



CEANS-WP/85
19/9/08

CONFERENCE ON THE ECONOMICS OF AIRPORTS AND AIR NAVIGATION SERVICES

Montréal, 15 to 20 September 2008

DRAFT REPORT ON AGENDA ITEM 4

Agenda Item 4: Implementation of ICAO's policies on charges

4.1 Documentation

Secretariat (WP/17) considered how to promote adherence to ICAO's policies on charges, as contained in Doc 9082. Recent surveys show that ICAO's policies have not been fully implemented by some States and service providers. With the objective of increasing the awareness and knowledge of ICAO's policies and obtaining the broadest possible adherence to them, the paper proposed several actions to be taken, including an explicit re-affirmation by the ICAO Council, of its support for the policies and promotional activities by the ICAO Secretariat. The paper also concluded that States should ascertain that their service providers implement ICAO's policies.

France, on behalf of the EU, ECAC and their Member States and United States (WP/87) expressed the view that adherence to and implementation of ICAO's policies on charges could be significantly advanced by the adoption by States of legal obligations that reflect the essential principles of non-discrimination, cost-relatedness, transparency and user consultation. In addition to incorporating the principles of Doc 9082 into their national law, States should incorporate them into their future air services agreements.

European Commission (WP/65) took the view that the levying of airport charges needs regulation and had therefore proposed new legislation in this field. This paper outlined the main provisions of its proposal on airport charges, which the European Parliament and the Council of Ministers were currently discussing. The proposal aimed at ensuring efficient implementation of ICAO's principles; however, this would require some of ICAO's concepts and definitions to be further clarified. The paper also supported the conclusions presented by the ICAO Secretariat (WPs/4, 6, 10 and 17).

IAC (WP/53) discussed, *inter alia*, the increased role of the States in the promotion and implementation of ICAO's policies on charges and supported WP/17.

IATA (WP/50) felt that increasing non-compliance with established ICAO's policies and guidance material being experienced by users was affecting airlines' business practices and generating disturbances in a liberalized airline market. The paper supported WP/17 and sought to improve compliance with ICAO's policies to protect users from abuse of dominant market positions and to ensure a level playing field for all users.

Secretariat (WP/20 – information paper) summarized the results of the recent ICAO questionnaire administered on States, in order to update the Supplement to Doc 9082, with respect to the adherence of national regulations and practices to the ICAO policies on charges.

Mali (WP/44 – information paper) described its practices and considered it important that training courses be held to popularize ICAO's policies on charges.

4.2 Discussion

4.2.1 It was recognized that the degree of implementation of ICAO's policies on charges was not adequate in many instances. The Conference focussed its discussion on exploring possible ways to improve the situation, namely a) how to promote the awareness and knowledge of the policies as a means to raise adherence, and b) how to strengthen the implementation of the policies.

4.2.2 On the first aspect, there was general consensus to encourage ICAO to take all measures possible to ensure a widespread awareness and knowledge of its policies on charges, drawing, for example, on suggestions made in WP/17, such as regional workshops. It was also suggested that an increased cooperation with the industry would facilitate a greater understanding of the policies.

4.2.3 On the second aspect, there was agreement, based on suggestions in WP/87, that an efficient measure for ICAO's policies on charges to attain a higher status and obtain better adherence would be through the inclusion of the main principles of Doc 9082 into national legislation, regulation or policies. Similarly, the Conference considered it important that the same principles be included as a specific provision in future air services agreements. Responding to the concerns of some States, the Conference noted, however, that these recommendations were more of a moral obligation to States than binding in a legal sense.

4.2.4 The Conference did not support the conclusion in WP/17 that States should notify their deviations from the adherence to ICAO's policies on charges, since such a requirement was applicable only to the implementation of Standard and Recommended Practices (SARPs) but not to economic policies. It was also suggested that the reference to "high priority" in the draft conclusions of WP/17 should be deleted as it is the responsibility of States to establish such priorities. It was also understood that ICAO would continue to monitor States' implementation of its policies on charges through surveys, as necessary.

4.3 Recommendation

4.3.1 From the documentation and ensuing discussion on implementation of ICAO's policies on charges under Agenda Item 4, the Conference adopted the following recommendation:

RECOMMENDATION 15 – IMPLEMENTATION OF ICAO'S POLICIES ON CHARGES

THE CONFERENCE RECOMMENDS THAT:

- a) States should recognize that adherence to ICAO's policies on charges in Doc 9082, which have their principal origin in Article 15 of the *Chicago Convention*, promotes the efficient and cost-effective provision and operation of airports and air navigation services, as well as a sound relationship with users, in particular, with respect to transparency and the fair treatment of different categories of users;
- b) States should ensure that their airports and ANSPs adhere to ICAO's policies on charges;
- c) ICAO should take all relevant measures to ensure a widespread awareness and knowledge of its policies on charges, in cooperation with the industry;

- d) ICAO should encourage States to adopt the principles of Doc 9082 on non-discrimination, cost-relatedness, transparency and consultation with users into national legislation, regulation or policies to ensure compliance by airports and ANSPs; and
- e) ICAO should encourage States to include the principles of Doc 9082 on non-discrimination, cost-relatedness, transparency and consultation with users into their future air services agreements to ensure compliance by airports and ANSPs.

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