

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

(Montreal, 19 - 28 June 2000)

Agenda item 5: ICAO policy
Agenda item 5.1: Status, structure and form of ICAO policy

**STATEMENTS BY THE COUNCIL TO CONTRACTING STATES ON CHARGES FOR
AIRPORTS AND AIR NAVIGATION SERVICES
– STATUS, STRUCTURE AND FORM**

(Presented by the Secretariat)

SUMMARY

This paper suggests certain changes to the structure and form of the Council Statements in Doc 9082/5, including changing the title and the separate identification of basic principles of cost recovery. Proposed action by the Conference is at paragraph 8.1.

REFERENCES

Doc 7300/7, *Convention on International Civil Aviation*
Doc 9082/5, *Statements by the Council to Contracting States on Charges for Airports and Air Navigation Services*
Doc 8632, *ICAO's Policies on Taxation in the Field of International Air Transport* (Third Edition, to be issued in the second quarter 2000, text of which is presently attached to State letter EC 2/10-99/52 dated 14 May 1999)
State letter AN 1/17.9-97/62 dated 11 June 1997 (*Council Resolution on Environmental Charges and Taxes*)

1. Background

1.1 Article 28 of the *Convention on International Civil Aviation* (Doc 7300/7) calls on each Contracting State, so far as it may find practicable, to provide airport and air navigation facilities, in accordance with the standards and practices recommended or established in pursuance of the Convention. Article 15 of the Convention establishes international obligations regarding the use of these airport and air

(6 pages)

navigation facilities, including the basic policy of ICAO in the area of charges for airports and air navigation services. In summary, Article 15 sets out three principles, that is uniform conditions in facility usage, non-discrimination in charging aircraft operators, and no charges to be levied solely for the right of aircraft transit over, entry into or exit from the territory of a Contracting State. As to the status of Article 15, since it is a component of the Convention, an ICAO Contracting State cannot exempt itself from applying any of the principles concerned.

1.2 Additional and more detailed policy guidance in the area of charges for airports and air navigation services is presented in the *Statements by the Council to Contracting States on Charges for Airports and Air Navigation Services* (Doc 9082/5). The basic philosophy and principles expressed in the Statements, that is fairness and equity in the determination and sharing of airport and air navigation services costs, have remained unchanged over the years, although the text has been developed and periodically revised through major international conferences. The Council Statements differ in status from the Convention in that an ICAO Contracting State is not bound to adhere to the provisions and recommendations in the Statements. However, because of the widespread endorsement of the policies therein by worldwide conferences and their practical value in avoiding discrimination and potential dispute, there appears to be an accepted moral obligation and a general practice amongst States to ensure that their cost recovery practices for airports and air navigation services conform to the policies and philosophy set out in the Council Statements.

1.3 Originally there were two separate statements: 1) *Statements by the Council to Contracting States on Airport Charges* (Doc 7806) were issued in 1957, following the Airport Charges Conference held in 1956; and 2) *Statements by the Council to Contracting States on Route Facility Charges* (Doc 7941) were issued in 1958 following the Route Facility Charges Conference held that year. The two Statements were placed together in one document in 1967 under the title of *Statements by the Council to Contracting States on Charges for Airports and Route Air Navigation Facilities* (Doc 8718) following the 1967 Conference on Charges for Airports and Route Air Navigation Facilities. The Statements saw amendments and minor structural changes following the subsequent 1973 Conference on Economics of Route Air Navigation Facilities and Airports (ERFA), the 1981 Conference on Airport and Route Facility Economics (CARFE) and the 1991 Conference on Airport and Route Facility Management (CARFM) at which time the reference in the title to “route air navigation facilities” was changed to “air navigation services”.

2. Scope of the Council Statements

2.1 The Council Statements relate to charges in the provision of airports and air navigation services pursuant to Articles 15 and 28 of the Convention. In this regard, as stated in the Introduction to the Statements, charges are levies to defray the costs of providing facilities and services for civil aviation whereas taxes are levies to raise general national and local government revenues that are applied for non-aviation purposes.

2.2 ICAO’s position on certain tax issues is contained in the document entitled *ICAO Policies on Taxation in the Field of International Air Transport* (Doc 8632), which was most recently revised by the Council in 1999. In view of proposals in other international fora for the introduction of taxes on aircraft fuel and the special nature of levies for environmental purposes, the Council in 1996 adopted a *Council Resolution on environmental charges and taxes*, which was circulated to States under cover of State letter AN 1/17.9-97/62 dated 11 June 1997. The specific issue of charges or taxes on aircraft emissions is part of the remit of the Council’s Committee on Aviation Environmental Protection (CAEP), which is currently studying a range of “market-based options” including charges or taxes, emissions trading and voluntary agreements; a report

on the conclusions reached by CAEP will be made to the next regular Session of the Assembly in the fourth quarter of 2001. The *Council Resolution on environmental charges and taxes* presently covers only emissions charges and taxes; noise charges are covered in the Council Statements; the Council could be in a position to review the structure and relationship of the three texts (including the *ICAO Policies on Taxation*) as regards environmental matters prior to the next regular Session of the Assembly, on the basis of the reports of the Conference on Air Navigation Services Economics and of the Committee on Aviation Environmental Protection on the separate issues concerned.

3. Title of the Council Statements

3.1 The Council Statements in Doc 9082/5 are in essence policy declarations, parallel to the *ICAO's Policies on Taxation in the Field of International Air Transport* (Doc 8632) and the policy content of the more generic *Policy and Guidance Material on the Regulation of International Air Transport* (Doc 9587). However this is not clearly reflected in the title. In view of this, it is suggested that the title of the Council Statements in Doc 9082/5 be amended to *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082/6).

4. Merging of introductory text

4.1 Each Council Statement (i.e. that on airport charges and that on charges for air navigation services) currently contains an Introduction. Broadly, though, each Introduction covers the same subject areas and expresses the same basic philosophy with regard to how the subject areas should be dealt with. For reasons of conciseness and ease of reference it is therefore suggested that the introductions be merged into a single one. The Introduction currently preceding both Statements on page 1 of Doc 9082/5 and which is a description of an historical nature, would remain but would be retitled Preface.

5. Basic principles of cost recovery

5.1 There is a need to invite more attention to certain basic principles on cost recovery common to both airport and air navigation services charges. A major reason for this is the rapid growth of autonomous, even privatized bodies or entities involved in the operation of the airports and air navigation services over the last decade. Prior thereto, in the majority of States airports and air navigation services were operated by a branch of government, usually a civil aviation administration that was also responsible for government regulatory or licensing activities and, as a rule, for the application of ICAO policies and principles. However, with so many States having vested the operation of their airports and air navigation services in separate autonomous entities within which awareness of ICAO recommended practices may be limited, the profile of certain basic cost recovery principles may need to be raised. This would not only serve to alert the providers of airports and air navigation services to the existence of these principles, but would also assist regulatory bodies in defining and prioritizing their own functions.

5.2 A list of such basic cost recovery principles, applicable to both airports and air navigation services, would be presented in the new ICAO policy document as a separate section entitled "Basic principles of cost recovery" immediately after the merged introductory text. In selecting and identifying the principles concerned care must be taken to focus only on those principles which are of primary importance and common to both airports and air navigation services in order that action may focus on promoting their worldwide application.

5.3 Subject to their continued endorsement by the Conference under Agenda Item 5.2, Elements for consideration with regard to ICAO policy, such basic principles could be:

- a) charges shall be based on the costs of the facilities and services provided for and implemented under the ICAO Regional Air Navigation Plan(s) concerned;
- b) charges shall not be levied for any facilities or services before they become operational;
- c) revenues from charges levied on international civil aviation shall only be applied towards defraying the costs of facilities and services provided for international civil aviation;
- d) revenues from other sources than charges on air traffic shall be taken into account before the cost basis for charges on air traffic are determined;
- e) airports and air navigation services may produce sufficient revenues to exceed all operating costs and so provide for a reasonable return on assets to contribute towards necessary capital improvements; and
- f) consultation with users shall take place before significant changes in charging systems or levels of charges are introduced.

6. Overall layout

6.1 The **Appendix** shows the basic layout of the proposed new document. The *Policy specific to airport charges* and the *Policy specific to air navigation services charges* would remain separate since two distinct segments of aviation infrastructure are involved; different management teams calling for different areas of expertise are concerned in most instances and they have indicated a clear preference for separation of ICAO policy guidance specific to these two areas. The elements of the two current Council Statements, on airport charges and air navigation services charges respectively, which were not encompassed in the new section on *Basic principles of cost recovery*, would essentially retain their current content (incorporating, of course, such amendments and editorial modifications as recommendations and conclusions of the present Conference and recent developments may give rise to); consideration would be given, however, to revising their format in some respects for greater clarity and transparency. The final new document would of course be reviewed by the Air Transport Committee in depth and in its entirety prior to recommendation of approval by the Council.

7. Monitoring of implementation

7.1 In the light of the ongoing developments in the provision of airports and air navigation services mentioned in paragraph 5.1, together with the inherent monopolistic characteristics of airports and air navigation services and the need for maintaining a balance between the interest of airport and air navigation services providers and users alike, it seems timely to consider the status of the ICAO policies on charges for airports and air navigation services. In particular, there appears to be a fundamental and increasing need for feedback to ICAO and dissemination to States and others on the implementation of the policy guidance. This could be done through applying a similar procedure to that already followed for the *ICAO's Policies on Taxation in the Field of International Air Transport* (i.e. a State letter seeking information on implementation of policies, followed by publication of supplement to the document). The information received by ICAO would thus be published and transmitted to Contracting States. It is suggested this practice be introduced with regard

at least to the basic cost recovery principles applicable to charges for airports and air navigation services identified in paragraph 5.3.

8. **Action by the Conference**

8.1 The Conference is invited to:

- a) agree that the *Statements by the Council to Contracting States on Charges for Airports and Air Navigation Services* be retitled *ICAO Policies on Charges for Airports and Air Navigation Services* (paragraph 3.1 above);
- b) agree that the introductory texts to each of the two Statements be merged into one in the new document (paragraph 4.1 above);
- c) agree that a new section identifying basic principles of cost recovery be included in the new document (paragraphs 5.1 through 5.3 above);
- d) note the consequential proposed revised format of the new policy document (paragraph 6.1 above and Appendix); and
- e) agree that States should notify ICAO with regard to the application of the Organization's basic principles of cost recovery and consider whether such notification should also extend to policy specific to airports and to air navigation services respectively (paragraph 7.1 above).

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APPENDIX

PROPOSED STRUCTURE OF DOCUMENT ON ICAO POLICIES ON CHARGES FOR AIRPORTS AND AIR NAVIGATION SERVICES (DOC 9082/6)

Preface

Introduction

Basic Principles of Cost Recovery

Policy Specific to Airport Charges

Policy Specific to Air Navigation Services Charges

Appendix 1 Guide to the Facilities and Services to Be Taken Into Account in Determining
Airport Costs

Appendix 2 Guide to the Facilities and Services to Be Taken Into Account in Determining
the Total Costs of Air Navigation Services

Appendix 3 Glossary of Terms

Supplement to include information received from States as to their position vis-à-vis the
Policies (at least in respect of basic principles of cost recovery).

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