



WORKING PAPER

WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

Montréal, 18 to 22 March 2013

Agenda Item 1: Global overview of trends and developments

Agenda Item 1.1: Industry and regulatory developments

**ACHIEVEMENTS SINCE THE FIFTH WORLDWIDE AIR TRANSPORT CONFERENCE
(ATCONF/5)**

(Presented by the Secretariat)

EXECUTIVE SUMMARY

This working paper reports on the achievements of ICAO work since the Fifth Worldwide Air Transport Conference (ATConf/5) which was held in Montréal from 24 to 29 March 2003.

Action: The Conference is invited to:

- a) review the information, assessments and proposals presented in this paper;
- b) endorse the recommendations presented in paragraph 4; and
- c) adopt the recommendations presented in paragraph 5.

References: ATConf/6 reference material is available at www.icao.int/meetings/atconf6.

1. INTRODUCTION

1.1 ICAO activities in the field of economic regulation stem mainly from Article 44 (aims and objectives of the Organization) and Articles 54 and 55 (mandatory and permissive functions of the Council) of the Convention on International Civil Aviation (Doc 7300) and are guided by Assembly Resolution A37-20 (continuing ICAO policies in the air transport field) and relevant Council resolutions and decisions.

1.2 ATConf/5 adopted a Declaration on Global Principles for the Liberalization of International Air Transport, fourteen Conclusions and two Recommendations, i.e., one on the liberalization of air carrier ownership and control, and the other on the future role of ICAO including its relations with the World Trade Organization (WTO-OMC), and seven model clauses for use at States' discretion in air services agreements. The results of the Conference, endorsed by the Council, were disseminated to States (SC 5/1-03/71 dated 25 July 2003). The Conference report was distributed to States as Doc 9819 in July 2003.

2. MAIN RESULTS OF ATCONF/5

2.1 In addition, the Conference adopted 67 conclusions for inclusion in its report which covered the full spectrum of topics and issues on the agenda. Among the conclusions was the Conference's approval for the concept and content of the Template Air Services Agreements (TASAs), one for bilateral and the other for regional situations, for use in air transport relationships. Throughout the Declaration, Recommendations, and Conclusions are numerous references to actions to be taken by States and by ICAO.

2.2 Additional State letters requiring particular action, such as the provision of information to ICAO, were dispatched subsequent to the State letter on the Conference results. These additional State letters covered: adherence to the International Air Services Transit Agreement (O 1/5-03/77 dated 25 July 2003); ownership and control (SC 5/603/88 dated 26 September 2003, which included a survey on States' policies, practices and positions); case studies on liberalization experiences (SC 5/6-03/89 dated 26 September 2003); dispute resolution mechanism and the list of experts for mediation or dispute resolution (SP 38/4.1-03/90 dated 26 September 2003); and transparency (EC 2/16.1-03/105 dated 28 November 2003).

2.3 The Conference results were widely disseminated and opportunities were taken by the Secretariat when on mission or when attending meetings of other organizations to draw attention to the Conference and its outcome. All Conference documentation, including the package of results (presented as the "Consolidated Conclusions, Model Clauses, Recommendations and Declaration"), remains accessible electronically through the ICAO Web site at <http://www.icao.int/icao/en/atb/atconf5/>.

2.4 Since the 2003 Fifth Worldwide Air Transport Conference (ATConf/5), ICAO has worked on the promotion and implementation of its policy framework and guidance, and on the facilitation and assistance to States in the liberalization process.

2.5 Pursuant to relevant Assembly resolutions and decisions, as well as Strategic Objectives of the Organization, the Secretariat has followed up on the recommendations of ATConf/5 and accomplished the major tasks under the economic policy programme which are summarized below.

3. ICAOWORK

3.1 **Study on the safety and security aspects of economic liberalization.** To ensure that States capture the benefits of liberalization without compromising safety and security, the Secretariat conducted a comprehensive study on the safety and security aspects of economic liberalization. The study identified various situations arising from the liberalization process and the evolution of business and operating practices in the air transport industry which could have implications for safety and security regulation. It also provided clarification on how relevant ICAO provisions should be implemented to address some of these situations. The study highlighted the need for States to fulfil primary regulatory oversight responsibilities for aviation safety and security, regardless of any change in economic regulatory arrangements. By decision of the Council, the study was disseminated under cover of State letter EC 2/93, AN 11/41-05/83 of 12 August 2005 for information and action. Based on the findings of the study, ICAO has subsequently taken many concrete steps to improve the global safety and security regulatory system, including incorporation of amendments in relevant Annexes to the Convention and guidance material, strengthening its safety and security audit programmes, and providing assistance to States.

3.2 **Study on Essential Service and Tourism Development Route (ESTDR) scheme.** In 2005, the Secretariat published a study, also arising from ATConf/5, on an Essential Service and Tourism Development Route (ESTDR) scheme. This study updated in 2007 with a statistical analysis, examined how essential air services schemes existing in some States have helped support certain specific domestic and regional routes, and how such schemes might be applied in an international context at States' discretion. In cooperation with the World Tourism Organization (UNWTO), a support mechanism was developed which could also be used for the development of tourism routes, particularly by the least developed countries.

3.3 **Study on global quantitative indicators for liberalization.** In response to the request of the 36th Session of the Assembly, in 2009 the Secretariat completed a study on global quantitative indicators for evaluating the degree of liberalization. This study, updated in 2010, produced three types of indicators to track the development of liberalization in terms of country-pair routes and scheduled passenger frequencies as well as opportunities created by liberalization and actual utilization.

3.4 **Global and Regional Symposiums.** The Secretariat organized and conducted a number of global and regional symposiums which covered air transport subjects, including liberalization. A regional seminar for States in the Asia Pacific region took place in May 2005 in China. In 2006, ICAO conducted a regional seminar for States in the Eastern Caribbean sub-region in Antigua and a Global Symposium on Air Transport Liberalization in the United Arab Emirates. In 2008, the Secretariat also conducted a regional Air Transport Symposium for African States in Nigeria and another Global Symposium on Regional Approaches in cooperation with the European Commission in Montréal. In addition, since 2008, ICAO and the World Development Bank Forum held annual meetings in cooperation with the World Routes Development Forum in Malaysia, China, Canada and the UAE. Furthermore, in 2010, ICAO in cooperation with McGill University conducted the Worldwide Conference on Air Transport in Montréal. These meetings were an effective means by which to disseminate and promote ICAO policy guidance, and provided a useful forum for States to share liberalization experiences, exchange views on trends and issues, and discuss policy options. Feedback collected from participants on the relevance and value of such meetings was very positive.

3.5 **ICAO Air Services Negotiation Conference (ICAN).** Based on the "marketplace" concept proposed at ATConf/5, the Secretariat developed and introduced to States a new innovative ICAO meeting facility, namely ICAN. This conference provides a central meeting place for States to conduct air services negotiations. By enabling each participating State to conduct meetings with several bilateral partners at the same location, the conference facilitates and greatly improves the efficiency of the negotiation process, enabling States to save a significant amount of money annually. ICAN also provides a forum, through its seminar session, for participants to learn about current trends and related ICAO guidance, exchange experiences, and discuss topical issues in liberalization. Since its inception in 2008, this event has been held annually in different regions with growing participation. By 2012 a total of 107 countries (56 per cent of the ICAO membership) had utilized this facility at least once, resulting in the signing of over 300 air service agreements and arrangements, including many open skies agreements. In recognition of its success and usefulness, the ICAO Assembly, in Resolution A37-20, encourages States to make use of and benefit from the ICAN facility.

3.6 **Template Air Services Agreements (TASAs)**—Two template Air Services Agreements were developed by ICAO, one for a bilateral situation and one for a regional or plurilateral situation. The TASAs endorsed by ATConf/5 provide for optional guidance on liberalization and are used at States' discretion, in expanding air services relations. The content of the templates is comprehensive, including wording options and alternative approaches on various air services agreement articles. The Bilateral TASA consists of thirty-nine Articles on, for example, Designation, Capacity, Tariffs and Safety and Security provisions, as well as four Annexes on Route Schedule, Non-Scheduled Operations, Air Cargo

Services and Transitional Measures. As for the Regional or Plurilateral TASA, it was developed after ATConf/5, i.e. in 2004, following the same format as the Bilateral TASA with additional provisions necessitated by the regional or plurilateral context, such as an Article on Accession. The later contains forty-three Articles and three Annexes on Non-Scheduled Operations, Air Cargo Services and Transitional Measures. The TASAs were published in a CD-Rom format in 2004 with a basic search function and subsequently, in 2008, it was included in Appendix 5 of Doc 9587. The TASAs remain a “living document” to be modified over time as liberalization evolves and new approaches emerge in air service relationships. The latest addition to the TASA was an Article on Slot Allocation endorsed by the Air Transport Committee in January 2011.

3.7 **Updating of ICAO policy guidance and databases.** Pursuant to relevant Assembly resolutions, the Secretariat updated the Manual on the Regulation of Air Transport (DOC 9626, Second Edition, 2004) and completed the revision and publication of the Policy and Guidance Material on the Economic Regulation of International Air Transport (Doc 9587, Third Edition, 2008). The Secretariat also upgraded the Database of the World's Air Services Agreements (Doc 9511) to an online product with expanded coverage (including text of the bilateral agreements) and search features. In addition, the Secretariat developed and published on the ICAO website, starting in 2004 with subsequent updates, several databases on air transport regulation such as case studies of liberalization experiences, States' policies on airline ownership and control, regulatory actions on major airline alliances, and lists of government-owned and privatized airlines. The Secretariat also regularly monitored consumer protection developments and presented relevant information in a table that is available on-line on the ICAO website at http://www.icao.int/sustainability/pages/eap_ep_consumerinterests.aspx. This table lists consumer protection regulations and airline voluntary commitments in several regions, with hyperlinked references to the source texts. The latest update was released in October 2012.

3.8 **The Air Transport Regulation Panel (ATRP) support.** ATRP completed its work in 2002 under its terms of reference which had been developed to assist the Secretariat in preparing for ATConf/5; ATRP was retained by decision of the Council to assist in follow up work of ATConf/5 where its expertise was required. Since ATConf/5, the Panel has continued to provide advice and assistance to the Secretariat with respect to a number of tasks, such as the study on the safety and security aspects of economic liberalization, and the development of the model bilateral clause on slot allocation. In 2011, the Panel was called to assist in the preparation of ATConf/6 under new terms of reference developed by the Air Transport Committee. The Panel held its eleventh meeting (ATRP/11) in June 2012, which provided advice and recommendations for the preparation of the conference.

4. CONCLUSIONS

4.1 Pursuant to relevant assembly resolutions and decisions, as well as strategic objectives of the organization, the Secretariat followed up on the outcome of ATConf/5 and has undertaken the tasks recommended.

4.2 The result of the Secretariat work in the field of economic regulation facilitated and assisted States in adapting to changes in the process of regulatory evolution. Continuation of such work would be beneficial to States in the development of air transport.

5. **RECOMMENDATIONS**

5.1 The following recommendations are proposed for consideration by the Conference:

- a) ICAO should continue to assist States in liberalization efforts by enhancing the “market place” facility offered to States;
- b) ICAO should continue to update the TASAs to keep pace with regulatory evolution;
- c) ICAO should undertake and promote the development of additional training courses, regional seminars or similar activities for the benefit of States, in accordance with available resources;
- d) ICAO should continue to monitor regulatory developments, conduct studies on major issues of global importance, and provide policy guidance and assistance to States; and
- e) ICAO should 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.

— END —