



ASSEMBLY — 36TH SESSION

ECONOMIC COMMISSION

Agenda Item 40: Regulation of international air transport services

TRANSPARENCY IN INTERNATIONAL AIR TRANSPORT SERVICES – THE PUBLICATION AND DISTRIBUTION OF AIR SERVICES ARRANGEMENTS

(Presented by Australia)

EXECUTIVE SUMMARY

This paper presents information about the importance of pursuing transparency in air services arrangements. Access to air services agreement information will foster greater engagement by the sector, and the broader community on air services, facilitate trade and the development of the sector. For the benefit of the sector Australia outlines a series of proposals seeking commitment by States and ICAO to improve transparency in air services.

Action: The Assembly is invited to:

- a) encourage States to revisit their ICAO registration obligation and comply in a timely fashion;
- b) note the recent developments at the World Trade Organisation (WTO) Air Services Annex Review and the development of the Quantitative Air Services Agreement Review; and
- c) request Council explore improving the accessibility, accuracy and coverage of the World Air Services Agreement (WASA) Database and the Database of Aeronautical Agreements and Arrangements (DAGMAR).

<i>Strategic Objectives:</i>	This working paper relates to the Strategic Objectives D and F through seeking to enhance the efficiency of aviation operations and strengthen the law governing international civil aviation. The supporting implementation strategies reiterate the importance of transparency for the sector and the importance of maintaining relevant documents and material.
<i>Financial implications:</i>	Not applicable.
<i>References:</i>	The Convention on International Civil Aviation (Chicago, 1944)

1. INTRODUCTION

1.1 The paper outlines a series of proposals and initiatives to improve the transparency of air services arrangements and the reporting of developments in air services across the aviation sector through improved information sharing.

1.2 Transparency refers to the publication and sharing of information. In the context of air services this means ensuring that accurate information about the sector, in particular the content of air services agreements and arrangements, is available and easily understood by stakeholders.

1.3 The paper's proposals are underpinned by States' obligation to register their air services agreements and arrangements with ICAO, as per Article 81 and 83 of the Convention on International Civil Aviation (Chicago, 1944) (Chicago Convention).

1.4 In the context of ICAO, greater transparency in the sector can be achieved by the distribution of accurate and timely air services agreements and associated arrangement information through the ICAO instruments: the World Air Services Agreement (WASA) Database and the Database of Aeronautical Agreements and Arrangements (DAGMAR). States may also pursue unilateral measures to disseminate information about air services and participate in other multilateral forums engaged in the aviation sector.

2. BACKGROUND

2.1 ICAO registration obligation

2.1.1 The obligation to register air services agreements with ICAO is clearly established in the Chicago Convention. States are required to register their agreements and any amendments to those agreements. The registration obligation is the key mechanism by which the transparency of air services can be realised.

2.1.2 However the sector is changing rapidly; with new agreements and amendments negotiated regularly many States are left with a registration back log. Consequently ICAO's register of air services agreements and associated arrangements is incomplete. As a result the DAGMAR and the WASA database do not provide a full picture of the extent of developments in the sector. The opportunity to analyse the registration information to observe trends and measure growth across the sector has therefore been undermined.

3. ISSUES

3.1 Rationale for transparency

3.1.1 Improved transparency of air services arrangements and greater information sharing will benefit a wide range of stakeholders. More than ever, airlines, tourism operators and industry want and need to understand the air services opportunities available to them and their competitors.

3.1.2 Aviation Sector

3.1.2.1 Transparency in air services agreements and associated arrangements will inform and assist airlines, airports service providers and investors to determine which markets to pursue and where potential business opportunities lie. Clear and accurate information regarding new and existing air services agreements may facilitate continued growth in aviation, particularly for emerging airlines, airports service providers and investors.

3.1.2.2 It will allow airlines to better advise Government about their interest in potential routes and the scope for additional services on current routes. In turn, this mutual cooperation will provide greater certainty for airlines as they manage their fleet or consider further expansion. This is particularly important in the current context, where the aviation sector is rapidly evolving and new and growing airlines have limited experience with often complex air services agreements and associated arrangements. Clear and complete information may assist airlines and investment in the sector.

3.1.3 Government

3.1.3.1 The publication of air services agreements and associated arrangements will enable Governments to measure the extent of developments in the air transport sector. It can also inform policy agendas and demonstrate to the broader public the effort required by government to facilitate air travel. Without active information sharing, States may also continue to operate under outdated assumptions about the state of the sector.

3.1.4 Measuring Development

3.1.4.1 Data availability remains a significant problem in assessing developments in the sector. Transparent air service agreements and associated arrangements will enable States and industry to measure the extent of development across the sector with greater accuracy. Greater awareness of air services trends and industry data will ensure the sector's successes are recorded and also highlight areas warranting greater investment or reforms.

3.2 Achieving transparency in air services

3.2.1 There are a range of means by which transparency in air services can be achieved. At the forefront of these measures is the registration of agreements by States with ICAO and the subsequent availability of the registration information through the WASA database and the DAGMAR. However States can also unilaterally publicise and share information about their air services agreements, often in greater detail than currently possible through ICAO. Finally other international forums are engaged in the aviation sector, their interest and efforts to achieve greater transparency are creating new resources and tools of value to the sector.

3.2.2 Recognising the confidentiality and sensitivities of some aspects of air services arrangements, information could be shared either in full publication or in summary form through unilateral or multilateral measures. States can undertake publication activities that satisfy their concerns and meet their confidentiality requirements accordingly. Efforts could also be made by States to agree on the publication of future air services agreements and associated arrangements during their negotiations.

3.2.3 ICAO Registration Enhancement

3.2.3.1 Securing greater transparency in air services will be a slow process, yet over time States will recognise the value of improved transparency in air services and work towards the full disclosure of agreements and associated arrangements. This could be realised by States agreeing to register with ICAO their air services arrangements, often referred to as memoranda of understanding. Currently State's reservations about confidentiality dampen their support for full disclosure; also States who commence arrangement registration may be initially disadvantaged. However in the medium to long term increasing access to air services information will be beneficial to the sector and contribute to its development.

3.2.4 ICAO Instruments: The DAGMAR and the WASA database

3.2.4.1 The potential exists for the DAGMAR and the WASA database to be the most comprehensive records of air services agreements. Improved transparency may also be achieved by enhancing ICAO agreement registration reporting and making the WASA database available online. Enhancing the instruments' functionality and accuracy would be valuable for the sector and provide greater encouragement for States to provide ICAO with information about new agreements and also amendments.

3.2.4.2 Additional summary data about the agreements and associated arrangements including passenger capacity provisions, dedicated freight provisions and route information, could be incorporated into the summary table presented for each agreement in the DAGMAR. Many States already collect and publish this statistical and summary data on their own national websites.

3.2.4.3 The WASA database could also be improved by making it available online and ensuring the timeliness of its data. Currently the data is not updated on a regular basis (e.g. annually). Thus it may not meet the needs of the sector as the industry and the agreements supporting it are changing rapidly. Information must be timely if it is going to inform and guide the sector.

3.2.5 Unilateral Measures

3.2.5.1 The reluctance to register with ICAO has not prevented some States from disseminating air services information through other measures. States are encouraged to publish information about their air services agreements and associated arrangements on a suitable national website, for example the website of their Transport Department. Below are some simple examples States have taken to facilitate greater transparency:

- The Canadian Transport Authority released a *Report of bilateral agreements between Canada and other countries* (http://www.cta-otc.gc.ca/air-aerien/agreements/main_e.html), outlining the traffic rights, designation and capacity of existing agreements up to March 2007. A tabular summary is available online with full agreements available from a centralised Canada Treaty Information site.
- Australia is working to improve the accessibility of its air services policies and air services arrangements by updating the Department of Transport's website (<http://www.dotars.gov.au>). Following recommendations of a report by the Australian Productivity Commission DOTARS will over time publish all its air services arrangements, subject to the agreement of its bilateral partners. DOTARS already publishes detailed statistical information on aviation (<http://www.btre.gov.au/statistics/statsindex.aspx>) and on the availability and allocation of capacity/frequency between Australia international airlines (<http://www.dotars.gov.au/aviation/international/capacity.aspx>). DOTARS is also working to reduce its back log of air services agreement registrations with ICAO. The Australian Department of Foreign Affairs and Trade also maintains an *Australian Treaty Database* which tracks all treaties signed, acceded and entered into force. (<http://www.dfat.gov.au/treaties/index.html>).
- The Directorate General of Civil Aviation in India publishes all its bilateral agreements online, including memorandums of understanding, current to May 2007 (http://dgca.gov.in/bilateral/bil_ind.htm). It also publishes a summary table of foreign

and Indian entitlements in terms of frequency, aircraft type and airline designations for each country with which it has agreements.

3.2.6 The World Trade Organisation

3.2.6.1 The Air Transport Services Annex Review (Review), a once in five year process is currently underway at the World Trade Organisation (WTO). The WTO Secretariat produced the *Developments in the Air Transport Sector (PART TWO) - Quantitative Air Services Agreements Review (QUASAR)*¹ to inform debate at the Review on the level of liberalisation in air services globally. Using data drawn from WASA, the QUASAR evaluates the openness of agreements globally including capacity, route rights, designation and ownership arrangements.

3.2.6.2 However because the QUASAR utilised the WASA, in its current form it does not fully capture the current state of air services globally. WTO Members are encouraged to make submissions and corrections about their agreements to the WTO Secretariat, in time for the third meeting of the Review, intended for 2-3 October 2007.

3.2.6.3 The QUASAR is a valuable product that has already facilitated greater transparency in the sector and has the potential to be a very useful tool at the WTO and more broadly for the sector. WTO Members should not miss the opportunity to update the QUASAR so we can further understand developments in the sector and make great gains towards realising transparency.

4. CONCLUSION

4.1 States and the community more broadly need to understand the sector; this can be achieved through making available in a timely and accurate fashion a broad range of information about air services agreements and associated arrangements.

4.2 The States unilaterally have demonstrated a willingness to pursue transparency in the sector and record its development. These measures can be responsive and targeted and often more accessible to local aviation industry participants and the broader community. Likewise international forums like the WTO will continue to engage in the sector and need accurate statistical information to guide the activities of its Members.

4.3 ICAO is best poised to be both the repository for information about air services agreements and associated arrangements and also to disseminate such information widely. However if States do not revisit and amend their ICAO registrations, the long term viability of the practice, and the merit of the DAGAMAR and the WASA database is diminished and may be supplanted by other international organisations such as the WTO, or private sector organisations. If States do not register information ICAO itself may also become sidelined from development discussion and debate.

4.4 To achieve transparency in the sector without delay, States should therefore utilise both the ICAO instruments and unilateral measures available to them to publish and share information about their air services agreements and associated arrangements. Key measures available to them to consider include:

¹ Distributed in the WTO as document S/C/W/270/Add.1, dated 30 November 2006
(http://www.wto.org/english/tratop_e/serv_e/transport_e/transport_air_e.htm)

- Registration of air services agreements and associated arrangements with ICAO;
- Domestic publication of air services agreements and associated arrangements; and
- Update of data inputs to WTO Quantitative Air Services Agreements Review.

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