



CEANS-WP/79  
17/9/08

## **CONFERENCE ON THE ECONOMICS OF AIRPORTS AND AIR NAVIGATION SERVICES**

**Montréal, 15 to 20 September 2008**

### **DRAFT REPORT ON AGENDA ITEM 2.4**

**Agenda Item 2: Specific issues related to airport economics and management**  
**Agenda Item 2.4: Non-discrimination aspects**

*Note – Consideration of this item was divided into two parts: 1) Differential charges, and 2) Access to airport infrastructure.*

## **PART I – DIFFERENTIAL CHARGES**

### **2.4.1 Documentation**

**Secretariat** (WP/10) reviewed the positive and negative effects associated with differential charges and the ways to protect users from the negative effects. While differential charges could enhance economic benefits such as efficient use of resources, they could inherently distort competition both between airports and between users with the overall net effect varying according to a range of factors. The paper concluded that States should assess those effects on a case-by-case basis and ensure that differential charges meet the principles of non-discrimination, no cross-subsidization, transparency and time-limitation. To clearly reflect these principles, an amendment of the related text in Doc 9082 was proposed.

**UNWTO** (WP/22) was concerned about the proposal of the ICAO Secretariat (WP/10) regarding the amendment of Doc 9082 to add the time-limitation requirement for start-up aids. A clear distinction should be made between users and routes, notably as regards preferential charges specific to essential air services and in particular for Least Developed Countries (so-called Essential Service and Tourism Development Routes). This distinction could be incorporated in Doc 9082 by an appropriate further addition.

**Mali** (WP/42 – information paper) provided some information relevant to this item (see paragraph 2.1.1).

### **2.4.2 Discussion**

2.4.2.1 In examining the draft conclusions and proposed amendments to the relevant parts of Doc 9082 in WP/10, there was general agreement that ICAO's policies should be confined to describing high-level principles for safeguarding users against potential negative effects of differential charges. Among such principles described in WP/10, i.e. non-discrimination, transparency, non-cross-subsidization and time limitation, the Conference gave support to the first two principles, while there were differing views on the latter two.

2.4.2.2 With respect to the principle of not permitting cross-subsidization, serious concern was raised over the compatibility of this principle with “modulated” charging schemes such as peak/off-peak charges and congestion pricing. The Secretariat explained that the scope of differential charges dealt with in WP/10 was limited to preferential charges, introductory discounts, volume discounts, etc., and did not cover modulated charging. Considering that Doc 9082 already reflects the principle of non-cross-subsidization, a compromise conclusion, that was agreed by the Conference, was developed to highlight the fact that modulated charging schemes were not to be affected. Accordingly, the phrase “without prejudice to modulated charging schemes” is to be inserted in the relevant Doc 9082 text.

2.4.2.3 A proposal was made to remove the principle of time limitation from the draft conclusion. The Conference felt, however, that unless a time limitation is imposed on start-up aid, there could be a risk of subsidization and distortion of market competition. To clarify the intent, some suggestions were also made with regard to the phrase “attract and/or retain new air services” as well as concerning the specification of the duration of start-up aid. Because of the implications of the various proposed revisions to this wording, the Conference agreed to retain the text on time limitation.

2.4.2.4 The Conference requested the Secretariat to provide definitions for the terms differential and modulated charges.

### 2.4.3 Recommendation

2.4.3.1 From the documentation and ensuing discussion on differential charges under Agenda Item 2.4, the Conference adopted the following recommendation:

#### **RECOMMENDATION 7 – DIFFERENTIAL CHARGES**

##### **THE CONFERENCE RECOMMENDS THAT:**

- a) in performing their economic oversight function States should, where necessary, assess the positive and negative effects associated with specific forms of differential charges applied by airports on a case-by-case basis according to national circumstances;
- b) States should ensure that differential charges are offered on a non-discriminatory basis; that they are transparent in terms of their creation, purpose and the criteria on which they are offered; that, without prejudice to modulated charging schemes, costs associated with differential charges are not allocated, either directly or indirectly, to those other users not benefiting from them; and that, if the purpose is to attract and/or retain new air services, they are offered only on a temporary basis; and
- c) ICAO should amend paragraph 23 of Doc 9082 to reflect the principles of transparency and time-limitation for start-up aids in the application of differential charges.

## **PART II – ACCESS TO AIRPORT INFRASTRUCTURE**

### 2.4.4 Documentation

**Secretariat** (WP/21) considered two issues related to access to airport infrastructure, i.e. slot allocation and international general and business aviation’s access to airports. With respect to slot allocation, the paper recalled that the results of a Secretariat’s study and the fifth Worldwide Air Transport Conference (ATConf/5, 2003) had already provided a broad policy framework and practical guidance for States. Regarding general and business aviation’s access to airports, another Secretariat’s study had made recommendations to safeguard the interests of this category of users and secure their access to airports. To give effect to the recommendations of the latter study at the global level, the paper proposed an amendment to Doc 9082.

**53 African States** (WP/61) highlighted the need to ensure equity and reciprocity in the implementation of market access rights granted to air carriers operating under air services agreements. The paper recommended the need to provide fair access to slots for air carriers from developing countries operating into airports of developed countries. It urged States to abide by the decision at ATConf/5, which provides a broad policy framework and practical guidance, and ICAO to review the continued relevance of night curfews at some international airports.

#### 2.4.5 Discussion

2.4.5.1 The Conference, recognizing the distinct nature of international general and business aviation, supported the Secretariat's proposal to give more emphasis in Doc 9082 to the importance of international general aviation, including business aviation, where access to airport infrastructure is a concern. While it agreed to highlight business aviation in the relevant Doc 9082 text, the Conference did not accept the Secretariat's proposal to introduce the phrase "properly allocated to them" in reference to the cost of the facilities needed and used by general and business aviation. As airport charges are levied on services received, the Conference found this proposed wording to be confusing and restrictive. With respect to the conclusions in WP/21, the Conference adopted these along with text changes for the sake of clarity.

2.4.5.1.1 With respect to WP/61 and the concerns raised about slot allocations and night curfews, the Conference noted that while these concerns had been previously addressed at ATConf/5 in 2003, there was strong support in favour of bringing this issue to the attention of the Council for consideration.

#### 2.4.6 Recommendation

2.4.6.1 From the documentation and ensuing discussion on access to airport infrastructure under Agenda item 2.4, the Conference adopted the following recommendation:

#### **RECOMMENDATION 8 – ACCESS TO AIRPORT INFRASTRUCTURE**

##### **THE CONFERENCE RECOMMENDS THAT:**

States should give due consideration to the results of ICAO's studies and relevant guidance on slot allocation, as well as international general and business aviation access to airports, at their discretion and in a flexible manner;

ICAO should take appropriate action on the issues related to slot allocation and night curfews; and

ICAO should amend paragraphs 23 and 41 of Doc 9082 to give more emphasis to the importance of international general aviation, including business aviation.