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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Javier SOLANA, Secretary-General/High Representative

Subject: Commission staff Working Document accompanying document to the Proposal
for a Directive of the European Parliament and of the Council on Airport
Charges
Summary of the Impact Assessment

Delegations will find attached Commission document SEC(2006) 1689.

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.1.2007
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COMMISSION STAFF WORKING DOCUMENT

Accompanying document to the

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on airport charges

Summary of the Impact Assessment

{COM(2006) 820 final}
{SEC(2006) 1688}

Executive summary

Introduction

This impact assessment on a draft Directive on airport charges is part of a package of Commission initiatives to support the efficient operations of EU airports. Different systems for pricing of airport infrastructures exist in the EU that are not always properly justified and the exchange of information thereon can be inadequate. EU air carriers on the one hand and airports on the other are often in disagreement on what charging systems should look like and how the charges should be set. This impact assessment considers a number of options in this regard and assesses their effects.

Objectives

The *general objectives* of the draft Directive are defined by other initiatives such as the Commission's strategic objectives and challenges identified in the Strategic Objectives 2005-2009¹ i.a. to put Europe back on the road to *prosperity*, through a more competitive and dynamic Europe. The *specific objectives* of the proposed Directive constitute the targets that should be reached through the Directive so as to allow the general objectives to be achieved. These specific objectives can be summarized as:

- a contribution to fair competition between EU airports by the introduction of a common charging principles;
- the promotion of more transparent charging systems applicable to users of airport infrastructure;
- generating sufficient revenues to maintain and complete airport infrastructure at an optimal level.

The *operational objectives* are related to the expected outputs of the Directive. The main operational objective is the creation of basic common principles applicable to charging at airports in the EU.

Consultation and expertise

Consultation

The preparation of this proposal has been preceded by a consultation in order to gather comments and suggestions from stakeholders. This exercise respected the minimum standards for consultation of interested parties as defined in the Communication from the Commission of 11 December 2002 [COM(2002) 704].

A hearing was held on 7 April 2006 where all the major stakeholder associations and organisations were given the opportunity to present their respective positions. The organisations represented were:

ACI, AEA, CANSO, ECA, EEA, ELFAA, ERA, ETF, IACA, IAHA and IATA.

¹ Strategic Objectives 2005-2009; Europe 2010: A partnership for European Renewal ; Prosperity, Solidarity and Security - COM(2005) 12.

The following trends emerge from the contributions to this consultation process.

The positions of the main players in the air transport industry i.e. the airports and air carriers are less antagonistic than before and most stakeholders agree on the need for EU regulation on airport charges.

The air carriers' organisations recall the difficult situation of air carriers when compared to airport operators. Since 2001, air carriers have had to cut operating costs. At the same time, the airport costs per passenger had risen on average by 13%, and at a number of airports with well over 20%. 14 of the 25 most expensive airports are located in the EU. The organisations are strongly in favour of regulation at Community level which should ideally contain a number of 'golden rules' including non-discrimination, mandatory consultation, transparency of an airport's costs and revenues, and the establishment of an independent national regulator. The low cost carriers take a different view, as they note that major airports are lowering their charges in the face of increased competition from secondary and regional airports and this development renders regulation of airport charges mostly unnecessary. The regional air carriers welcome economic regulation.

The airports highlight the need for new airport capacity and the requirement to fund the extensions with 45 billion Euros till 2025. They also point out that air carriers do not pay the full costs of airport infrastructure. The airports state that airport charges are sufficiently regulated at national level based on ICAO principles. Moreover, the airports take the view that the basic wish of air carriers is to achieve cross subsidisation of airport charges with the revenues from the airports' commercial activities. Nonetheless, the airports underline the partnership that air carriers and airports have to operate in and they underlined their preparedness to constructive engagement.

The above description shows that the various players in the industry have different views on which specific provisions Community legislation should contain. The Commission services have defined a number of options representing various modalities for Community legislation.

Expertise

The impact assessment was subject to a contract with an external consultant, which was awarded after an open competition. The consultant examined the economic and environmental impact of the proposal for a Directive on airport charges.

Policy options

The Commission services have defined the following options that represent various modalities for Community legislation:

Option 1

No EU action, thus the status-quo remains intact;

Option 2

A scenario in which the main actors i.e. the air carriers and airports develop and adopt voluntary EU wide self-regulatory measures to address the problems perceived by either party caused by the lack of agreement and common understanding between the parties on how the main points of contention could be best addressed;

Option 3

The introduction of a Community legal act establishing a general framework requiring that the way airport charges are determined and levied, reflect a number of common principles that airport operators would have to adhere to. The basic framework for establishing the charges would be decided upon at national level but any such framework, and its application, would have to comply with the common principles established at Community level.

The common principles would include i.a. mandatory consultation, non discrimination in the application of airport charges to ensure equal treatment of air carriers, transparency of airport accounts that give an insight into the costs and revenues on an annual basis, the possibility that airport charges are differentiated according to diverging quality levels, and the establishment of a body at national level that would be responsible for supervising the uniform application of the principles. The option includes the possibility that charges are modulated in relation to the environmental performance of aircraft used.

This option also considers what threshold could best be applied i.e. whether the Directive should apply to airports of a certain minimum size, and if so, what size.

Option 4

The introduction of a Community legal act establishing a legal framework at EU level requiring that airport charges are determined and levied on the basis of one regulatory system that would apply across the EU in a uniform way, establishing a single method of calculation to be defined. This single method could be selected from the various charging mechanisms that exist in the Member States; a combination of (elements of) such charging mechanisms is also possible. This option includes the possible environmental modulation as described under option 3 above.

None of the above options have been discarded.

Analysis of impacts

No Community action will lead to continued variation in the charging systems and their underlying principles in the Member States. This will over time increase the tensions between airports and the airport users. This is expected to be further intensified through the trend of continued privatisation, which will lead to increased charges.

The level of the airport charges are not expected to change substantially if key stakeholders would establish common principles for cost transparency, as in *option 2*. Greater consistency across the EU in terms of the structure is also expected. However, there would be certain obstacles for the creation of these common principles on a voluntary basis. Some Member States may be highly reluctant to substitute their economic regulatory system which has been established to pursue national policy goals for an EU-wide voluntary framework which may sanction cost-related charges.

In *option 3* some common principles are set in Community legislation. The mandatory consultation principle is not expected to have a major impact as it is already applied in most Member States. The same line of reasoning goes for the principle of non-discrimination, and that the possibilities today for airports to discriminate are limited due to Community law. Nor the possibility for airports to differentiate the quality levels will have a major impact on the

airport charges. But the transparency principle is expected to have a downward pressure on the level of airport charges, especially at airports which are part of a network system. The administrative cost will increase with this option due to the establishment of an independent supervisory body, but it will also improve the functioning of the airport sector with lower airport charges. The introduction of environmental charges is expected to have a limited impact on the environment.

It is uncertain whether option 3 will lead to increased or decreased airport charges, but the overall impact of option 3 is a downward pressure on charge levels. However, this downward pressure is expected to be less strong than in option 4 as there is more room for national differentiation.

Option 4 includes an EU binding target level for cost-efficient operations of airports based on a benchmark of airport cost-efficiency of European airports. The administrative costs are expected to be significant in this option. Airports need to establish cost accounting systems which would require the introduction of a uniform accounting system at each airport. Demand is expected to increase for option 4 for a number of airports. The increase in air traffic demand will have a negative impact on demand for the other modes of transport affecting medium distance rail traffic which competes with short haul air traffic and road traffic for cargo. The charge reduction is passed on to air transport users. Some tariffs will decrease, especially on short haul flights. But this effect will be offset by an increase in charges at airports with lower costs.

Comparing the options

On the basis of the above considerations, the conclusion is that option 3 “General EU framework of common principles” offers the best potential to be implemented. All options are expected to increase cost transparency, which is preferred by users and would also aid the monitoring of State aid principles.

Option 1 is expected to lead to increased tensions between the airports and the users, especially in light of the on-going privatisation of the airports in the EU. Option 2 will be difficult to implement.

Option 3 does not have the highest impact on cost efficiency of airports as option 4 is expected to outperform option 3 in this respect. However, option 4 will have major implementation difficulties and is expected to generate high administrative costs. These would not justify such a direct intervention by the Commission and would also not always be in the interest of users as costs are not the only criterion that is important to users.

The introduction of environmental charges for NO_x is expected to create a number of difficulties. Although it would be highly beneficial to enhance the awareness of air carriers with respect to local air quality problems, especially when introduced on a EU wide scale, it creates a number of conflicting trade-offs with other environmental objectives (notably CO₂ emissions and noise).

Monitoring and evaluation

The Commission will continuously monitor the developments in the internal aviation market and evaluate the impact of the new legislation on a regular basis. The impact of the Directive on the relationship between airports and air carriers will mainly be assessed on the basis of:

- (i) investigative activities to be undertaken by the Commission;
- (ii) the annual reports of the independent supervisory bodies to be established at national level. These reports will be an important indicator of the effects of the Directive on the process of the levying of airport charges.