



WORKING PAPER

WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

Montréal, 18 to 22 March 2013

Agenda Item 1: Global overview of trends and development

Agenda Item 1.1: Industry and regulatory developments

EU AND ECAC INDUSTRY AND REGULATORY DEVELOPMENTS

(Presented by Ireland on behalf of the European Union (EU) and its Member States¹ and by the other Member States of the European Civil Aviation Conference² (ECAC))

EXECUTIVE SUMMARY

This Working Paper outlines key industry and regulatory developments in EU and ECAC Member States since the Fifth Worldwide Air Transport Conference in 2003 focusing on the areas of economic regulation of air transport. It also refers to key EU-ECAC priorities for the Conference.

Action: The Conference is invited to agree to the recommendations presented in paragraph 4.

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

1. INDUSTRY DEVELOPMENTS

1.1 European Union (EU) air passenger traffic has grown at an annual average rate of 3.4% between 2004 and 2011 in terms of the number of passengers carried. Within this period the industry, faced with economic recession, saw negative annual average growth of -0.7 per cent during 2008-2010, compared to the 6 per cent average annual growth in the previous four years. EU freight traffic has grown marginally faster than passenger traffic at an annual average rate of 3.5 per cent between 2004 and 2011.

1.2 Since 2004 the annual average growth in the number of summer routes has been 4.7 per cent (from 2,852 to 4,119), while during the winter season this growth has been 2.6 per cent (2,172 to 2,658). Air carriers face more competition especially during the summer season with more choice

¹ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

² Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Iceland, the Republic of Moldova, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland, The former Yugoslav Republic of Macedonia, Turkey and Ukraine.

available to passengers. Summer season routes with more than 2 carriers have increased by 40 per cent from 2004 to 2012, while this increase for winter routes has been less than 30 per cent.

1.3 Over the last twenty years, liberalisation of the air transport market has also triggered cross-border consolidation in the EU/ECAC airline industry, which had been previously organised along the lines of national borders. It has led to a reduction in the number of "legacy airlines" through mergers of some and bankruptcies of others. After the peak in 2003, the number of air carriers offering scheduled passenger services has decreased from 224 (2004) to 189 (2012) in ECAC Member States. This trend is likely to continue in the near future. However, the EU airline industry is still largely fragmented, counting a dozen larger legacy carriers, numerous independent regional carriers and many low-cost or semi-low cost carriers.

1.4 Air carriers also compete in terms of business models: low-cost carriers have taken 45 per cent of intra-EU market by 2012, growing from 20 per cent in 2004. This has further intensified intra-EU competition, and led to "legacy airlines" implementing major cost-cutting initiatives and setting up their own low-cost subsidiaries on short-haul routes. Long-haul services are also increasingly competitive in certain markets. As a response, consolidation has continued, and air carriers join alliances or form other cooperative arrangements with partners in other regions to achieve merger-like synergies.

2. KEY REGULATORY DEVELOPMENTS

2.1 **Internal Market.** In 2008 the EU merged, updated and clarified where necessary the three regulations from 1992 which comprised the "Third Package" i.e. the legislative measures that established the EU internal air transport market. Some new elements such as regarding price transparency and code-share rights were added, while the price leadership requirement³, among others, was removed. The new Regulation 1008/2008 continues to serve as a solid basis for a fully open and integrated air transport market.

2.2 **Airport charges.** The EU adopted the Airport Charges Directive in 2009⁴ which aims primarily to introduce greater transparency into the calculation of airport charges and to ensure that they are applied in a non-discriminatory manner. It builds upon the established ICAO policies on airport charges in Doc 9082 (*ICAO's Policies on Charges for Airports and Air Navigation Services*) and applies to every airport in the European Union handling more than 5 million passengers annually, and also to the largest airport in a Member State which has no airport fulfilling this criterion.

2.3 The implementation of the Directive by EU Member States also contributes to better planning and delivery of new infrastructure, improved predictability for both airports and carriers and, in general, greater efficiency and rational use of airport resources.

2.4 **Airport noise.** While people want to travel more frequently and economies are becoming ever more global, the impact of air traffic noise is becoming an issue of greater public concern. EU and ECAC Member States are taking measures to protect citizens from excessive noise and further promote "sustainable air traffic growth", in line with ICAO's Balanced Approach.

2.5 **Economics of air navigation services.** The EU has addressed the economics of air navigation services in the context of the Single European Sky, following the gate-to-gate approach and developing the future concepts of aviation. Economics of air navigation services concern the performance

³ i.e. that only EU air carriers were allowed to introduce new products or lower fares on intra-EU air routes.

⁴ Directive 2009/12/EC of the European parliament and of the Council of 11 March 2009 on airport charges.

and charging of such services as well as investments in Air Traffic Management infrastructure. Economic aspects are regulated in line with ICAO principles. More information on this issue is presented in a separate Working Paper (ATConf/6-WP/52).

2.6 **Consumer protection.** The evolutionary development of air passenger rights since 2003 has been a key element in balancing the impact on passengers in the fully liberalised internal air transport market, by providing them confidence in their right to travel, and also supporting the sustainable growth of that market.

2.7 The broad spectrum of rights introduced over this period - providing greater access to air travel to disabled passengers and passengers of reduced mobility, improved price transparency in the fares paid, and assistance in situations where passengers are denied boarding, or subjected to short notice cancellation or long delay - has fundamentally changed the relationship between passengers and the air transport industry. Although we recognise there is a cost to air carriers, providing a more equal relationship between the parties has fostered an improvement in the services on offer and an increase in consumer choice. Improved cooperation between airlines airports and ground handlers in the provision of such services has, in part, also led to consequential improvements in industry efficiency and in the use and allocation of scarce resources.

2.8 EU/ECAC recommendations in relation to consumer rights are included in a Working Paper (ATConf/6-WP/55).

2.9 **Competition and state aid.** EU competition and state aid rules have been applied to ensure that there is a level playing field for operators in a liberalised environment, and the market is not distorted. Developments in EU competition and state aid polices are presented in a separate Working Paper (ATConf/6-WP/51).

2.10 **Air transport agreements.** The EU air transport market has been the basis for further integration at a wider pan-European level. The "Common Aviation Area" being established through comprehensive aviation agreements between the EU and its neighbours⁵ is based on the same principles of open markets, regulatory harmonisation and the application of compatible competition rules to ensure fair competition. Good examples of the positive effects of the liberalisation of market access are Morocco and the Western Balkans. With Common Aviation Agreements in place, passenger traffic between EU Member States and Morocco has doubled since 2005 and the average annual growth in passenger numbers was 11.2 per cent between 2006 and 2011, and similar growth in passenger traffic has taken place between EU Member States and the ECAA partners in the Western Balkans where the average annual growth in the same period was 7.7 per cent in terms of passenger numbers.

2.11 Furthermore, the EU has negotiated comprehensive aviation agreements with other key aviation partners beyond Europe. The agreements with the US and Canada respectively, provide for market opening, the liberalisation of air carrier ownership and control and regulatory convergence.

2.12 Finally, alignment with EU law ("EU designation") has been agreed with respect to nearly 1000 bilateral air services agreements (ASAs) between EU Member States and 117 partner countries. This provides for legal certainty and contributes to relaxing restrictive designation clauses in ASAs.

⁵ "Common Aviation Area" Agreements have been negotiated between the EU and the following partners: Albania, Bosnia and Herzegovina, Croatia, The former Yugoslav Republic of Macedonia, Montenegro, Serbia, Kosovo under UN Security Council Resolution 1244, Morocco, Georgia, Jordan, the Republic of Moldova and Israel.

3. **EU AND ECAC PRIORITIES**

3.1 The Sixth Worldwide Air Transport Conference will provide a good opportunity to discuss and promote the further development of the economic regulation of international air transport. EU and ECAC Member States consider the following issues as their priorities for the Conference:

- a) subject to measures that help ensure open and fair competition, we favour, and ask ICAO to actively promote the on-going liberalisation of international air transport;
- b) we expect ICAO to develop basic principles for open and fair competition and instruments to help ensure that it is delivered (including active encouragement and support for all ICAO Member States to adopt competition laws applicable to international air transport and clear, transparent and enforceable state aid rules);
- c) we also encourage ICAO to promote the liberalisation of airline ownership and control bilaterally, intra-regionally or on region-to-region basis in a reciprocal, gradual and sustainable manner (whilst ensuring the maintenance of effective regulatory control). This would contribute significantly to the "normalisation" of the aviation industry, and would help facilitate, for example, further consolidation;
- d) we urge ICAO to develop a set of key minimum principles necessary for the protection of air passengers (for example, in relation to information provided to passengers from booking to arrival, price transparency, denial of boarding, short-notice cancellation, long delay and assistance to passengers with reduced mobility). Of course, a globally accepted set of key minimum principles would not stop countries or blocs mandating higher standards.

4. **RECOMMENDATIONS**

4.1 The Conference is invited to note:

- a) the industry and regulatory developments in EU and ECAC Member States as outlined in this paper; and
- b) EU and ECAC Member States' priorities for the Conference.

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