) relaxing tariff control in direction of dual disapproval, even the filing of tariff is not required. The intervention by aeronautical authority is only to prevent unreasonable high tariff which may affect consumer or artificially low tariff which may harm competitors or the subsidies from Government;
- c) development of new regulation on safety and security as recommended by ICAO; and
- d) expansion of the market access rights which includes liberalization of route schedule; code-share arrangements (including such arrangement between designated airlines of the other party or with the designated airlines of third party; codeshare on domestic routes); intermodal transportation; liberalization of 3rd and 4th freedom traffic right; exchange of the 5th traffic right on a reciprocal basis and equal opportunity for each of the airlines. Especially, Viet Nam applies more open policy with regard to all-cargo transportation.

3.2 The policy of Vietnam has been officially announced in the framework of APEC on 8 air services recommendations.

3.2.1 Multiple Airline Designation: Viet Nam has included provisions on multi-designation in its bilateral air services agreements instead of single designation. It is reflected in a lot of bilateral air services agreements with economies which has been signed, modified currently such as with United States, New Zealand, Singapore, Malaysia. In the near future, Viet Nam continues to follow this policy in upcoming negotiations for modification and new agreements.

3.2.2 Air carrier ownership: the traditional criteria of air carrier ownership (substantial ownership) have been replaced by new criteria of air carrier ownership in line with ICAO's model such as "principal place of business" and "effective regulatory control". It is reflected in a lot of bilateral air services agreements with economies which has been signed, modified currently such as with United States, New Zealand. In the near future, Viet Nam continues to support and apply new criteria of air carrier ownership in negotiations of bilateral and multilateral ASAs.

3.2.3 Air Tariff: Viet Nam has continuously been replacing the air tariff regime of "Double Approval" with other air tariff control principles such as "Country of origin", "Single Disapproval", "Dual disapproval" or "No formal filing requirements" for both passenger and cargo tariffs. In the near

future, Viet Nam continues to support and change the air tariff regime of “Double Approval” to other liberal air tariff control principles in negotiations of bilateral and multilateral ASAs.

3.2.4 Airline Co-operation Arrangements: Viet Nam supports and facilitates airline cooperative arrangements between and among airlines, which include bilateral code sharing and third-country airline code sharing. It is reflected in a lot of bilateral air services agreements with economies which has been signed, modified currently such as with Singapore, Malaysia, Thailand, France. In the near future, Viet Nam continues to support and facilitate airline cooperative arrangements between and among airlines in any forms.

3.2.5 Market Access: Viet Nam has continuously been lessening capacity entitlement control with regard to 3rd and 4th freedom traffic rights; encouraged and imposed no limitations on the operation of 3rd and 4th freedom traffic rights, applied relatively liberal policy for 5th freedom traffic rights to/from Ha Noi and Da Nang. Viet Nam also encourages airlines of ASEAN countries to operate from/to other airports, which are located in key tourist spots in Viet Nam such as Hue, Da Lat, Nha Trang, Dien Bien Phu, Hai Phong. Viet Nam has already exchanged the 5th freedom traffic rights with several countries on a basis of reciprocity and mutual interest in order to meet specific demands of airlines of the two parties involved. In the framework of ASEAN, Viet Nam has already exchanged the 5th freedom traffic rights with other member countries except the Philippines. In the near future, Viet Nam continues to follow current policy.

3.2.6 Air Freight: Viet Nam has gradually lessened all-cargo traffic rights, which has been more liberal, compared to passenger traffic rights. In some of its bilateral ASAs with other countries, Viet Nam has applied a separate clause providing for all-cargo air services. In the near future, Viet Nam continues to open air freight market towards liberalization.

3.2.7 Doing Business Matters: Viet Nam initially has liberalized three air service sectors including sales and marketing of air transport products, computer reservation system services (CRS) and aircraft repair and maintenance services. Those have been committed to open in the framework of ASEAN. In some particular cases, Viet Nam allows foreign airlines of countries, which have not concluded bilateral ASAs with Viet Nam to provide sales and marketing services for their aviation products in Viet Nam.

3.2.8 In the near future, Viet Nam continues to consider lifting limitations on foreign capital share in joint-ventures, and number of joint-ventures providing aircraft repair and maintenance services, computer reservation system services (CRS). Vietnam will offer the sector of aircraft leasing with/without crew in negotiation, firstly in the framework of ASEAN.

3.2.9 Multilateral Co-operation: Viet Nam is ready to participate other multilateral co-operation.

4. VIET NAM AIR TRANSPORT POLICY IN NEXT COMING YEARS

4.1 In the coming years, Viet Nam continues to strengthen the bilateral aviation relationship with its tradition regions such as North-East Asia, ASEAN, Europe, Middle-East, North America, establish aviation cooperation with countries in the South Asia, Africa, South America and SNG countries and further modernize the existing ASAs toward more liberalization on market access and strengthening of aviation safety and security standards in the form of revisions, amendments or renewal of these ASAs. In the multilateral framework, Viet Nam continues to actively participate in the cooperative mechanism,

including CLMV, ASEAN and ASEAN with Partners (including Japan, South Korea, India, China, Russia, EU), WTO and APEC. Viet Nam encourages foreign airlines to operate to Ho Chi Minh City, Ha Noi, especially to the six (6) new-brand or upgraded airports namely Da Nang, Hue, Nha Trang, Can Tho, Da Lat và Phu Quoc with following privileges are given to the airlines operating to the six (6) above-mentioned airports (i) Charges and fees incentive are given to those airlines operating to these airports; (ii) and liberalization of the 3rd, 4th and 5th freedom traffic rights and in some specific cases the 7th traffic right may be exercised for all-cargo services.

5. CONCLUSION

5.1 The Conference is invited to note the information provided above.

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