



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

**ADOPTION OF THE PRINCIPLE OF TRANSPARENCY IN THE LIBERALIZATION OF AIR
TRANSPORT FOR MARKET ACCESS**

(Presented by Egypt)

EXECUTIVE SUMMARY

This paper addresses the principle of transparency as one of the fundamental principles and frameworks for the liberalization of air transport, especially with regard to internal air transport procedures aimed at facilitating this process and market access.

Action: The Conference is invited to agree to the recommendations presented in paragraph 3.

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

1. INTRODUCTION

1.1 Transparency became a key factor and a general principle in the development of regulatory frameworks for the formulation of laws and regulations. Transparency is defined in the *Manual on the Regulation of International Air Transport* (Doc 9626) as clarity in the making of agreements and memorandums of understanding, and the provision of these agreements and memos to non-parties and to individuals who might have an interest in their contents.

1.2 Transparency, according to the General Agreement on Trade in Services (GATS), which includes a special supplement on air transport, is also fundamental for the liberalization of international trade. It is recognized in regional and international trade forums as a contributing factor to economic growth and free and fair competition.

1.3 Transparency is important in that it makes way for those affected by the laws and regulations to contribute to their formulation. It is therefore necessary that all concerned parties are notified of the intended actions or measures in the field of air transport, and provided with the opportunity to express either support or objection. It is in the interest of States that the principle of transparency at the national and international levels becomes more open to its effects.

1.4 Air transport is governed by bilateral and regional agreements, as well as by domestic laws and regulations. Article 83 of the Convention on International Civil Aviation (1944) requires Contracting States to register their air service agreements with the International Civil Aviation Organization (ICAO). This by itself is consistent with the principle of transparency as it provides access to those agreements. However, the requirement is not sufficient as registration does not apply to national and regional systems and procedures.

1.5 Transparency significantly contributes to the process of liberalization in the air transport sector. Removal of obstacles and barriers to this process and to the development of air transport, as well as the education and participation of those affected by the laws/regulations, encourage stakeholders' further investments, facilitate their access to markets, and consolidate their confidence.

1.6 ICAO already addressed the transparency issue in the context of user charges for airports and air navigation services. *Supplement No. 6 to Doc 9082* defines ICAO's policies on these charges, which encourage open and transparent consultations between fee-imposing authorities and users of these services.

2. CONCLUSIONS

2.1 Each Contracting State should ensure the publication of laws, regulations, procedures and administrative decisions that apply generally to air transport, and make them available to all concerned parties in an easy and accessible manner. In this regard, the Arab Republic of Egypt would like to point out that it publishes in its *Aeronautical Information Publication* all materials related to civil aviation regulations, procedures and decisions.

2.2 Each State should:

- a) publish in advance any measures/procedures proposed for adoption in the field of air transport;
- b) provide reasonable opportunity for interested individuals to participate in such proposed measures/procedures;
- c) ensure that such procedures do not address a report on an administrative procedure being applied to a person/service of a non-public nature; and
- d) ensure that the principle of transparency does not entail the disclosure of confidential information, which may hinder law making/enforcement, compromise the public interest, or prejudice legitimate commercial interests.

3. RECOMMENDATIONS

3.1 The Conference is invited to:

- a) support the principle of transparency in the liberalization of air transport, through regulatory frameworks by the Contracting States;
- b) call upon ICAO to adopt this principle as one of its principles and guidelines, and upon Contracting States to apply it; and

- c) encourage Contracting States to take advantage of modern electronic media for the dissemination of air transport information and procedures, and establish known focal points to provide information to parties concerned.

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