



WORKING PAPER

WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

Montréal, 18 to 22 March 2013

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

Agenda Item 2.1 : Market access

SLOT ALLOCATION

(Presented by the Secretariat)

EXECUTIVE SUMMARY

This paper examines the issue of slot allocation by assessing the current situation and its impact on international air transport. It also presents information on States' regulatory practices and ICAO related work and policy guidance.

Action: The Conference is invited to:

- a) review the information and assessment presented in this paper;
- b) endorse the conclusions presented in paragraph 5; and
- c) adopt the recommendations presented in paragraph 6.

References: ATConf/6 reference material is available at www.icao.int/meetings/atconf6.

1. INTRODUCTION

1.1 Airport slots are specific time periods allotted for an aircraft to land or take off at an airport. Where the demand for slots at a particular airport exceeds the available supply, the airport can be considered "capacity-constrained", at which time a "slot allocation" process is implemented. Capacity constraint may occur only at certain periods of the day or on certain days of the week, or even during specific seasons.

1.2 The issue of slot allocation is linked to specific airport situations in specific States, but each of these local situations impacts market access and operation of international air services from any airport of another State. As air traffic continues to grow and hub-and-spoke operations continue to increase, slot allocation becomes more ubiquitous in those regions of the world where present demand far exceeds initial slot allocation.

2. ASSESMENT OF THE CURRENT SITUATION

2.1 As growth in air traffic continues to outstrip available runway, parking, and passenger processing capacity, shortages of airport take-off and landing slots are occurring at a growing number of airports. The situation varies widely across regions. According to the International Air Transport Association (IATA), the total number of capacity constrained airports that have been labelled as a fully-

coordinated or Level 3 Airport¹ subject to slot allocation under the IATA Schedule Coordination System continues to increase”: 136 in 2000, 155 in 2010, and by 2012, the number is expected to reach 159(104 in Europe, of which 92 are in the 27 EU Member States, 43 in Asia Pacific, and the remaining 11 scattered in the Middle East, North America, and South Africa). In addition, 121 airports across the world are experiencing some level of congestion. If traffic volumes continue to increase at a pace faster than investment in capacity expansion, it is expected that many of these 121 airports experiencing congestion will become fully-coordinated or Level 3 airports.

2.2 Furthermore, traffic patterns also influence the availability of take-off and landing slots. The airline practice of hub-and-spoke operations creates banks or waves of flights arriving at an airport from many origins and depart shortly thereafter to many destinations. While such practice helps minimizing the time passengers spend for changing planes, it creates a series of peak periods throughout the day, , thus reducing the availability of slots at these hub airports.

2.3 Therefore, the issue of slot allocation, by definition a global issue requiring compatible, if not aligned, rules, is expected to become more prevalent and will increasingly place constraints on the development of the air transport industry.

2.4 The insufficiency of slots affects in a fundamental way the ability of air carriers to exercise market access rights granted to States under air services agreements (ASAs). For example, at the 2008 Conference on the Economics of Airports and Air Navigation Services (CEANS), African States advised of increasing difficulties in securing slots at some airports outside Africa, that African air carriers wished to serve. The African States expressed the view that such difficulties have negatively affected African air carriers’ access and operation on international routes outside Africa and that States having airlines concerned should apply the principles of reciprocity and equity embodied in ASAs in resolving the slot issues.

2.5 While the expansion of airport infrastructure and, in some cases, increased utilization of existing facilities can offer a solution or significant amelioration in the long term, short-term regulatory solutions for the allocation of slots are often difficult to achieve, and, once achieved, are sometimes contentious.

3. ICAO’S WORK AND RELATED POLICY GUIDANCE

3.1 ICAO has addressed the issue of slot allocation extensively, both in the context of market access and infrastructure development. Policy guidance developed by ICAO includes: a study on *Regulatory Implications of the Allocation of Flight Departure and Arrival Slots at International Airports*(Circular 283, published in 2001), conclusions of ATConf/5 on the issue (Doc 9819, Report of ATConf/5), and model clauses for bilateral ASAs.

3.2 The main thrust of ICAO guidance is that “in liberalizing market access, due consideration should be given to airport capacity constraints and long term infrastructure needs”. In addition, it states that “Any slot allocation system should be fair, non-discriminatory and transparent, and should take into account the interests of all stakeholders while it should also be globally compatible, aimed at maximizing effective use of airport capacity, simple, practicable and economically sustainable”. In addressing the slot allocation issue, States should take into account the legal framework provided by the Chicago Convention, obligations under ASAs, applicable national and regional rules, and existing voluntary mechanisms for managing insufficient airport capacity.

3.3 Since ATConf/5, although many airports have built new runways and expanded airport utilization, the number of airports having slot constraints and the extent of those constraints have increased. Many carriers are unable to obtain the slots they need, and State efforts to assist carriers have not been successful. Such situation has created a certain degree of frustration among concerned parties. In

¹ Level-3 airports are airports where the demand for runway and gate access exceeds the capacity of the airport, resulting in the need for slots to be allocated to airlines through the IATA Schedule Coordination System.

response to African States who urged ICAO to take further action to address the issue of slot allocation at CEANS-2008, the ICAO Council directed the Secretariat to explore the development of model bilateral clauses on slot allocation.

3.4 Accordingly, the Secretariat, in consultation with the Air Transport Regulation Panel (ATRP) and based on States' practices and ICAO guidance, developed three options of bilateral model clauses which are presented in Appendix A. These options were reviewed by the Air Transport Committee in January 2011, which endorsed the first option as a model clause to be included in the ICAO bilateral Template Air Service Agreement (TASA) and for dissemination to States for optional use. The Committee also agreed that States be advised of the availability of the other two options, as well as the prerogative of States to determine whether to use any of the proposed clauses. The Secretariat was also requested to continue to monitor developments and to undertake further work with a view to providing other options that would achieve wider acceptance. It is worth noting that in January 2012, the African Union Summit of Heads of State and Government held in Addis Ababa, Ethiopia, endorsed an "African Civil Aviation Policy". This policy, inter alia, requests African States to use Option 2 of the ICAO model clause on slot allocation in air service agreements.

3.5 Finally, in the context of airport charges, ICAO has developed detailed guidance on economic pricing for congested airports, which is contained in Doc 9562, *Airport Economics Manual*.

4. DISCUSSION

4.1 Since ATConf/5, the issue of airport capacity constraints and the search for appropriate solutions to the slot allocation problem continue to be a challenge for governments, airport operators and the airline industry. States' policies and practices in dealing with the slot allocation issue also vary. Most countries have been applying the IATA system which is presented in the IATA "Worldwide Slot Guidelines (WSG)"; these guidelines contain a set of rules agreed upon by airlines and slot coordinators. Some States have adopted their own regulations, often drawing on the principles in the IATA WSG. For example, the European Union (EU) and the United States have enacted their own regulations on slot allocation, which have undergone some revisions or adjustments during the past few years. In some cases, States have addressed the issue within the context of their bilateral ASAs. There are also instances where "slot trading" has been allowed at highly congested airports. Such fragmentation of regulatory approaches has drawn some criticism in the recent years.

4.2 In addition, it has been pointed out that the existing slot allocation procedures lack the sanction mechanisms which could disincentivize some air operators to adopt practices that decrease the efficiency of the slot allocation process, such as overbidding of slots, late return of slots, and under-utilization. These deficiencies need to be addressed.

4.3 It is clear that insufficient airport capacity and slots have a negative impact on the ability of air carriers to exercise market access rights, but it is a physical impediment that cannot be resolved with short-term solutions. Due to the nature of the problem, it is difficult to prescribe global solution, as capacity shortages vary from airport to airport. However, there is a need for States, air carriers and airport operators to address the issue with a broader and long-term perspective, giving due regard to the capacity requirements and constraints in the planning of infrastructure development. In this regard, at the recommendation of ATRP, the Secretariat conducted a second survey on present and future airport capacity constraints and provides information on the survey results at Appendix B. It should be noted that the survey results are not sufficiently conclusive to provide any relevant information to the Conference.

4.4 With respect to difficulties or disputes over slot allocation, the most practical approach for States to address the disputes as recommended by the ICAO guidance, i.e., through the consultation and dispute resolution mechanisms under ASAs or through other available fora. In the meantime, there is a need for States, in coordination with the aviation industry and ICAO, to continue to review the implementation of existing slot rules and procedures such as "use-it or lose-it," slot trading, slot buying/selling, and local rules at variance with the IATA WSG, and consider whether changes are

appropriate considering however the need for global compatibility of rules. In this regard, ICAO can continue to play an important role in developing guidance and/or exploring appropriate ways by which to address the issues, taking into account the interests of States, the industry, and other stakeholders.

5. CONCLUSIONS

5.1 In light of the discussion above, the following conclusions may be drawn:

- a) the issue of slot allocation is linked to specific local situations, but affects market access and operation of international air services . As air traffic continues to grow and hub-and-spoke operations continue to increase, the issues will remain and, potentially, grow. As the situation varies from State to State and airport to airport, it is difficult to prescribe a global solution. However, there is a need for the international aviation community to align existing slot allocation rules and procedures, and to explore how States and aviation stakeholders might work together towards improved policy approaches;
- b) the most practical method to resolve specific difficulties is through consultation at the local level between the parties concerned, taking into account obligations under relevant international agreements, applicable national and regional rules, and the interests of all stakeholders;
- c) ICAO has addressed the issue of slot allocation extensively and has developed related guidance for use by States, which remains relevant; and
- d) based on the results of the surveys, and in spite of the close cooperation undertaken with and by the industry, it appears that providing meaningful data and forecasts on the present and future capacity constraints of airports is extremely difficult, due to the lack of available information.

6. RECOMMENDATIONS

6.1 The following recommendations are proposed for consideration of the Conference:

- a) States should give due consideration to the concerns of other States over the issues related to slot allocation and the negative impact on international air services and make every effort to resolve the problems. States should also give due consideration to capacity demands in the planning and development of aviation infrastructure;
 - b) ICAO should continue to monitor the situation and States' practices in handling the issues of slot allocation, raise State awareness of ICAO policy guidance, and encourage its use by States;
 - c) ICAO should continue to play a leadership role in developing policy guidance and work in close cooperation with both States and aviation stakeholders in exploring appropriate ways by which to address market access and slot allocation issues, taking into account the interests of States, the industry, and other aviation stakeholders;
 - d) ICAO should keep States informed of any significant developments, and ICAO future work in this regard, including information on airport and ATM capacity demands and/or constraints.
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APPENDIX A

MODEL BILATERAL CLAUSES ON SLOT ALLOCATION

1. States were informed of the following three Options in ICAO Electronic Bulletin No. 2011/14, dated 11 March 2011:

2. This model clause (**Option 1**) is endorsed by the Air Transport Committee for inclusion in the ICAO Template Air Services Agreement (TASA) and for optional use by States.

Text of the clause	Explanatory notes
Option 1	
[Article X Slot allocation]	<i>Provisions on slot allocation may be included in the Agreement either as a stand-alone article or be placed under an appropriate article (for example, under a Commercial Opportunity article).</i>
1. Each Party shall ensure that its procedures, guidelines and regulations to manage slots applicable to airports in its territory are applied in a fair, transparent, effective and non-discriminatory manner.	<i>This clause sets out the general principles that the parties should apply in handling slot-related issues.</i>

3. Below are two additional options of bilateral clauses (**Options 2 and 3**) developed by the ICAO Secretariat, available for possible use by States if they so wish.

Text of the clauses	Explanatory notes
Option 2	
<p>1. Each Party shall facilitate the operation of the agreed services by the designated airlines of the other Party, including granting the necessary landing and take-off slots, subject to the applicable national and international rules and regulations, and in accordance with the principle of fair and equal opportunity, reciprocity, non-discrimination and transparency.</p> <p>2. Both Parties shall make every effort to resolve any dispute over the issue of slots affecting the operation of the agreed services, through consultation and negotiation in accordance with the provisions of Article X (Consultation) or through the dispute</p>	<p><i>Paragraph 1 recognizes that Parties have the obligation to facilitate the exercise of the rights granted under the Agreement, and the general principles to be followed. At the same time it clearly specifies that allocation and granting of slots are subject to applicable national laws and regulations. The word “international” is used to cover situations where regional or international rules or guidelines may apply, such as the EU rules and IATA guidelines.</i></p> <p><i>Paragraph 2 directs the Parties to use the consultation and dispute settlement</i></p>

<p>resolution provisions of Article Y (Dispute settlement).</p>	<p><i>mechanisms to address any disputes.</i></p>
<p>Option 3</p>	
<p>1. In respect of the allocation and grant of slots at airports in its territory, each Party will, in accordance with local slot allocation rules, procedures or practices which are in effect or otherwise permitted, ensure that the airlines of the other Party:</p> <p>(i) are accorded fair and equal opportunity to secure slots for the operation of the agreed services; and</p> <p>(ii) are afforded no less favourable treatment than any other national or international airlines operating similar services to/from the same airport.</p> <p>The terms of this paragraph are subject to national and international laws and regulations applicable to the allocation and grant of slots at their airports.</p> <p>2. In case of any dispute over the issue of slot allocation affecting the exercise of the rights granted under the present Agreement, both Parties shall endeavour to resolve the dispute through consultation and negotiation in accordance with the provisions of Article X (Consultation), or through the dispute resolution provisions of Article Y (Dispute settlement).</p>	<p><i>Paragraph 1 stresses the principles of fair and equal opportunity, and non-discriminatory treatment that should be applied in managing slots, while giving recognition that domestic, regional or international rules and procedures also apply.</i></p> <p><i>Paragraph 2 directs the Parties to use the consultation and dispute settlement mechanisms to address any disputes.</i></p>

APPENDIX B

PRESENT AND FUTURE AIRPORT CAPACITY CONSTRAINTS

1. Since ATConf/5, the situation of airport capacity constraints continues. In preparing for ATConf/6 to address, inter alia, the problems associated with slot allocation, the Air Transport Regulation Panel, at its eleventh meeting (ATRP/11), recommended that the ICAO Secretariat provide information on the present and future airport and ATM capacity constraints, so that States can take into account present capacity situations as well as those anticipated in the long term.

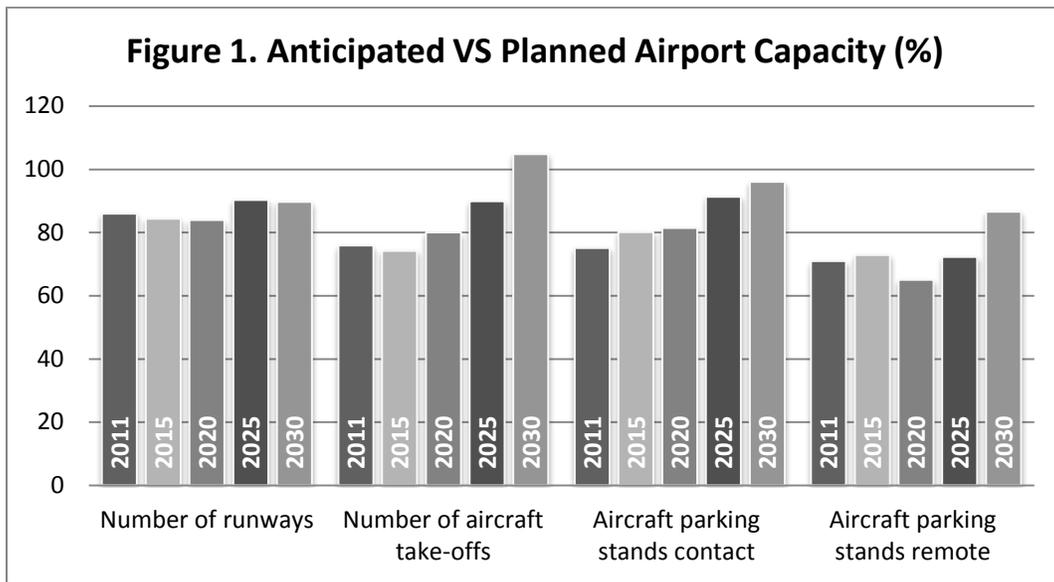
2. In cooperation with the Airports Council International (ACI), a second survey questionnaire on the topic was issued to the top 170 ACI member airports in February 2010. As very few airports responded to this survey, a new questionnaire was designed and disseminated to the top 500 ACI airports in early October 2012 (the questionnaire is provided at the end of this Appendix). Nevertheless, and despite ACI proactive involvement, only 135 airports responded to the questionnaire, of which only 45 provided pertinent data to the survey. More details on the survey coverage are in Table 1.

Table 1. Airports capacity constraints survey coverage

Region	Number of reporting airports	% of aircraft departure ⁽¹⁾
Africa	7	3%
Asia Pacific	5	7%
Europe	11	5%
Middle East	2	8%
North America & the Caribbean	20	35%
South America	1	0%
World	45	16%

⁽¹⁾ Scheduled traffic only

3. Based on the data received from the responses, it is challenging to draw a comprehensive picture of the world situation with regard to airport capacity constraint. Nevertheless, it is possible to extract from the survey one interesting trend: despite some additional new capacities, there will be increasing airport capacity constraints from 2015 onwards, both in terms of aircraft take offs and aircraft parking contact stands. This trend clearly requires that State planning and development of aviation infrastructure be given due consideration to airport capacity situations, including constraints and future demands. This trend is shown in Figure 1, which highlights the evolving relationship between planned and anticipated airport capacity.



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