

**Liberalization Policy and Implementation**  
**ICAO Regulatory Policy Seminar**  
**April 27 – 29 2004**

**The Association of Caribbean States**  
**Special Committee on Transport**  
**Mr. Agustin Vrolijk, Chairman**

### **Association of Caribbean States**

The Association of Caribbean States comprises of 25 countries and territories in the Caribbean Sea and the region is called the Greater Caribbean. The members and associate members are the countries starting from Mexico, Central America, Panama, the North Coast of South America and all the islands in the Caribbean, with the exception of Puerto Rico and USA for Florida.

ACS is a forum with the aim to promote consultation, co-operation and concerted action among all the countries of the Caribbean. This is to strengthen the regional co-operation and integration process, to create an enhanced economic space in the region, and promote the sustainable development of the Greater Caribbean. The focal areas are trade, transport, sustainable tourism and natural disasters. Trade and sustainable tourism cannot be achieved without the proper means of transportation in the air and at sea.

For the purpose of the seminar I will be talking about the developments in the Air Transport Group of the Special Committee on Transport.

### **Unite the Caribbean by Air and Sea**

In the 2<sup>nd</sup> ACS Summit in the Dominican Republic in 1999 a Plan of Action was adopted that included a programme to unite the Caribbean by air and sea.

This programme was based on the economic reality that transportation in the region was difficult and it hampered all development in the trade of goods and the tourism industry. If we are working to ever have a sustainable tourist industry and increasing intra-regional trade we will have to build the necessary transportation means to make this happen. The region was/is too much dependable (for more than 80%) on foreign carriers, that are only in the region

because there is good business. Small economies were/are too much at the mercy of these airlines and Governments with difficult financial situations are often under pressure to subsidize the operation of these airlines, to maintain alive the local tourist industry which creates the so needed job opportunities.

Traveling within the Caribbean region was/is still cumbersome, inefficient, and costly and the best way to travel is on foreign, out of the region airlines. Also the cargo hubs are situated outside the region, so sending cargo would be expensive and this would reflect on the price the consumer has to pay.

### **Multilateral Air Transport Agreement**

Without reliable, efficient air services and at a reasonable price there was/is no way that there will be any progress in intra-regional tourism, dual destination or intra-regional commerce.

To start the discussions was difficult as the 25 members and associate members of the ACS have a great variety of air transport policies from very liberal to very protective. The individual members have different policies for different counter-parts.

Recognizing the handicaps of the ACS-region in air transport that have repercussions on the development of the region, the Air Transport Group started to work on an agreement to facilitate the operation of regional airlines with the least possible hurdles

The procedure to come to a consensus had to start from above.

The first draft presented by Aruba at a meeting of the Air Transport Group in 1999 was very liberal. Some members like Panama and Costa Rica who also have such a policy, supported the proposal. But it took more than 4 years of negotiations to finally reach a consensus in 2003. This delicate work is finely woven in the **Air Transport**

### **Agreement among the Members States and Associate Members of the Association of Caribbean States.**

Parties have been reluctant to give away their sovereignty on determining their air transport policy. So in this Agreement parties are left with maneuvering space for a custom-made air transport policy.

Highlights of this Agreement are:

- \* Exchange of 3<sup>rd</sup> and 4<sup>th</sup> freedom rights was generally accepted.
- \* Fifth freedom right can be exchanged on bilateral or multilateral basis.

The choice has to be made at the time of signing or ratification of the Agreement. In case 5<sup>th</sup> freedom rights have negative effects on national interests the authorization to operate these rights can be revoked.

- \* Charter operations are possible as long as they are not detrimental to scheduled operations.
- \* To promote multi-destination tourism stopover rights are permitted. The passenger however has to continue his journey with same documents and same carrier.
- \* Each party can designate up to 2 airlines to operate a route, and based on the ICAO resolution “Community of Interest” a party can designate an airline of another member to operate a route.
- \* The criteria for a designated airline to be accepted is that the substantial ownership and control are in hands of a party or parties, its nationals or both; the head-office of the designated airline is situated in the territory of the party that has designated the airline; the authorities that designated the airline are responsible for the security and safety compliance of the airline.
- \* With the necessary authorization the designated airline can have its own office for sales, bring in its own personnel, and convert and transfer revenues from the sales. The airlines can also make co-operation agreements with other airlines.
- \* The parties shall allow fair and equal opportunities for airlines to compete.
- \* The authorities have the obligation to avoid and eliminate unfair competition.
- \* Approval of tariffs and fares is according to the country of origin system or according to the national legislation.
- \* There is no restriction on capacity.
- \* Existing agreements and their renewals will be respected.
- \* Amendments will enter into force when one third of the parties to the Agreement has approved them and only between parties.
- \* The Agreement itself will enter into force 60 days after 9 members and Associate members of the ACS have deposited their instruments of ratification with the Government of Colombia, the depository of the Agreement constituting the Association of Caribbean States.

Up to now Barbados, Cuba, Jamaica, Nicaragua, Panama, Suriname and Venezuela have signed the Agreement. More members are willing do so at the appropriate occasion.

This Agreement makes it possible for airlines of the region to combine markets, small markets within the region and make an operation economically feasible and so to make the region less depended for their economic existent on foreign carriers.

## **The Future**

At present the Caribbean have many constant challenges. As the political situation in the world dictates Security remains high on the list. Governments are under pressure to implement regulations to secure and protect passengers, aircraft, airports, and air navigation facilities. By the side they have to combat illegal trafficking of drugs. Safety is an ongoing commitment for all actors in aviation; any mishap in the region will scare passengers and consequently affect us all.

Harmonization of the requirements for grant operating permits is also on the work programme of the Air Transport Group. This harmonization/standardization or simplification of national requirements will facilitate the application of the Agreement. For the users there is ongoing work on the codification of the users' rights in air transport.

Because of the fierce competition, increased concentration and consolidation in the air transport industry, we can expect intensified oligopoly power resulting in higher prices and reduced consumer choices. It is then necessary to have a regional policy to establish a framework to counter anti-competitive practices that exceeds prescribed benchmarks in the industry. Although anti-competitive measures cut both ways it is necessary to have fair competition among the airlines otherwise liberalization of air transport in the region will have no or few benefits for the users in particular and the Greater Caribbean in general.