



**WORKING PAPER**

**CONFERENCE ON THE ECONOMICS OF AIRPORTS AND  
AIR NAVIGATION SERVICES**

**Montréal, 15 to 20 September 2008**

**Agenda Item 1: Issues involving interaction between States, providers and users  
1.3: Consultation with users**

**CONSULTATION WITH USERS**

(Presented by the Secretariat)

**SUMMARY**

This paper seeks to set guidelines to which airports and air navigation services providers should adhere to ensure that users are properly consulted on issues that could materially affect them, i.e. charges levels and structure, capacity development and investments. The paper concludes that a permanent, regular consultation process should be established where provider/users cooperative arrangements are not already in place. Accordingly, an amendment of the text in *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082) is proposed.

Action by the Conference is in paragraph 5.

**1. INTRODUCTION**

1.1 Good relations between regulators, service providers and users are important for the sound development of air transport. Consultation and cooperation between service providers and users are essential factors in the efforts to increase efficiency and improve cost-effectiveness in the provision and operation of airports and air navigation services. This paper seeks to develop guidelines on consultation, with the aim of enhancing cooperation between service providers and users.

1.2 Consultation with users on airport and air navigation services charges and planning should also cover all other aspects, referred to in *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082), that include principles with references to consultations, namely, performance management, pre-funding of projects, collection of passenger services charges, cost recovery of security measures and environmental charges.

## 2. DISCUSSION

2.1 There is a wide variation between service providers in the degree of consultation and users' involvement. While some airports have established cooperative arrangements such as service level agreements (i.e. defining the level of service provided and the rules that govern the airport/users relationship on the agreed services), many other airports and air navigation services providers (ANSPs) around the world do not maintain a proper and regular consultation process, or do not consult users at all.

2.2 Without consultation or any other cooperative mechanism, there is a risk that users' needs and requirements will not be known to regulators and service providers, which could lead to sub-optimization in the development of airports and air navigation services systems. For example, individual strategies might result in unnecessary and expensive investments, and capacity or safety issues ensuing in cost and charges increases for users and their customers. Conversely, much needed services and capacity may not be provided in a timely manner for users.

2.3 Where there are no cooperative arrangements in place that are acceptable to service providers and users, States should ensure that all the users concerned are properly consulted on issues that could materially affect them, i.e. charges levels and structure, capacity development and investments. The objectives of consultation are to increase the mutual understanding between providers and users, give them an awareness and knowledge of each others' plans and intentions, and increase the chance of success for any major policy change or investment with all the parties striving to move in the same direction. The issue here is what type of consultation mechanism would best serve to achieve these objectives.

2.4 Paragraphs 31-32 and 49-50 of Doc 9082 recommend consultation prior to a revision of charges or the imposition of new charges, and before the finalization of development plans. However, as discussed in paragraph 2.1, ad-hoc consultation mechanisms may be easily overlooked or ignored by service providers. It is therefore recommended that Doc 9082 include a more robust consultation mechanism that should be maintained even in times where no changes in charges, capacity development or investments are being contemplated by a provider.

2.5 Specific procedures for such permanent, regular consultation should be determined on a case-by-case basis, taking into account the form of economic oversight adopted in the State concerned as well as the size and scale of the service provider's activities. Regardless of the procedures, all possible steps should be taken to reach consensus before proceeding with major changes, although it should be acknowledged that it may not be possible, or even desirable, to reach consensus in each situation. User feedback obtained during consultations should be considered, as far as possible, before reaching a decision regarding any proposal.

2.6 One factor for successful consultation is goodwill from all the parties involved. The party being consulted (user) has an equal responsibility as the party consulting (service provider) to actively engage in the consultation process. Other factors to be considered are transparency and clarity. For example, capacity development plans should be supported by business cases, and major investments should be supported by disclosure of adequate financial information with all assumptions properly explained, including analyses of the impact on the parties concerned.

2.7 Paragraphs 31 and 49 of Doc 9082 recommend that service providers give at least four months advance notice of the proposed revisions of charges or the implementation of new charges, and that reasonable advance notice of the final decision be given to the users. Regarding the latter, a minimum notification period, i.e. at least one month prior to implementation, would provide the users with some

time to make adjustments to their fares, if needed, and it would also allow them some time to invoke a dispute resolution mechanism, where available, prior to the revised charges taking effect.

2.8 In Doc 9082, consultations with users with regard to airports and air navigation services are currently treated separately, i.e. paragraphs 31-33 for airports and paragraphs 49-51 for air navigation services, although they are similar. Given that the general framework of user consultation is common to airports and air navigation services and for reasons of conciseness and ease of reference, these paragraphs can be merged into one single package applicable to both services, with necessary amendments reflecting the above discussion, and placed in Section 1 of Doc 9082.

### 3. CONCLUSIONS

3.1 From the foregoing discussion, the following conclusions may be drawn:

- a) States should ensure that a permanent, regular consultation process is established with all users at their airports and air navigation services entities where provider/users cooperative arrangements are not already in place;
- b) States should ensure that, as part of that process, users are consulted on the level and structure of charges but also regarding capacity development and investments, and that users' feedback obtained during consultations is considered, as far as possible, before reaching a decision regarding any proposal; and
- c) ICAO should amend Doc 9082 to include the concept of a permanent, regular consultation process under new paragraphs on consultation with users covering both airports and air navigation services.

### 4. PROPOSED AMENDMENTS OF POLICIES

4.1 In accordance with conclusion c) of paragraph 3.1, it is proposed to replace paragraphs 31-33 and 49-51 of Doc 9082 with the following four new paragraphs on consultation with users, which should be placed immediately after the current paragraph 17:

#### **Consultation with users \***

##### ***Charges***

*xx. The Council emphasizes the importance of consultation with airport and air navigation services users before changes in charging systems or levels of charges are introduced. The purpose of consultation is to ensure that the provider gives adequate information to users relating to the proposed changes and gives proper consideration to the views of users and the effect the charges will have on them. The aim should be that, wherever possible, providers and users reach an agreement. Failing such agreement, the provider would continue to be free to impose the charges concerned, subject to users having the right of appeal to a body independent of the provider, where available, but*

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\* Consultation with users should cover all other aspects of charges contained in this policy document where there are principles referring to consultation(s).

*the appeal process should be consistent with the form of economic oversight adopted in the State concerned. If there is not an appeal mechanism in place it is even more important that providers and users make every effort to reach an agreement on any changes in charging systems or levels of charges before they are introduced.*

### ***Airport and air navigation services planning***

*yy. The Council also considers it important that users or their representative organizations be consulted concerning capacity development and investment plans. The purpose of such consultation is to ensure that the developments concerned meet the needs of users, and that users are aware of the financial implications of the charges they would have to pay. Equally, in order that airport entities and providers of air navigation services may better plan their future financial requirements, users, particularly air carriers, should for their part provide advance planning data to individual airport entities and providers of air navigation services on a 5- to 10-year forecast basis relating to future types, characteristics and numbers of aircraft expected to be used, the anticipated growth of aircraft movements, passengers and cargo to be handled, and other relevant matters.*

### ***Permanent, regular consultation mechanism***

*zz. Where there are no provider/users cooperative arrangements in place that are acceptable to all parties concerned, the Council encourages States and their airport entities and providers of air navigation services to establish a permanent, regular consultation process with all user categories and/or their representative organizations operating at the airport or in the particular airspace. Specific procedures for effective consultation should be determined on a case-by-case basis taking into account the form of economic oversight adopted in the State concerned. The procedures at individual airports and airspaces will also need to take into account the size and scale of the airport's and the provider of air navigation services' activities. Subject to these considerations, the Council recommends that:*

- i) When a revision of charges or the imposition of new charges is contemplated by an airport operator, a provider of air navigation services provider or other competent entity, appropriate notice should normally be given to users or their representative bodies at least four months in advance, in accordance with the rules and regulations applicable in each State.*
- ii) In any such revision of charges, or imposition of new charges, the users should be given the opportunity to submit their views and consult with the airport operator, the provider of air navigation services or other competent entity. Users should be provided with transparent and adequate financial, operational and other relevant information to allow them to make informed comments.*
- iii) Reasonable advance notice, of at least one month, of the final decision on any revision of charges or imposition of new charges should be given to the*

*users. This one month period does not need to be in addition to the four months prescribed in i) above.*

- iv) Consultations, in general, should make clear the nature of proposals, the parties most likely to be affected, the business cases for proposals, the financial analyses that have been conducted, the specific questions on which feedback is requested, and the time schedule for responses. All interested parties should be given the opportunity to present their views. Decision documents should contain clear reasons for the chosen outcome(s) and show how responses have, or have not, been taken into account.*

***First resort mechanism***

*xy. The Council considers, with regard to charges in particular, that with the rapid growth in the number of airports and providers of air navigation services that are independent from direct government control, there may, in the interest of the airports, the providers of air navigation services and their users, be a need for a neutral party at the local level to preempt and resolve disputes before they enter the international arena (a first resort mechanism). The mechanism should be flexible, and its focus should be on conciliation or mediation but could range to full arbitration if the State concerned so decides. Such a function might be included in the terms of reference of an independent body with the much broader responsibilities of overseeing the operations of the autonomous service providers, referred to in paragraph 15, or it might be separately established.*

**5. ACTION BY THE CONFERENCE**

5.1 The Conference is invited to:

- a) review and adopt the conclusions in paragraph 3.1; and
- b) review and endorse the proposed amendments of Doc 9082 in paragraph 4.1.

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