



CEANS-WP/73
15/9/08

CONFERENCE ON THE ECONOMICS OF AIRPORTS AND AIR NAVIGATION SERVICES

Montréal, 15 to 20 September 2008

DRAFT REPORT ON AGENDA ITEM 1.1

Agenda Item 1: Issues involving interaction between States, providers and users
1.1: Economic oversight

1.1.1 Documentation

Secretariat (WP/4) reviewed the purpose of economic oversight for airports and air navigation services and considered how to select the appropriate form of economic oversight. It reaffirmed that economic oversight is a State's responsibility with various public policy objectives including the prevention of the risk that a service provider could abuse its dominant position. If economic oversight beyond competition law is deemed necessary, the degree of competition, the costs and benefits related to it, as well as the legal, institutional and governance frameworks should be taken into consideration. The paper proposed to amend the text in Doc 9082 to clarify the purpose, scope and selection of the appropriate form of economic oversight.

Uganda (WP/69) believed that regional organisations can provide the necessary resources for States that do not have their own capacity to adequately perform economic oversight functions. There should be mechanisms for ICAO to work with such regional organizations through the development of guidance material.

United States (WP/71) provided an amendment to the text of Doc 9082 proposed in WP/4 to emphasize the need that regulatory interventions should be measured and applied in a manner proportionate to the specific circumstances.

53 African States (WP/58) described the role of AFCAC as the African Air Transport Executing Agency of the Yamoussoukro Decision responsible for the economic oversight of Africa's liberalized air transport industry. The paper urged States to implement the ICAO Assembly Resolution regarding economic regulation of international air transport.

UNWTO (WP/22) agreed that economic oversight of airports and air navigation services is a necessary State responsibility with the promotion of an appropriate balance amongst safety, security and facilitation, environmental and economic issues. The overall package of economic instruments should provide net economic benefits for all developing countries and preferential measures for the Least Developed Countries in particular.

IAC (WP/53) supported WP/4, confirming the role of the States in economic oversight in the form of legislation or through the establishment of an appropriate regulatory mechanism to resolve the issues on the increase of the cost of aviation fuel.

ACI (WP/27) stressed that applying similar forms of economic oversight to airports and ANSPs ignores the differences between the two types of service providers, in particular their divergent degree of competition. The proposed amendment of Doc 9082 should therefore be consistent with the underlying assumption that airports do not *per se* have a dominant market position. The paper concluded that any regulatory interventions should be kept at a minimum, be subject to a cost-benefit analysis, and ensure sufficient investment to meet future demand.

IATA (WP/46) outlined the need for economic oversight to be applied at all airports and ANSPs regardless of the degree of competition and their size as this is a State responsibility. The paper emphasized that economic regulation should be applied where competition does not exist to protect users from potential monopoly abuse. To reflect their view, further amendment of the text in Doc 9082 proposed in WP/4 was provided.

ITF (WP/24) stated that economic oversight can have a direct impact on the employment conditions of workers. In setting a regulatory framework, therefore, ICAO should take account of the need to balance the requirements of users, employees and other stakeholders.

Secretariat (WP/18 – information paper) summarized the results of the recent survey on the status of ownership, organization and regulatory practices of airports and ANSPs in 2007 and planned changes thereof.

Mali (WP/41 – information paper) presented information on its current practices and experiences related to economic oversight, economic performance management, and consultation with users. The paper also expressed support for the amendments of Doc 9082 proposed by the ICAO Secretariat (WPs/4, 5 and 6).

Republic of Korea (WP63 – information paper) described the role of its government in the areas of economic oversight and performance management of the country's airport operators, which are operated by independent organizations.

ACI (WP/66 – information paper) provided a summary of its latest global traffic forecast report, indicating, *inter alia*, that global passenger volumes will surpass the 5 billion mark by 2009, reaching 11 billion by 2027.

1.1.2 Discussion

1.1.2.1 To facilitate the discussion on economic oversight, the Conference Chairman clarified the meaning of the term “economic oversight” as different from “economic regulation” by referring to the definitions contained in Doc 9082, Appendix 3.

1.1.2.2 The Conference gave widespread support to the thrust of the draft conclusions presented by the Secretariat in WP/4, reflecting broad recognition for the need for economic oversight in the increasingly commercialized and privatized environment for airports and air navigation services. A number of suggestions were made for improving the proposed new text for Doc 9082. In light of the many tasks facing it, however, the Conference felt that it should focus on the draft conclusions rather than the detailed wording of the relevant Doc 9082 amendment. It was agreed that the Secretariat would take into account the comments and suggestions made during the discussion in preparing the final text of the amendments to Doc 9082 for consideration by the Council.

1.1.2.3 In reviewing the forms of economic oversight, there was some support for giving States more flexibility in choosing its appropriate form and for applying economic oversight proportionate to their specific circumstances. The Conference did not see a need for this introduction.

1.1.2.4 With respect to the suggestions for an extended or a more limited application of non-discrimination and transparency principles, as well as the specific suggestion that economic oversight be

applied to “all” service providers, the Conference felt that these amendments would be either redundant or unnecessary since the current text in Doc 9082 already incorporates such principles.

1.1.2.5 The Conference expressed support for a proposal to revise the text about one of the public policy objectives. It was agreed to replace the phrase “providing incentives for service providers to reach agreements on charges and service levels” by “encourage consultation with users”.

1.1.2.6 A view was expressed that due consideration should be given to the needs and challenges faced by developing countries, some of which do not have the necessary funds to invest in aviation infrastructure to meet even the current demand, nor the resources to perform their duty of economic oversight, given competing priorities on safety, security, environment and liberalization of air transport. In this regard, it was agreed that a regional approach, such as that proposed in WP/58, could be a useful option for States to pull their resources together in performing their economic oversight functions.

1.1.3 Recommendation

1.1.3.1 From the documentation and ensuing discussion on economic oversight under Agenda Item 1.1, the Conference adopted the following recommendation:

RECOMMENDATION 1 – ECONOMIC OVERSIGHT

THE CONFERENCE RECOMMENDS THAT:

- a) States should bear in mind that economic oversight is the responsibility of States with the objectives, *inter alia*, to prevent the risk that a service provider could abuse its dominant position, to ensure non-discrimination and transparency in the application of charges, to encourage consultation with users, to ensure the development of appropriate performance management systems, and to ascertain that capacity meets current and future demand, in balance with the efforts of the autonomous/private entities to obtain the optimal effects of commercialization or privatization;
- b) States should select the appropriate form of economic oversight according to their specific circumstances, while keeping regulatory interventions at a minimum and as required. When deciding an appropriate form of economic oversight, the degree of competition, the costs and benefits related to alternative oversight forms, as well as the legal, institutional and governance frameworks should be taken into consideration;
- c) States should consider adoption of a regional approach to economic oversight where individual States lack the capacity to adequately perform economic oversight functions; and
- d) ICAO should amend Doc 9082 to clarify the purpose and scope of economic oversight for airports and air navigation services with reference to its different forms and the selection of the most appropriate form of oversight.

— END —