

Minutes of ARISE Plus activity 3.4.3 on Air Passenger Protection - Myanmar

Summary Results and Conclusions

Note: all presentations delivered are to be found on the ARISE+ website: <https://www.ariseplusaviation.org/> at the Meeting & Event Documents tab, password: 380ARISECA5.

The ASEAN Member States agreed on the importance of enhancing passenger protection. The workshop went lively with interactions and fruitful discussion between the ASEAN Member States with the Air Transport Expert, EU Legal Expert, Asian Lead Expert and ASEAN Support Expert. In regard to the importance of passenger protection, representatives of the ASEAN Secretariat and IATA participated for the first time.

Agenda item 1

Welcome and adoption of agenda, introduction of participants, workshop objectives and photo session:

The workshop was opened by the Director General of Civil Aviation of Myanmar - Mr Aung Kyaw Tun. The DG recognized the workshop as a platform to enhance passenger protection in ASEAN. He also emphasized Myanmar's plan to update its passenger protection, including ratifying the Montreal Convention of 1999, foreseen for 2020.

Mr Jacinto Alberto Lopez Navalon as the Operations Manager of the ARISE+ Civil Aviation Project explained the objective of the project. Wolfgang Sander-Fischer as the ARISE+ Expert as well as the Chair of the workshop made some initial remarks about the forthcoming activity and the group photo session was conducted.

IATA representatives, respectively from Singapore and Geneva office, joined the workshop in view of the importance of enhancing passenger protection. Brunei Darussalam did not join the workshop.

After the coffee break, it resumed with introduction of the participants (ASEAN Member States delegations, ASEAN Secretariat, IATA and ARISE+ Experts). Mr. Jacinto provided a presentation on the roles of EASA, EU support for ASEAN in aviation, and the current projects (ARISE Plus Civil Aviation Project, EU - South East Asia Aviation Partnership Project, and EU-South East Asia Cooperation on Mitigating Climate Change impact from Civil Aviation (EU-CCCA).

Agenda item 2

Montreal Convention/ICAO guidance material on consumer protection (ARISE+):

Mr Wolfgang Sander-Fischer as the ARISE+ Air Transport Expert provided a brief update on the Montreal Convention of 1999. Since the vast majority of participants has attended the previous workshops, Mr. Wolfgang did not to repeat the details of the earlier presentation on MC99.

Agenda item 3

IATA Core Principles on Consumer Protection:

Mr Wiltshire's presentation discussed smart policy making guidelines, growing passenger protection regimes (in currently more than 65 jurisdictions) and IATA Core Principles on Consumer Protection: Model Regular Provisions for Discussion (2018). He compared two types of regimes: one in prescriptive, formal and mandated regulation (EU & US) and the other with less prescriptive

approaches (Australia) and emphasized the importance of communication with passengers. As in the case of Singapore, he mentioned increased consumer awareness led to reduction in number of consumer complaints.

Open discussion and questions were raised by the ASEAN Secretariat, Cambodia, and Thailand. At the end, Mr Wiltshire stressed IATA massively supported the ratification of Montreal Convention of 1999.

Agenda item 4

ASEAN Committee on Consumer Protection (ACCP):

Mr Aung Soe Moe as the ASEAN Secretariat representative presented ACCP's commitment to establishing a high common level of consumer protection and empowerment. Consumer protection is considered as one of the key elements in implementing the ASEAN Single Aviation Market (ASAM). As explained, one of the steps that has been taken is enhancing cooperation with the ASEAN Air Transport Working Group.

The workshop noted that any recommendations for regulatory harmonisation should be submitted to the ATWG for further consideration.

Agenda item 5

Selected issues of EU and other countries' regulations - guidance material on consumer/passenger protection: Enforcing Passenger Rights - Guidance based upon European Experience:

Dr Michail Chatzipanagiotis as the EU Legal Expert explained the importance to respect basic enforcement principles and analysed such principles. He also indicated some practical aspects to be observed. This session ended with interactive Q & A.

Agenda item 6

Asian experience on air passenger protection - Selected issues and comparative analysis – Korean Passenger Protection Rules and Enforcement Mechanism:

Dr Jae Woon Lee as the Asian Lead Expert made a presentation on the topic of South Korean passenger protection rules and enforcement mechanism. He discussed the South Korean law and its enforcement pertaining to passenger protection, among others the monitoring and tracking mechanism; and name and shame for airline policy which had already been successfully applied. The session was followed by interactive Q & A session.

Agenda item 7

ASEAN experience on air passenger protection - Selected issues and comparative analysis Administrative Enforcement in Indonesia:

Mr Ridha Aditya Nugraha as the ASEAN Support Expert made a presentation on the topic of administrative enforcement in Indonesia. He discussed the Indonesian law and cases in this area, including the mandatory requirement to conduct mediation, followed by interactive Q & A session.

Agenda item 8

Canadian Air Passenger Protection Rules:

Dr Michael Chatzipanagiotis as the EU Legal Expert presented an overview of the newly-adopted Canadian Air Passenger Protection Regulations, regarding communication of air carrier with the passengers, delayed or cancelled flights, denied boarding and tarmac delays.

Agenda item 9

US DOT Passenger Protection Rules:

Dr Jae Woon Lee as the Asian Lead Expert presented an overview of the update on US DOT Passenger Protection Rules. A few highlighted topics, among others, are tarmac delays and certified animal assistance for passenger with special need which both could become a lesson learned for the ASEAN Member States.

Agenda item 10

Presentation on individual national laws, regulations, procedures and practices on consumer/passenger protection and challenges:

ASEAN Member States presented the recent developments on their respective national laws pertaining to consumer law in general and/or passenger protection regimes. Considering all ASEAN Member States participated in the 2st workshop, short presentations made focused on updates only to their previous workshop presentations. Questions were raised by and among the participants, and they expressed their satisfaction for being able to communicate and learn directly from the other ASEAN Member States.

Agenda item 11

Further analysis of ASEAN Member States' (AMS) air passenger protection regimes, ASEAN Regulations and Best Practices - Cancellation of Flights and Denied Boarding:

Dr Michail Chatzipanagiotis as the EU Legal Expert chaired this session to find common practices upon which ASEAN Member States could agree regarding issues of flight disruptions. The main issues discussed were the scope of the practices, denied boarding and cancellation of flights. Delay of flights and complaint handling were agreed as topics for the next workshop. Three ASEAN Member States passenger protection legal frameworks, namely Malaysia, the Philippines and Viet Nam were used as the basis for further discussion.

Agenda item 12

Determination and discussion of critical elements for possible harmonization:

Mr Wolfgang Sander-Fischer as the ARISE+ Air Transport Expert and Dr Michail Chatzipanagiotis as the EU Legal Expert both co-chaired the session. The topics discussed were focussed on cancellation of flights and denied boarding.

ASEAN Member States, alongside with IATA, discussed the duties of carriers pertaining to cancellation of flights comprehensively to find common practices agreed, specifically right to care. A lively discussion and questions were raised by and among the participants. Due to time constraint this issue shall be further discussed during the 4th workshop in Phnom Penh - alongside with the issues of delay and complaint handling. The agreed common practices so far are attached herein.

Agenda item 13

Allocation of tasks for the time period before fourth workshop:

The State Secretariat of Civil Aviation of Cambodia expressed their interest and commitment to host the 4th workshop. It was recommended to be tentatively scheduled in Phnom Penh, Cambodia, during the third week of February 2020. The continuation of the workshop series is essential to maintaining the momentum with the ASEAN Member States regarding this passenger protection initiative.

Two other important topics agreed to be discussed are among others transparency of fares and of conditions of carriage.

Agenda item 14

Review, wrap up and closing statements:

The ARISE+ Experts highlighted the importance of this passenger protection initiative in ASEAN, which AMS agreed and expressed their interest to participate in the following workshops. The 3rd workshop finished slightly earlier than the original schedule in order to allow delegates to check out of the hotel and to be able to utilize their return flights on the same day.

Participants

ARISE+

- Mr Jacinto Alberto Lopez Navalon, European Aviation Safety Agency / Operations Manager (ARISE Plus Civil Aviation)
- Mr Wolfgang Sander-Fischer, ARISE+ Air Transport Expert
- Dr Michael Chatzipanagiotis, EU Aviation Law Expert
- Dr Jae Woon Lee, Asian Lead Expert on Passenger Protection
- Mr Ridha Aditya Nugraha, ASEAN Support Expert on Passenger Protection

ASEAN Secretariat

- Mr Aung Soe Moe, Senior Officer - Air Transport Division

IATA

- Mr Kelvin Lee, Assistant Director - Member and External Relations Asia-Pacific of Singapore Office
- Mr James Wiltshire, Assistant Director - External Affairs of Geneva Office

Cambodia

- Mr Vann Chanty, State Secretariat of Civil Aviation / Director of Air Transport
- Mr Chhim Myseyla, State Secretariat of Civil Aviation / Deputy Director of International Relations and Legal Affairs Department

Indonesia

- Mr Firman Dearitama, Directorate General of Civil Aviation / Senior Staff - Air Transport Business Management and Tariff Subdirector
- Mr Hendra Nugraha, Directorate General of Civil Aviation / Air Transport Inspector

Lao PDR

- Mr Soukxhongthong Voraphet, Department of Civil Aviation / Director of Air Transport Division
- Mrs Pikeo Vongviseth, Department of Civil Aviation / Deputy Director of Air Transport Division
- Ms Phaivone Oudomxay, Department of Civil Aviation / Technical Official at Air Transport Division

Malaysia

- Ms Pushpalatha Subramaniam, Malaysian Aviation Commission / Director of Consumer Affairs
- Mr Suhunaraj Shanmugam, Malaysian Aviation Commission / Senior Manager of Consumer Affairs

Myanmar

- Mr Aung Kyaw Tun, Department of Civil Aviation / Director General
- Mr Ne Win, Department of Civil Aviation / Director (Air Transport)
- Ms Kyawt Kyawt Moe, Department of Civil Aviation / Deputy Director (Air Transport)
- Ms New Ni Win Kyaw, Department of Civil Aviation / Deputy Director (International Relations)
- Mr Hlaing Zaw Min, Department of Civil Aviation / Assistant Director
- Ms Kyi Kyi Tin, Department of Civil Aviation / Assistant Director (Air Transport)
- Ms Nway Nway Tun, Department of Civil Aviation / Branch Clerk
- Mr Pyae Phyo Kyaw, Department of Civil Aviation / Assistant Director
- Mr Tun Naung Win, Department of Civil Aviation / Staff Officer
- Mr Khin Maung Lwin, Myanmar National Airlines / Manager of Ground Operation Department
- Ms Kyi Kyi Oo, Myanmar Airways International / Head of Ground Operations

Philippines

- Ms Ma. Catherine Trinidad, Civil Aeronautics Board / Transportation Regulation Officer I
- Mr Arwin Cabanting, Civil Aeronautics Board / Legal Officer - Attorney III

Singapore

- Mr Christopher Ee, Civil Aviation Authority / Manager of Air Transport - Market Policy and Development Branch Air Transport Division
- Ms Rae Teo, Civil Aviation Authority / Deputy Manager (EMEA and South Asia)

Thailand

- Mr Anant Kanaviwatchai, Civil Aviation Authority / Manager - Economic Regulation Department
- Mr Cholathit Suthiklom, Civil Aviation Authority / Compliance and Passenger Rights Protection Division

Vietnam

- Ms Pham Thi Huong Giang, Civil Aviation Authority / Official of Air Transport Department
- Ms Nguyen Mai Anh, Civil Aviation Authority / Official of Legal Affairs Department

ANNEX

Common Practices agreed at the 3rd passenger-protection workshop

Issues for discussion

- 1) Scope of the rules / practices
- 2) Carrier responsible
- 3) Preliminary requirements for passenger rights
- 4) Denied boarding
- 5) Cancellation
- 6) Delay
- 7) Complaint handling

1) Scope of the rules/ practices

All flights departing from national territory, irrespective of whether the flight is international or domestic.

2) Carrier responsible

Operating carrier.

3) Preliminary requirements for passenger rights

Passenger must have a confirmed reservation and must have shown up in time for check-in.

4) Denied Boarding

a. Definition

Refusal to carry a passenger on a flight, unless reasonable grounds for refusal exist, such as safety, security, health, inadequate documentation.

b. Duties of carriers – Two tiered approach

- 1) When a carrier reasonably expects to deny boarding to a number of passengers, it shall first contact passengers to volunteer to surrender their reservations against agreed benefits.
- 2) If an insufficient number of passengers volunteer, then the carrier may deny boarding to any passenger under the following conditions:

- a. The carrier shall offer to the passengers denied boarding, free of charge:
 - (i) meals and refreshments in a reasonable relation to the waiting time; and
 - (ii) hotel accommodation in cases that it becomes necessary, as well as transport between the airport and the hotel; and
 - (iii) limited telephone calls and internet access, as necessary.
- b. In addition, the carrier shall offer to the passengers the choice between:
 - (i) Reimbursement of the full cost of the ticket, at the price it was bought, for the part(s) of the journey not made and for the part(s) already made if the flight is no longer serving any purpose in relation to the passengers' original travel plan.
 - (ii) Re-routing, free of charge and under comparable transport conditions, to their final destination at the earliest opportunity or at a later date, at the passengers' convenience, subject to availability of seats.

5) Cancellation of flights

a. Definition

The non-operation of a scheduled flight, on which at least one seat was reserved.

b. Duties of carriers

- 1) In case of cancellation, the carrier shall notify passengers of the cancellation and its cause, as soon as the carrier is aware of them. The carrier shall also inform passengers on their rights under the terms of carriage and under the present rules.
- 2) In case of cancellation, the carrier shall offer assistance to the passenger according to the terms of carriage [and under the applicable regulations].
- 3) In addition, the carrier shall offer to the passengers the choice between:
 - (i) Reimbursement of the full cost of the ticket, at the price it was bought, for the part(s) of the journey not made and for the part(s) already made if the flight is no longer serving any purpose in relation to the passengers' original travel plan.
 - (ii) Re-routing, free of charge and under comparable transport conditions, to their final destination at the earliest opportunity or at a later date, at the passengers' convenience, subject to availability of seats.