



## ASSEMBLY — 36TH SESSION

### ECONOMIC COMMISSION

#### Agenda Item 41: Regulation of the provision of airports and air navigation services

#### ECONOMIC DEVELOPMENT AND REGULATION OF AIRPORTS AND AIR NAVIGATION SERVICES

(Presented by the Council of ICAO)

#### EXECUTIVE SUMMARY

This paper reports on major work accomplished by ICAO since the last Assembly in assisting States to operate airports and air navigation services in an efficient and cost-effective manner, notably through the updating and promotion of relevant ICAO policy and guidance material. It also provides a brief overview of the regulatory and industry trends and developments in the management of airports and air navigation services entities. In assessing the future, the paper identifies the following key issues: commercialization, economic oversight, best commercial practices, measuring performance and productivity. It then presents the Organization's plan of action for the next triennium, including closely monitoring developments, promoting and keeping existing policy and guidance current and responsive to States' needs, developing new guidance as required, fostering cooperation between stakeholders and developing training courses related to airport and air navigation services management.

**Action:** The Assembly is invited to:

- a) endorse the future work plan of the Organization in the field of economic and organizational aspects of infrastructure management; and
- b) request Contracting States to cooperate with and support ICAO's work in this field.

<i>Strategic Objectives:</i>	The action proposed in this paper will further Strategic Objective D, in particular, concerning the efficiency and cost-effectiveness in the provision of airports and air navigation services.
<i>Financial implications:</i>	The future work outlined in paragraph 4 will be undertaken according to priority with the resources available in the budget for 2008-2010.
<i>References:</i>	Doc 9082, <i>ICAO's Policies on Charges for Airports and Air Navigation Services</i> Doc 9161, <i>Manual on Air Navigation Services Economics</i> Doc 9562, <i>Airport Economics Manual</i> Doc 9847, <i>Report of the Economic Commission of the 35th Session of the Assembly</i> Doc 9848, <i>Assembly Resolutions in Force (A35-18)</i> A36-WP/xxxx, Consolidated statement of continuing ICAO policies in the air transport field

## 1. INTRODUCTION

1.1 Since the 35th Session of the Assembly, a number of developments have taken place regarding the economic and organizational environment under which airports and air navigation services are operated. The general economic context for air transport services has been much more favourable since 2004 than during the previous three-year period but has, nevertheless, been affected by an increased cost of fuel and by heightened security measures. Airports and air navigation services have had to cope with renewed demand for air transport services, which is at the same time the main factor behind the improved economic and financial situation.

1.2 This paper reports on issues considered by the Council during the past triennium in the field of infrastructure management. It also envisages some key issues and new industry trends that will need to be addressed in the work plan for the 2008-2010 period.

## 2. MAJOR WORK DONE BY ICAO

2.1 During the past three years, pursuant to relevant Assembly resolutions and decisions and the Strategic Objectives of the Organization, the Secretariat has accomplished the following major tasks under the Airport and Route Facility Management Programme. (Further details of the work done can be found in the Annual Report of the Council.)

2.2 The policy document *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082) was kept under review in order to assure that it is current and responsive to the requirements of States. Amendments are underway for incorporation in the next edition. Also, the guidance material contained in the *Airport Economics Manual* and the *Manual on Air Navigation Services Economics* (Doc 9562 and Doc 9161 respectively) has been updated and ad hoc advice provided to States, as required.

2.3 A study on the economic situation of airports and air navigation services has been conducted. This study showed that, over the 1998-2003 period, airport and air navigation services charges, as a proportion of airlines' total operating expenses, had continued to decline. A majority of international airports in Contracting States that had reported data fully recovered their costs and many of them are actually profitable. However, a significant number of international airports which have low traffic volumes continue to operate at a loss. The situation of air navigation services providers is similar to that of airports. A new study based on data for 2005 is expected to confirm the conclusions of the earlier study. Both studies will be available, prior to the Assembly, on the ICAO public website.

2.4 On the topic of disputes arising out of the debt recovery by air navigation services providers (ANSPs) in the context of collection of charges, an issue raised at the 35th Session of the Assembly, the Air Transport Committee considered that it would not be appropriate to develop guidance on pre-trial and court procedures since these were issues to be dealt with by courts of sovereign States and not at a multinational level. It was decided, instead, to focus on areas where the current guidance material could be strengthened, such as consultations with users.

2.5 Further consideration was given by the Secretariat and the Air Navigation Services Economics Panel (ANSEP) towards the need for developing new or modified guidance material on the establishment and funding of regional or sub-regional search and rescue (SAR) mechanisms, an issue of

particular relevance in the African continent. It was suggested during the discussion of this issue that the best approach for funding SAR services in Africa would be to establish a specific SAR fund for this continent.

2.6 Another subject that the Secretariat, with the assistance of ANSEP, had to consider was the funding of Regional Monitoring Agencies (RMAs) for the implementation of reduced vertical separation minima. Several regions have experienced difficulties in this respect, and it had been suggested that a global approach should be developed. A methodology was subsequently developed by the Secretariat, based on existing guidance on the establishment of multinational facilities/services, consisting of a step-by-step procedure regarding the implementation of cost-recovery arrangements at the regional level. This approach was endorsed by the All Planning and Implementation Regional Group (ALLPIRG) and subsequently by the Council.

2.7 The issue concerning allocation of Global Navigation Satellite System (GNSS) costs among various user groups has been included in the work programme of the Organization during the last few years. ANSEP, which has been assigned the task of assisting the Secretariat in the conduct of the study, developed certain principles and assumptions to be applied for cost allocation between civil aviation and other users. According to these principles, any cost allocation of GNSS should take place at the regional level and cost allocation should be based on the requirements of different user categories. One of the main concerns is to find ways to ensure that aviation will not be charged for more than its fair and equitable share of GNSS costs. The conclusions of the study have been presented to the Council which adopted at its 180th Session the principles developed by ANSEP as provisional policy guidance on GNSS cost allocation.

### **3. NEW DEVELOPMENTS AND KEY REGULATORY ISSUES**

3.1 The trend towards commercialization and privatization in the ownership and management of airports that occurred in recent years will continue to do so in the years to come. The pace of this development has, however, been slowing as many of the most promising airports (from an investor's perspective) have already been transferred to private interests or have been commercialized, and also as a result of the air transport crisis after the events of 11 September 2001 in the United States. Cross-border investments and trans-national management arrangements will continue as long as the business community and financial institutions feel that an airport can be a sound investment. With regard to air navigation services, many States around the world have already evaluated the commercialization option and taken a decision based on their specific situation. In two major traffic-generating regions, important changes are underway: North America (restructuring of the air navigation services provider in the United States) and Europe (implementation of the Single European Sky).

3.2 In States where commercialization, privatization or private participation in the provision of airport (or air navigation) services has taken place, the Council recommends the establishment of an economic regulatory mechanism to ensure that monopoly power is not abused, especially with regard to user charges. The nature of the regulation required depends on the degree of commercialization or privatization; the existing legal system in the State, including constitutional provisions; the legal structure for civil aviation; and the objective of the proposed changes. The desirable separation between regulatory and provisional functions has been achieved in a growing number of States. The body responsible for regulatory functions should be supported by appropriate legislative framework and, preferably, be independent from the provider entity in order to avoid conflicts of interest. In States where the

establishment of a separate regulatory mechanism is not feasible, it is essential that the Government itself exerts economic oversight through the civil aviation authority.

3.3 The commercialization process of airports and air navigation services is still in a development phase in many States. Existing guidance material on key aspects related to commercialization, such as economic oversight and regulation, best commercial practices, benchmarking, measuring performance/productivity and application of economic pricing principles, will therefore need to be kept under review, revised and expanded, as necessary. This is essential in order to promote and increase the efficiency and cost effectiveness in the provision of airport and air navigation services.

3.4 New trends have recently appeared in the air transport sector, which may pose some challenges to service providers and regulators, such as the development of low-cost carriers with specific requirements that have driven tailored responses by airport operators (for example, separate “low-cost” passenger terminals). However, some of these measures have the potential to create discriminatory treatment, or at least to be perceived as such.

3.5 A major aspect that has already affected the air transport industry at large, and that will be of even greater concern in the years to come is the cost and availability of aircraft fuel. Apart from environmental considerations that are linked to aircraft engine emissions, several challenges will have to be faced by the air transport industry, whether in terms of adjustment of capacity, or in terms of operating costs. The cost of aircraft fuel may have wide-ranging consequences that will not only affect airlines (and the travelling public) but also the way airports and air navigation services are designed, operated and managed, particularly with regard to future capacity.

#### **4. FUTURE WORK**

4.1 During the 2008-2010 triennium, further development of policy and guidance material on economic oversight and regulation, best commercial practices, benchmarking, measuring economic performance and application of economic pricing principles will continue. This will be instrumental in supporting States to exercise their governance and control duties in an appropriate way in the current context of commercialized and privatized airports and air navigation services. Such an enhancement of the policy and guidance material is essential for airports and ANSPs worldwide in their efforts to respond to the requirements of airlines and other airspace users to increase the efficiency and cost-effectiveness in the operation of the infrastructure system for civil aviation.

4.2 A sound and effective relationship between providers and users is a crucial element in the future development of air transport, especially in times of economic difficulties. There is a need to revise and expand the policy and guidance material on the consultation process between providers and users so that these consultations become more frequently organized and/or formalized and address all aspects of the relationship, including economic performance of service providers and quality of service.

4.3 Further development of the policy and guidance material is essential also for the implementation of a global air navigation system, where the active participation by all stakeholders (national and/or regional regulators, providers and all airspace users) involved, and their understanding of the commercial approach required, are prerequisites for the realization of the potential towards improved cost effectiveness embedded in regional and global cooperation. The work programme in the infrastructure management field of the Organization will, at the same time, provide for practical guidance and assistance to regions and sub-regions around the world in order to facilitate the timely implementation of the global air navigation system.

4.4 The commercialized/privatized environment and the new industry trends in which airports and air navigation services operate has made it necessary to more actively promote and disseminate ICAO's policies on user charges. In order to do so, ICAO has, in association with Airport Council International (ACI), launched training courses on airport charges on a cost-recovery basis. Other courses are now being considered, which may involve cooperation with other international organizations.

4.5 In the present regulatory environment, and particularly considering the specific nature of airports and air navigation services, there will be a need to closely follow the development of their financial situation and the consequential impact on user charges to ensure that there is an appropriate balance between the interests of all parties concerned.

4.6 Other areas where substantial work may be required during the next triennium include: the development of a more comprehensive guidance material for cost allocation and cost recovery of security measures; and airport and air navigation charging systems.

4.7 A number of the subjects mentioned above will benefit from being discussed at the level of a worldwide conference on the economics of airports and air navigation services, which is scheduled to be held in September 2008. One of the major objectives of such a meeting, will be to lay the foundation on economic, as well as other institutional issues, for sound cooperation between the key stakeholders in the aviation industry. This is of particular importance considering that the obstacles to the implementation of the future air traffic management concept and the global air navigation system are of an institutional rather than a technical or operational nature.

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