

CONSENSUS AND COOPERATION: A TOOL FOR THE LIBERALIZATION OF AIR SERVICES

(Presented by Asia Pacific Economic Cooperation Forum (APEC))

1. INTRODUCTION

1.1 The Asia Pacific Economic Cooperation Forum (APEC) is a unique organization. It is made up of 21 diverse economies and seeks to promote trade development and economic liberalization among its members.

1.2 For the information of the delegates to the Fifth Worldwide Air Transport Conference, the APEC Transportation Working Group presents the following information paper on the APEC experience in air services liberalization.

2. BACKGROUND

2.1 The first Conference of APEC Transportation Ministers held in June 1995 in Washington DC, directed the establishment of the Air Services Group (ASG) as an experts group within the Transportation Working Group (TPT-WG) to examine the matter of more competitive air services with fair and equitable opportunity for all member economies.

2.2 The ASG achieved APEC-wide consensus on eight options for more competitive air services. These were endorsed by APEC leaders at their Summit in Auckland, New Zealand in 1999, who provided the political imperative required for implementing the eight options at a pace consistent with each member's national interest. The ASG's Comprehensive Report on Options is held in the ASG Liberalization Library at http://www.iot.gov.tw/apec_tptwg.

3. THE PILLARS OF COOPERATION

3.1 Reform of the aviation sector within the Region is seen as part of the process of Trade Investment Liberalization and Facilitation (TILF) and Economic and Technical Cooperation (ECOTECH).

3.2 TILF includes the reduction and removal of formal impediments in order to make it easier to do business in the Region. It is also intended to reduce formal impediments such as tariffs and unnecessary regulatory and investment barriers in order to achieve the ultimate goal of open regional trade and investment by 2020.

3.3 ECOTECH covers a wide variety of APEC programmes that aim to reduce the disparity between the member economies. These programmes promote mutual benefit by building members' capacity to benefit from APEC's trade and investment liberalization agenda. From under this heading grew the Options Paper for more competitive air services.

4. THE EIGHT OPTIONS

4.1 The Eight Options for more competitive air services identified by the ASG and endorsed by the Auckland Declaration are:

4.1.1 **Air carrier ownership and control.** Most APEC economies require their national airlines to be substantially owned and effectively controlled by their own citizens. To that end a substantial ownership and effective control clause is prevalent in most bilateral agreements. The ASG noted the recommendation by the ICAO Air Transport Regulation Panel in June 1997 that "... States wishing to accept broadened criteria for air carrier use of market access in the bilateral or multilateral services agreements agree to authorise market access for designated air carrier which:

- a) has its principal place of business and permanent residence in the designating State; and
- b) has and maintains strong links to the designating State..."

and recommended that APEC economies consider using this formulation as a guide to relaxing the ownership and control requirements when examining designations made by bilateral partners on a case-by-case basis.

Implementation of this option has been given medium priority by the APEC economies.

4.1.2 **Doing business matters.** The maintenance and development of competitive air services are often dependent on minimizing restrictions and discriminatory practices on "doing business". Examples of this are the way in which member economies choose to regulate ground handling arrangements, currency conversion and remittance of earnings, employment of non-national personnel, the sale and marketing of air services products and access to computer reservation systems.

The ASG has recommended, and member economies have recognised as a high priority, that work towards "doing business" matters whether under bilateral agreements or through changes to domestic laws and regulations should be implemented. Again, model clauses developed by the ICAO Air Transport Regulation Panel have been recommended as a guide to change.

4.1.3 **Air freight.** While there is no doubt that the current framework of bilateral agreements has generally worked well in providing the necessary capacity and route alternatives for the carriage of air freight, the ASG has nonetheless recommended that APEC economies progressively remove restrictions on the operations of air freight services while continuing to ensure fair and equitable opportunities for the economies involved. One means of doing so would be to include, where appropriate, provisions for additional capacity and flexibility for airfreight services in bilateral agreements.

In making this recommendation, the ASG noted the connection between adequate flexibility in intermodal operations and implementation of business-friendly procedures to the development of airfreight services. As a result, this option has been connected with Option 3 and awarded a high to medium priority for action.

4.1.4 **Multiple airline designation.** Noting that the growth in the number of airlines providing services within the region adds to competition and provides greater choice for consumers, the ASG recommended that APEC economies include, as appropriate, multiple airline designation in their bilateral air services agreements. The implementation of this recommendation has been identified as a high priority.

4.1.5 **Charter service.** The ASG recommended that APEC economies allow and facilitate the operation of both passenger and *ad hoc* charter services that supplement or complement scheduled services, having regard to the principle of reciprocity, as appropriate.

As the general trend in the liberalization of air services agreements has resulted in increased capacity in general, this Option is seen as a medium priority and of more assistance in the exploration of new markets within the region.

4.1.6 **Airlines' cooperative arrangements.** The ASG recommended that APEC economies facilitate cooperative arrangements such as code sharing, including third country code share and code share over domestic sectors, joint operations and block space arrangements, where it can be shown to be of benefit to consumers and airlines, and where there are no anti-competitive effects. As an overriding principle, fair and equal opportunity for the economies involved must be ensured. Achievement of this priority has been given a high priority.

4.1.7 **Market access.** Of medium priority for achievement is the recommendation that APEC economies take progressive action to liberalize market access under bilateral air services agreements, whilst ensuring fair and equitable opportunity for the economies involved.

5. IMPLEMENTATION

5.1 The APEC options do not ask economies to discriminate between methods of implementation, provided that progress is towards each option at a pace consistent with each individual economy's national interest. Progress made unilaterally, bilaterally, plurilaterally or multilaterally through fora like the General Agreement on Trade in Services (GATS) and ICAO are equally acceptable.

5.2 In order to aid decisions on liberalization, the ASG has compiled a manual for liberalization through more than one hundred papers and "think pieces" submitted by APEC members on the benefits and difficulties of implementing each of the eight options. These papers are available at http://www.iot.gov.tw/apec_tptwg/.

5.3 The ASG has also achieved APEC-wide consensus on a method for measuring the progress toward implementing each of the eight options through an annual survey of member economies. The outcomes of the last two surveys can be accessed at http://www.iot.gov.tw/apec_tptwg/.

5.4 Analysis of the responses to the questionnaire provides a useful measure of the extent to which APEC economies have implemented the eight options of the ASG. Responses indicate a high degree of common interest by member economies in liberalizing provisions of air services agreements. This is particularly strong in the areas of multiple designation, doing business matters, cooperative airline arrangements, charter services and airfreight.

5.5 Responses to the questionnaire also show that there is widespread acceptance of the benefits of the on-going liberalization of air services. The speed at and manner in which the goals are being met, however, varies considerably across the APEC economies.

5.6 Every economy is implementing the eight options. Amongst other approaches, six member economies (the United States of America, New Zealand, Chile, Peru, Brunei and Singapore) have signed an agreement entitled the Multilateral Agreement on the Liberalization of International Air Transportation. Information about the Agreement can be found at <http://www.maliat.govt.nz/>

6. CONCLUSION

6.1 Since its creation in 1994, the ASG has:

- a) achieved APEC wide consensus on the eight options for more competitive air services in APEC;
- b) obtained the political imperative required for implementing the eight options at a pace consistent with each member's national interest in the Auckland Leader's Declaration. The Declaration can be viewed at <http://www.apecsec.org.sq/vitualib/econlead/nz.html>;
- c) created a manual for liberalization through more than one hundred papers and "think pieces" submitted by APEC members on the benefits and difficulties of implementing each of the eight options. These papers are available at: http://www.iot.gov.tw/apec_tptwq/; and
- d) achieved APEC wide consensus on a method for measuring the progress toward implementing each of the eight options through an annual survey. The eight options for more competitive air services do not lock each economy into a particular method of achieving liberalization, as a treaty, or adherence to an international process like GATS might. As a result, the genesis and development of the APEC model for liberalization has been relatively quick.

6.2 The ASG is open to communication with other fora and would welcome enquiries and observers from other bodies interested in its activities.

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