



International Civil Aviation Organization

WORKING PAPER

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ASSEMBLY — 42ND SESSION

ECONOMIC COMMISSION

Agenda Item 26: Economic Development of Air Transport

ADVANCING COMPLIANCE WITH ARTICLE 15 OF THE CHICAGO CONVENTION

(Presented by the United States)

EXECUTIVE SUMMARY

This paper outlines ongoing efforts to enhance Contracting States' compliance with Article 15 of the Convention on International Civil Aviation (Chicago Convention), which requires that user charges for international civil aviation be non-discriminatory, transparent, and published. It highlights the collaborative development of guidance material and a draft State letter by the Air Transport Regulation Panel (ATRP) and the Airport Economics Panel and Air Navigation Services Economics Panel (AEP-ANSEP), as well as a proposed process to support the ICAO Council's role in reviewing charges. These initiatives aim to improve awareness and consistent application of Article 15 obligations across all Contracting States. Given the fundamental importance of Article 15 and the urgency of resolving compliance concerns, the Assembly is invited to request that ICAO expedite the timely dissemination and implementation of these deliverables.

Action: The Assembly is invited to:

- a) underscore the urgency of finalizing and disseminating these materials and processes without delay, and that ICAO adopt the most efficient and responsive mechanisms possible for resolving concerns raised by Contracting States and promoting compliance with Article 15; and
- b) endorse expeditious dissemination by the Secretariat of the proposed guidance material and State letter as essential to upholding ICAO's leadership role in ensuring Contracting States' adherence to Article 15 of the Convention.

<i>Strategic Goals:</i>	This working paper relates to Strategic Goal: The Economic Development of Air Transport Assures the Delivery of Economic Prosperity and Societal Well-Being for All
<i>Financial implications:</i>	N/A
<i>References:</i>	Doc 7100, <i>Tariffs for Airports and Air Navigation Services</i>

1. INTRODUCTION

1.1 Article 15 of the Convention on International Civil Aviation (Chicago Convention) is foundational to ensuring the fair and equal treatment of international civil aviation operations. It requires that charges for the use of airports and air navigation facilities be applied without discrimination and be published and communicated to the International Civil Aviation Organization (ICAO). Furthermore, it prohibits the levying of fees or the imposition of differential or discriminatory conditions solely for the right of transit, entry, or exit.

1.2 Despite the clarity of these high-level obligations, practical compliance by Contracting States remains uneven. Contracting States and industry stakeholders have raised concerns about opaque or discriminatory charges, the imposition of fees inconsistent with Article 15, and limited access to information necessary for States to assess compliance. These issues have direct implications for the credibility of ICAO as a standard-setting organization.

1.3 The Air Transport Regulation Panel (ATRP), in close coordination with the Airport Economics Panel and Air Navigation Services Economics Panel (AEP-ANSEP), has undertaken a series of efforts to assist States in better understanding and implementing Article 15. These efforts include the development of guidance material, a draft State letter, and a proposed process for Council review of concerns about imposed charges raised by Contracting States, as required by Article 15.

2. DISCUSSION

2.1 At its 18th meeting, the ATRP reviewed and adopted comprehensive Guidance Material on Article 15, developed by its Working Group 1 in partnership with the AEP-ANSEP. This material aims to clarify: the distinction between service provider charges and charges for traffic rights; application of the phrase “solely for the right of transit”; the appropriate mechanisms for Contracting States to raise concerns about charges for ICAO Council review; transparency requirements and the role of ICAO publications, including Doc 7100 and the Aero Tariffs platform; and the nature of “administrative” or “authorization” fees; and other discriminatory conditions for airspace access.

2.2 Simultaneously, the ATRP crafted a draft State letter reminding Contracting States of their obligations under Article 15 and inviting them to utilize the new guidance material. The ATRP recommended the draft guidance material and State letter, coordinated with the ICAO Legal Affairs and External Relations Bureau, be disseminated to Member States.

2.3 These documents represent a critical step toward enabling Contracting States to self-assess their compliance and to reduce ambiguity in the practical application of Article 15. However, to ensure these materials have timely impact, expedited dissemination through ICAO is essential. Delays in addressing non-compliance risk undermining a core provision of the Convention.

2.4 Article 15 permits Contracting States to request a review by the ICAO Council of charges imposed by another State. While the Council is required to undertake such review and report and make recommendations for consideration of State or States concerned, no detailed process is defined in Article -15.

2.5 The ATRP has defined a process to reflect the ability of States to bring concerns relating to charges to the Council, as provided for in Article 15. The defined process includes: a clear pathway for

interested States to submit concerns to the Council in writing; a mechanism for expert review via a standing sub-group of the ATRP and AEP-ANSEP; transparent fact-finding procedures involving both States concerned; legal review by the ICAO Legal Affairs and External Relations Bureau; and final recommendations by the Air Transport Committee (ATC) to the Council.

2.6 This process aims to ensure a fair, timely, and technically sound resolution of concerns regarding the application of user charges under Article 15.

2.7 ICAO's traditional publication, Doc 7100, provided user charge information but has since been supplanted by the Aero Tariffs platform, which requires a costly subscription after the first year.

2.8 This cost poses a barrier to transparency and to States' ability to identify potential concerns with user charges and compliance with Article 15.

2.9 The ATRP has recommended that ICAO consider restoring free, annual access to a basic level of charge information, potentially via an updated Doc 7100, to ensure equitable access to essential data for all Contracting States.

3. CONCLUSION

3.1 The combined work of the ATRP and AEP-ANSEP during the last triennium should be applauded and reflects a significant and coordinated initiative to enhance global understanding and compliance with Article 15. The guidance material, draft State letter, and proposed Council review process provide a roadmap for Contracting States to ensure charges are applied fairly, consistently, and in accordance with obligations under Article 15. However, compliance challenges remain unresolved, and many Member States are affected by non-transparent or discriminatory charging practices.

3.2 Given that Article 15 imposes obligations on States to impose user charges in a non-discriminatory and transparent manner, and also requires the Council to review concerns raised by Contracting States to such charges, ICAO's ability to provide clear guidance on the scope of these obligations and establish a mechanism for the Council to review concerns is fundamental to its credibility and the integrity of the Convention itself.

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