

AFI RSOO: Legal Basis and Regulatory Framework

RSOO Study Follow-up – Validation Workshop
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- Developing a Common or harmonised Regulatory framework
- Delegation of Safety Oversight tasks
- Funding options and mechanism
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RSOO Legal foundation

➤ Treaty or not treaty?

- All AFI RSOO were established on the basis of an international agreement and all agreements are in force
 - Supplement of Community regulation for ASSA-AC and URSAC/ACSAC
- Challenge of ratification
- MOUs to make it work
- All RSOOs have legal personality



➤ Relation to Regional Economic Community

- Specialized, autonomous or subsidiary institution of REC: URSAC/ACSAC, CASSOA, ASSA-AC, SASO
- Regional Accord Group: BAGASOO
- REC mainly oriented to political and economic synergies or development
- Necessity to clarify Institutional Membership only or Operational Membership

➤ Level of autonomy

- RSOO autonomy is needed to implement Safety Oversight policy
- Necessity of a clear mandate

RSOO Legal foundation (*Cont'd*)



- Common structure of law
- Working language
- Hosting arrangements
- Definition and composition of the RSOO governing bodies
- Consistent scope of activities
- Legal foundation of financial funding
- Delegation of Safety Oversight tasks

RSOO Organisational Structure

➤ RSOO decision-making bodies: due to institutional structure to which it is anchored

- Conference of Heads of State;
- Council of Ministers of the REC
- Committee of Ministers responsible for Civil Aviation;
- RSOO Steering Committee.

=> Risk of ineffective multi-layer decision-making process

➤ RSOO governing body

- Governing body defines and/or implement policies, strategies and programs of RSOO
- General case: CAA representatives of Member States
- The executive Director/Secretary of the RSOO participates in the work of the governance body
- Representation of other parties interested in the RSOO?

➤ Executive body and Authority

- Executive Director/Secretary
- Safety related decisions/functions
- Obtaining advice and organising the internal functioning of the RSOO
- Need for more precision in the constitutive instruments or their subsidiary legal instruments in specifying the responsibilities of the executive authority

Regulatory framework

Regulatory framework

- Regulatory structure
- Common or harmonised
 - Direct applicability (WAEMU, CEMAC)
 - Obligation to transpose into internal legal system =>Uncertainty and delays
 - Generic law/regulation to be transformed in national law/regulation
- Challenge to adopt regulation
 - Critical path for adoption by REC Commission and Governing bodies
- Challenge to transpose regulation and adopt national legal acts:
 - Uncertainty and delays, however, transposition is mandatory
 - Model/Generic law/Regulations are not binding on States
 - In practice, it seems that the majority of Member States apply the Model/Generic Law/Regulations even without having transposed them or adopted national legal acts
 - The conclusion is that the RSOO has to set up a system to support and monitor the transposition of the regulations.
- Common approach towards regional aviation industry



Delegation of Safety Oversight tasks

Functions and tasks performed on behalf or at request of Member States

- Under the Chicago Convention, only the State has responsibility for safety oversight, and this responsibility may not be transferred to a regional body,
- Except in one case, the functions of RSOOs are formulated in a general manner
- Because almost all these RSOOs are only governed by an international agreement
- In addition, international agreements or their subsidiary legal instruments generally simply stipulate that the RSOO shall perform “certification and surveillance tasks at the request of a Member State”.
- It should be remembered that when an RSOO performs functions and tasks at the request of a Member State, it only becomes responsible for them after the State has made its request and the RSOO has accepted it.

Functions and tasks performed on behalf or at request of Member States *(Cont'd)*

- RSOO should firstly establish guidelines/principles for the acceptance of the performance of certification and surveillance tasks
- Delegation must be concretised through a formal instrument (for delegation levels 1 and 2, this instrument may be a MoU).
- This MoU should be concluded individually with each requesting State.
- To ensure consistency between these bilateral MoUs, each RSOO should establish a framework MoU on the delegation of functions and tasks which would serve as a basis for the development of MoUs with each State.
- Even when the international agreement provides that the RSOO shall carry out, on behalf of the member States/Parties, the technical tasks of certification and surveillance of a service provider (AAMAC; certification and surveillance of ASECNA), the modalities of these tasks should be specified by the RSOO and its member States/Parties.

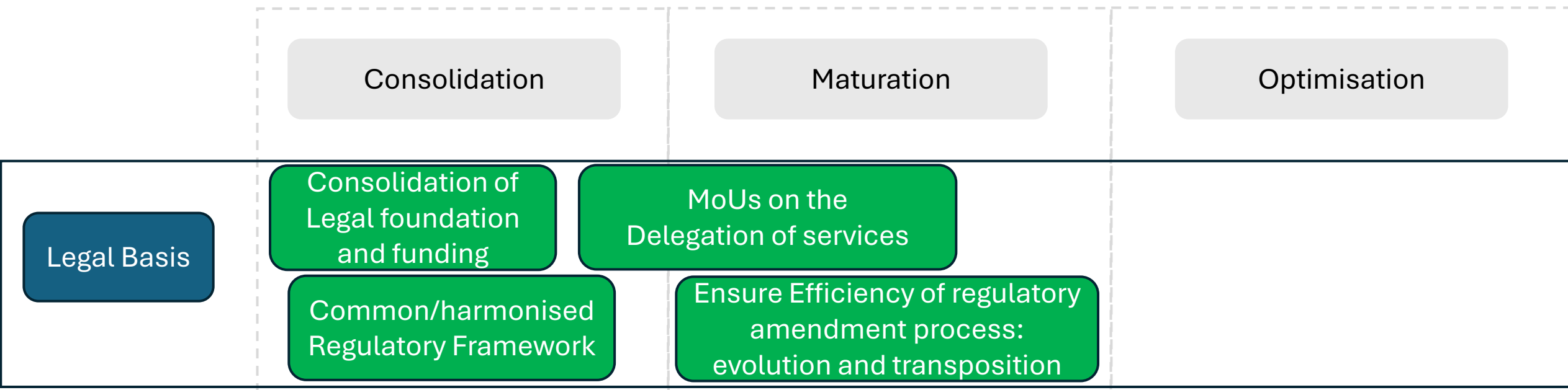
Funding Options and mechanism

Funding options and mechanism

- All AFI RSOOs have legal personality, they are allowed to provide for their own funding through the collection of fees and charges and to directly negotiate with funding agencies
- RSOOs are currently mainly funded through contributions from their Member/Partner States often supplemented by grants and loans from donors
- Financial sustainability of RSOOs could only be ensured by a gradual shift from a funding mechanism coming from the member/Partner States (and donors) to a funding one based on the combination of several sources
- To support the establishment and implementation of fees, charges, an air safety charge, member States/Parties of an RSOO should put in place strong safeguards in the constitutive agreements, regulations or policies comprising:
 - Facilitating transparency and consultation;
 - Effective and transparent oversight of the charges imposed and related performance management systems (including RSOO's operations efficiency and cost-effectiveness);
 - A consultation mechanism with the Industry
 - Comprehensive and transparent accounting (accounting by category of expense and accounting by activities)
 - Guarantee that revenues from charges are affected to the RSOO's safety oversight functions.

Legal Roadmap

RSOO Legal development



Thank you for your attention

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