



DIRECTORS GENERAL OF CIVIL AVIATION-MIDDLE EAST REGION

Second Meeting (DGCA-MID/2)
(Jeddah, Saudi Arabia, 20-22 May 2013)

Agenda Item 10: Air Transport

OUTCOME OF THE ATCONF/6

(Presented by the Secretariat)

SUMMARY

This paper provides information on the outcome of the ICAO Air Services Negotiation Conference (ICAN/2012) held in Jeddah, Saudi Arabia, from 7- 12 December 2012, and the Sixth Worldwide Air Transport Conference (ATConf/6) held in Montreal from 18-22 March 2013. Recommendations of ATConf/6 are provided in the **Appendix A**.

1. INTRODUCTION

1.1 This paper provides information on two important events that ICAO convened under the economic policy programme to foster ICAO's Strategic Objectives on sustainable development of air transport and to support and assist States in the liberalization process.

2. ICAO AIR SERVICES NEGOTIATION CONFERENCE (ICAN)

2.1 Based on the success of previous ICANs, the ICAO Secretariat continued to provide this innovative meeting facility to Member States. Since its inception in 2008, this event has been held annually in different regions with growing participation. The fifth such event was hosted by the General Authority of Civil Aviation of Saudi Arabia (GACA) in Jeddah from 7- 12 December 2012. ICAN coincided with the United Nations International Civil Aviation Day on 7 December where the Host organized special celebration activities, which was attended by the President of the Council, the President of GACA, and many Saudi government and local senior officials, as well as representatives from many Member States.

2.2 ICAN 2012 was attended by over 350 delegates from 62 States and 4 international organizations. More than 350 formal and informal bilateral meetings were held between delegations, resulting in the signing of more than 130 agreements (including many open skies agreements) or arrangements (such as MOUs or Agreed Minutes). For the first time, a regional body (European Commission) used the ICAO platform to hold a meeting with its members. By 2012, a total of 107 countries (representing 56 per cent of ICAO membership) utilized this facility at least once, resulting in the signing of over 300 air service agreements and arrangements, including many open skies agreements.

3. SIXTH WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF/6)

3.1 Under the theme of “Sustainability of Air Transport, ATConf/6 was convened at ICAO Headquarters in Montréal from 18 to 22 March 2013 and attended by over 1000 participants from 131 States and 39 Observer organizations. A one-day pre-Conference Symposium was held on 17 March in which key aviation experts gathered to discuss major challenges and policy options facing the aviation community and helped participating States focus on key issues to be addressed at the Conference.

3.2 The Conference met as a single body and deliberations took place in accordance with the agenda approved by the Council on 31 January 2013. The key issues examined at the Conference included market access, air carrier ownership and control, consumer protection, fair competition, safeguards, taxation and other levies on international air transport and the economics of airports and air navigation services, including the impact of aviation system block upgrades (ASBUs). All documentation is posted on the Conference website (<http://www.icao.int/meetings/atconf6/Pages/default.aspx>) which include 24 working papers from the Secretariat, 79 from States and international organizations and 22 information papers. The report of the Conference (ATConf/6-WP/104) is also available on the website.

3.3 The Conference produced significant results, including recommendations for action by both the States and ICAO (Appendix A refers). Major recommendations include: a) ICAO to take a stronger leadership role in air transport regulation, liberalization and economics; b) a call for improved cooperation between aviation stakeholders in the air transport value chain; c) ICAO to take the lead in developing international agreements for States to liberalize market access, air cargo services and air carrier ownership and control; d) ICAO to develop a set of high-level non-prescriptive core principles on consumer protection; and e) to develop tools to promote more compatible regulatory approaches toward international air transport. In his closing remarks, the Chairman of ATConf/6 concluded that the Conference has “established the foundations for change that will secure the sustainable development of air transport. This is a paradigm shift away from a fragmented aviation world toward a much more seamless, efficient and integrated world.”

3.4 It is worth noting that on 18 March 2013 during ATConf/6, ICAO signed a special Joint Statement with the World Tourism Organization (UNWTO) on Aviation and Tourism, aimed at strengthening cooperation on issues of common priority, such as the protection of passengers and tourists, visa facilitation and taxation.

3.5 The Council is scheduled to review the outcome of ATConf/6 in June 2013 to determine the plan of follow up action, and will present its plan to the 38th Session of the Assembly for endorsement.

APPENDIX A

ATCONF/6 RECOMMENDATIONS (Original text from the reports)

Recommendation 1.1/1 — Industry and regulatory developments

The Conference recommends that:

- a) States should recognize the importance of national and regional regulatory frameworks in ensuring compliance of alliances with competition standards and in preventing monopolies; States should also give due consideration to the benefits that alliances create;
- b) States should consider the creation of mechanisms that allow for closer co-operation and co-ordination between their tourism and air transport authorities; States should also support an increased co-operation between ICAO and UNWTO on key issues of common interest; States should support and encourage the universal adoption of MC99;
- c) ICAO should continue to monitor developments, conduct studies on major issues of global importance, provide a set of basic principles to States and share its analyses on the development of the air transport industry with States, international organizations and the industry;
- d) ICAO should update and advance its guidance material on the regulation of international air transport. In particular, it should continue to update the Template Air Services Agreement (TASAs) to keep pace with regulatory evolution and to update liberalization indicators. ICAO should also continue to develop relevant databases such as the *Database of the World's Air Services Agreements* (Doc 9511), as well as case studies of liberalization experiences;
- e) ICAO should continue to assist States with air transport liberalization efforts; this could be undertaken, inter alia, through the development of additional training courses, regional seminars or similar activities for the benefit of States, in accordance with available resources;
- f) ICAO should be the only forum for initiating global solutions for the development of a sustainable air transport system for all interested parties; ICAO should continue to cooperate with international and regional organizations and with the industry in order to monitor impediments to a sustainable air transport system and define, in a cooperative manner, key strategies to overcome impediments;
- g) ICAO should establish an air transport fund in order to seek voluntary contributions from Member States with a view to enhancing the work of the Organization in this field. This fund should be administered transparently in accordance with relevant ICAO rules of governance and policies; and
- h) ICAO should provide assistance with the ratification of MC99, if so requested by a State.

Recommendation 1.2/1 — Other areas of ICAO's work that may have economic implications

The Conference recommends that:

- a) States should ensure that the current ICAO policies for cost recovery of security measures and functions at airports and ANSPs are implemented so that security user charges are reasonable, cost-effective, and foster harmonization worldwide;
- b) States are encouraged to incorporate the four key charging principles of non-discrimination, cost-relatedness, transparency and consultation with users in national legislation, regulation or policies, as well as in air services agreements, in order to ensure compliance by airport operators and ANSPs;
- c) States should increase participation in their respective safety regional groups;
- d) States are invited to note the cost-effectiveness that can be achieved through regional cooperation and are encouraged to establish management and economic targets and indicators, as the Latin American States have done; and
- e) ICAO should take all relevant measures to ensure widespread awareness and knowledge of its policies and encourage use of its guidance material on aviation security costs and related charges.

Recommendation 2.1/1 — Market Access Liberalization

The Conference recommends that:

- a) States should continue to pursue liberalization of market access at a pace and in a manner appropriate to needs and circumstances, giving due regard to the interests of all stakeholders, the changing business environment and infrastructure requirements;
- b) ICAO should develop and adopt a long-term vision for international air transport liberalization, including examination of an international agreement by which States could liberalize market access, taking into account the past experience and achievements of States, including existing market access liberalization agreements concluded at bilateral, regional and multilateral levels, as well as the various proposals presented during the Conference;
- c) ICAO should work with all parties concerned, undertaking consultation with experts, States, the industry, interested organizations and other stakeholders to build a common understanding and obtain consensus for the development of the long-term vision and related regulatory arrangements;
- d) ICAO should continue to provide guidance and assistance to States in facilitating market access liberalization, using facilities such as the ICAO Air Services Negotiation Conference (ICAN); and
- e) ICAO should keep its policy guidance on air transport regulation and liberalization current and responsive to changes and to the needs of States, and consider additional means by which to facilitate liberalization.

Recommendation 2.1/2 — Air cargo services

The Conference recommends that:

- a) States should give due regard to the distinct features of air cargo services when exchanging market access rights in the framework of air service agreements and grant appropriate rights and operational flexibility so as to promote the development of these services;

- b) States should continue to liberalize air cargo services through all available avenues, and to share experiences with other States;
- c) ICAO should take the lead in the development of a specific international agreement to facilitate further liberalization of air cargo services, taking into account past experiences and achievements, views of States on existing arrangements, and suggestions made during the Conference; and
- d) in the development of new regulatory arrangements on air cargo, ICAO should engage all parties concerned, and should undertake consultation with experts, States, the industry and interested stakeholders.

Recommendation 2.1/3 — Other market access issues

The Conference recommends that:

- a) in dealing with the issues related to slot allocation and night flight restrictions, States should give due consideration to the needs and concerns of other States and make every effort to resolve any concerns through consultation in a spirit of sympathy, transparency, mutual understanding, and cooperation;
- b) with respect to night flight restrictions, States should respect and follow the ICAO Balanced Approach principle in regulatory action on aircraft noise management at airports;
- c) States should give due consideration to long-term capacity demands of air transport in planning the development of aviation infrastructure;
- d) ICAO should continue to monitor both the situation and States' practices in handling the issues of slot allocation and night flight restrictions, raise awareness of the relevant ICAO policy guidance, and encourage its use by States and concerned parties; and
- e) ICAO should continue to develop policy guidance for States on economic regulation of air transport and develop guidance on emerging issues of global importance, including business aviation.

Recommendation 2.2/1 — Air carrier ownership and control

The Conference Recommends that:

- a) States should continue to liberalize air carrier ownership and control, according to needs and circumstances, through various existing measures, such as waiver of ownership and control restrictions in bilateral air services agreements, and those recommended by ICAO. Regional organizations should, in cooperation with ICAO, play a role in facilitating and assisting States in the liberalization process;
- b) ICAO should continue to promote its policy guidance on air carrier ownership and control and encourage States to use its guidance in regulatory practice. It should keep its policy guidance current and responsive to changing situations and to the requirements of States; where required, ICAO should study and develop guidance on important issues that may arise as liberalization progresses;
- c) ICAO should initiate work on the development of an international agreement to liberalize air carrier ownership and control, taking into consideration safety and security concerns, the principle

of reciprocity, the need to allow a gradual and progressive adaptation with safeguards, the need to take account of regional experiences, the requirements of various States' domestic laws, and the effects on all stakeholders, including labour;

- d) ICAO should involve all parties concerned in the development of the international agreement, and should undertake consultation with experts, States, aviation stakeholders and interested organizations.

Recommendation 2.3/1 — Consumer protection

The Conference Recommends that:

- a) ICAO should continue to monitor consumer protection developments and to play a leadership role in developing policy guidance, taking into account the interests of States, the industry, air travellers and other aviation stakeholders;
- b) ICAO should, in particular, develop, in the short term, a set of high-level non-prescriptive core principles on consumer protection which strike an appropriate balance between protection of consumers and industry competitiveness and which take into account the needs of States for flexibility, given different State social, political and economic characteristics; these core principles should be consistent with existing instruments, in particular the Convention for the Unification of Certain Rules for International Carriage by Air, adopted in Montréal on 28 May 1999;
- c) ICAO should establish a dedicated ad hoc group drawn from existing bodies such as the Air Transport Regulation Panel (ATRP), including experts designated at ICAO's invitation by States or regional bodies, with a view to facilitating the development of the core principles in an efficient and expedient manner;
- d) ICAO should continue to play a leadership role in consumer protection in air transport and should cooperate with other international organizations, including UNWTO, in areas of common interest with a view to, inter alia, avoiding duplication of efforts;
- e) States should foster the adoption and implementation of consumer protection measures aimed at increasing the connectivity provided by air transport; and
- f) ICAO should take necessary action, possibly through the involvement of adequate bodies such as the Aviation Security Panel (AVSECP) and the Facilitation Panel (FALP), for subsequent work on cost-benefit analysis related to air transport connectivity.

Recommendation 2.4/1 — Fair Competition

The Conference Recommends that:

- a) States should take into consideration that fair competition is an important general principle in the operation of international air services;
- b) States, taking into account national sovereignty, should develop competition laws and policies that apply to air transport. In doing so, States should consider ICAO guidance on competition;
- c) States should give due consideration to the concerns of other States in the application of national and/or regional competition laws or policies to international air transport;

- d) States should give due regard to ICAO guidance in Air Services Agreements (ASAs) and national or regional competition rules;
- e) States should encourage cooperation among national and/or regional competition authorities, including in the context of approval of alliances and mergers;
- f) ICAO should develop tools such as an exchange forum to enhance cooperation, dialogue and exchange of information between Member States to promote more compatible regulatory approaches toward international air transport;
- g) ICAO should develop a compendium of competition policies and practices in force nationally or regionally; and
- h) ICAO should continue to monitor developments in the area of competition in international air transport and update, as necessary, its policies and guidance on fair competition through the Air Transport Regulation Panel (ATRP).

Recommendation 2.5/1 — Safeguard Measures

The Conference recommends that:

- a) in the liberalization process, States should give due regard to the principles agreed upon by the aviation community at the various ICAO fora pertaining to safeguard measures designed to ensure the sustained and effective participation of all States in international air transport, including the principle of giving special consideration to the interests and needs of developing countries;
- b) in regulatory practices, States should refrain from taking unilateral action that would negatively affect the common interest of the aviation community and the efficient and sustainable development of international air transport;
- c) ICAO should actively promote and encourage States to use the relevant ICAO guidance on safeguard measures in their regulatory practices, and to share with ICAO and other States their experiences in liberalization; and
- d) ICAO should continue to monitor developments with respect to safeguards, and should keep related guidance current and responsive to changes and needs of States and, where required, work with States, interested organizations and aviation stakeholders to develop further guidance.

Recommendation 2.6/1 — Taxation of International Air Transport

The Conference recommends that:

- a) States should apply ICAO policies on taxation in regulatory practices, in accordance with Assembly Resolution A37-20, Appendix E. Since ICAO has clear policies on taxation, which remain valid, States should ensure that the policies are followed by relevant authorities in charge of taxation so as to avoid imposing discriminatory taxes on international aviation which may have a negative effect on the competitiveness of the aviation industry and impact States' national economies;
- b) States should avoid double taxation in the field of air transport;

- c) ICAO should continue to take the necessary measures to enhance States' awareness of its policies on taxation and promote application more vigorously; and
- d) ICAO should collaborate with relevant industry associations to develop analysis and guidance to States on the impact of taxes and other levies on air transport.

Recommendation 2.7/1 — Modernization of the air transport system

The Conference recommends that:

- a) States should continue to implement ICAO policies and guidance that can be applied to funding air transport infrastructure through airport and air navigation services charges;
- b) ICAO, in cooperation with States, international organizations and the industry, should establish a multi-disciplinary working group to consider the challenges associated with the establishment of operational and economic incentives, such as service priority, to allow early benefits of new technologies and procedures, as described in the aviation system block upgrade (ASBUs) modules, to support operational improvements, while maximizing safety, capacity and overall system efficiency, taking into account the specific needs expressed at the Twelfth Air Navigation Conference (AN-Conf/12); and
- c) ICAO should undertake measures to ensure widespread awareness and knowledge of its policies and guidance and other material related to funding infrastructure and ensure that they remain relevant, current, and responsive to the changing situation.

Recommendation 2.7/2 — Funding of oversight functions

The Conference recommends that:

- a) ICAO should continue to develop guidance material on the sustainable funding of the safety and security oversight functions at the State level while monitoring the situation for economic oversight funding, ensuring that users are not charged multiple times for such functions; and
- b) ICAO should further explore possibilities for the establishment of new mechanisms to ensure the sustainable funding of the oversight functions at the State and regional levels, including user charges that are in line with *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082), taking into account the various situations encountered by different States.

Recommendation 2.7/3 — Infrastructure Management

The Conference recommends that:

- a) States should consider the establishment of autonomous entities to operate airports and ANSPs, taking into account economic viability as well as the interests of the users and other interested parties, and ensure that the recommendations made at Conference on the Economics of Airports and Air Navigation Services (CEANS) are implemented;
- b) States should promote quality air navigation services performance through good governance;
- c) ICAO should take relevant measures to ensure widespread awareness and knowledge of its policies on user charges and its guidance material related to governance, ownership, control and

management of airports and air navigation service providers (ANSPs), and ensure that they remain relevant, current, and responsive to the changing situation; and

- d) ICAO should continue to monitor changes in airport and ANSP commercialization and privatization, collect information from States on the level of implementation of the policies on charges for airports and air navigation services, and publish and regularly update this information in the form of a Supplement to Doc 9082.

Recommendation 2.8/1 — Implementation of ICAO policies and guidance

The Conference recommends that:

- a) States should recognize the importance and relevance of ICAO policies and guidance and give due regard to them in regulatory practices;
- b) States should exert all efforts to ensure adherence to commitments relating to provisions of Assembly Resolutions in the air transport field;
- c) States are encouraged to incorporate ICAO principles, policies and guidance in national legislations, rules and regulations, and in air services agreements;
- d) ICAO should continue to promote its policy guidance on the economic regulation of international air transport, and encourage States to use such guidance in their regulatory practice;
- e) ICAO should ensure that policies, guidance and other material related to economic regulation remain relevant, current, and responsive to changing situations and requirements of States;
- f) ICAO should, in cooperation with States, continue to consider additional ways and means by which to enhance the status of its policies for the sustainable economic development of the air transport system, and should assess the value of a possible new Annex to the Chicago Convention on sustainable economic development of air transport, or other acceptable solutions; and
- g) ICAO should establish priorities for its future work in the economic regulation of air transport on the basis of the recommendations of the Conference.

- END -