



Doc 9908
CEANS 2008

International Civil Aviation Organization

REPORT OF THE CONFERENCE ON THE ECONOMICS OF AIRPORTS AND AIR NAVIGATION SERVICES (CEANS)

Montréal, 15–20 September 2008

*Approved by the Conference and
published by authority of the Secretary General*





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LETTER OF TRANSMITTAL

To: President of the Council

From: Chairman, Conference on the Economics of Airports and Air Navigation Services (CEANS)

I have the honour to submit the Report on the work of the Conference on the Economics of Airports and Air Navigation Services (CEANS), held at ICAO Headquarters in Montréal from 15 to 20 September 2008.



Daniel Cogliati
Chairman
Conference on the Economics of
Airports and Air Navigation Services

Montréal, 20 September 2008

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INTRODUCTION

Site and duration of the Conference

1. The Conference on the Economics of Airports and Air Navigation Services (CEANS) was convened in the Assembly Hall of the Headquarters of the International Civil Aviation Organization (ICAO) in Montreal on 15 September 2008. Mr. R. Kobeh González, President of the Council, opened the Conference, which was also addressed by Mr. S. A. R. Hashem, Chairman of the Air Transport Committee. Dr. Taïeb Chérif, the Secretary General, welcomed the participants and introduced the Conference Secretariat. Addresses made at the opening meeting appear at Appendix A. The Conference completed its work on 20 September 2008.

Agenda

2. The Conference adopted the following agenda which had been approved by the Council and presented in CEANS-WP/1:

1. **ISSUES INVOLVING INTERACTION BETWEEN STATES, PROVIDERS AND USERS**

Review of three key issues common to airports and air navigation services:

1.1 **Economic oversight**

The protection of users against potential abuse of dominant position by airports and air navigation services providers (ANSPs) is a State's responsibility. This could be achieved through economic oversight, i.e. monitoring by a State of the commercial and operational practices of service providers. The Conference will discuss the scope and forms of economic oversight, as well as the associated costs and benefits, and consider what forms of economic oversight might be applied, according to the specific circumstances in a State.

1.2 **Economic performance and minimum reporting requirements**

The assessment of airport and ANSP performance, including the use of benchmarking, can serve to improve safety, quality of services, productivity and cost-efficiency of airports and ANSPs, as well as to support investment decisions. The Conference will discuss and try to achieve a mutual understanding by all stakeholders regarding the kind of data that would be fundamental to performance reporting, as well as the minimum reporting requirements for performance measurement.

1.3 **Consultation with users**

Good relations between regulators, providers and users are important for the effective development of air transport. However, many airports and ANSPs around the world either do not consult users, or maintain a proper and regular consultation process. The Conference will review

existing consultation mechanisms between airports/ANSPs and users, and consider innovative solutions to establish the foundation for a sound cooperation between providers and users.

2. SPECIFIC ISSUES RELATED TO AIRPORT ECONOMICS AND MANAGEMENT

Examination of issues specific to airports:

2.1 Governance, ownership and control

Changes in governance, ownership and control of airports, including cross-border investments in privatized airports, can have implications for a State's obligations in the provision and operation of airport services. Based on the experiences of commercialization and privatization, the Conference will consider the influence of different governance structures on the performance of airports and what measures States can take in order to ensure that all relevant obligations of States are observed.

2.2 Cost basis for charges

The cost basis of an airport for charging purposes has usually been established by taking into account the costs of operation and maintenance, cost of capital and depreciation of assets (based on historical value in most cases), and a "reasonable" return on assets. The Conference will try to build a consensus on possible ways to assess what would constitute a "reasonable" rate of return, and explore the possibility of consolidating several airport cost bases into one cost base for charging purposes.

2.3 Cost allocation and charging systems

ICAO's current policies and guidance material on airport charges have provisions dealing with how the costs of the various airport facilities and services should be allocated to different categories of users. However, some new trends have emerged such as the allocation of costs on a per passenger basis, which includes all or most cost bases of the aeronautical activities. The Conference will discuss whether such new approaches are consistent with ICAO's policies, and consider appropriate amendments to the policies and guidance material on cost allocation.

2.4 Non-discrimination aspects

In recent years, airport operators have developed certain differential charges to attract and retain new airline services, for example, discounts on passenger service charges and incentive schemes for particular airlines, including low-cost carriers. Some of these differential charges might be non-transparent, discriminatory and anti-competitive, especially when they constitute a form of State aid. The Conference will address the issue of how to deal with the measures taken by airport operators that have the potential to create unfair treatment, as well as the issue of access to airport facilities.

2.5 Financing and cost recovery of security measures

According to ICAO's policies on security charges, the costs of security functions performed by States such as general policing, intelligence gathering and national security should not be passed on to the airport users. However, practices differ between regions and States, which have

financial implications on users. The Conference will review the current policies and discuss how to achieve a more harmonized implementation of ICAO's policies regarding airport security charges.

3. SPECIFIC ISSUES RELATED TO AIR NAVIGATION SERVICES ECONOMICS AND MANAGEMENT

Examination of issues specific to air navigation services:

3.1 Governance, ownership and control

While autonomous and commercialized ANSPs have been established in many States around the world, financing is still an issue in other States. The Conference will consider the importance of further promotion of ICAO's policies on the establishment of autonomous ANSPs, including separation between regulatory and operational functions. The Conference will also review commercialization experiences and discuss their influence on the performance of ANSPs, with particular attention to governance and management structures.

3.2 Cost basis for charges

The cost basis of an ANSP for charging purposes has usually been established by taking into account the costs of operation and maintenance, plus cost of capital and depreciation of assets, as well as a "reasonable" return on assets. The Conference will try to build a consensus on possible ways to assess what would constitute a "reasonable" rate of return for ANSPs. Another issue that the Conference will address is the practice of contingency funds in order to cater for unforeseen severe drops in traffic/revenues.

3.3 Cost allocation and charging systems

The allocation of costs to air traffic control services has traditionally followed the categorization of services between aerodrome control, approach control and area control. The Conference will review recent developments, and consider the need for and implications of an alternative categorization of services based on the portions of airspace and on the phase of flight, which could lead to the introduction of zone (differential) charges. The Conference will also discuss the relevance of the element of aircraft weight in the charging formulae and incentives that could apply both to providers and users.

3.4 Economic and organizational aspects related to implementation of the global air traffic management (ATM) concept

The global air traffic management (ATM) concept seeks to derive operational, economic as well as environmental benefits for all members of the ATM community. The efficient and cost-effective implementation of a seamless ATM system will be facilitated through multilateral cooperation and institutional arrangements for financing and charging. The Conference will review the work of ICAO concerning the economic, organizational and managerial aspects of the implementation of the global ATM concept, and consider what practical guidance and support ICAO may provide to States, as well as to regional and sub-regional entities, including guidance on charging systems.

4. IMPLEMENTATION OF ICAO'S POLICIES ON CHARGES

While ICAO has developed comprehensive policies and guidance material on charges for airports and air navigation services, States do not always fully observe them. This is often due to a lack of awareness of and firm commitment by States to adhere to these policies. The situation may not improve with the trend of commercialization and privatization, which lead to changes in governance, ownership and control of airports and ANSPs. The Conference will discuss possible means to increase the awareness of ICAO's policies and their implementation by States and their airports and ANSPs.

Structure and rules of procedure

3. The Conference met as a single body and held 10 meetings. Formal consideration of the agenda was preceded on Sunday, 14 September by a pre-Conference Symposium: Challenges for Airports and Air Navigation Services, setting the scene and focussing on some key issues to be addressed by the Conference in an informal setting, with the Conference *per se* commencing on Monday, 15 September.

4. The rules of procedure were the *Standing Rules of Procedure for Meetings in the Air Transport Field* (Doc 8683). Rule 26, which calls for the preparation of summary minutes, had been suspended by the Council.

Attendance

5. The following 103 Contracting States of ICAO were represented at the Conference:

Albania	Cuba	Italy
Argentina	Czech Republic	Jamaica
Armenia	Denmark	Japan
Australia	Dominican Republic	Kazakhstan
Austria	Ecuador	Kenya
Barbados	Egypt	Lebanon
Belgium	El Salvador	Lesotho
Benin	Equatorial Guinea	Liberia
Bolivia	Ethiopia	Libyan Arab Jamahiriya
Botswana	Finland	Lithuania
Brazil	France	Madagascar
Burkina Faso	Gabon	Malaysia
Burundi	Germany	Mali
Cameroon	Ghana	Malta
Canada	Greece	Mauritania
Cape Verde	Guatemala	Mauritius
Chad	Guinea	Mexico
Chile	Haiti	Mozambique
China	Iceland	Namibia
Colombia	India	Netherlands
Costa Rica	Indonesia	New Zealand
Côte d'Ivoire	Ireland	Niger

Nigeria	Senegal	Turkey
Norway	Serbia	Uganda
Pakistan	Singapore	Ukraine
Panama	Spain	United Arab Emirates
Paraguay	Sudan	United Kingdom
Peru	Sweden	United Republic of Tanzania
Philippines	Switzerland	United States
Poland	Thailand	Uruguay
Portugal	The former Yugoslav	Venezuela
Republic of Korea	Republic of Macedonia	Vietnam
Romania	Togo	Yemen
Russian Federation	Trinidad and Tobago	Zambia
Saudi Arabia	Tunisia	

6. The following 17 Observer Delegations* attended the Conference:

Arab Civil Aviation Commission (ACAC)
 Airports Council International (ACI)
 African Civil Aviation Commission (AFCAC)
 Agency for Air Navigation Safety in Africa and Madagascar (The) (ASECNA)
 Civil Air Navigation Services Organisation (CANSO)
 Central American Corporation for Air Navigation Services (COCESNA)
 European Commission (EC)
 European Civil Aviation Conference (ECAC)
 European Organisation for the Safety of Air Navigation (EUROCONTROL)
 Interstate Aviation Committee (IAC)
 International Council of Aircraft Owner And Pilot Associations (IAOPA)
 International Air Transport Association (IATA)
 International Business Aviation Council (IBAC)
 International Transport Workers' Federation (ITF)
 Latin American Civil Aviation Commission (LACAC)
 Société Internationale de Télécommunications Aéronautiques (SITA)
 World Bank (WB)

7. A list of participants in the Conference appears at Appendix B.

Officers of the Conference

8. The following officers were elected:

Chairman of the Conference:	Mr. Daniel Cogliati (Canada)
First Vice-Chairman:	Ms. Siew Huay Tan (Singapore)
Second Vice-Chairman:	Mr. Ramesh Lutchmedial (Trinidad and Tobago)

* Please note that the World Tourism Organization (UNWTO) submitted a working paper but did not attend the Conference.

Secretariat

9. Mrs. F. Odutola, Director of the Air Transport Bureau, served as Secretary of the Conference, and Mr. Ö. Magnusson, Chief, Economic Policy and Infrastructure Management Section, served as Deputy Secretary. Assistant Secretaries were Mrs. M. Boulos, Mr. J. de la Cámara, Mrs C. Fischer, Mr. T. Hasegawa, Mr. B. Peguillan, Mr. Y.-Z. Wang, Mrs. H. Biernacki, Mr. L. Fonseca, and Mr. E. Gngang. Liaison for the Air Transport Bureau was carried out by Dr. R.I.R. Abeyratne, documentation and web-page coordination by Mrs. S. Joseph, credentials coordination by Mr. Z. Anwar and Mrs. A.-M. Steiman, and secretarial supervision by Mrs. S. Brain and Mrs. N. Souto. Mr. J. Begin, Deputy Director of the Air Transport Bureau, acted as Adviser to the Conference.

10. Administrative and language services were provided under the supervision of Dr. F. Liu, Director, Bureau of Administration and Services, by Mr. M. Blanch, Chief, Conference and Office Services Section, Mrs. D. Rahmani, Documentation Control Officer and Ms. E. M. Mccarthy, Acting Chief, Interpretation.

Documentation

11. A list of the documentation associated with the work of the Conference is presented in Appendix C.

Agenda Item 1: Issues involving interaction between States, providers and users
1.1: Economic oversight

1.1.1 Documentation

Secretariat (WP/4) reviewed the purpose of economic oversight for airports and air navigation services and considered how to select the appropriate form of economic oversight. It reaffirmed that economic oversight is a State's responsibility with various public policy objectives including the prevention of the risk that a service provider could abuse its dominant position. If economic oversight beyond competition law is deemed necessary, the degree of competition, the costs and benefits related to it, as well as the legal, institutional and governance frameworks should be taken into consideration. The paper proposed to amend the text in Doc 9082 to clarify the purpose, scope and selection of the appropriate form of economic oversight.

Uganda (WP/69) believed that regional organisations can provide the necessary resources for States that do not have their own capacity to adequately perform economic oversight functions. There should be mechanisms for ICAO to work with such regional organizations through the development of guidance material.

United States (WP/71) provided an amendment to the text of Doc 9082 proposed in WP/4 to emphasize the need that regulatory interventions should be measured and applied in a manner proportionate to the specific circumstances.

53 African States (WP/58) described the role of AFCAC as the African Air Transport Executing Agency of the Yamoussoukro Decision responsible for the economic oversight of Africa's liberalized air transport industry. The paper urged States to implement the ICAO Assembly Resolution regarding economic regulation of international air transport.

UNWTO (WP/22) agreed that economic oversight of airports and air navigation services is a necessary State responsibility with the promotion of an appropriate balance amongst safety, security and facilitation, environmental and economic issues. The overall package of economic instruments should provide net economic benefits for all developing countries and preferential measures for the Least Developed Countries in particular.

IAC (WP/53) supported WP/4, confirming the role of the States in economic oversight in the form of legislation or through the establishment of an appropriate regulatory mechanism to resolve the issues on the increase of the cost of aviation fuel.

ACI (WP/27) stressed that applying similar forms of economic oversight to airports and ANSPs ignores the differences between the two types of service providers, in particular their divergent degree of competition. The proposed amendment of Doc 9082 should therefore be consistent with the underlying assumption that airports do not *per se* have a dominant market position. The paper concluded that any regulatory interventions should be kept at a minimum, be subject to a cost-benefit analysis, and ensure sufficient investment to meet future demand.

IATA (WP/46) outlined the need for economic oversight to be applied at all airports and ANSPs regardless of the degree of competition and their size as this is a State responsibility. The paper emphasized that economic regulation should be applied where competition does not exist to protect users from potential monopoly abuse. To reflect their view, further amendment of the text in Doc 9082 proposed in WP/4 was provided.

ITF (WP/24) stated that economic oversight can have a direct impact on the employment conditions of workers. In setting a regulatory framework, therefore, ICAO should take account of the need to balance the requirements of users, employees and other stakeholders.

Secretariat (WP/18 – information paper) summarized the results of the recent survey on the status of ownership, organization and regulatory practices of airports and ANSPs in 2007 and planned changes thereof.

Mali (WP/41 – information paper) presented information on its current practices and experiences related to economic oversight, economic performance management, and consultation with users. The paper also expressed support for the amendments of Doc 9082 proposed by the ICAO Secretariat (WPs/4, 5 and 6).

Republic of Korea (WP/63 – information paper) described the role of its government in the areas of economic oversight and performance management of the country's airport operators, which are operated by independent organizations.

ACI (WP/66 – information paper) provided a summary of its latest global traffic forecast report, indicating, *inter alia*, that global passenger volumes will surpass the 5 billion mark by 2009, reaching 11 billion by 2027.

1.1.2 Discussion

1.1.2.1 To facilitate the discussion on economic oversight, the Conference Chairman clarified the meaning of the term “economic oversight” as different from “economic regulation” by referring to the definitions contained in Doc 9082, Appendix 3.

1.1.2.2 The Conference gave widespread support to the thrust of the draft conclusions presented by the Secretariat in WP/4, reflecting broad recognition for the need for economic oversight in the increasingly commercialized and privatized environment for airports and air navigation services. A number of suggestions were made for improving the proposed new text for inclusion in Doc 9082. The Conference felt that it should focus on the draft conclusions rather than the detailed wording of the relevant Doc 9082 amendment. It was agreed that the Secretariat would take into account the comments and suggestions made during the discussion in preparing the final text of the amendments to Doc 9082 for consideration by the Council.

1.1.2.3 In reviewing the forms of economic oversight, there was some support for giving States more flexibility in choosing the appropriate form and for applying economic oversight proportionate to their specific circumstances. The Conference did not see a need for this.

1.1.2.4 With respect to the suggestions for an extended or a more limited application of non-discrimination and transparency principles, as well as the specific suggestion that economic oversight be applied to “all” service providers, the Conference felt that these amendments would be either redundant or unnecessary since the current text in Doc 9082 already incorporates such principles.

1.1.2.5 The Conference expressed support for a proposal to revise the text about one of the public policy objectives. It was agreed to replace “to provide incentives for consultation with users” by “to ensure consultation with users”.

1.1.2.6 A view was expressed that due consideration should be given to the needs and challenges faced by developing countries, some of which do not have the necessary funds to invest in aviation infrastructure to meet even the current demand, nor the resources to perform their duty of economic oversight, given competing priorities on safety, security, environment and liberalization of air transport. In this regard, it was agreed that a regional approach, such as that proposed in WPs/58 and 69, could be a useful option for States to pull their resources together in performing their economic oversight functions.

1.1.3 Recommendation

1.1.3.1 From the documentation and ensuing discussion on economic oversight under Agenda Item 1.1, the Conference adopted the following recommendation:

RECOMMENDATION 1 – ECONOMIC OVERSIGHT

THE CONFERENCE RECOMMENDS THAT:

- a) States should bear in mind that economic oversight is the responsibility of States with the objectives, *inter alia*, to prevent the risk that a service provider could abuse its dominant position, to ensure non-discrimination and transparency in the application of charges, to ascertain that capacity meets current and future demand, and to protect the interests of passengers and other end users, in balance with the efforts of the autonomous/private entities to obtain the optimal effects of commercialization or privatization. To promote these objectives, consistent with the form of economic oversight adopted, States should ensure that service providers consult with users and that appropriate performance management systems are developed and implemented by their service providers;
- b) States should select the appropriate form of economic oversight according to their specific circumstances, while keeping regulatory interventions at a minimum and as required. When deciding on an appropriate form of economic oversight, the degree of competition, the costs and benefits related to alternative forms of oversight, as well as the legal, institutional and governance frameworks should be taken into consideration;
- c) States should consider adoption of a regional approach to economic oversight where individual States lack the capacity to adequately perform economic oversight functions; and

- d) ICAO should amend Doc 9082 to clarify the purpose and scope of economic oversight for airports and air navigation services with reference to its different forms and the selection of the most appropriate form of oversight.

Agenda Item 1: Issues involving interaction between States, providers and users
1.2: Economic performance and minimum reporting requirements

1.2.1 Documentation

Secretariat (WP/5) emphasized the importance of performance management and the need for States to encourage their airports and ANSPs to develop performance management systems. The paper concluded that service providers should establish performance objectives related to, at least, four key performance areas (KPAs), i.e. safety, quality of service, productivity and cost-effectiveness, and to report relevant performance indicators for each KPA. An amendment of the text in Doc 9082 was proposed to better reflect the elements of a performance management process, including the four KPAs and consultation with users and other parties concerned.

France on behalf of EU, ECAC and their Members (WP/55) reviewed a number of ways through which environmental impact could be taken into account in airports and ANSPs performance. Environmental performance should be part of the overall performance objectives at regional and/or national level. The paper suggested that further work be undertaken by ICAO in this respect, in particular to elaborate on possible environmental performance criteria for ANSPs, as well as the links between the achievement of performance objectives and the charging schemes for ANSPs.

European Commission and EUROCONTROL (WP/52) described European efforts to implement a performance-driven system covering all air navigation services in line with and, where possible, going beyond ICAO's policies. The paper supported the conclusions of the ICAO Secretariat in WP/5 and requested ICAO to consider establishing a regular dialogue with regional organizations with a view to improving performance of air navigation services and assisting airspace users facing the economic challenges.

UNWTO (WP/22) considered it vital that performance parameters be established, monitored and made available to the public in the context of system efficiency, safety, security, facilitation, and environmental values. It also drew particular attention to the potential value of recording, monitoring and publicizing processing times for passengers in relation to the targets in ICAO *Annex 9 – Facilitation Recommended Practices*.

ACI (WP/28) asserted that the performance requirements for airports must not be the same as those for ANSPs because of the difference in their competitive and commercial environments. The paper concluded that relevant and appropriate performance indicators (as opposed to objectives) should be developed and include all service providers at the airport. To reflect their view, further amendment of the text in Doc 9082 proposed in WP/5 was provided.

CANSO (WP/34) provided an overview of the work that CANSO and its member ANSPs have been carrying out in the field of performance measurement and benchmarking. A global ATM performance measurement framework, which is being developed in consultation with customers and other stakeholders, would assist individual

ANSPs in optimizing their performance and serve the needs of air navigation services oversight bodies.

ITF (WP/24) stressed the need for workers' involvement in the development of a performance management system. The paper suggested including a reference to workers in the text in Doc 9082 proposed in WP/5.

Secretariat (WP/18 – information paper) provided some information relevant to this item (see paragraph 1.1.1).

Mali (WP/41 – information paper) provided some information relevant to this item (see paragraph 1.1.1).

Republic of Korea (WP/63 – information paper) provided some information relevant to this item (see paragraph 1.1.1).

European Commission (WP/56 – information paper) provided some information relevant to this item (see paragraph 3.4.1).

1.2.2 Discussion

1.2.2.1 The Conference considered this item on the basis of WP/5 presented by the Secretariat together with several other papers, where some specific proposals were made concerning the issue of economic performance. There was general recognition of the importance and benefit of performance management and the need for States to ensure establishment of such systems by their airports and ANSPs. Broad support was expressed for the updating of the ICAO policies to take account of the latest developments, and to the draft conclusions presented in WP/5.

1.2.2.2 In considering WP/55, which proposed that environmental performance be included as part of the overall performance objectives and that ICAO initiate work to develop policy guidance on possible environmental performance criteria for ANSPs, diverging views were expressed. While some voiced support for the proposal, many others were of the opinion that it would be premature for ICAO to undertake such work since environmental issues were being addressed by other ICAO fora responsible for aviation environment. After considerable discussion, the Conference agreed that this issue should be referred to the appropriate forum in ICAO for consideration. The Conference also took note that ECAC planned to conduct a study on this issue with the intent to present its results to ICAO at the 4th meeting of the Group on International Aviation and Climate Change (GIACC) in June 2009.

1.2.2.3 The Conference also addressed the proposal in WP/28 that appropriate performance indicators should be developed for KPAs but that objectives were not necessary, and concluded that there cannot be performance indicators without performance objectives, and thus no amendment was required to the text of the draft conclusions in WP/5.

1.2.2.4 With respect to the proposal in WP/24 to include “staff employment conditions” as a KPA and also include “trade unions and professional associations” in the consultation process, the view was expressed that such inclusions could have the risk of conflicting or creating confusion with existing

provisions in Annexes 6, 11 and 14 to the *Convention on International Civil Aviation* (Chicago Convention). Many also felt that CEANS was not the appropriate forum to discuss such issues. The Conference therefore agreed to retain the text of the draft conclusions in WP/5 without amendment.

1.2.2.5 A proposal was made that ICAO should consider establishing a regular dialogue with regional organizations on the issue of economic performance. Considering that such a dialogue would be beneficial for both parties, the Conference agreed to recommend that ICAO pursue this where appropriate.

1.2.2.6 Finally, with respect to the proposal in WP/22 to include facilitation as an additional KPA, the Conference concluded that this could be covered by the existing provisions in *Annex 9 – Facilitation* to the Chicago Convention, as well as the recommended KPAs in WP/5, for example, under “quality of service” or “productivity”.

1.2.3 Recommendation

1.2.3.1 From the documentation and ensuing discussion on economic performance and minimum reporting requirements under Agenda Item 1.2, the Conference adopted the following recommendation:

RECOMMENDATION 2 – ECONOMIC PERFORMANCE AND MINIMUM REPORTING REQUIREMENTS

THE CONFERENCE RECOMMENDS THAT:

- a) since performance management is an important management tool for service providers, regulators and users, States should ensure, within their economic oversight responsibilities, that appropriate performance management systems are developed and implemented by their service providers;
 - b) States should ensure that their service providers establish performance objectives with the purpose, as a minimum, to continuously improve performance in four KPAs, i.e. safety, quality of service, productivity and cost-effectiveness, and to report at least one relevant performance indicator for each KPA. States may choose additional KPAs according to their objectives and their particular circumstances;
 - c) ICAO should amend Doc 9082 to recommend the establishment of performance management systems by service providers, and to include the major elements of a performance management system with emphasis on the selection of KPAs and related indicators; and
 - d) ICAO should establish a dialogue, where appropriate, with regional organizations on economic performance with a view to improving performance of the air navigation services system.
- — — — —

Agenda Item 1: Issues involving interaction between States, providers and users
1.3: Consultation with users

1.3.1 Documentation

Secretariat (WP/6) sought to set guidelines to which airports and ANSPs should adhere to ensure that users are properly consulted on issues that could materially affect them, i.e. level and structure of charges, capacity development and investments. This is aimed at enhancing cooperation between service providers and users. The paper concluded that a permanent, regular consultation process should be established where provider/user cooperative arrangements are not already in place. Accordingly, an amendment of the text in Doc 9082 was proposed to incorporate the concept of a permanent, regular consultation mechanism in new paragraphs with a consolidation of the current two separate sections into one, applicable to both airports and air navigation services.

Uganda (WP/70) discussed the issue of user consultation in the context of ensuring that the consultation process does not paralyze airports and air navigation service provision and development. It also discussed the need to develop mechanisms to address passenger needs with special emphasis on tourism.

UNWTO (WP/22) underlined the need to broaden the concept of airport users to include passengers, who should be encompassed in appropriate parts of the consultation process when practicable.

IAC (WP/53) supported WP/6, establishing balanced and mutually acceptable conditions for collaboration between service providers and users.

ACI (WP/29) considered that the permanent consultation process proposed in WP/6, would place the autonomy of the service provider at risk. Instead, any consultation process should be flexible and based on specific proposals made by service providers for aircraft operators, primarily taking into account the current and future interests of passengers and other end users. It affirmed that consultations are different from negotiations and do not require agreement between the parties. When lacking agreement, the service provider should continue to be free to implement its decision. It is essential that any appeal process be consistent with the form of economic oversight adopted in the State concerned. The paper proposed to amend Doc 9082 to specify the characteristics and purpose of the consultation process.

CANSO (WP/35) outlined its customer relations model, which was developed based on the work of its Customer Relations Working Group (CRWG), and is founded on several fundamental principles. This model is outlined in the CANSO Guide to Customer Relationship Management and serves as guidance in best practice in the establishment of a permanent regular and mutually beneficial consultation process.

IAOPA (WP/26) observed that regular and substantive consultations between users and service providers are highly desirable but not always practiced to ensure adequate

information and exchange of view. The paper suggested that the text proposed for Doc 9082 in WP/6 would be further amended in order to strengthen an appeal mechanism in cases where agreement is not possible following consultation and to extend lead times for planned changes to systems, service levels or charges.

IATA (WP/47) informed of the need to further strengthen ICAO's policies on consultation with users, noting the result of an IATA survey that users still experience a complete lack of consultation and transparency in many States. States should ensure that user consultation is mandated through economic regulation, an independent regulatory mechanism or national legislation. The paper suggested a modification of the text proposed in WP/6 for Doc 9082.

Mali (WP/41 – information paper) provided some information relevant to this item (see paragraph 1.1.1).

Republic of Korea (WP/64 – information paper) introduced its experience of successful changes of charges at Incheon International Airport through consultation with users.

1.3.2 Discussion

1.3.2.1 There was broad recognition of the importance of consultation in building a sound relationship between service providers and users, based on trust and a mutual understanding of each other's needs. The Conference expressed strong support for the general thrust of WP/6, presented by the Secretariat with the intent of strengthening ICAO's policies with respect to user consultation. In examining the draft conclusions and proposed amendments to the relevant parts of Doc 9082, the Conference also discussed some specific proposals for refining or improving the amendments.

1.3.2.2 The Secretariat's proposal to establish "a permanent, regular consultation process" gave rise to some concern, especially the use of the word "permanent" and its implications when put into practice. The Secretariat explained that the aim was to strengthen the consultation process by establishing some type of mechanism or process for this purpose. Many considered that this would be better achieved by using the phrase "clearly defined, regular consultation process," a suggestion that was accepted by the Conference. Suggestions were also made with regard to defining the frequency of "regular" consultations (for example, once a year). Considering that consultations could be affected by a wide range of factors, the Conference felt that a specific guideline on a timeframe for consultation could be better addressed by ICAO when developing guidance material in the relevant manuals rather than at the policy level.

1.3.2.3 With respect to which "users" should be consulted, there were proposals to extend consultation to passengers and others, as well as to limit this to aircraft operators. While recognizing that due consideration should be given to the interests of passengers and other end users of services, the Conference felt that this might be better addressed in the context of the public policy objectives of economic oversight, and decided that the word "users" should be retained in the context of consultation.

1.3.2.4 There was considerable discussion on whether the word "ensure" or "encourage" would best reflect the strength of a State's interest concerning consultation in the context of economic oversight. In order to foster the agreed policy objectives and the intention to remain consistent with the other

recommendations under this agenda item, the Conference agreed to use the word “ensure” for relevant consultations and the proposed amendments of Doc 9082.

1.3.2.5 The Conference expressed support for suggestions to protect the confidentiality of market-sensitive data and to make the proposed text of Doc 9082 concerning “decision documents” less prescriptive. The Conference noted that the Secretariat would take into account other suggestions raised when preparing the text for the revised Doc 9082.

1.3.3 Recommendation

1.3.3.1 From the documentation and ensuing discussion on consultation with users under Agenda Item 1.3, the Conference adopted the following recommendation:

RECOMMENDATION 3 – CONSULTATION WITH USERS

THE CONFERENCE RECOMMENDS THAT:

- a) States should ensure, within their economic oversight responsibilities, that a clearly defined, regular consultation process is established with users by their airports and air navigation services entities where provider/user cooperative arrangements are not already in place;
- b) States should ensure that, as part of the consultation process, users are consulted on the level and structure of charges as well as on capacity development and investments; that users’ feedback obtained during consultations is considered as far as possible before reaching a decision regarding any proposal; that the confidentiality of the market-sensitive data is properly protected; and that the relevant decision documents provide appropriate rationale for the decision; and
- c) ICAO should amend Doc 9082 to include the concept of a clearly defined, regular consultation process under new paragraphs on consultation with users, covering both airports and air navigation services.

Agenda Item 2: Specific issues related to airport economics and management
2.1: Governance, ownership and control

2.1.1 Documentation

Secretariat (WP/7) examined the ownership and control structures of airports, the selection of the appropriate format of ownership and control, relevant safety aspects at airports and the importance of good corporate governance. While different formats of ownership and control may be appropriate to the particular situations of different airports, the paper reaffirmed that autonomous entities should be established where it is in the best interest of airports and users. Where an airport is controlled directly by a governmental authority, it is necessary to ensure that there is a clear separation between regulatory and operational functions. In the context of good corporate governance, which could lead to better performance, the paper recommended that best practices be applied in certain areas. Accordingly, an amendment of the text in Doc 9082 was proposed.

Italy (WP/57) described its certification process of ground handling service providers, and proposed that ICAO conduct a study on the establishment of a mutually recognized certification system on an international basis with a view to guaranteeing quality and safety of ground handling services within a competitive and liberalized framework.

Saudi Arabia (WP/68) addressed the need for States to implement a regulatory measure to protect consumer interests at airports, and requested ICAO to consider the development of a global regulatory framework for the protection of consumer interests.

53 African States (WP/59) called for ICAO's guidance for the management and operation of airports, which are not economically viable but are necessary as part of an integrated air transport network mainly for safety, security and socio-economic reasons. The paper also asked States to develop objective and transparent means of selecting some of such airports for funding, and encouraging better utilization of existing capacity.

Members of LACAC (WP/39) highlighted the need for interaction between all the parties involved and described their work on airport and aeronautical infrastructure concession issues. The paper recommended that States consider the factors listed in a LACAC Resolution A17-03 in their airport concession processes.

UNWTO (WP/22) emphasised the need to ensure clear separation between regulatory and operational functions and, in the interest of efficiency and quality, encouraged autonomy of and, to the extent possible, competition amongst airports, irrespective of jurisdiction.

ITF (WP/23) encouraged States to incorporate the United Nation (UN)'s *Global Compact* and its Principles into their governance structure with regard to best practices at their airports in order to deliver improved commercial services. It also called for the use of best practices of good corporate governance. An amendment of the text in Doc 9082

was proposed to refer to UN's *Global Compact* and to include workers rights and their treatment as one of the areas where best practices should apply.

Secretariat (WP/18 – information paper) provided some information relevant to this item (see paragraph 1.1.1).

Secretariat (WP/19 – information paper) summarized the results of a survey on the financial situation of airports and ANSPs in 2005, including the impacts of charges on airline operations.

Mali (WP/42 – information paper) presented information on its current practices and experiences related to governance, ownership and control of airports; rate of return; cost allocation and charging systems; differential charges; and cost recovery of security measures. The paper also expressed support for the conclusions including the amendments of Doc 9082 proposed by the ICAO Secretariat (WPs/7, 8, 9, 10 and 11).

2.1.2 Discussion

2.1.2.1 The Conference was generally supportive of the draft conclusions presented in WP/7, including the position that best practices be followed by airport operators. However, it was felt that for the sake of clarity the concept of the establishment of autonomous entities should be kept apart from the concept of separating operational and regulatory functions. It was recognized that in establishing autonomous entities, States should consider the economic viability of the airports concerned as well as the interests of service providers and users. With respect to responsibility for safety, the Conference affirmed that States have an obligation to comply with the Chicago Convention and all of its Annexes, and that there was no need to include a specific reference to a particular Annex. It was however agreed that the Secretariat include an appropriate reference to *Annex 14 – Aerodromes* on the airport certification procedures when revising the economic guidance material.

2.1.2.2 The Conference expressed support for the proposal in WP/59 to develop policy guidelines that will assist States in the management and operation of airports that are not financially viable but form part of an integrated air transport network. It was agreed that ICAO should develop policy guidelines for maintaining and operating such airports.

2.1.2.3 With respect to the proposal in WP/68 on consumer interests, the Secretariat informed the Conference that ICAO is monitoring developments in this area as part of its Work Programme. It was indicated that it would be premature at this stage for ICAO to consider the development of a global regulatory framework for the protection of consumer interests. With this clarification from the Secretariat, there was no support for further action.

2.1.2.4 The proposal in WP/57 for ICAO to conduct a study on the establishment of an international process for the certification of ground handling service providers was not supported by the Conference. Furthermore, the suggestion in WP/23, to incorporate in Doc 9082 the UN *Global Compact* and its principles as best practices, was not endorsed.

2.1.2.5 The Conference noted the work carried out by LACAC (WP/39) regarding the factors that must be taken into account when granting airport and aeronautical infrastructure concessions. It was agreed that ICAO, when revising the existing guidance material on airport economics, consider the material on airport concession processes developed by LACAC.

2.1.3 Recommendation

2.1.3.1 From the documentation and ensuing discussion on governance, ownership and control under Agenda Item 2.1, the Conference adopted the following recommendation:

RECOMMENDATION 4 – GOVERNANCE, OWNERSHIP AND CONTROL OF AIRPORTS

THE CONFERENCE RECOMMENDS THAT:

- a) while different ownership and control structures might be appropriate to different airports, States should consider the establishment of autonomous entities to operate airports, taking into account the economic viability of the airport as well as the interests of service providers and users;
- b) where the operation of one or more airports represents only one of several functions performed by a government entity, States should give consideration to a clear separation of the regulatory and operational functions, with roles and powers clearly defined for each one;
- c) States should review the governance structure with regard to their airports, and ensure the use of best practices of good corporate governance with regard to objectives and responsibilities, shareholders' rights and their treatment, responsibilities of the board, power and accountability of the management, relationship with interested parties, and information disclosure;
- d) whenever an autonomous entity is established, States should ensure that all relevant obligations of the State under the Chicago Convention, its Annexes and in air services agreements are complied with and that ICAO's policies and practices are observed;
- e) ICAO should amend Doc 9082 to emphasize the importance of separation of the regulatory and operational functions and to include the components needed to ensure good governance through the application of best practices;
- f) ICAO should consider developing its policies and guidance material for the management and operation of airports which are not economically viable but are necessary, as part of an integrated transport network, for the safety and security of international air transport, as well as for socio-economic purposes; and

- g) ICAO should consider when reviewing its guidance material on airport commercialization, to take into account the work carried out by LACAC on airport concession processes.

Agenda Item 2: Specific issues related to airport economics and management
2.2: Cost basis for charges

Note – Consideration of this item was divided into two parts: 1) Aggregation of cost bases, and 2) Rate of return.

PART I – AGGREGATION OF COST BASES

2.2.1 Documentation

Secretariat (WP/8) addressed the issue of using a single cost basis to cover a basket of charges. This added flexibility would allow airport operators to modulate charges derived from a single cost basis or a few cost bases. However, concerns having been raised about their consistency with the principles set out in Doc 9082, the paper concluded that, under appropriate safeguards, cost-relatedness of airport charges could be applied at another level than what is the practice today. In that context, certain amendments of Doc 9082 were proposed.

United States (WP/33) highlighted potential shortcomings of the approach to allocating costs and setting charges that was introduced by the ICAO Secretariat (WP/8). The paper proposed an alternative approach and an associated amendment of Doc 9082, which would encourage the aggregation of related costs into fewer cost categories and be more consistent with the existing guidance. Such an approach provides the charge-setting flexibility alluded to in WP/8 while at the same time reducing potential inefficiencies in terms of having a large number of separate charging elements.

53 African States (WP/60) recognized that airport charging systems should be flexible enough to allow airport operators to cater for the needs of all categories of users with appropriate safeguards necessary for non-discrimination and transparency.

UNWTO (WP/22) supported transparency and non-discrimination, with fair allocation amongst different types of passengers and between passengers and freight.

ACI (WP/30) expressed the view that airports require flexible charging systems to respond to the dynamics of the aviation industry and the needs of airport users. Raising the level of cost-relatedness of charges simplifies the charging system and introduces a commercial element in setting charges. Appropriate safeguards may be necessary to protect non-discrimination and transparency but should not reach as far as requiring agreement on charges between providers and users.

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

2.2.2 Discussion

2.2.2.1 There was a general consensus on the intention to give airport operators more flexibility in the setting of airport charges, for example, by aggregating cost bases in certain circumstances. However, as concerns had been raised with respect to cost-relatedness, transparency and possible discrimination that could arise from such practices, the Conference agreed that this flexibility should be accompanied by appropriate safeguards regarding consultations and, where possible, agreements with users.

2.2.2.2 The Conference agreed to leave paragraph 23 of Doc 9082 unchanged and to introduce a new sub-paragraph iv) in paragraph 22, as proposed in WP/33 and as amended during the discussion.

2.2.3 Recommendation

2.2.3.1 From the documentation and ensuing discussion on the aggregation of cost bases under Agenda Item 2.2, the Conference adopted the following recommendation:

RECOMMENDATION 5 – AGGREGATION OF COST BASES

THE CONFERENCE RECOMMENDS THAT:

- a) States should consider the need to give airport operators more flexibility with respect to setting charges, for example, by aggregating cost bases in certain circumstances; and
- b) ICAO should amend paragraph 22 of the current Doc 9082 (seventh edition) by inserting a new sub-paragraph iv) to allow for more flexibility in setting airport charges as follows:
 - iv) *While airports should maintain cost data in sufficient detail to facilitate consultation, transparency and economic oversight, it may be beneficial to develop more aggregated cost bases in certain circumstances for the purpose of setting charges. However, the aggregation should be done in a logical and transparent manner accompanied with safeguards, as appropriate, regarding consultation and, where possible, agreements with users to avoid discrimination among users in setting charges.*

PART II – RATE OF RETURN

2.2.4 Documentation

Secretariat (WP/9) presented a possible method to determine a “reasonable” rate of return on assets for both airports and ANSPs. Although Doc 9082 does not provide any

details on this subject, States should have a clear definition of a reasonable rate of return for their service providers, together with a methodology to assess it. The weighted average cost of capital (WACC) is a commonly-used method to determine a reasonable rate of return for capital-intensive companies, such as airports and ANSPs. Because of the complexity and technicality of the issue, the paper concluded that ICAO should develop additional guidance on this subject.

ACI (WP/31) felt that any guidance material from ICAO on determining a reasonable rate of return should not be prescriptive or specific with regard to methodologies or technical details. The WACC is a recognized methodology but only one possible method among others to determine a rate of return. It should be up to the States to decide if and how to determine a reasonable rate of return on a case-by-case basis in line with the principles of economic oversight. When calculating a reasonable rate of return, the various and potentially significant degrees of risk airports are exposed to must be taken into account.

IATA (WP/49) considered that there are great differences in market conditions for individual service providers. Regardless of the methodology to calculate the rate of return, there should be a stronger focus on the relationship between the risk and the allowable rate of return.

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

2.2.5 Discussion

2.2.5.1 The Conference agreed that its discussion on the subject of rate of return would cover both the airport aspect and the air navigation services aspect, although the latter was included in Agenda Item 3.2.

2.2.5.2 There was general support for the intent and the value of the proposals presented in WP/9 in dealing with the issue for both airports and ANSPs. Discussions focussed on two specific proposals: one on whether Doc 9082 should be amended to address the relationship between the risk faced by service providers and the reasonable rate of return (as proposed in WP/49); and the other on the need for ICAO to undertake additional work to develop further guidance.

2.2.5.3 As no support was expressed to the first proposal (WP/49), the Conference decided that no amendment was required to the relevant part of Doc 9082 on this topic. With respect to the second proposal, while caution was voiced that ICAO's guidance for States should not be overly prescriptive, there was general support that further guidance by ICAO could be useful for States in dealing with this complex matter. The Conference also agreed that the objective of such guidance should focus on helping States to address the issues of how to assess the risk element and the value of assets in the context of the determination of a reasonable rate of return. It was acknowledged that there is a considerable amount of literature available on the subject matter, which should be referenced in the work to be undertaken by ICAO.

2.2.6 Recommendation

2.2.6.1 From the documentation and ensuing discussion on rate of return, covering both Agenda Items 2.2 and 3.2, the Conference adopted the following recommendation:

RECOMMENDATION 6 – RATE OF RETURN FOR AIRPORTS AND AIR NAVIGATION SERVICES

THE CONFERENCE RECOMMENDS THAT:

- a) within their economic oversight responsibilities, States should, where necessary and in the light of national circumstances, clearly define the methodology for determining what is a reasonable rate of return on assets for their service providers; and
 - b) ICAO should develop additional guidance material regarding possible methodologies to assess the risk element and the value of assets in the context of the determination of a reasonable rate of return.
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Agenda Item 2: Specific issues related to airport economics and management
2.3: Cost allocation and charging systems

2.3.1 Documentation

Secretariat (WP/8) examined the issue of charging users on a per-passenger basis. Concerns having been raised about their consistency with the principles set out in Doc 9082, the paper concluded that the option to recover aircraft-related costs through passenger-based charges should be considered with great caution because of the impact on cost-relatedness, transparency and consumer protection. In that context, certain amendments of Doc 9082 were proposed.

53 African States (WP/60) believed that airport operators should be given more flexibility in the definition and application of passenger service charges to support the development of quality passenger services, as may be required by local conditions. The paper stated that appropriate safeguards are necessary to protect users against discrimination and enhance transparency. The paper proposed to amend Doc 9082 to reflect their view.

UNWTO (WP/22) supported the proposal of the ICAO Secretariat (WP/8) to amend Doc 9082 regarding passenger service charges.

ACI (WP/30) asserted that passenger service charges are related to the cost of processing the passenger at the airport, and that their definition and application should allow maximum flexibility to promote commercial approaches in provider/user relationships. The paper called for the amendment of Doc 9082 to broaden the scope of the passenger service charges, away from a strict airside/landside basis to a more functional, process-based approach.

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

2.3.2 Discussion

2.3.2.1 The Conference considered this item on the basis of WP/8 presented by the Secretariat together with several other papers, where some specific proposals were made concerning passenger service charges.

2.3.2.2 In view of the conclusions reached during the discussion of Agenda Item 2.2 (see paragraph 2.2.3.1), the Conference did not support the conclusions presented in the Secretariat's WP/8 regarding passenger-based charges and the description of the airport costs that should be included in the passenger service charges. For the same reason, the Conference did not support the text proposed in WP/8 to amend Doc 9082.

Agenda Item 2: Specific issues related to airport economics and management
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, which 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) within their economic oversight responsibilities 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 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.

2.4.5.2 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:**

- a) 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;
 - b) ICAO should amend Doc 9082 to give more emphasis to the importance of international general aviation by including a special reference to business aviation; and
 - c) the ICAO Council should take appropriate action on the issues related to slot allocation and night curfews.
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Agenda Item 2: Specific issues related to airport economics and management
2.5: Financing and cost recovery of security measures

2.5.1 Documentation

Secretariat (WP/11) reviewed the current relevant text of Doc 9082 with respect to the cost recovery aspects of security measures at airports, updated based on the outcome of the High-Level Ministerial Conference on Aviation Security held in 2002, and discussed the need for harmonization in the implementation of the policies among States and regions. As no new developments have taken place that would warrant a revision or an update of the current policies on security charges, except for large-scale screening of air cargo, the paper recommended that ICAO should monitor the developments in this field in order to assess if and when the current policies on cost allocation and cost recovery will need to be updated.

UNWTO (WP/22) agreed that any charges or transfers of security costs should be directly related to providing the security services concerned and should be designed to recover no more than the relevant costs involved. Civil aviation, or tourism, should not be charged for any costs that would be incurred by the more general security functions performed by States.

IATA (WP/48) agreed to the findings made by the ICAO Secretariat (WP/11), pointing out the issues related to States' inherent responsibility for funding of measures which aim to protect society at large, cost-sharing between public and private entities, and transparency and cost-relatedness in security charges. The paper proposed amendment of paragraph 29 of Doc 9082 by adding a few principles that may facilitate better implementation of the cost recovery of security measures at airports; and the establishment of a working group comprised of government and industry, aimed at developing the principles and basis for national aviation security spending supervisory bodies.

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

2.5.2 Discussion

2.5.2.1 The Conference felt no need for the monitoring of the developments in the field of large-scale screening of air cargo by ICAO at this stage. The proposal in WP/48 to establish an independent supervisory body to monitor the allocation of the costs of security measures at airports between public and private entities was not supported.

2.5.3 Recommendation

2.5.3.1 From the documentation and ensuing discussion on financing and cost recovery of security measures under Agenda Item 2.5, the Conference adopted the following recommendation:

RECOMMENDATION 9 – COST RECOVERY OF SECURITY MEASURES AT AIRPORTS

THE CONFERENCE RECOMMENDS THAT:

recognizing that the current ICAO policies for the cost recovery of security measures at airports are still adequate. States should ensure their implementation in order to foster harmonization worldwide.

Agenda Item 3: Specific issues related to air navigation services economics and management
3.1: Governance, ownership and control

3.1.1 Documentation

Secretariat (WP/12) reviewed recent experiences of commercialization of ANSPs and the emerging issues associated with their governance, ownership and control. These experiences indicate that there may be a linkage between performance achieved and corporate governance. The paper, therefore, developed a set of best practices for good governance of commercialized ANSPs. In circumstances where the State directly operates air navigation services, the paper emphasized the necessity to ensure that regulatory and operational functions are not provided by the same authority. To give effect to these conclusions, an amendment of the text in Doc 9082 was proposed.

CANSO (WP/36) believed that good air navigation services performance results from good governance, and in turn, from good government policy-making. The paper urged States to avoid relying too heavily on regulatory mechanisms but instead consider the various elements of good governance that drive performance in service provision, i.e. ANSP mission and objectives; enabling legislation and regulation; ANSP governance structure; independent and empowered management; customer relations; other stakeholder relations and social dialogue; performance measurement; and economic oversight.

CANSO (WP/37) recognized that separation of air navigation services provision from the regulatory oversight function is consistent with principles of good governance and enhances air traffic management performance. The paper called on States to take appropriate measures to implement existing ICAO's guidance material that promotes autonomy for an ANSP and its separation from the regulatory oversight function.

Secretariat (WP/18 – information paper) provided some information relevant to this item (see paragraph 1.1.1).

Secretariat (WP/19 – information paper) provided some information relevant to this item (see paragraph 2.1.1).

Mali (WP/43 – information paper) presented information on its current practices and experiences related to governance, ownership and control of air navigation services; role of aircraft weight in charging formulae; incentives; and economic and organizational aspects of the implementation of the global ATM operational concept. The paper also expressed support for the amendments of Doc 9082 proposed by the ICAO Secretariat (WPs/12, 15 and 16) as well as a study on the application of aircraft weight (WP/14).

3.1.2 Discussion

3.1.2.1 The discussion centered mainly on two aspects of WP/12, the separation of the regulatory and operational functions with respect to government-operated ANSPs, and the use of best practices of good corporate governance by ANSPs. There was a general consensus on the importance of clearly separating the functions of the regulator and service provider, with their respective roles and powers distinctly defined. The Conference expressed the need for more flexibility in the wording to take into account the situation in each State and region. It was therefore agreed to amend the draft conclusion in WP/12 to better reflect this notion.

3.1.2.2 There was support for the application of best practices of good corporate governance as a means of improving the performance of ANSPs. Regarding the value of the application of best commercial practices in general, the Conference felt that this may vary as air navigation services are in many cases provided as a public service by States. It was therefore suggested that the Secretariat should amend the wording in the proposed text for paragraph 17 of Doc 9082 to better capture the business realities when applying best practices. The Secretariat was also requested to ensure linkages of the wording with the conclusions on WP/7.

3.1.3 Recommendation

3.1.3.1 From the documentation and ensuing discussion on governance, ownership and control under Agenda Item 3.1, the Conference adopted the following recommendation:

**RECOMMENDATION 10 – GOVERNANCE, OWNERSHIP AND CONTROL OF
AIR NAVIGATION SERVICES PROVIDERS**

THE CONFERENCE RECOMMENDS THAT:

- a) where States choose not to establish autonomous providers of air navigation services, they should give consideration to a clear separation of the regulatory and operational functions, with roles and powers clearly defined for each one;
- b) States should review the governance structure with regard to their ANSPs, and ensure the use of best practices of good corporate governance with regard to objectives and responsibilities, shareholders' rights and their treatment, responsibilities of the board, power and accountability of the management, relationship with interested parties, and information disclosure; and
- c) ICAO should amend Doc 9082 to emphasize the importance of the separation of regulatory and operational functions and to include the components needed to ensure good governance through the application of best practices.

Agenda Item 3: Specific issues related to air navigation services economics and management
3.2: Cost basis for charges

3.2.1 Documentation

Secretariat (WP/9), see paragraph 2.2.4.

ACI (WP/31), see paragraph 2.2.4.

IATA (WP/49), see paragraph 2.2.4.

Mali (WP/42 – information paper), see paragraph 2.1.1.

3.2.2 Discussion

3.2.2.1 The Conference discussed rate of return for air navigation services under Agenda Item 2.2 (see paragraph 2.2.5).

3.2.3 Recommendation

3.2.3.1 See RECOMMENDATION 6 – RATE OF RETURN FOR AIRPORTS AND AIR NAVIGATION SERVICES (paragraph 2.2.6.1).

Agenda Item 3: Specific issues related to air navigation services economics and management
3.3: Cost allocation and charging systems

Note – Consideration of this item was divided into three parts: 1) Categorization of services for cost allocation and charging purposes; 2) Role of aircraft weight in charging formulae; and 3) Incentives that could apply to both providers and users.

PART I – CATEGORIZATION OF SERVICES FOR COST ALLOCATION AND CHARGING PURPOSES

3.3.1 Documentation

Secretariat (WP/13) examined the categorization of air navigation services for cost allocation purposes and its implications on the charging system. ANSPs have the option to allocate costs according to the traditional service categories (i.e. aerodrome control, approach control and area control services) or to an alternative categorization of services based on the portions of airspace and on the phase of a flight. Adopting the alternative categorization could enhance transparency and cost-relationship in allocating the costs, and would enable ANSPs to diversify their charges according to each service category (for example, zone charges). The paper concluded that the use of the alternative categorization and the corresponding zone charges may lead to a more efficient use of resources, especially in congested or complex airspace. It was also suggested that ICAO should develop additional guidance on this subject.

Members of LACAC (WP/40) described the methodologies developed for estimating the cost of airport and air navigation services in the region, and stated that the categorization of services based on the portions of airspace and on the phase of a flight will depend on the characteristics of a given airspace with the need to have an appropriate definition of each service category and take into account costs estimated in a transparent and fair way.

European Commission (WP/56 – information paper) provided some information relevant to this item (see paragraph 3.4.1).

3.3.2 Discussion

3.3.2.1 Concern was expressed about possible competitive distortions which could result from the application of new categories of services for charging purposes. Such a system could also place an additional administrative burden on both providers and users, lead to a proliferation of charges, increased charges, and have unintended consequences due to inefficient routings, notably with respect to environmental efficiency.

3.3.2.2 Several States considered that the existing guidance in paragraphs 6.47 to 6.52 of ICAO's *Manual on Air Navigation Services Economics* (Doc 9161) was sufficient and did not need to be expanded at this stage. Others argued that the use of the alternative categories of services was not mandatory but that it would open new opportunities. The intent was to expand the guidance material to cope with a new charging environment, while recognizing the advantages and disadvantages related to its future implementation.

3.3.2.3 The Secretariat clarified that the alternative categorization of services had primarily been developed for cost allocation and charging purposes, but also as a means to improve the efficiency of the air navigation system.

3.3.2.4 The Conference endorsed the conclusions as proposed in WP/13, with the understanding that further guidance was needed for examining all aspects of the alternative categorization of services, including the possible negative and positive impacts on providers and users. Sufficient information on this subject would allow States to make appropriate choices.

3.3.3 Recommendation

3.3.3.1 From the documentation and ensuing discussion on the categorization of services for cost allocation and charging purposes under Agenda Item 3.3, the Conference adopted the following recommendation:

RECOMMENDATION 11 – CATEGORIZATION OF SERVICES FOR COST ALLOCATION AND CHARGING PURPOSES

THE CONFERENCE RECOMMENDS THAT:

- a) States may consider the use of the alternative categorization of services and the corresponding zone charges, depending on their particular circumstances, for example in congested or complex airspace, in order to achieve a more cost-related charging system and an efficient use of resources; and
- b) ICAO should expand the guidance material on cost allocation between portions of airspace and/or phases of flight, as well as develop new guidance material on zone charges.

PART II – ROLE OF AIRCRAFT WEIGHT IN CHARGING FORMULAE

3.3.4 Documentation

Secretariat (WP/14) addressed the rationale behind the practice of including aircraft weight in air navigation services charging formulae, and reviewed the relevance of the current text in Doc 9082. Since the views regarding the role of aircraft weight in charging

formulae vary amongst States, the paper called on the Conference to consider reaching a common position on this contentious issue.

53 African States (WP/62) asked ICAO to undertake a study on the relevance of the application of aircraft weight by ANSPs worldwide with a view to identifying and defining best practice that will ensure sustainability of the provision of adequate air navigation services regardless of the differences in the air traffic mix.

Members of LACAC (WP/40) stated that when distances flown or aircraft types are homogeneous, air navigation services charging formulae can exclude the elements of either distance flown or aircraft weight or both according to the circumstances.

IBAC (WP/25) believed that any amendments to the guidelines for an en-route charging formula contained in Doc 9082 to remove an aircraft weight factor should not be made without comprehensive supporting data and financial analyses or models that will determine the impact of options for charging formulae.

Mali (WP/43 – information paper) provided some information relevant to this item (see paragraph 3.1.1).

3.3.5 Discussion

3.3.5.1 The Conference considered how to reach a consensus on the role of aircraft weight for air navigation services charging purposes, in particular with respect to the current wording in paragraphs 44, 45 and 46 of Doc 9082 on aircraft weight.

3.3.5.2 There was considerable discussion on this issue. Some felt that the current guidance, based not only on cost-relatedness but also on the productive capacity of aircraft and value of service, reflects the ability of users to pay, while business aviation using jets has financial capacity to pay as much as air carriers, who use larger aircraft. According to this view, ICAO's policies should be more flexible regarding the use of aircraft weight for air navigation services charges. Others felt that there is no need to amend the current policies, as they allow for equity in the charging system, and that removing the weight element would also remove the equity element. They were of the opinion that the current wording in paragraphs 44, 45 and 46 of Doc 9082 already provides sufficient flexibility regarding the weight element for charging purposes and that therefore there is no need for any amendment.

3.3.5.3 There was widespread support for the harmonization of the current text in paragraphs 44, 45 and 46 of Doc 9082, in particular, replacing the word “*should*” with “*could*” in paragraph 45. The Conference noted that this change would provide more flexibility regarding the role of aircraft weight for air navigation services charges. While there was no support by the Conference for ICAO to undertake a study on the role of aircraft weight in setting air navigation services charges, the Conference noted that prior to any modifications of the air navigation services charging formula(e), consultation should be undertaken with users and States should study the impact that such modifications would have on users and service providers.

3.3.6 Recommendation

3.3.6.1 From the documentation and ensuing discussion on the role of aircraft weight in charging formulae under Agenda Item 3.3, the Conference adopted the following recommendation:

RECOMMENDATION 12 – ROLE OF AIRCRAFT WEIGHT IN CHARGING FORMULAE

THE CONFERENCE RECOMMENDS THAT:

- a) ICAO should amend paragraph 45 of the current Doc 9082 (seventh edition) by replacing “*should*” with “*could*” to provide additional flexibility with regard to the role of aircraft weight for air navigation services charges; and
- b) ICAO should review its guidance material on aircraft weight in charging formulae and adjust it as necessary.

PART III – INCENTIVES THAT COULD APPLY TO BOTH SERVICE PROVIDERS AND USERS

3.3.7 Documentation

Secretariat (WP/15) examined the appropriateness of incentives for both ANSPs and users. If properly designed, incentives may be a tool to optimize the use and delivery of air navigation services, reduce the overall cost of such services, and increase their efficiency. To achieve a desired outcome from the application of incentives, the paper concluded that States should ensure that incentives meet the principles set out in Doc 9082, as well as their stated objectives, and that the estimated benefits offset the cost of incentives within a reasonable timeframe. An amendment of the related text in Doc 9082 and the development of guidance on incentives were proposed to substantiate this conclusion.

Mali (WP/43 – information paper) provided some information relevant to this item (see paragraph 3.1.1).

3.3.8 Discussion

3.3.8.1 There was general agreement with the thrust of WP/15 regarding the benefit of incentives for ANSPs and airspace users, as well as the need to ensure that such incentives are properly introduced to prevent potential negative effects or abuse. Attention was drawn to the relevance of transparency, cost-relatedness in designing incentives, and the importance of periodic reviews of the incentive schemes. With respect to the amendment to paragraph 41 v) of Doc 9082 proposed in WP/15, several States confirmed that incentives involving ANSPs were still not widely used, and therefore existing ICAO’s

guidance was sufficient to address the issue. The Conference agreed that no amendment was needed at present.

3.3.8.2 There were extensive discussions on the wording of the draft conclusions in order to properly reflect the intent of WP/15 and the associated recommended action. The Conference agreed on a compromise text for the draft recommendation.

3.3.9 Recommendation

3.3.9.1 From the documentation and ensuing discussion on incentives that could apply to both providers and users under Agenda Item 3.3, the Conference adopted the following recommendation:

RECOMMENDATION 13 – INCENTIVES THAT COULD APPLY TO BOTH SERVICE PROVIDERS AND USERS

THE CONFERENCE RECOMMENDS THAT:

- a) States are encouraged to introduce appropriate forms of incentives for ANSPs, within their economic oversight responsibilities, with a view to optimizing the use and delivery of air navigation services, reducing the overall cost of such services, and increasing their efficiency; and
- b) States should ensure that, where ANSPs have introduced incentives for users, the incentive schemes meet the principles set out in Doc 9082. The incentive schemes should be transparent and subject to periodic reviews, and the estimated benefits should offset the cost of incentives within a reasonable time-frame.

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Agenda Item 3: Specific issues related to air navigation services economics and management
3.4: Economic and organizational aspects related to implementation of the global air traffic management (ATM) concept

3.4.1 Documentation

Secretariat (WP/16) addressed economic and organizational issues in the context of ICAO's *Global Air Traffic Management Operational Concept* (Doc 9854). For an efficient and cost-effective implementation of the concept, especially in the areas of infrastructure financing and development of a "seamless" airspace, international cooperation and collaboration within the ATM community should be enhanced. To emphasize the importance of international cooperation, an amendment of Doc 9082 was proposed. Since the implementation of the concept is an ongoing process, ICAO should continue to monitor the developments in order to decide whether additional policies and guidance on this subject are necessary in the future.

Australia (WP/45) recognized the role of States and third party data providers in the transition from aeronautical information service (AIS) to aeronautical information management (AIM). The paper canvassed a number of institutional and economic issues associated with this transition including the extent of States' obligation, cost recovery, and liability, copyright and ownership of the data, which should be addressed by the AIS-AIM Study Group.

Panama (WP/72) described its experience of liberalization of air transport, privatization of its airport, and the implementation of area navigation (RNAV). Cooperation with neighbouring States to set common goals could improve the operational efficiency.

France on behalf of EU, ECAC and their Members (WP/54) presented Europe's "total system" approach covering all air transport infrastructure charges which are in line with and, where possible, go beyond ICAO's policies aimed at ensuring transparency, fairness, comparability and predictability. The paper proposed strengthening of regional approaches to these issues, through the drafting of guidance.

Members of LACAC (WP/51) requested ICAO to study and consolidate economic and legal aspects of regional multinational organizations as vehicles for the implementation of the global ATM operational concept. Regional bodies should encourage their Member States to follow ICAO's guidelines so that national provisions will be consistent with global guidelines.

Members of the North Atlantic Systems Planning Group (NAT SPG) (WP/32) presented issues being confronted in the North Atlantic Region with regard to ensuring the availability and sustainability of the air navigation services infrastructure required for satellite communication services. The paper requested ICAO to study the ownership and control of the air navigation services infrastructure and develop a draft service level agreement for use by ANSPs to ensure that private third party service providers perform in line with recognised safety and performance requirements.

CANSO (WP/38) made the Conference aware of the issues related to the transition of AIS to AIM, suggested that guidance be provided to the AIS-AIM Study Group on the charging principles contained in Doc 9082 as they relate to the provision of aeronautical information/data.

Mali (WP/43 – information paper) provided some information relevant to this item (see paragraph 3.1.1).

European Commission (WP/56 – information paper) provided information on the main content of the second package of the “Single European Sky” (SES II), which is based on four main interrelated pillars: performance and sustainability, technology, safety, and airports.

3.4.2 Discussion

3.4.2.1 In light of the globalization of the air transport system and the requirement for efficient and cost-effective implementation of the global ATM operational concept, the Conference agreed to the draft conclusions presented in WP/16, as well as the paper’s proposed amendments to the relevant parts of Doc 9082 on international cooperation. The Conference also agreed that Doc 9082 should mention the importance of regional approaches to the implementation of the global concept, noting benefits such as enhanced transparency, fairness, and the availability of comparable and predictable air transport infrastructure costs.

3.4.2.2 Concerning economic and other institutional issues associated with the transition from AIS to AIM, the adoption of specific conclusions was considered premature. It was agreed therefore that appropriate guidance be provided to the AIS-AIM Study Group to ensure coordination between the related technical and economic aspects.

3.4.2.3 There was also support for the proposal that ICAO develop a draft service level agreement template for use by ANSPs when dealing with private third-party providers. In this regard, the Conference agreed it would be useful that, as part of its regular work, ICAO conduct a focused case study on the ownership and control of air navigation services infrastructure.

3.4.3 Recommendation

3.4.3.1 From the documentation and ensuing discussion on economic and organizational aspects related to implementation of the global ATM concept under Agenda Item 3.4, the Conference adopted the following recommendation:

**RECOMMENDATION 14 – ECONOMIC AND ORGANIZATIONAL ASPECTS
RELATED TO IMPLEMENTATION OF THE
GLOBAL ATM OPERATIONAL CONCEPT**

THE CONFERENCE RECOMMENDS THAT:

- a) States should strive for the efficient and cost-effective implementation of the global ATM operational concept, using the Global Air Navigation Plan (GANP) as the implementation planning document, through international cooperation and collaboration within the ATM community;
 - b) States should consider facilitating implementation of the global ATM operational concept by adopting, where appropriate, a regional approach in order to enhance transparency, efficiency, fairness, comparability and predictability of the costs of air transport infrastructure;
 - c) ICAO should amend Doc 9082 to emphasize the need for international cooperation, as well as to refer to regional approaches, in the implementation of the global ATM operational concept and the GANP;
 - d) ICAO should continue to monitor developments in economic and organizational aspects related to the global ATM operational concept and the GANP, in order to determine whether additional policies and guidance on this subject will be necessary in the future;
 - e) ICAO should extend the development work related to the transition from AIS to AIM to include economic and other institutional aspects; and
 - f) ICAO should undertake a case study on the provision of certain services by private third-party providers and develop a draft service level agreement for possible use by ANSPs, to ensure that private third-party providers perform in line with recognized safety and performance requirements.
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Agenda Item 4: Implementation of ICAO's policies on charges

4.1 Documentation

Secretariat (WP/17) considered how to promote adherence to ICAO's policies on charges, as contained in Doc 9082. Recent surveys show that ICAO's policies have not been fully implemented by some States and service providers. With the objective of increasing the awareness and knowledge of ICAO's policies and obtaining the broadest possible adherence to them, the paper proposed several actions to be taken, including an explicit re-affirmation by the ICAO Council, of its support for the policies and promotional activities by the ICAO Secretariat. The paper also concluded that States should ascertain that their service providers implement ICAO's policies.

France, on behalf of the EU, ECAC and their Member States and United States (WP/87) expressed the view that adherence to and implementation of ICAO's policies on charges could be significantly advanced by the adoption by States of legal obligations that reflect the essential principles of non-discrimination, cost-relatedness, transparency and user consultation. In addition to incorporating the principles of Doc 9082 into their national legislation, States should incorporate them into their future air services agreements.

European Commission (WP/65) took the view that the levying of airport charges needs regulation and had therefore proposed new legislation in this field. This paper outlined the main provisions of its proposal on airport charges, which the European Parliament and the Council of Ministers were currently discussing. The proposal aimed at ensuring efficient implementation of ICAO's principles; however, this would require some of ICAO's concepts and definitions to be further clarified. The paper also supported the conclusions presented by the ICAO Secretariat (WPs/4, 6, 10 and 17).

IAC (WP/53) discussed, *inter alia*, the increased role of the States in the promotion and implementation of ICAO's policies on charges and supported WP/17.

IATA (WP/50) felt that increasing non-compliance with established ICAO's policies and guidance material being experienced by users was affecting airlines' business practices and generating disturbances in a liberalized airline market. The paper supported WP/17 and sought to improve compliance with ICAO's policies to protect users from abuse of dominant market positions and to ensure a level playing field for all users.

Secretariat (WP/20 – information paper) summarized the results of the recent ICAO questionnaire administered on States, in order to update the Supplement to Doc 9082, with respect to the adherence of national regulations and practices to the ICAO policies on charges.

Mali (WP/44 – information paper) described its practices and considered it important that training courses be held to popularize ICAO's policies on charges.

4.2 Discussion

4.2.1 It was recognized that the degree of implementation of ICAO's policies on charges, which are moral rather than legally binding obligations on States, was not adequate in many instances. The Conference focussed its discussion on exploring possible ways to improve the situation, namely a) how to promote the awareness and knowledge of the policies as a means to raise adherence, and b) how to strengthen the implementation of the policies.

4.2.2 On the first aspect, there was general consensus to encourage ICAO to take all measures possible to ensure a widespread awareness and knowledge of its policies on charges, drawing, for example, on suggestions made in WP/17, such as regional workshops. It was also suggested that an increased cooperation with the industry would facilitate a greater understanding of the policies.

4.2.3 On the second aspect, there was agreement, based on suggestions in WP/87, that an efficient measure for ICAO's policies on charges to attain a higher status and obtain better adherence would be through the inclusion of the main principles of Doc 9082 into national legislation, regulation or policies. Similarly, the Conference agreed that it would be helpful for the same principles to be included as a specific provision in future air services agreements.

4.2.4 The Conference did not support the conclusion in WP/17 that States should notify their deviations from the adherence to ICAO's policies on charges, since such a requirement was applicable only to the implementation of Standard and Recommended Practices (SARPs) but not to economic policies. It was also suggested that the reference to "high priority" in the draft conclusions of WP/17 should be deleted as it is the responsibility of States to establish such priorities. It was also understood that ICAO would continue to monitor States' implementation of its policies on charges through surveys, as necessary.

4.3 Recommendation

4.3.1 From the documentation and ensuing discussion on implementation of ICAO's policies on charges under Agenda Item 4, the Conference adopted the following recommendation:

RECOMMENDATION 15 – IMPLEMENTATION OF ICAO'S POLICIES ON CHARGES

THE CONFERENCE RECOMMENDS THAT:

- a) States should recognize that adherence to ICAO's policies on charges in Doc 9082, which have their principal origin in Article 15 of the Chicago Convention, promotes the efficient and cost-effective provision and operation of airports and air navigation services, as well as a sound relationship with users, in particular, with respect to transparency and the fair treatment of different categories of users;
- b) States should ensure that their airports and ANSPs adhere to ICAO's policies on charges;

- c) ICAO should take all relevant measures to ensure a widespread awareness and knowledge of its policies on charges, in cooperation with the industry;
 - d) ICAO should encourage States to adopt the principles of Doc 9082 on non-discrimination, cost-relatedness, transparency and consultation with users into national legislation, regulation or policies to ensure compliance by airports and ANSPs; and
 - e) ICAO should encourage States to incorporate the principles of Doc 9082 on non-discrimination, cost-relatedness, transparency and consultation with users into their future air services agreements to ensure compliance by airports and ANSPs.
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**Address by the President of
the International Civil Aviation Organization (ICAO),
Mr. Roberto Kobeh González,
at the Opening Session of the Conference on the Economics of
Airports and Air Navigation Services**

(Montréal, 15–20 September 2008)

It is a great pleasure for me to welcome you, on behalf of the Council and the Secretary General of the International Civil Aviation Organization (ICAO), to this Conference on the Economics of Airports and Air Navigation Services.

The first ICAO Conference on charges was held in 1956 and since then, five more have been held. Today, we undertake the seventh and our common objective is to review and validate the current policy guidance on charges. This Conference is obviously timely given the rapidly changing operating environment in which international civil aviation now finds itself. We face challenges of unknown depth and scope, such as the supply and price of oil, environmental issues and capacity constraints. In times such as these, it is essential that all parties come together and cooperate in adapting the air transport system to harsh new realities. Efficiency and cost-effectiveness must become our guiding principles as we move towards a financially healthy and sustainable industry.

This Conference is also timely because of the significant developments of the past decade in the organization and financing of service providers. The previous Conference in 2000 updated ICAO's policy guidance with respect to commercialization and privatization of airports and air navigation service providers. This Conference can build on recent experiences in this area and further develop policy guidance, so that States can deal effectively with essential regulatory matters related to charges and economic aspects of airports and air navigation services.

Commercialization and privatization of airports and air navigation services are part of the on-going globalization process and the liberalization of the world's economies.

Whether privatized or not, however, a significant number of service providers worldwide still do not fully recover their costs, according to studies undertaken by ICAO. This has serious implications, compounded by the consistent growth of air transport, which has and will continue to place increasing pressure on States to finance the expansion or renewal of airports and air navigation facilities and services in order to overcome or prevent airport and airspace congestion. The picture becomes more complicated when we consider the challenges I mentioned earlier and how they may adversely affect the global demand for air transport.

According to the *Convention on International Civil Aviation*, States are ultimately responsible for aviation safety and security in their airspace. They are also responsible for ensuring that services are provided in accordance with ICAO Standards, recognized as crucial to the safety and security of international air navigation.

In addition, when considering commercialization or privatization of airports or air navigation service providers, States should bear in mind that economic oversight is the responsibility of the States as well. The objective is to prevent abuse from what has been referred to as the "natural monopoly"

of a service provider. A State's economic oversight responsibility can be exercised in several different ways, from a "light-handed" approach to more direct regulatory interventions in the economic decisions of service providers, for example through the establishment of a regulatory mechanism. States will have to select the most appropriate form of economic oversight according to their specific circumstances. When deciding how to exercise their economic oversight function, States should take into consideration the degree of competition between service providers, the costs and benefits related to alternative oversight forms, as well as the legal, institutional and governance frameworks.

The need for more direct regulatory interventions may be reduced where appropriate mechanisms for consultation with users have been implemented and where cooperative arrangements between providers and users are in place. With the enormous challenges before us, I am convinced that taking cooperation in the industry to another level is absolutely necessary.

The current ICAO policies on charges prescribe consultations only on an *ad-hoc* basis in the context of increases in charges and major infrastructure development plans. However, consultation should be an on-going process and it may even take up to a couple of years to get it established, since a number of meetings are needed to achieve mutual trust and develop a constructive dialogue. We will therefore need to strengthen ICAO's policies on consultation with users and require the establishment of permanent mechanisms for consultations where no voluntary arrangements between providers and users exist. Such consultations should include representatives of all user categories operating at the airports or in the airspace concerned.

Closely related to economic oversight and consultations with users is the issue of the performance of service providers. Since performance management is an important tool for service providers, regulators and users, States should ensure that, within their economic oversight function and through the consultation process, appropriate performance management systems are developed and implemented by their service providers.

These three key topics of the Conference – economic oversight, performance management and consultations – are interrelated and together represent a holistic approach to increased cooperation in the industry, in particular between regulators, providers and users. If we can reach a common understanding on these three issues, and I believe we can, it will serve as a basis for adopting constructive conclusions and recommendations that will help us meet the goals of this Conference concerning cooperation and efficiency.

Having said that, I realize that ICAO's policies on charges differ in status from the provisions of the Chicago Convention, in that a Contracting State is not legally bound to adhere to the policies. With the commercialization and privatization of airports and air navigation services, there is a risk of less awareness of ICAO's policies in the economic field, which could lead to diverging approaches to user charges and taxation. For example, the economic characteristics and capacity limitations of airports and air navigation service providers, combined with the liberalization of air transport services have, in certain circumstances, given rise to questions regarding the application of the non-discrimination principle in Article 15 of the Chicago Convention and the application of equitable cost-recovery practices. It is therefore important to emphasize that since the policies are based on recommendations of major international conferences, like this one, States are morally committed to follow them. States should recognize that non-adherence to ICAO's policies on charges undermines the efficient and cost-effective provision and operation of airports and air navigation services, as well as the relationship with users, in particular with respect to transparency and the fair treatment of different categories of users. States should, therefore, ensure

that their service providers adhere to ICAO's policies and report to ICAO any deviations from the adherence to these policies.

It is an honour for me to declare open this Conference on the Economics of Airports and Air Navigation Services. In his address, Mr. Saud A.R. Hashem, Chairman of the Air Transport Committee and Representative of Saudi Arabia on the Council, will provide us with additional details on the Agenda of the Conference.

The Council of ICAO is looking forward to your recommendations with great anticipation and will take very seriously your suggestions on how best to enhance its policy guidance on airport and air navigation service charges, as well as on other aspects of airport and air navigation services, economics and management.

If the views expressed at yesterday's pre-Conference Symposium are any indication, I am very confident that this conference will be a very productive one indeed.

**Address by the Chairman of the Air Transport Committee,
Mr. Saud A. R. Hashem
at the Opening Session of the Conference on the Economics of
Airports and Air Navigation Services**

(Montréal, 15–20 September 2008)

Ladies and gentlemen, on behalf of the Air Transport Committee of the ICAO Council, let me also welcome you to this Conference on the Economics of Airports and Air Navigation Services.

One of the fundamental characteristics of today's global air transport system is that it continues to be made available to an increasing number of people in all regions of the world. When the *Convention on International Civil Aviation* came into force in 1947, there were some 21 million passengers on the world's airlines. Some 60 years later, there are more than 2 billion on scheduled flights alone, in a liberalized marketplace that seems light years away from the regulated environment of the 1940s.

Democratization and expansion of air travel flows naturally from Article 44 of the Chicago Convention which calls on ICAO to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to "Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport". It is, after all, a question of equity among human beings and in the use of the planet's resources that air transport be accessible and affordable to as many people as possible. We would not have it any other way and despite the challenges that we face today, with the rising cost of fuel, environmental issues, airport and airspace capacity constraints and others, we will pursue our drive for optimum safety, security, sustainability and efficiency. To a large extent, the future progress of our global society depends on the operational and financial health of the air transport industry.

In his opening address, the President of the Council focused our attention on what he feels are three key topics that are the essential to the success of our meeting. I totally agree with him that it is through the nature and scope of our conclusions and recommendations on economic oversight, performance, and consultations that we will be able to help shape the future direction of the industry. Beyond that, there are a number of other critical items on the Agenda of the Conference and I would like to take a few minutes to review them as a prelude to our discussions starting this morning. As I do so, I will reiterate some of the vital comments made by Mr. Kobeh, especially with regards to Agenda Item 1.

The first one deals with economic oversight and underscores the responsibility of States to protect their citizens from the risk of abuse from the dominant position that airports and air navigation services have. This responsibility must be clearly reflected in national aviation legislation. On the question of performance management, for example, the intention behind the proposals before this Conference is not to establish overly prescriptive rules but rather to put forth the notion that service providers implement performance management systems where the choice of performance indicators is made at the regional and/or national level, so as to take into account local conditions and circumstances. Without proper performance measuring criteria, it would be difficult for service providers to claim any improvements in efficiency.

Another important issue is that consultations with users are non-existent in many countries. All cooperation is based on a mutual understanding of each others' concerns and the only way to develop

such an understanding is through ongoing dialogue. I think the time is ripe for this Conference to propose including passengers in the overall consultation process. This is in addition to what is proposed in the Secretariat working paper on this topic.

As we move on to Agenda Item 2, the Conference will deal with subjects related to airport economics and management. Concerning management of airports, we will need to look at the separation of regulatory and operational functions and the need to ensure good governance using best practices. We will also debate what should be a reasonable return on assets for airports, within the context of their dominant position.

A number of new trends in charging practices will be brought up for review, such as the allocation of costs on a per passenger basis and the application of differential charges with respect to introductory discounts for new services and low-cost carriers. There is also the availability of access to airport facilities, which has the potential of unfair treatment or discrimination. Here we have to remember that users other than air carriers have a legitimate right of access to airports. ICAO's policies clearly stipulate that charges levied on international general aviation should be assessed in a reasonable manner, with the goal of promoting the sound development of international civil aviation as a whole. When it comes to cost recovery of security measures, we will review current policies and see how we can achieve a more harmonized application of the policies on airport security charges worldwide.

The management and governance issues are equally important in the provision of air navigation services, particularly with respect to the separation between regulatory and operational functions. Because financing of air navigation infrastructure is still a problem in many parts of the world, emphasis must be placed on further promoting ICAO's policies on the establishment of autonomous entities to operate the services. Under Agenda Item 3 we will get into details, such as the evolution of service provision in the areas of approach control and area control regarding, including requirements from users on preferred flight trajectories and how this may affect charges. The aircraft weight element in the route charging formulae is also on the Agenda, as is ICAO's work in the economic field and how it can support the implementation of the global air traffic management (ATM) concept.

Finally, under Agenda Item 4, we will assess the risk inherent in low awareness within commercialized and privatized airports and ANSPs concerning ICAO's policies and guidance material in the economic field. We will try to identify possible options for increasing awareness of the policies and their implementation by States and their service providers.

Over the years, with your assistance, ICAO has established a solid base of policy and guidance material for use by all parties of the aviation community. This has helped them deal effectively with the economic and organizational issues associated with the provision and operation of airports and air navigations services. We have *ICAO's Policies on Charges for Airports and Air Navigation Services*, the supplementary guidance in the *Airport Economics Manual* and the *Manual on Air Navigation Services Economics*, to name but the most obvious ones. These are all published on the ICAO website and are available free of charge to service providers and all other interested parties. Our common objective over the next week will be to review and validate the policy guidance in light of the changing operating environment and the challenges we face.

I have no doubt regarding the outcome of this Conference. The scene has been set for a constructive discussion and consideration of all the important topics on the Agenda will benefit immensely from the

outstanding pool of knowledge and experience that you bring to this Assembly Hall. Your presence in such great numbers is a clear indication of the importance you attach to the topics we will be dealing with and it shows your dedication to the aviation community. I want to thank you in advance for this essential contribution and assure you that your comments and recommendations will receive the greatest attention during the work of ICAO's Air Transport Committee, over which I have the honor of presiding, and which has been tasked with proposing follow-up measures to this Conference.

I wish you a stimulating and productive Conference.

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CONTRACTING STATES:**ALBANIA**

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L. Dokisime Gnama	Delegate
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V.P. Tung	Delegate

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C. Lidji	Observer
A. McGinley	Observer
A. Schimm	Observer
W. Youssef	Observer

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S. Ould-Mahfoud Observer
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E. Letréguilly Observer

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M. Nichols Observer

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J. Magee Observer

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A. Mattos Chief Observer

WORLD BANK

C.E. Schlumberger Chief Observer

CEANS WP	Agenda Item	Title	Languages	Presented by
1	---	Agenda	E,F,S,R,A,C	Secretariat
2 (IP)	---	Conference origins and organizational arrangements	E,F,S,R,A,C	Secretariat
3 (IP)	---	Tentative timetable	E,F,S,R,A,C	Secretariat
4	1.1	Economic oversight	E,F,S,R,A,C	Secretariat
5	1.2	Economic performance and minimum reporting requirements for airports and air navigation services providers	E,F,S,R,A,C	Secretariat
6	1.3	Consultation with users	E,F,S,R,A,C	Secretariat
7	2.1	Governance, ownership and control of airports	E,F,S,R,A,C	Secretariat
8	2.2, 2.3	Cost basis, cost allocation and charging systems	E,F,S,R,A,C	Secretariat
9	2.2, 3.2	Rate of return for airports and air navigation services	E,F,S,R,A,C	Secretariat
10	2.4	Differential charges	E,F,S,R,A,C	Secretariat
11	2.5	Cost recovery of security measures at airports	E,F,S,R,A,C	Secretariat
12	3.1	Governance, ownership and control of air navigation services providers	E,F,S,R,A,C	Secretariat
13	3.3	Categorization of services for cost allocation and charging purposes	E,F,S,R,A,C	Secretariat
14	3.3	The role of aircraft weight in charging formulae	E,F,S,R,A,C	Secretariat
15	3.3	Incentives that could apply to both providers and users	E,F,S,R,A,C	Secretariat
16	3.4	Economic and organizational aspects related to implementation of the global air traffic management	E,F,S,R,A,C	Secretariat
17	4	Implementation of ICAO's policies on charges	E,F,S,R,A,C	Secretariat
18 (IP)	1.1, 1.2 2.1, 3.1	Ownership, organization and regulatory practices of airports and air navigation services providers	E	Secretariat

CEANS WP	Agenda Item	Title	Languages	Presented by
19 (IP)	2.1, 3.1	Financial situation of airports and air navigation services providers 2005	E	Secretariat
20 App. Rev. (IP)	4	Implementation of ICAO's policies on charges	E	Secretariat
21	2.4	Access to airport infrastructure	E,F,S,R,A,C	Secretariat
22	1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 2.4, 2.5	A tourism perspective	E	UNWTO
23	2.1	Governance, ownership and control of airports	E	ITF
24	1.1, 1.2	Economic oversight and performance management: The need for balance	E	ITF
25	3.3	The role of aircraft weight in charging formulae	E	IBAC
26	1.3	Strengthening practices for consultation with users	E	IAOPA
27	1.1	Economic oversight	E,F,S,R,A,C	ACI
28	1.2	Economic performance and minimum requirements for airports and air navigation services providers	E,F,S,R,A,C	ACI
29	1.3	Consultation with users	E,F,S,R,A,C	ACI
30	2.2, 2.3	Cost basis, cost allocation and charging systems	E,F,S,R,A,C	ACI
31	2.2, 3.2	Rate of return for airports and air navigation services	E,F,S,R,A,C	ACI
32	3.4	Ownership and control of air navigation services infrastructure	E,F,S,R,A,C	Members of NAT SPG
33	2.2, 2.3	Setting charges and establishing appropriate costs	E,F,S,R,A,C	United States
34	1.2	Air navigation services performance measurement and benchmarking	E,F,S,R,A,C	CANSO
35	1.3	Development of best practice in customer relations	E,F,S,R,A,C	CANSO
36	3.1	Air navigation services providers (ANSPs) governance and performance	E,F,S,R,A,C	CANSO

CEANS WP	Agenda Item	Title	Languages	Presented by
37	3.1	Separation of air navigation services (ANS) provision from regulatory oversight	E,F,S,R,A,C	CANSO
38	3.4	Aeronautical information management and implications related to charging principles	E,F,S,R,A,C	CANSO
39 App.	2.1	Factors to consider when giving airports in concession	E,S	Members of LACAC
40 App.	3.3	Methodological guide for estimating airport and air navigation service costs	E,S	Members of LACAC
41 (IP)	1.1, 1.2, 1.3	Issues involving interaction between States, providers and users	F	Mali
42 (IP)	2.1, 2.2, 2.3, 2.4, 2.5	Specific issues related to airport economics and management	F	Mali
43 (IP)	3.1, 3.2, 3.3, 3.4	Specific issues related to air navigation services economics and management	F	Mali
44 (IP)	4	Implementation of ICAO's policies on charges	F	Mali
45	3.4	Institutional and economic issues associated with the transition from AIS to AIM	E	Australia
46	1.1	Economic oversight	E	IATA
47	1.3	Consultation with users	E	IATA
48	2.5	Solutions for security financing and cost-recovery	E	IATA
49	2.2, 3.2	Relationship between risk and return	E	IATA
50	4	Global application of ICAO policies	E	IATA
51	3.4	ATM globalization and its economic impact on the global system	E,S	Members of LACAC
52	1.2	European efforts to implement a performance driven system	E,F	European Commission & EUROCONTROL
53	1.1, 1.3, 4	Issues requiring cooperation between States, services providers and users	E,R	IAC
54	3.4	Europe A "total system" approach to transparency and predictability of air transport infrastructure costs	E	France on behalf of EU, ECAC and their Members

CEANS WP	Agenda Item	Title	Languages	Presented by
55	1.2	Charging and environment	E	France on behalf of EU, ECAC and their Members
56 (IP)	1.2, 3.3, 3.4	The second package of the Single European Sky (SES II)	E	European Commission
57	2.1	Handling liberalization and regulation	E	Italy
58 Rev.	1.1	Regional approach for the civil aviation economic oversight	E,F	53 African States
59	2.1	Developing policy guidelines for management of economically non-viable airports	E	53 African States
60 Rev.	2.2, 2.3	Cost basis, cost allocation and charging systems	E,F	53 African States
61	2.4	Airport constraints: slot allocation and night curfew	E	53 African States
62	3.3	Role of aircraft weight in charging formulae	E	53 African States
63	1.1, 1.2	The Government, as a facilitator for the cooperation between services providers and users	E	Republic of Korea
64	1.3	Successful changes of charges through consultation with users	E	Republic of Korea
65	4	Implementation of ICAO's policies on charges for airports in the European Community	E	European Commission
66 (IP)	1.1	ACI Global Traffic Forecast Report 2008-2027	E	ACI
67 (IP)	---	List of working papers as of 10 September 2008	E	Secretariat
68	2.1	Consumer rights protection and its impact on increasing airport operation efficiency	E,A	Saudi Arabia
69	1.1	Control and oversight of airports and air navigation services providers	E	Uganda
70	1.3	Consultation with users	E	Uganda
71	1.1	Economic oversight and regulation	E	United States
72	3.4	ATM globalization and its economic impact on the world system	E,S	Panama

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73 Rev.	1.1	Draft Report on Agenda Item 1.1	E,F,S,R,A,C	Secretariat
74	1.2	Draft Report on Agenda Item 1.2	E,F,S,R,A,C	Secretariat
75	1.3	Draft Report on Agenda Item 1.3	E,F,S,R,A,C	Secretariat
76	2.1	Draft Report on Agenda Item 2.1	E,F,S,R,A,C	Secretariat
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78	2.3	Draft Report on Agenda Item 2.3	E,F,S,R,A,C	Secretariat
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80	2.5	Draft Report on Agenda Item 2.5	E,F,S,R,A,C	Secretariat
81	3.1	Draft Report on Agenda Item 3.1	E,F,S,R,A,C	Secretariat
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83 Rev.	3.3	Draft Report on Agenda Item 3.3	E,F,S,R,A,C	Secretariat
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85	4	Draft Report on Agenda Item 4	E,F,S,R,A,C	Secretariat
86	---	Draft Report on Introduction	E,F,S,R,A,C	Secretariat
87	4	Implementation of ICAO's policies on charges	E	France on behalf of EU, ECAC & their Members & United States

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