



International Civil Aviation Organization

The Combined Meetings of the Fifth FANS Implementation Team – Bay of Bengal (FIT-BOB/5), the Second FANS Implementation Team – South East Asia (FIT-SEA/2), the First Air Traffic Flow Management Task Force (ATFM/TF/1) and ADS/CPDLC Seminar

Bangkok, Thailand, 18 - 22 April 2005

Agenda Item 4: Central Reporting Agency

**FINANCING A CENTRALIZED REPORTING AGENCY
FOR THE BAY OF BENGAL ADS/CPDLC OPERATIONAL TRIAL**

(Presented by the Secretariat)

SUMMARY

This paper considers how States may best organize to provide necessary safety monitoring services in support of the ADS/CPDLC operational trial for the Bay of Bengal. ICAO's policies and guidance related to the recovery of necessary expenditures are summarized and various options for financing cooperative approaches to the provision of air navigation services are described. The paper draws attention to the current context for establishing a Centralized Reporting Agency for the Bay of Bengal.

1 INTRODUCTION

1.1 This paper addresses the issue of financing a required safety monitoring service to support the ADS/CPDLC operational trial for the Bay of Bengal which commenced in February 2004. The obligation to evaluate the ground and airborne ADS/CPDLC systems performance during the operational trial rests with the ICAO Contracting States, whether they choose to perform the task themselves or to contract it out to another capable party, with the designated authorities made responsible for calculating, billing and collecting such charges as might be levied. The *Convention on International Civil Aviation* (Chicago, 1944) (Doc 7300/8) establishes the relevant principles for such charges, especially uniformity in conditions of use and equity in charging. Additional and more detailed policy guidance has been prepared by the Council of ICAO and this is documented in the recently revised publication, *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082/7). A particularly noteworthy general principle is that providers may require the users to pay their share of the related costs. Further comments on this matter are made below.

1.2 Thus it is clear that the obligation for providing the service resides with each State and there are policies, guidelines and mechanisms for recovering appropriate costs. One thing that complicates the matter is that few States have the specialized resources required to perform the service. That obstacle can be overcome because there is an option for each Contracting State to enter into arrangements with other States or with commercial service providers to provide the required service. The situation is that there is an obligation to provide the service if the trials are to be implemented successfully, there are options for providing the service, and there are ways to recover costs.

1.3 What makes the financing of safety monitoring distinctive in this case is that the effectiveness of the safety monitoring is related to system-wide coverage while efficiency is clearly promoted by sharing the specialized resources. Accordingly, the approach has been for the States concerned to cooperate in the establishment of a Central Reporting Agency (CRA) in order that they may meet their individual requirements. There are notable examples where States have coordinated and harmonized their processes to provide air navigation services on a sub-regional basis, but it was recognized that the CRA requires a more formal approach. Thus a Special Coordination Meeting (SCM) was held at the Regional Office on 8-10 December 2003 to make progress on a suitable funding mechanism for the CRA.

1.4 This paper describes the various organizational and financing options considered at that meeting and explains the relative strengths of each approach.

2 GENERAL PRINCIPLES

2.1 To elaborate on the guidance contained in Doc 9082/7, the Council of ICAO has agreed that as a general principle, where air navigation services are provided for international use, the providers may require the users to pay their share of the related costs. The Council recommends that when establishing the cost basis for air navigation services charges, the following principles (among others) should be applied:

- a) The cost to be shared is the full cost of providing the air navigation services, including appropriate amounts for cost of capital and depreciation of assets, as well as the costs of maintenance, operation, management and administration.
- b) The costs to be taken into account should be those assessed in relation to the facilities and services, including satellite services, provided for and implemented under the ICAO Regional Air Navigation Plan(s), supplemented where necessary pursuant to recommendations made by the relevant ICAO Regional Air Navigation Meeting, as approved by the Council. Any other facilities and services, unless provided at the request of operators, should be excluded, as should the cost of facilities or services provided on contract or by the carriers themselves, as well as any excessive construction, operation, or maintenance expenditures.
- c) Air navigation services may produce sufficient revenues to exceed all direct and indirect operating costs and so provide for a reasonable return on assets (before tax and cost of capital) to contribute towards necessary capital improvements.

2.2 The Council has observed that Governments may choose to recover less than full costs from the users in recognition of local, regional, or national benefits. Furthermore, the Council noted that it is for each State to decide for itself whether, when, and at what level any air navigation services charges should be imposed, and it is recognized that States in developing regions of the world, where financing the installation and maintenance of air navigation services is difficult, are particularly justified in asking the international air carriers to contribute through user charges towards bearing a fair share of the cost of the services. Doc 9082/7 provides further guidance on equitable methods of apportioning costs to different categories of users and emphasizes that no users should be burdened with costs not properly allocable to them according to sound accounting principles.

2.3 The Council also recognizes the desirability of consultation with users of air navigation services before changes in charging systems or levels of charges are introduced. The purpose of consultation is to ensure that the provider gives sufficient information to users relating to the proposed change and gives proper consideration to views of users and the effects the charges will have on them. The aim should be that, wherever possible, changes be made in agreement between users and providers.

3 FINANCING OPTIONS

3.1 The policies and guidelines indicated above, however, do not preclude States from entering into formal mechanisms to support cooperative approaches in the provision and financing of air navigation services. The four broad options to consider are:

- a) An International Operating Agency - a separate entity assigned the task of providing air navigation services, principally route facilities and services, within a defined area on behalf of two or more sovereign States (eg EUROCONTROL);
- b) A Joint Charges Collection Agency - an agency that collects route air navigation service charges on behalf of all of the participating States, including those that were over-flown;
- c) A Multinational Facility/Service – a mechanism included in an ICAO regional air navigation plan for the purpose of serving international air navigation in airspace extending beyond the airspace services by a single State in accordance with that regional air navigation plan. The participation of States in the provision of a multinational facility/services is based on the assumption that any State having supported and agreed to the implementation of such a facility/service and making use of it, should shoulder its share of the costs involved. Having done this, the participating States would need to formalize in an agreement the terms under which the multinational facility/service was to be provided; or
- d) An ICAO Joint Financing Agreement – an agreement involving two or more States sharing in the costs of implementing and operating air navigation facilities and services for international air transport operations.

3.2 Each of these options has its merits, but any decision to choose a particular approach for a CRA for the Bay of Bengal needs to be made in the following context:

- a) The current experience with mechanisms to support socioeconomic integration in the sub-region;
- b) The benefits in terms of a systems approach to safety monitoring under a CRA equitably funded by all States/users in accordance with ICAO policies and guidelines for recovery of costs of providing air navigation services;
- c) The relatively small scale of the CRA and the consequent need to kept administrative arrangements as simple as possible; and
- d) The temporary and evolving nature of the CRA's work and the desirability of keeping arrangements as flexible as possible; and
- e) The need to make progress establishing the CRA in order to support the ADS/CPDLC operational trial for the Bay of Bengal which has already commenced.

4 DISCUSSION

4.1 Having considered the value of a cooperative approach to safety monitoring and having evaluated the various forms of organization and financing, the States concerned agreed that the services would be provided by a commercial company under a contract managed by IATA and a special levy would be charged on operators for using the data link services (ADS and CPDLC). The SCM thus made recommendations to FIT-BOB on how to set up the funding arrangements, including a request to IATA to collect funds for the CRA from airlines and other stakeholders as advised by FIT-BOB, and to establish an arrangement for the provision of CRA services with a service provider subject to available funds for a trial period of one year.

4.2 Working Paper 11 by the Secretariat – Operation and Funding of the CRA for the Bay of Bengal ADS/CPDLC Operational Trial – documents the endorsement of these recommendations at the FIT-BOB/3 meeting held in February 2004 and of subsequent developments. Notably, however, the operational trials have commenced without having the CRA in place.

5 ACTION BY THE MEETING

5.1 The meeting is invited to:

- a) note the need for safety monitoring in support of the ADS/CPDLC operational trial for the Bay of Bengal;
- b) consider the ICAO policy and guidance relevant to the recovery of any costs incurred to provide safety monitoring services;
- c) recognize that States can fulfill their obligations to undertake this safety monitoring individually or through a suitable cooperative mechanism; and
- d) consider what actions are required to bring the CRA to a state of fruition.

.....