



AIRPORTS COUNCIL INTERNATIONAL LATIN AMERICA - CARIBBEAN

DECLARATION OF PANAMA

**Adopted by the XVII ACI-LAC Regional Assembly in Panama,
on November, 25th, 2008**

CONSIDERING:

That Airports Council International Latin America and the Caribbean (ACI-LAC) represents the joint positions of the Latin America and the Caribbean Airports in all the relevant matters of civil aviation;

The traditional vocation of the ACI-LAC Assembly to annually highlight the most remarkable facts and the vision of airports in the region in regard of issues of interest for the industry; as were made in the Declaration of Varadero (2002), the Declaration of Lima (2003), the Declaration of Trinidad & Tobago (2004), the Declaration of Guayaquil (2005), the Declaration of Santo Domingo (2006) and the Declaration of Buenos Aires (2007).

The ongoing public and remarkable progress in the construction of new airport facilities, remodeling and maintenance of the existent ones, as well as the quality of the airports services of the region, despite the different crises and the extraordinarily difficult challenges currently faced by airports.

That given the transcendental effect that the airport charges have over the airports it is necessary to insist on the importance of derogating the categories of "transit passenger" (passengers that once arrived at the airport continue their trip in the same flight) and "passenger in transference" (Passenger that arrived at the airport and continues the trip in another flight).

That these categories do not respond to criteria related to the airport service but historically were founded based on the modality of contract execution of air transport and the airlines "Hub and Spoke" operations and when the states were owners of airlines and airports

That the airlines define to concentrate and to distribute its traffics in the airports. However, this positive circumstance must not be detrimental for airports that have to serve a great amount of passengers (the passengers in transit or in transference) that use the terminals, its services in the same way that the one that initiates the trip, and do not pay charges or any rate to the airport by such facilities and services.

That by "Airport Slot" means the estimated time of arrival assigned or available for an aircraft movement in a certain date. These schedules are determinants for the service quality of the air operators, especially for whom they offer better schedules of passenger connections and arrivals.

That when the airports have limited capacity the slot is transformed into a restricted good, and with more economic value. With this, there exist profitable and non-profitable hour strips

That the turns at airports are important for having access to the resources at the facilities of the airport operator and the airlines use this access to add value with their route development.



AIRPORTS COUNCIL INTERNATIONAL LATIN AMERICA - CARIBBEAN

That as well as the airport slots are important to airlines, they are much more important to airport operators who have on their charge the responsibility of giving the airport services all day, not only at pick or congested hours.

That providing the airport service faces the challenge in conditions of quality and efficiency before the monopolistic or oligopolical power of dominant carriers of airport or airport system. The procedures and processes of allocation of turns still are dominated by the interests of the airlines that can be in opposition to the interests of the airport operators and its local communities.

That the peak traffic hours at airports generate serious economic penalties, like the under-use of expensive facilities and airport services, costs of opportunity of the direct and indirect consequences of lost services and delays in the aircraft and the passengers.

That the airport service is no longer just a matter of healthy competition, transparent and without discrimination between the airlines. That is an old subject, the traditional approach of the problematic. The intention is to establish how that affects the operation of the airport in relation to the passenger's service, the possibilities of investment increasing capacity, the impact in costs by the operation in "peak hours", affectation of the environment (noise, emanations, etc)

That fact that a norm allows the air operator to accede and to use slots, can lead to consider it like a true economically valuable good, to which has total availability. Nevertheless slot is not a property right, neither constitutes a company's good. The airport is the owner of the slot and can give it in rent or leasing by a limited time. It is the airport operator who constructs and maintains the airport to which the slot allows to access, that makes the investment that has created the good. The airline has a right of use and by tradition is retained while used. It is not fare that while the airport has made investments to increase the capacity, the benefit only must be for the airline that receives the free slot. The airport is a commercial company and the management of its capacity, its optimum use, is one of the main rights/duties.

The worrying regulatory pressure made over the airports of the region and around the world, especially in economical aspects.

That this pressure is transformed into barriers and limitations for development and continuous improvement of the airports service as a promoter and support of the national economies, international competitiveness, growing and job creation.

That the results of the **ICAO Conference on Airport Economic Affairs and Air Navigation Services CENS 2008** are worrying while it is promoted a greater intervention of airlines in the procedures for the determination or modification of airport charges.

That is urgent to warn about the defect and vices content in the **Resolution a 17-5 "Criteria and Guidelines of customer service and air and airport total quality services"** of the Latin-American Civil Aviation Commission (LACAC) in detriment of the regional airports.

That one of the aspects related with quality and efficient of the airport service is the technology, from which permanently is obtained more and better tools and services available for the airport operators,



AIRPORTS COUNCIL INTERNATIONAL LATIN AMERICA - CARIBBEAN

airlines, governmental entities, and passenger-users of airport.

That in this sense, and due the existing proliferations, is convenient to secure the exclusive right of airports regarding the organization, administration and decision making about technological resources used or to be used at the airport taking care of the best interest of airport service in general and above any interest in particular.

That is necessary to go further with the use of existing tools in the fight against terrorism, drug dealing and in general, to treat all the aspects related to security and airport facility.

That in the end, it is necessary to promote close collaborations and information exchange between the competent authorities of the States, being public and evident for all, the added value that the API & PNR data collection and analysis contribute in the fight against the terrorism, organized delinquency, as well as to the airport facility.

That only a limited number of States have adopted the legislation destined to create mechanism to force airline companies to promote the PNR pertinent data and to allow that this data can be analyzed by the competent authorities.

That it is urgent to end with the deficit of national legislations regarding the protection of airport incomes, without prejudice of the existence of caution non-nominated or generic measures and other legal institutions basic or procedural, that allow certain defense and protection of the airport operations rights but that require to be strengthen with modern and precise policies. It is what occurs when the airship is property of the airline or operator, or when the impossibility of its departure from the airport national territory is disposed.

That in general, the legislations often force the airport to guarantee the presentation of the airport public service to the air operator but, in many cases, do not count or give explicit mechanisms that allow the assurance of payment of air lines debts for the concept of airport charges, situation becomes worse at extreme financial circumstances of the operator or terminals as the case of the *bankrupt* itself.

That one of the most important legislative deficit is found in the distinction between the aircraft use as *tenant* and as a *leasing contract*. In this distinction the operation of aircrafts under leasing contracts leave the airport operator in totally defenseless and without any possibility of demanding the *lessor* the debts originated by the aircraft operator.

That it is satisfactory that the States of the region recognize the policies, criteria and standards of ACI and ACI-LAC

That it is necessary to make a careful studio of this process in a way that allows promoting the change on national and local policies including the ACI principles, objectives and practices.

That it is an honor and a pride to ACI-LAC to have received the hospitality of the people of Panama,



AIRPORTS COUNCIL INTERNATIONAL LATIN AMERICA - CARIBBEAN

as well as the effort and professionalism of Tocumen SA, its directors and employees who made possible the accomplishment of this Assembly;

By the previous considerations

THE XVII ACI-LAC ASSEMBLY

DECLARES

FIRST: The States are urged to eliminate the tariff charts of the category that makes distinction between transit and transfer passenger and fix in those charts, expressly, the obligation of payment of this use of airport charges to all the passengers that use the services or facilities of the airport regardless the modality of the trip, that he start or continue from the airport. Likewise, we urge the airports to fix those charges in the amounts that each authority believes convenient, without consulting on the process for its determination to the airlines or its associations meanwhile they are not the ones representing the interested parties.

SECOND: The airports exercise the right of property of the airport slots meanwhile the air operators exercise a right of use of such landing and takeoff turns. The airport operator should have a decisive, independent, and without interference role in the procedure of slots assignation and consider in this assignation process, the airport services given in quality and efficient conditions.

THIRD: The urgent need of the competent authorities to avoid the pernicious effect of the regulatory pressure on airports of the regions that is promoted from the Air Transport organizations in a way that this should not pronounced into barriers and limitations to the development and improvement of the airport service.

FOURTH: The importance that the States of the region to impose definition or modification procedures of airport charges considering essentially the particular local circumstances of airports and airport networks, prioritizing the interest of the total airport service and without the eventual participation of airlines in this procedure as an effective and efficient agreement and to regulate the supply of airport service.

FIFTH: The convenience of avoiding to incorporate in the national legal orderings the **Resolution a 17-5 “Criteria and Guidelines about customer service and total quality in the air and airport services”** of the Latin-American Civil Aviation Commission (LACAC) in the measurement that this Resolution does not recognize the airport service, not recognize ACI-LAC and its possible application could create serious damages for the airports

SIXTH: the importance to recognize to the airport operator the right or capacity to decide in exclusive the organization, administration, installation and operation of the technology and technological resources used or incorporated to the airport in order to foment a homogenous, efficient and benefit use of airport services integrally considered.

SEVENTH: the benefits generated by a close collaboration and information exchange of API & PNR data between the states in the fight against the terrorism, organized delinquency, as well as to fortify the quality and facilitation in the airport scope, being indispensable for this goal to advance in the



AIRPORTS COUNCIL INTERNATIONAL LATIN AMERICA - CARIBBEAN

implementation of pertinent legislation according with the national legal regimes.

EIGHTH: The national legislations should expressly consider, legal mechanisms for the protection of airport income such as 1) the solidarity between the aircraft operator and the main owner of those aircraft (lessor or other) for the debts with the airport operator generated by motive or occasion for the use of airport to protect the income and 2) the airport operator right to seize or retain the aircrafts for those debts being that this airships were used or not under a leasing contract or of any other nature and until the debts is canceled or given sufficient guarantee for payment.

NINTH: The satisfaction of the continuous recognition in the States of the region about policies, criteria and standards of ACI and ACI-LAC by the principal administrative, legislative and judicial authorities, making a call to fortify the procedure as a way to promote changes on the national and local legislations required in airport service.

FINALLY, we express our gratitude and appreciation to ACI-LAC for the hospitality and friendship the Panama Republic and the effort and professionalism by Tocumen SA, its directors and employees.

In Panama, on November 25th, 2008 gathered in the XVII ACI-LAC Regional Assembly, in accordance with the Statures in force and with the unanimous vote of the presents is approved the present Declaration and the Regional Secretariat is instructed to disseminate and communicate it to the competent authorities and the civil aviation of the region.