



## WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

### SIXTH MEETING

Montréal, 18 to 22 March 2013

**Agenda Item 2: Examination of key issues and related regulatory framework**

**Agenda Item 2.7: Economics of airports and air navigation services**

#### THE FUNDING OF OVERSIGHT FUNCTIONS IN EUROPE

(Presented by Ireland on behalf of the European Union (EU) and its Member States<sup>1</sup> and of Eurocontrol)

#### 1. INTRODUCTION

1.1 The general principle of separation of oversight functions (also referred to as regulatory or supervision functions) from service provision activities is validated by ICAO<sup>2</sup> and has been implemented in EU regulation at European level, as early as 2004, through the adoption of the first Single European Sky (SES) legislative package, whereby “*The national supervisory authorities shall be independent of air navigation service providers. This independence shall be achieved through adequate separation, at the functional level at least, between the national supervisory authorities and such providers*”<sup>3</sup>.

1.2 This key evolution in the organisation of the governance of air navigation services allowed bringing to acute light the issue of the funding of these oversight functions. An ICAO survey (based on State letter EC 2/101-10/15, dated 2 March 2010) allowed identifying a wide diversity of situations. The funding of oversight functions through national (or regional) treasuries was identified, in consistency with the inherent governmental nature of the oversight responsibility. Another common practice consists in recovering such oversight costs through air navigation services user charges in line with ICAO’s policies on charges (Doc 9082, Section III, paragraph 3) vii)), based on the principle that such activities benefit the aviation sector and therefore may legitimately be financed by this sector.

1.3 The ICAO Airport Economics Panel (AEP) and the Air Navigation Services Economics Panel (ANSEP) addressed these issues, among many others, over the last years, and the outcome of their

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<sup>1</sup> 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.

<sup>2</sup> Notably in ICAO’s *Policies on Charges for Airports and Air Navigation Services* (Doc 9082), Section I, paragraph 12.

<sup>3</sup> Article 4 of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) – Official Journal of the European Union, 31.3.2004, L96/1.

work is about to result soon in the revision of ICAO's policies on charges (Doc 9082), the *Manual on Air Navigation Services Economics* (Doc 9161) and the *Airport Economics Manual* (Doc 9562).

## 2. EUROPE'S EXPERIENCE

2.1 In Europe, the possibility of funding of oversight functions through air navigation user charges is explicitly foreseen, both in the SES legislation<sup>4</sup> and in the Eurocontrol "Principles for establishing the cost base for route charges and the calculation of the unit rates"<sup>5</sup>, and implemented. This is without prejudice to the possibility for States to finance whole or part of these regulatory costs, and this is done in full transparency to allow proper benchmarking. Oversight costs are reported separately from the costs of service provision and then aggregated with them to allow setting the unit rates used for the calculation and billing of en route and terminal air navigation services charges.

2.2 Such approach is driven by several considerations:

- a) In consistency with the "user pays" general principle, it is appropriate to charge to airspace users the costs of the oversight of the system, which aims at ensuring their non-discriminatory access to the airspace and safe, sustainable, performing and cost-efficient air navigation services.
- b) In a performance-driven scheme, it is important to both ensure that the oversight authorities have the appropriate means (human and financial resources) to carry out their duties and that this is done in an efficient and effective manner. Recovery of oversight costs through user charges requires full transparency and benchmarking of these costs, allowing identifying best and suboptimal practices and therefore corrective actions. Within the frame of the SES legislation, the oversight functions are submitted to cost-efficiency target setting and cost capping through a "determined costs" concept.
- c) Europe is a continent with a large number of Member States, some of them of small geographical dimension. Precise knowledge of oversight costs in each State allows identifying possible overlaps and inefficiencies in oversight authorities which may not reach the critical mass needed to effectively carry out their duties. This may lead to recommendations and actions towards increased cooperation between these authorities, through e.g. specialisation and cooperation agreements, or even the merger of some oversight authorities as envisaged and recommended by ICAO e.g. in Section I, paragraph 15 of Doc 9082. EU legislation already introduced that EU Member States may jointly establish oversight authorities. For the establishment of Functional Airspace Blocks in Europe, States have to provide information on the arrangements between the national supervisory authorities in the functional airspace block.<sup>6</sup>

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<sup>4</sup> Article 5(2) of Regulation (EC) No 1794/2006 of 6 December 2006 "laying down a common charging scheme for air navigation services" (the charging Regulation) – Official Journal of the European Union, 7.12.2006, 341/3.

<sup>5</sup> Eurocontrol Doc. N° 11.60.01 of October 2011, notably paragraphs 2.2.4 and 2.4.8.

<sup>6</sup> Annex, part 1, item 2-b of Regulation (EC) No 176/2011 of 24 February 2011 "on the information to be provided before the establishment and modification of a functional airspace block – Official Journal of the European Union 25.2.2011 L51/2.

### 3. CONCLUSIONS

3.1 The European approach to the funding of oversight functions is deemed to be beneficial to the global improvement of the quality of air navigation services. It may be perceived as useful by other regions of the world.

3.2 Europe expects that the revision of *ICAO's Policies on Charges for Airports and Air Navigation Charges* (Doc 9082), the *Manual on Air Navigation Services Economics* (Doc 9161) and the *Airport Economics Manual* (Doc 9562) shall explicitly materialise the possibility to include the costs of oversight functions for airports and air navigation services in their cost bases for the calculation of user charges.

3.3 Europe reaffirms that whatever approach is taken regarding oversight functions for airports and air navigation services, it is consistent with ICAO's key charging principles such as transparency, cost-relatedness and cost-recovery, and contributing to a better performance of air navigation services provision.

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