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MODEL INSTRUMENTS FOR CONSULTATION WITH USERS AND FOR FIRST INSTANCE RESOLUTION OF DISPUTES OVER CHARGES FOR AIRPORTS AND AIR NAVIGATION SERVICES

(Presented by Mexico)

EXECUTIVE SUMMARY

ICAO's Policies on Charges for Airports and Air Navigation Services (Doc 9082) require consultation with users before charges are revised and recommend the establishment of first-resort mechanisms for resolving disputes. However, they do not provide States with a model for developing either mechanism. The result is uneven implementation worldwide and a polarized debate between those calling for enforceable safeguards and those concerned about overregulation.

Mexico proposes a constructive way forward: for the Organization to translate principles into practical instruments. A model consultation mechanism and a model first-resort mechanism, which each State could adopt in accordance with its own legal framework, would give users an effective voice and provides predictability and legitimacy, without imposing a single regime. Mexico offers to contribute to this work its experience of more than 25 years of charges regulation and airport consultation committees.

1. INTRODUCTION

1.1 Consultation with users and the timely resolution of disputes are two pillars of the policies set out in Doc 9082. Consultation enables decisions on charges and investment to take account of information from those who pay for infrastructure, while a first-resort mechanism prevents every disagreement from escalating into lengthy and costly judicial proceedings that are detrimental to both parties.

1.2 The Organization has clearly defined the principle, but not the mechanism. Doc 9082 calls for meaningful consultation and suggests establishing a first-resort mechanism, without specifying how these mechanisms are constituted, what information they require, what time frames they follow or what effects they produce. Each State has had to devise its own response, and many have none in place.

[1] English and Spanish versions provided by Mexico.

1.3 This paper proposes that the Conference requests the development of two model instruments, one for consultation and one for first-resort dispute resolution, as practical guidance for voluntary application. Mexico contributes its own experience to the proposal and recognizes, on the basis of evidence from the survey conducted by the Organization in 2026, that the gap between principle and mechanism is a problem shared by States in all regions.

2. THE GAP BETWEEN PRINCIPLE AND MECHANISM

2.1 With regard to consultation, existing policies indicate who should be consulted and on what matters, but do not establish the operational elements that distinguish meaningful consultation from a mere formality: the minimum information that the provider should make available to users in advance, the time frames for the process, the manner in which outcomes are recorded and how the regulator should address the views expressed.

2.2 With regard to disputes, the absence of a specialized first-resort mechanism leaves the parties facing a costly choice: to accept the provider's decision even if they consider it unjustified, or to take the disagreement to the courts or exert pressure on the public administration, with resolution potentially taking years. Neither option protects the long-term relationship among airports, air navigation services providers and airlines on which connectivity depends.

2.3 Recent debate in the Organization's forums reflects this gap. Users call for independent scrutiny and enforceable safeguards, while providers warn against overregulation that inhibits investment. A voluntary and adaptable model instrument offers common ground between the two positions, as it improves the quality of implementation without imposing a single regime.

3. MEXICO'S EXPERIENCE

3.1 For more than 25 years, Mexico has regulated maximum charges at its main airports, with five-year reviews of master development programmes and annual compliance verification. Its legislation provides for an operations and scheduling committee at each airport, comprising the airport operator, the civil aviation authority, air carriers and service providers, which issues recommendations on charges and prices.

3.2 This experience demonstrates the value of mechanisms, as well as their limitations in the absence of an international benchmark. The committees' recommendations are not binding on the parties, and disputes over charges lack a specialized first-resort mechanism and are therefore addressed through general administrative and judicial procedures. Mexico shares this lesson in a constructive spirit, convinced that no State can resolve on its own a problem that calls for a comparative approach to institutional design.

3.3 Mexico therefore offers to contribute its legal framework, the operating practices of its committees and information from its institutional statistical system to this work, as a documented case of early implementation whose achievements and outstanding issues can inform the design of the model instruments.

4. THE PROPOSED INSTRUMENTS

4.1 The model consultation instrument would comprise at least five elements: the minimum information to be provided in advance by the provider, including the cost and investment justification for

the proposed changes; the time frames for each stage; participation in the consultation, with effective user representation; a public record of positions and responses; and the effects of the process, namely the obligation of the provider and the regulator to provide reasoned responses to objections before taking a decision.

4.2 The model first-resort instrument would define the nature of the body and the safeguards for its impartiality, the scope of disputes it handles, short time frames for resolution, and its relationship with the regulator and judicial remedies, which it does not replace. Comparative experience shows that the mere existence of a first-resort mechanism encourages early agreement between the parties.

4.3 Both instruments would be voluntary and adaptable to each State's legal framework, following the same approach used by the Organization in developing other guidance material. They would naturally be incorporated into updates to the *Airport Economics Manual* (Doc 9562) and the *Manual on Air Navigation Services Economics* (Doc 9161), and potentially reflected in the next edition of Doc 9082.

5. CONCLUSION

5.1 Effective implementation of policies on charges will not be achieved by reaffirming principles, but by equipping States with operational instruments. Meaningful consultation and first-resort dispute resolution are the two missing elements whose absence accounts for a substantial share of the sector's current disputes.

5.2 The proposed actions have identifiable responsible bodies and target documents, and their implementation can be verified before the next Conference.

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