



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 2.7: Economics of airports and air navigation services

FUNDING OF OVERSIGHT FUNCTIONS

(Presented by the Secretariat)

EXECUTIVE SUMMARY

In recent years, the issue of funding for aviation safety, security and economic oversight functions carried out by States has been brought to the attention of ICAO. This paper presents ICAO policy and guidance material regarding various mechanisms by which to fund aviation oversight functions. It also summarizes the action planned by ICAO to further develop guidance material with respect to funding of oversight functions at the State level.

Action: The Conference is invited to:

- a) review the information, assessments and proposals presented in this paper; and
- b) adopt the recommendations in paragraph 5.

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

1. INTRODUCTION

1.1 The Fifth Worldwide Air Transport Conference (ATConf/5, Montréal, 24-28 March 2003) addressed the issue of States' oversight functions and responsibilities with regard to the impact of economic liberalization of air transport. Since that time, adequate and sustainable funding for oversight functions has emerged as a new challenge. Since the functions of safety, security and economic oversight are a State responsibility, Government funding is the assumed method by which to finance these functions. However, this is not always possible or practical, particularly for States with limited financial resources. Consequently, ICAO has developed policies and guidance on the issue of funding oversight functions, which are summarized in this paper.

1.2 The working paper has been organized as follows: three sections examine ICAO guidance material on the funding of the three oversight functions (i.e. Safety oversight funding; Security oversight funding; and Economic oversight funding). Each of these sections is structured around three components: funding at the airport/air navigation services provider (ANSP) level; funding at the national/civil aviation authority level; and funding at the regional level. The discussion is supported by the results of a survey conducted under cover of State letter EC 2/101-10/15 dated 2 March 2010 on the funding of the three oversight functions. The State letter is available on the ATConf/6 website at www.icao.int/meetings/atconf6.

2. SAFETY OVERSIGHT FUNDING

2.1 The results of the ICAO survey regarding funding of safety oversight illustrated that government (treasury) was the most important source of funding for this function (49 per cent). Other funding was derived from products and services (16 per cent), from airport charges (16 per cent), and from air navigation charges (12 per cent); other sources of funding represented the remaining 7 per cent. At the regional level, data available for five regional safety oversight organizations (RSOOs) revealed that members' contributions constituted 100 per cent of the funding for three RSOOs; government funding represented only 26 per cent and 20 per cent of the total funding, respectively, for the two remaining RSOOs, with the difference coming mainly from products and services.

2.2 At the airport or the ANSP level, it is stated in *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082) that costs directly related to the safety oversight function for airport services or for air navigation services may be included in the airport or ANSP cost basis for user charges at the States' discretion and provided that such costs are imposed on the providers of services (Doc 9082, paragraph 2 x) of Section II and paragraph 3 vii) of Section III refer).

2.3 It is also stated in Doc 9082 that ICAO policies on charges pertain to airport and air navigation services charges only (paragraph 3 of the Foreword refers). Nevertheless, the policies and charging principles contained in Doc 9082 can be applied in other circumstances, such as for funding of the safety oversight function at the national and the regional level. In all circumstances the four key charging principles of non-discrimination, transparency, cost-relatedness and consultation with users, as well as the requirement that users should only pay for services received, should be observed with respect to funding for safety oversight.

2.4 At the regional level, further to the Symposium on RSOOs, which was held at ICAO Headquarters from 26 to 28 October 2011, the Council determined that additional guidance material on the sustainable funding of RSOOs should be developed. Accordingly, the Secretariat developed new guidance material on the funding of RSOOs, which included air safety charges as one possible source. Members of the Airport Economics Panel and the Air Navigation Services Economics Panel (AEP-ANSEP) were of the opinion that they do not have the mandate or the competence to develop guidance on funding of aviation oversight functions which are not directly related to airports and air navigation services. Therefore, the new guidance on air safety charges was developed in consultation with the RSOOs, the World Bank (WB), the Airports Council International (ACI), the Civil Air Navigation Services Organisation (CANSO), the International Air Transport Association (IATA), and the Chairperson of AEP-ANSEP.

2.5 Based on the policies contained in Doc 9082, air safety charges would recover the RSOO's cost of providing certain safety oversight services, and the four key charging principles of non-discrimination, cost-relatedness, transparency and consultation with users would be included in the RSOO's constitutive agreements, regulations or policies. The guidance material on RSOOs' funding stresses that strict safeguards should be in place before the implementation of any air safety charge, and also contains extensive guidance on other economic and management aspects of RSOOs. This guidance material is to be included in the *Safety Oversight Manual* (Doc 9734).

2.6 It should be noted that the Secretariat is exploring the possibility of developing new mechanisms and further guidance material on the sustainable funding of the safety oversight function at the State level (i.e. by civil aviation administrations), using as a basis the guidance developed for RSOOs.

3. SECURITY OVERSIGHT FUNDING

3.1 The results of the ICAO survey regarding funding of security oversight illustrated that the most significant source of funding for this function (67 per cent) was derived from government (treasury); 8 per cent was derived from airport charges and 12 per cent from air navigation charges; other sources of funding represented the remaining 13 per cent.

3.2 With respect to the airport or ANSP level, it is stated in Doc 9082 that costs directly related to the security oversight function for airport services or for air navigation services may be included in the airport or ANSP cost basis for user charges, at the States' discretion and provided that such costs are imposed on the providers of services (Doc 9082, paragraph 2 x) of Section II and paragraph 3 vii) of Section III refer). In addition, it is stated that civil aviation should not be charged for any costs incurred for general security functions performed by States such as general policing, intelligence gathering and national security; additional costs incurred for additional levels of security provided regularly to users at their request may also be charged to these users. When the costs of security at airports are recovered through charges, the method used should be discretionary, but such security charges should be based on either the number of passengers or aircraft weight, or a combination of both factors (Doc 9082, paragraph 7 of Section II refers).

3.3 More comprehensive guidance material on security charges is contained in the *Airport Economics Manual* (Doc 9562) and in the *Manual on the Economics of Air Navigation Services* (Doc 9161).

3.4 ICAO has not been requested to develop additional guidance material that would specifically address security costs and related charges for the funding of the security oversight function at the national or the regional level. The existing policies and guidance are considered to be adequate and relevant. Nevertheless, the past decade has seen a significant increase in airport security costs that are passed on to users and end-users through security charges, suggesting that States' implementation of existing policies could be enhanced.

4. ECONOMIC OVERSIGHT FUNDING

4.1 The results of the ICAO survey regarding funding of economic oversight for airports illustrated that the majority of funds (76 per cent) were derived from government (treasury), an additional 19 per cent were derived from airport charges, and the remaining 5 per cent were derived from other sources. For ANSPs, results showed that the majority of funds (68 per cent) were also from government (treasury), an additional 23 per cent from air navigation services charges, and the remaining 9 per cent from other sources.

4.2 ICAO has developed extensive policy guidance for the funding of the economic oversight function for airports and ANSPs. It is stated in Doc 9082 (Section I, paragraphs 12-15) that States' exercise of economic oversight responsibilities should be clearly separated from the operation and provision of airports and air navigation services, with roles and powers clearly defined for each function. Furthermore, the main purpose of economic oversight should be to achieve a balance between the interests of airports and ANSPs, including government-operated providers, and public policy objectives, such as preventing the abuse of any dominant position the providers may have, ensuring transparency and non-discrimination, ascertaining that investments meet demands, or protecting the interests of users and end-users. Finally, costs directly related to the economic oversight function for airports or for air navigation services may be included in the airport or ANSP cost basis, at the State's discretion and provided that such costs are imposed on the providers of services (Doc 9082, paragraph 2 x) of Section II and paragraph 3 vii) of Section III refer).

4.3 At the national level, it is stated in the *Airport Economics Manual* (Doc 9562) and in the *Manual on Air Navigation Services Economics* (Doc 9161) that the potential costs (and benefits) related to a particular form of economic oversight such as fall-back regulation, price cap regulation, or rate of return regulation need to be assessed. The operation and administration of economic oversight is not cost-free, and the associated cost may increase as the approach taken by a State moves from a light-handed to a more robust form of economic oversight. In the extreme, the regulatory cost may outweigh the expected benefit. The choice of an appropriate form going beyond the application of competition law is, therefore, a matter of searching the spectrum of options with a view to protecting public interests at an acceptable level and at a minimum regulatory cost.

4.4 Finally, with respect to funding the economic oversight function at the regional level, the Conference on the Economics of Airports and Air Navigation Services (CEANS, Montréal, 15-20 September 2008), recommended that States consider the adoption of a regional approach to economic oversight where individual States lack the capacity to adequately perform economic oversight functions (Doc 9082, Section I, paragraph 15 refers).

5. CONCLUSIONS

5.1 In light of the discussions above, the following may be concluded:

- a) the functions of safety, security and economic oversight are a State responsibility, but for some States with limited financial resources, it is not always possible or practical to use Government funding for these functions;
- b) the guidance developed by ICAO on funding of oversight functions at the airport/ANSP level continues to be relevant and should be kept current for use by States according to need. Based on ICAO's policies on charges in Doc 9082, additional guidance was developed on funding of the safety oversight function at the regional level through charges. Nevertheless, given the challenges associated with funding oversight functions at the State and regional levels, ICAO's policies and guidance should be further developed.

6. RECOMMENDATIONS

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

- a) ICAO should continue developing its guidance material on the sustainable funding of the safety oversight function at the State level;
- b) ICAO should continue to monitor the situation for security and economic oversight funding;
- c) ICAO should further explore possibilities of setting up new mechanisms to ensure the sustainable funding of the oversight functions at the State and at the regional levels;
- d) ICAO should keep its policies and guidance current and responsive to the various situations encountered by different States; and
- e) ICAO should take all relevant measures to ensure a widespread awareness and knowledge of its policies and guidance material on user charges.