

Domestic Air Transport Regulations in Indonesia

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ABSTRACT

The purpose of this study is to explore the implementation of provisions of the domestic air transport regulations provided in the 2009 Civil Aviation Act. The method is a library research that study the scheduled air transportation including the requirement of the establishment of airlines; capital of air transport business entities, aircraft ownership and operation requirements, share holder composition, bank guarantee requirements, aviation human resources; tarif's regulations including passenger's tariff, passengers' protection, best practices; non-scheduled air transportation; general aviation and air transportation pioneer has been fully implemented and compliances with the airlines. It is concluded that the provision of air transport regulation provided in the Civil Aviation Act of 2009 has been fully implemented and compliances with the airlines in Indonesia.

Keywords: Civil Aviation Act of 2009, scheduled and non-scheduled, pioneer air transport, general aviation.

INTRODUCTION

The Republic of Indonesia (ROI) is a large archipelago country with more than 17,000 islands and airspace spanning 5,500 km from east to west and 2,430 km from north to south, covering the earth's equator, air transport links are therefore vital for Indonesia economy. Air transport services are aimed to support the growth of the economic, trade and tourism sectors. For the reason, Indonesia has issued permits for 247 domestic routes connecting 125 cities in Indonesia and for 57 international routes which connect 5 cities in 13 countries. Indonesia has recorded strong growth in passengers' traffic since 2008 with an average of 15 % per year, Indonesia passenger traffic in 2011 was 114 million passengers (Indonesia's Civil Aviation Development, 2013).

Indonesia has 233 airports including 29 airports serving international flights. Soekarno-Hatta International Airport is an Indonesia main gateway, which is also named as the 11th busiest airport in the world by Airport Council International (ACI) in 2012 and the 4th busiest in Asia with 51.1 million passengers in 2011. Average annual growth was 14 % in the last 10 years. A new terminal 3 is under construction for a total volume of 62 million passengers per year, to be completed as soon as possible. In December 2009, Forbes Traveler recognized Soekarno-Hatta International Airport as the second most punctual airport in the world with 89.2 % of its flight departing on time, and 84.2 % arriving on time.

There are 21 scheduled airlines and 45 non-scheduled airlines registered and operated in Indonesia main international carrier. Garuda Indonesia operates 81 aircraft to serve international and domestic routes. Recognizing the increasing performance at the international level, Garuda Indonesia was named "The World's Most Improved Airline" in 2010, followed by its achievement in 2012 as "World's Best Regional Airlines (Farhana & Martono 2015).

To implement the ICAO Recommendation, the ROI issued Civil Aviation Act of 2009 Act No. 1: 2009). It came into force on 12 January 2009. The Civil Aviation Act of 2009 aims to promote the development of Indonesian air transportation. It regulates a host of matters related to aviation, from sovereignty in airspace, aircraft production, operation and airworthiness of aircraft to aviation security and safety, aircraft procurement, aviation insurance, the independence of aircraft accident investigation, and the license of aviation professionals.

The Act also aimed at supporting the development of national and international air transportation in Indonesia, including provisions regarding the creation of a public services institute to further those goals (Martono and Amad Sudiro, 2013). Almost all the provisions of the Chicago Convention in 1944 had been adopted by the Civil Aviation Act of 2009. Thus, Indonesia has fully complied with the Chicago Convention in 1944. This legislation is in line with the 38th General

Assembly Res.A38-4 which urges all member States to continue to examine the existing legislation and adjust as necessary or act laws and regulations to protect all the relevant safety data to the extent possible, on the legal and other guidance developed by ICAO (G.A.Res.38th., 2013). In addition, the Civil Aviation Act of 2009 also regulates scheduled as well as non-scheduled air transportation, airline capital, the ownership of aircraft, aircraft leasing, fares, the liability of air carriers, air navigation facilities, airport authorities and services, and law enforcement related to air transportation. This research is a library research that intends to explore the implementation of provisions of the domestic air transport regulations provided in the 2009 Civil Aviation Act.

RESULTS AND DISCUSSIONS

1. Scheduled Air Transportation

Domestic scheduled air transportation is an air transportation activity serving air transportation from one airport to another airport within Indonesia territory. Article 1 (14) of Civil Aviation Act of 2009 stipulates that air transportation is any activity using an aircraft for transporting passengers, cargo, and/or post for one route or more from one airport to another airport or several airports. In relation to services, air transportation consists of full services, medium services and no-frill services. With regard to air services, the meaning of air services can be found in Article 96(b) of Chicago Convention in 1944. It provides air service means from any scheduled air

service performed by aircraft for the public transportation of passengers, mail and cargo.

Article 97 of Civil Aviation Act of 2009 stipulates scheduled air services. It consists of full services, medium services and no-frill services. Full services mean that during the flight the passengers are given food and beverages, snacks, and executive lounge for business class and first class. A medium service is purported among others provisions of light food (snack) and other facilities such as executive lounge for passengers holding certain types of economic class are given to the passengers during flight. No-frill services have only one class of service, without any provision of foods and beverages, snacks, executive lounge, and check-in baggage and for this, a fee shall be charged from the passengers during the flight. The scheduled air transportation company shall be obliged to inform the consumers regarding the condition and specification of services being provided.

The scheduled airlines providing medium and no-frill services shall be a business entity with low cost carrier basis and shall be obliged to meet aviation safety and security as well. They have to submit a request for authorization to the MOC and MOC shall enact a scheduled air transportation company shall be periodically evaluated.

In accordance with Article 83 of Civil Aviation Act of 2009, air transportation shall consist of scheduled, non-scheduled,

domestic as well as international air transportation and general aviation. Air transportation activities may be done with scheduled services and/or non-scheduled air services by national and/or foreign air transportation entity for passenger and cargo shipment or freighter. But, domestic air transportation shall only be done by national airlines that have already obtained a business permit for air transportation.

An air transportation activity shall be implemented by business entities in the field of national air transportation. The business permit will be given by the MOC after fulfilling administrative requirements, share holders, capital, aircraft ownership, business plan, human resources. Administrative requirement among others are submitting founding act (establishment deed) of Indonesian business entity whose business is in the field of scheduled or non-scheduled air services and is enacted by the Minister in charge, tax identification number, domicile letter issued by the authorized agency, approval letter from the agency responsible for capital investment sector if the company utilizes capital investment facilities, evidence of capital already deposited, bank guarantee and the business plan for minimum of five years.

Share holder requirements for obtaining business permit is provided in Article 108(3) of Civil Aviation Act of 2009. It provides that in the case of capital of the national airlines owned by an Indonesian legal entity(s) or an Indonesian citizen(s) being divided, one of the national share holders must remain larger than any

foreign share holders (single majority shares). Meanwhile capital requirement for obtaining business permit can be found in Article 109 (1)(e). It provides that an air transportation business entity shall submit the evidence of capital already deposited. Air transportation business permit shall be valid as long as he permit holders remain operating actual air transportation activities by continuously operating aircrafts in accordance with the permit granted, it shall be evaluated annually. The result of evaluation shall be used as consideration for allowing the holder to remain running its business activities.

The commercial air transportation business permit cannot be transferred to another party before operating aircraft in actuality as described in the business permit given. Transfer of commercial air transportation business permit may only be done after the permit holder runs the operation, and obtains the approval of the MOC. Any holders of air transportation business permit violating the provision shall be imposed with administrative sanction, namely revocation of permit (Act No.15:1992). Further provisions regarding the requirements, system and procedures of obtaining air transportation business permit and appointment of director of airlines shall be stipulated under a Ministerial Regulation. For that reason, based on Article 464 (Act.No.15: 1992) and 465 (Act No.15 :1992) of the Civil Aviation Act of 2009, Ministerial Decree KM 25 Year 2008 (Ministerial Decree KM 25 :2008) will be applied.

Aircraft ownership requirements for obtaining a business permit are provided in Article 118(2) of the Civil Aviation Act of 2009. It provides that scheduled air transportation shall own at least five units of aircrafts and possess at least five units aircrafts of the type(s) suitable for supporting its business sustainability in accordance with the routes served. Meanwhile, non-scheduled air transportation shall at least own one unit aircraft and possess at least two units of aircrafts of the type(s) suitable for supporting its business sustainability in accordance with the operational areas to be served. Air transportation, especially for cargo, shall own at least one unit of aircraft and possess at least two units of aircrafts of the type(s) suitable for supporting its business sustainability in accordance with the routes and operational areas to be served.

The business plan requirement for obtaining a business permit is provided in Article 110 of Civil Aviation Act of 2009. It provides that the business plan shall contain the type and total number of aircraft(s) to be operated, core plan of flight operation and flight routes for scheduled air transportation, core plan of flight operation for non-scheduled air transportation, marketing aspect in the form of potential air transportation market demand, human resources consisting of management, technicians/engineers, aircraft crew, preparedness and operational worthiness and economic and financial aspect analysis and evaluation.

In relation to human resources requirements for obtaining a business permit, it can be found in Article 110 (e) and 111 of the Civil Aviation Act of 2009. Article 110(e) provides that the business plan shall contain the human resources consisting of management, technicians/engineers and air crew, while Article 111 of the Civil Aviation Act of 2009 provides management requirements. I provide that any individual may be appointed as a director of airlines after fulfilling the requirement of possessing operational and managerial competence, air transportation business management, certified as being fit and after a proper test conducted by the MOC. These requirements shall not be applicable for managing director of any air transportation business entity.

With regards to the obligation of air transportation business permit holder, it can be found in Article 118 of the Civil Aviation Act of 2009. It provides that holders of air transportation business permit shall be obliged to perform air transportation activities in reality (de facto) no later than 12 months upon issuance of permit by at least operating the minimum number of aircraft owned and in possession in accordance with its business or activity scope, own and possess total number of aircraft, fulfill the provisions of mandatory transportation for shipment, civil passenger flight, and other provisions in accordance with the rules of law and regulations, purchase shipment liability insurance with liability value equal to insurance coverage for regular passenger air transportation proven by valid insurance

policy, serve potential passengers fairly without discrimination on ethnic, religion, race, inter-group, and economic and social strata, submit monthly air transportation activity report, including delays and cancellation of flights, no later than on the 10th of the next month for each month to the MOC, submit annual financial report duly audited by an registered public auditor firm which contains at the least a balance sheet, profit and loss, cash flow, detailed expenditures, no later than the end of April of the next year of reporting year to the MOC, report any charges of management or ownership of air transportation business entity, changes of domicile of air transportation business entity and changes of aircraft ownership, to the MOC and fulfill stipulated service standard. Further provisions regarding the obligation of air transportation business permit holders, the requirements, system, and procedures of sanction imposition shall be stipulated under a Ministerial Regulation.

Relation to flight network and routes of air transportation business can be found in Article 122 of the Civil Aviation Act of 2009. It provides that domestic flight network and routes for scheduled air transportation shall be determined by the MOC. The domestic flight network and routes shall be determined, at least with the considerations of demand for air transportation services, fulfillment of technical qualifications for flight operation and airport facilities, airport facilities in conformation with aviation safety and security, all regions having airports are

served, flight operation center of each air scheduled air transportation business entity, and intergration of domestic and international routes.

2. Requirements of Commercial Air Transportation

Aircraft accident of national airlines is a lesson for the future, because the negative effect of such a fatal accident is that a lot of creditors shall be paid by airline companies concerned. Such credits are employees' salaries, workers' insurance, aviation turbine fuel, ground handling fees, ramp handling fees, passengers' handling fees, catering, landing fees, air navigation service charges, parking stand fees, aircraft storing charges, office rental, building rental, room rental, aircraft maintenance fee, airport service charge, aircraft leasing, aircraft insurance, air crew insurance, legal liability insurance, third parties legal liability insurance, advance ticket booking, administrative fees, debt of the airlines company. All the debt shall be paid by such company, not less than 435,5 billion rupiah, while the total capital of airlines is less than 300 billions rupiah. Therefore, the Civil Aviation Act of 2009 requests that new airlines shall have enough capital to guarantee the survival of operation, because the bankruptcy of airline company will affect consumers (Martono K. and Amad Sudiro, 2012).

Meanwhile capital requirement for obtaining business permit can be found in Article 109 (1)(e). It provides that an air transportation business entity shall submit

the evidence of capital already deposited. Air transportation business permit shall be valid as long as he permit holders remain operating actual air transportation activities by continuously operating aircrafts in accordance with the permit granted, it shall be evaluated annually. The result of evaluation shall be used as consideration for allowing the holder to remain running its business activities.

Beside airline capital, for the requirement of obtaining a business permit, the scheduled air services shall possess at least 10 units of aircrafts. Five units of aircrafts are owned and five units of aircrafts of the type(s) are leased for supporting its business sustainability in accordance with the routes served. Meanwhile, non-scheduled air transportation shall at least own one unit of aircraft and possess at least two units of aircrafts of type (s) suitable for supporting its business sustainability in accordance with the operational areas to be served. Besides, air transportation, especially for cargo, shall at least own one unit of aircraft and possess at least two units of aircraft with the routes and operational areas to be served.

Holders of general aviation permit is implemented by the government, regional government, business entity(s) and certain agency(s) are obliged to operate its aircraft no later than 12 months after operational permit are issued, to comply with the law and regulations on civil aviation and other valid laws and regulations, to submit monthly air transportation activity report to the MOC no later than the 10th of the

preceding month, and report any changes of management, ownership of aircraft(s), and/or domicile of head/central office to the MOC.

The requirements of aircraft ownership for obtaining business permit of scheduled air transportation provided in the Civil Aviation Act of 2009 is relatively something new compared with the Civil Aviation Act of 1958, provided in the Civil Aviation Act of 1992. Even though it has been stipulated in the Ministerial Decree Number KM 81 Year 2004 that should own at least two units of aircrafts, as amended by the Ministerial Decree Number KM 25 Year 2008, an airlines company shall own at least three units of aircrafts and possess at least two units of aircrafts of the type(s) suitable for supporting its business sustainability in accordance with the routes served (Martono K and Amad Sudiro, 2012).

Joint enterprise has been regulated by the Ministerial Decree S. 8/1/11-Phb 1976 (Ministerial Decree No. S.8/1/11-Phb: 1967), as amended by the Ministerial Decree SK 13/S/1971 (Ministerial Decree No. SK 13/S/1971: 1971). For example, Ministerial Decree provides for joint enterprise between domestic and domestic airlines or domestic airlines and foreign airlines with intention to prevent monopoly conducted by GIA and MNA, but both Ministerial Decrees do not regulate single majority shares that shall be owned by an Indonesian citizen or an Indonesian legal entity (Act No.15: 1992). In practice, the shares are divided too small and finally the majority shares are

owned by foreign airlines. For that reason, the Civil Aviation Act of 2009 provides for single majority shares that shall be owned by an Indonesian citizens or an Indonesian legal entity. The capital of national air transportation business, must be, entirely or in majority, owned by an Indonesian citizen or an Indonesian legal entity. The capital of national air transportation business, must be, entirely or in majority, owned by an Indonesian citizen or an Indonesian legal entity. In that case, the capital of the national airlines owned by Indonesian legal entity or citizen(s) is divided, one of the national shares holders must remain larger than any foreign airlines share holders (single majority).

This provision appears from the fact that there is an airline, even though there is a regulation providing that an Indonesian citizen or an Indonesian airline shall own 51% of the total capital. But in practice, the capital is divided and the ownership is not owned by an Indonesian citizen or an Indonesian airline, but it is owned by foreign airlines and engages management of joint airline enterprise (Martono and Amad Sudiro, 2012).

In the Civil Aviation Act of 1958 and in the Civil Aviation Act of 1992, there are no requirements of bank guarantee to be submitted. It is different from the Civil Aviation Act of 2009 and the Ministerial Decree Number KM 25 Year 2008, which requests the scheduled and non-scheduled air transportation to provide bank guarantees. The requirement of bank guarantee is very important for business

sustainability in operation. Article 10 of the Civil Aviation Act of 2009 provides that to obtain a business permit, an airline shall at least meet the requirement of bank guarantee. In addition, any air transportation supporting activity has to obtain a permit from the MOC. In order to obtain the business permit for air transportation, supporting business activity shall also fulfill the bank guarantee requirements.

Aviation human resources are stipulated in Chapter XIX from article 381 to 393 of the Civil Aviation Act of 2009. Basically, the government is responsible for preparing and developing human resources in the aviation field. Aims and objectives of aviation human resources are professional, competent, disciplined, reliable and having integrity. It shall consist of aircraft personnel, air transportation personnel, airport management, flight air navigation, aviation safety and aviation security. In order to achieve the aims and objectives, the MOC stipulates policies on preparation and development of human resources in aviation fields covering manpower planning, education and training, expansion of job opportunities and supervision, monitoring and evaluation.

In addition, all providers and organization of aviation activities having any activity in aviation field are obliged to give contribution to support personnel preparation and development in aviation field. Such contribution shall at least provide scholarship grants for education and/or training, establishment of educational and training institute and/

or provision of educational and training facilities, in cooperation with existing education and training institute and/or extending internship opportunities for educational and training students/trainees.

In accordance with Article 109 of the Civil Aviation Act of 2009, to obtain a business permit, an airlines shall submit the establishment deed of Indonesian entity whose business is in the field of scheduled or non-scheduled air transportation and is enacted by the Minister in charge, tax identification number, domicile letter issued by the authorized agency, approval letter from the agency responsible for capital investment sector if the company/individual concerned utilizes capital investment facility, evidence of capital already deposited and bank guarantee and business plan for a minimum period of five years.

The requirement of business plan shall contain human resources consisting of management, technicians, engineers, aircraft crews. Any individual may be appointed as a director of an airline after fulfilling the requirements of possessing operational and managerial competence in air transportation, is certified fit after a proper test conducted by the MOC, has never been involved in any criminal legal conviction related to air transportation operating and during management of the individual the company has never been declared bankrupt.

With regard to aircraft personnel, every personnel of an aircraft shall be

compelled to own license or certificate of competency. Aircraft personnel with direct involvement in operating an aircraft shall be obliged to legitimate and valid license issued by the MOC. Personnel license will be issued by the MOC after fulfilling the requirements of administrative, physical and mental fitness to fly, hold certificate of competency in his/her field and declaring having passed a professional test. Personnel license shall be obtained through education and/or training organized by an accredited institution.

In relation to airport personnel, every airport personnel shall also be compelled to own a license or competence certificate. Each airport personnel directly involved in operation performance and/or maintenance of airport facilities must own a legitimate and valid license. The license shall be issued by the MOC upon meeting requirements of administrative requirements, being physically and mentally fit, possessing competence certificate of the field and passing the examination/test. The competence certificate shall be obtained through education and/or training conducted by any institution duly accredited by the MOC

3. Tariff's Regulation

The main function of tariff (ICAO Doc.9228-C/1036:1978) regulation is to secure the economic viability of the agreed service in bilateral and multilateral agreement for the benefit of the travelling public and to eliminate the hazards of free competition (LCJ Lehtonen:1977).

In addition, a tariff can have a significant influence on airlines, travelers and aeronautical authorities. For the airlines, a tariff that is too low may jeopardize the sustainability of an air carrier's operations, while a tariff is too expensive may make it unaffordable for travelers to travel. For aeronautical authorities, a tariff is a means to regulate the balance of the sustainability of airlines' operations and to guarantee that travelers can afford the price for the benefit of the travelling public. For these reasons, tariffs contained in bilateral and multilateral agreements must be carefully regulated by aeronautical authorities.

In the Civil Aviation Act of 2009, tariff refer to all tariffs, rates, fares, fees, charges or any other payments related to aviation activities. Tariff could therefore concern matters as wide-ranging as ticketing, international and national passenger service fees, air navigation service fees, landing fees, stand parking service fees, aircraft storage service fees, hajj service fees, and also on.

Domestic tariffs are provided in Part four of the Civil Aviation Act of 2009 (Act No.1:2009), and consist of tariffs for scheduled air transportation of passengers and shipment of cargo. Basically, tariff policies are neo-liberal in nature since the tariffs consist of economy and non-economy tariffs. Economy class tariffs are regulated by the MOC to protect consumers, while non-economy class tariffs are determined by airline companies based on market forces.

The tariff of scheduled air transportation shall consist of passenger transportation tariff and cargo shipment tariff. The government's policy regarding tariff is neo-liberal. That is why the tariff of passenger consists of economic and non-economic tariff. The passenger tariff for economy is rigidly regulated by the Government to protect the consumers and passenger tariff for non-economy is determined by air transportation companies themselves based on market force (supply and demand) to guarantee the sustainability of air transportation company operation.

The passenger tariff for economy class shall be calculated based on an amount of tariff per flight route per one trip, for each passenger, which is a calculation resulted from the basic tariff multiplied by distance and taken in consideration on buying/purchase power or affordability. The distance tariff shall consist of basic average fee plus reasonable profit, value added tax imposed based on taxation regulations, passenger accident insurance which is imposed based on the law and regulations on mandatory passenger accident liability insurance and surcharge. In terms of "surcharge" purported the charge imposed due to additional cost of that air transportation company has to pay outside stipulate distance tariff such as, among others, fluctuation fuel surcharge. Cost of that air transportation company has to bear due to lack of or no passengers on the returning flights, outbound or inbound, for celebration holiday. In determining regular air transportation tariff, the MOC

shall consider the interest of aviation safety and security as well as the public and air transportation operation.

The result of tariff calculation shall become the passenger's tariff ceiling for domestic economy class air transportation. Tariff ceiling for domestic economy class passenger shall be stipulated by the MOC by taking into consideration the aspect of protection of consumers from imposition of high tariff by air transportation business entity and protecting consumers from flight information/advertisement that is potentially disadvantageous/ misleading.

Hence, the stipulation on tariff ceiling and air transportation legal entity protection are against unfair/unhealthy competition. The scheduled economy class passenger tariff stipulated by the MOC shall be disseminating the tariff ceiling stipulated by the MOC, whether done by the MOC or by the air transportation business themselves through print and electronic media and/or presenting it at every airplane ticket sale place to consumers.

Domestic air transportation business entities shall be prohibited from selling economy tickets above-mentioned ceiling tariff stipulated by the MOC. Any air transportation business entity violating the provisions of selling economy tickets shall be imposed with administrative sanction such as warning and/or flight route permit revocation.

Passenger tariff for domestic non-economy services of scheduled air transportation shall be based on market

mechanism. The tariff for domestic non-scheduled air transportation for passenger shall be determined on the agreement between users and providers of transportation services, while the tariff for international scheduled air transportation for passengers shall be determined based on the results of the bilateral air transportation agreement. Further provisions regarding tariff for domestic scheduled air transportation and the system and procedures of administrative sanction imposition shall be stipulated under a Ministerial Regulations. For that reason, the MOC issued the Decree 26 dated April 14, 2010 (Ministerial Decree No.26:2010).

Ministerial Decree 26 dated April 14, 2010 provides that passenger tariff for economy class shall be calculated based upon distance tariff, tax, mandatory insurance accident and surcharge. Distance tariff is the amount of tariff per flight route per one trip, for each passenger, which is a calculation result basic tariff multiplied by distance and taken into consideration on buying/purchase power or affordability. Meanwhile, tax is value added tax imposed based on taxation regulations. Mandatory insurance accident is passenger insurance accident which is imposed based on the law and regulations on mandatory passenger accident liability, while surcharge is the charge imposed due to addition costs that the air transportation company has to pay outside stipulated distance tariff, such as fluctuating fuel surcharge and the cost of air transportation the company has to bear due lack of or no passengers on the returning

flights outbound or inbound, for example during big celebration holidays. Domestic passenger tariff for economy class consists of tariff based on the use of jet aircraft and propelled aircraft.

The DGAC proposes the amount of tariff calculation after coordination with national air carrier association and association of consumers. The amount of tariff consists of airlines group services that are 100% maximum tariff for airlines providing full services, maximum of 90% for airlines providing medium services and 85% of maximum tariff for non-frill services. The amount of scheduled economy class passenger tariff determined by the MOC shall be disseminated as the tariff ceiling through print and electronic media and/or presenting it at every airplane ticket sale place to consumers.

The tariffs set by the MOC have an upper limit which takes into account factors such as the need to protect consumers and prevent unfair competition. On the whole, Indonesia's aviation regulations protect consumers by indirectly specifying a lower limit for the determination of tariffs, and at the same time the tariff regulations also prevent underpricing practices by air service providers that aim to squeeze competing carriers out of the market. At first glance, however, it appears that this determination of tariffs does not adequately factor in the commercial side of the air service industry, especially for those offering premium services Martono & Sudiro, 2012).

In determining tariffs, the MOC considers the interest of aviation safety and security, as well as the needs of the public and airlines' operation (Act. No.1:2009). MOC Decree Number 26 of 2010 (Ministerial Decree No.26 : 2010) clarifies how passenger tariffs for economy class are determined and that they are based on the distance flown, tax, mandatory accident insurance and surcharges. The distance tariff is the amount of tariff per flight route per trip, for each passenger, and is a calculation based on the basic tariff multiplied by the distance. This formula also factors in the nation's purchasing power or affordability of the tariff. The distance tariff consists of a basic average fee plus a reasonable profit a value-added tax based on taxation regulations (Martono and Amad Sudiro: 2012). Mandatory passenger accident insurance is required by laws and regulations. Surcharges are imposed based on additional costs that the air transportation company has to pay to operate the business. The provision stipulates that the distance tariff may be adjusted due to factors such as, among others, the fluctuation of fuel prices. Costs that the air transportation company must bear due to lack of passengers on returning flights, outbound or inbound, are also included in the calculation of the tariff. With regard to the fluctuation of fuel prices, the MOC recently issued the increase the amount of surcharges consistent with the value of American dollars (Ministerial Reg. No.PM 2: 2014).

Tariffs ceiling for domestic economy class passengers are stipulated by the MOC

to prevent the imposition of high tariffs by airline companies and protect consumers from misleading advertising. The tariff for scheduled economy class passengers is disseminated either by the MOC or by the airlines themselves through print and electronic media and/or presented to consumers wherever airplane tickets are sold. Domestic airlines are prohibited from selling economy tickets above the tariff ceiling provided by the MOC, and any airline violating this prohibition will receive sanctions in the form of a warning and/or flight route permit revocation.

In addition, domestic passenger tariffs for economy class consist of tariffs based on whether the aircraft used is a jet-powered or propeller powered aircraft. Indonesia's DGAC proposes the maximum tariff after coordinating with national air carrier associations and consumer associations, and the tariff is also reflective of the class of service provided. Airlines providing full service may charge 100% of the maximum tariff, whereas airline providing medium service may charge 90% of the maximum tariff, and airlines providing no-frills service may charge only 85% of the maximum tariff.

As mentioned earlier, tariff policies in Indonesia are basically neo-liberal in nature, as the tariffs consist of economy and non-economy tariffs. Economy class tariffs are regulated by the MOC in order to ensure the viability of public transportation and to protect the interest of the traveler. An upper limit is set by the MOC to prevent unfair competition between airlines and airlines

are prohibited from selling economy tickets above the upper limit tariff established by the MOC. In practice, however, the competition between scheduled airlines can be very fierce, and, as a result of the operation of the market, air services have been classified into three categories of tickets in order to avoid the restrictions set by the MOC. There are daily, weekly and monthly fares.

Daily tickets consist of prime-time tickets for flights between 4.30 a.m. and 9.30 a.m., which are very pricey, and tickets for flights between 12.00 p.m. and 3.00 p.m., which are the cheapest. In the weekly category, flights on Tuesdays, Wednesdays and Thursdays are very cheap, and flights on Fridays, Saturdays and Sundays are very expensive. However, even if the price is very expensive, no price is higher than the upper limit tariff. In addition, there are other variations such as promotional tariffs and normal economy tariffs. Promotional tariffs are cheaper than normal economy class, while economy tariffs consist of regular economy class flexible economy class and rigid economy class fares. This strategy not only avoids the price restrictions set by the MOC, but also, in effect influences the behavior of consumers and the travelling public

Especially in the holiday months, such as school holidays, celebration of days significant to Muslims (such as Lebaran) and the Christmas holidays, tickets price almost reach the upper limit established by the MOC. During those periods, the demand for travel increases significantly and almost

all domestic scheduled airlines provide extra flights to cater to these demands. For non-scheduled airlines, and, in response to the increase in demand during peak travel periods, tariffs are subject to negotiation between the user and the provider of air transportation.

During school holidays, Muslim holidays and Christmas holidays, the MOC rigidly controls the implementation of tariff regulations. Scheduled airlines are obliged to disseminate the tariff through print and electronic media and/or by presenting the set price on every airplane ticket. Any airline violating these provisions will receive administrative sanctions in the form of a warning and/or risk the flight permit being revoked (Martono and Amad Sudiro : 2012). In the three years since the Civil Aviation Act of 2009 came into effect, no scheduled airline has violated the upper limit on tariffs as set by the MOC, meaning that all scheduled airline are complying voluntarily with such regulations.

4. Non-Scheduled Air Transportation

In Indonesia, non-scheduled air transportation is regulated by the Decree of SKEP/1657/VIII/76 (DGAC Decreed SKEP/1657/VIII/76:1976) such as advance booking charter, affinity group, inclusive tour charter, including a charter for the purpose of pilgrimage, non-season pilgrimage, tour packages, meeting, incentive, conference, special even charter, student charter, own use charter. Air transportation activities may be done

with non-scheduled national airlines for passenger and cargo shipment or freighter.

Under the existing demands of capacity air transportation through certain routes that cannot be fulfilled by the capacity of air transportation service with flight route operates permanently and regularly operated in compliance to law provision for air transportation services that are not bound to permanent and regular flight routes and scheduled among others, tourism packages, MICE (meeting, incentive, conference, and exhibition), air transportation for pilgrimage, natural disaster assistance, and national and international activities temporary in nature, scheduled air transportation may operated non-scheduled air transportation activities upon approval from the MOC. But non-scheduled air transportation operated by scheduled air transportation company, may not disturb the services on the routes if its own responsibilities and on the routes are still served by other scheduled air transportation companies.

Domestic non-scheduled air transportation may only be conducted by a national airline possessing a non-scheduled air transportation business permit and shall be conducted based on the flight approval. In a situation where demands for transportation services cannot be met or served by regular air transportation companies for a certain route(s) and are temporary in nature, a domestic non-scheduled air transportation companies for a certain route(s) and are temporary

in nature, a domestic non-scheduled air transportation company may undertake scheduled air transportation activities after obtaining an authorization or approval from the MOC. The temporary scheduled air transportation may be initiated by a government, local government agency and/or a national air transportation company.

The temporary scheduled air transportation activities must not cause any disturbance to air transportation services on the routes still served by the other scheduled air transportation company. Non-scheduled air transportation activities may be in the form of affinity group, inclusive tour charter, own use charter, air taxi or that in one airplane there are various groups with different purposes (split charter), such as for sick persons (patients) humanely program, parachuting activities. The development of non-scheduled air transportation indicates that as a whole the number of non-scheduled air transportation is relatively strong, in line with the increase of markets of non-scheduled air transportation are the island of Sumatra, Kalimantan and Papua.

5. General Aviation

General aviation is air transportation used for personal purposes to support his/her business activities which core/main business other than air transportation. General aviation may be carried out by the government, regional government, social organizations, sports association, individual and/or other Indonesian legal entity. It consists of air transportation for aerial work such as agriculture spraying,

air photography, survey, mapping, search and rescue, calibration, air transportation for aircraft operation personnel activities or other air transportation of which main activity is not air transportation business. The MOC may be given to hold general aviation activities for purpose of passenger and goods transportation in certain regional(s), by fulfilling certain requirements that are temporary in nature. Holders of general aviation permit violating the conduct of air transportation activities shall be imposed with administrative sanction, namely warning, freezing of permit, or permit revocation.

With regard to the permit of general aviation, activities shall be conducted after obtaining the MOC's permit/approval. In order to obtain operation permit for general aviation activities by the Government, regional government, Indonesian business entity, and certain organization(s), one shall have to possess clearance from the agency supervising the company(s) core activities, founding/establishment act/deed of the business entity or the organization approved by the Minister in charge, tax identification number, domicile letter for business site issued by the agency in charge, and air transportation plan.

Other requirements to obtain business permit for general aviation activities undertaken by an individual who has a personnel identity card issued by the authorized agency, tax identity number, address of his/her business site issued by the authorized agency in charge and air transportation activity plan. The documents

of clearance from the agency supervising the company's core activities, founding/ establishment act/deed of the business entity or the organization approved by the Minister in charge, tax identification number, domicile letter for business site issued by the agency in charge, shall be submitted in copies legalized by the issuance agency, and the original documents shall be shown to the MOC. The activities plan shall at least contain type and total number of aircrafts to be operated, core of activity of flight operation, human resources consisting of technicians, engineers and air crew as well as preparedness and worthiness of operation.

The general aviation business permit shall be valid as long as the permit holder remains de facto operating air transportation activities by continuously operating aircrafts. However, the permit shall be evaluated on performance of a permit holder of general aviation air transportation activity every year. The result of evaluation shall be used as consideration of letting the holder maintain his/her/its business activities. Further provision regarding the requirements, system and procedures of obtaining general aviation permit shall be stipulated under MOC.

6. Pioneer Air Transportation

Pioneer air transportation is a domestic air transportation activity serving flight route and network linking remote and underdeveloped regions not yet served by other modes of transportation. It is served by the commercial air transportation

business entity. The regional government has to guarantee availability of land site, infrastructure. The pioneer air transportation shall be implemented integrity with other sectors based on the regional development approach and evaluated annually by the Government. The result of evaluation may change a pioneer air transportation routes into commercial routes. Pioneer air transportation activities shall be given compensation to ensure sustainability to service on the routes and scheduled stipulated. Such compensation shall be in the form of other route(s) outside the pioneer route(s), financial assistance for operation, and/or financial assistance for the fuel.

CONCLUSION

It is concluded that the provision of air transport regulation provided in the Civil Aviation Act of 2009 has been fully implemented and compliances with the airlines in Indonesia. The indicators being discussed are scheduled air transportation includes the requirements of the establishment of airlines, capital of air transport business entities, aircraft ownership and operation requirements, share holder composition, bank guarantee requirements, aviation human resources. It also discussed about tariff's regulations includes passenger's tariff, passengers' protection, best practices; non-scheduled air transportation; general aviation and pioneer air transportation.

Bibliography

Articles

Farhana & K.Martono. 2015. "Indonesia's Contribution to the International Civil Aviation". Paper submitted to the Celebrating 71st Year of the Chicago Convention of 1944 in the Seminar "Peraturan Penerbangan di Indonesia" Conducted by Sekolah Tinggi Manajemen Transportasi (STMT)-Trisakti on 10 December 2015 in Jakarta.

Lehtonen, LCJ. 1977. *The Bilateral Air Transport Agreement of Finland: A Study in Public International Air Law* [Thesis]. Montreal : McGill University Institute of Air and Space Law.

Mahmud, Fachri. *The Development of Air Transport Policy in Indonesia*, unpublished.

Martono, K. (Ed). 1987. "Angkutan Udara di Indonesia Sebelum Kemerdekaan" in *Hukum Udara, Angkutan Udara dan Hukum Angkasa* . Bandung : Penerbit Alumni.

Martono, K. & Amad Sudiro. 2013. Current Air Transport Regulations in Indonesia. XXXVIII Ann Aur & Sp L 55.

Martono, K. & Amad Sudiro. 2012. "New Indonesian Air Transportation Policy Based on Civil Aviation Act of 2009". Paper submitted to Third Annual International Conference on

Law & Regulation of Air Transport and Space Application, 26-29 April, National Law University, New Delhi, INDIA.

Documents

Act *Concerning Foreign Investment*, Act No.1 Year 1967.

Act *Concerning Civil Aviation*. Act.No.15 of 1992 (State Gazette of the Republic of Indonesia Year 1992 Number 53, Supplement to the State Gazette of the Republic of Indonesia Number 3481).

Act *concerning Civil Aviation*, Act No.1 of 2009 [Civil Aviation Act], Ministry of Transportation Republic of Indonesia, online: Directorate General of Civil Aviation <http://hubud.dephub.go.id/?en/uu>.

Director General of Air Communications Decreed Concerning Type(s) and Implementation of International Non-Scheduled to and from the Republic of Indonesia. Director General of Air Communications Decreed No.SKEP/1657/VIII/76.

Indonesia's Civil Aviation Development, A paper submitted to Sixth Meeting of Worldwide Air Transport Conference, Montreal, 18 to 22 March 2013.

Gouvernement Regulation Concerning Change from State-owned Enterprise (PN) Perhubungan Udara to Limited

- Company Liability (PT) Garuda Indonesian Airways. Govt. Reg. 67/1971 (1971).
- Government Regulation Concerning Change from State-owned enterprise (PN), Perhubungan Udara Daerah dan Penerbangan Serba guna “ Merpati Nusantara” to Limited Company Liability (PT) Merpati Nusantara Airlines (MNA), Indonesia Govt. Reg.70/1971 (1971).
- ICAO Doc.9228-C/1036 (1978) Concerning Standard Bilateral Tariff Clauses, Standard Bilateral Tariff Clauses],
- Ministerial Decree Concerning Requirements and Provisions Regarding Using Airplane for Commercial. Ministerial Decree No. SK 13/S/1971 (18 January 1971).
- Ministerial Decree Concerning Garuda Indonesian Airways Permit. Ministerial Decree No. T 14/4/4-U (11 July 1961).
- Ministerial Decree Concerning Routes for PN Merpati Nusantara Airlines. Ministerial Decree No.S. 8/2/5-Phb.
- Ministerial Decree Concerning Garuda Indonesian Airways Permit form Jakarta to Medan, Padang, Palembang, Belitung, Teluk Betung. Kotaradja dan Bengkulu. Ministerial Decree No. T.14/4/4-U.
- Ministerial Decree Concerning Requirements and provision regarding Commercial Air Transport Business Within an Indonesian Territory Using Fix Wing Aircraft. Ministerial Decree No. S.8/1/11-Phb (21 September 1967).
- Ministerial Decree Concerning Routes Structure of PN Merpati Nusantara Airlines.. Ministerial No. S. 8/2/5-Mphb (13 January, 1969).
- Ministerial Decree Concerning Home Based of Airlines. Ministerial Decree Number SK 402/S/70 (30 December, 1970).
- Ministerial Decree Concerning Requirements and Provisions of General Aviation Within Republic of Indonesia. Ministerial Decree No, 31/U/p/1970 (2 February, 1970).
- Ministerial Decree Concerning the Requirement and Provision Regarding Using Commercial Airplane in Indonesia. Ministerial Decree No. SK 13/S/1971.
- Ministerial Decree Concerning Business Permit to PT Indonesia Air Transport within framework of Implementation of Act Number 1 Year 1967 Concerning Foreign Investment. Ministerial Decree No. KM 40/T.1b/Phb-75.
- Ministerial Decree Concerning Engagement of Air Transport. Ministerial Decree No. KM 81 Year 2004.

Ministerial Decree Concerning Air Transportation Engagement. Ministerial Decree No. KM 25 Year 2008.

Ministerial Decree Concerning Calculation Mechanism and Determination of Ceiling Passenger for Economy Tariff Class of Air Transportation Domestic Services. Ministerial Decree No. 26 Year 2010 (14 April 2010).

Ministerial Regulation Concerning the Amount of Surcharges of Domestic Scheduled Transportation Tariffs, Ministerial Regulation No. Pm 2 of 2014 (16 February 2014).

The 38th General Assembly Resolution, Montreal, 24 September – 4 October 2013 A38-4.

Others

Indonesian Aviation : Outlook 2010, published by Indonesian National Air Carriers Association. Jakarta : 2010.