



**WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)**

**SIXTH MEETING**

**Montréal, 18 to 22 March 2013**

**Agenda Item 2: Examination of key issues and related regulatory framework**

**Agenda Item 2.3: Consumer protection**

**CONSUMER PROTECTION REGULATION**

(Presented by Indonesia)

**EXECUTIVE SUMMARY**

This working paper examines Indonesia's consumer protection regulation and discusses Indonesia's intention to access to the Montréal Convention of 1999. It also recommends the development by ICAO of consumer protection guidelines, as well as alternative solutions.

**Action** The Conference is invited to agree with the recommendations presented in paragraph 4.

*References:* ATConf/6 reference material is available at [www.icao.int/meetings/atconf6](http://www.icao.int/meetings/atconf6).

**1. INTRODUCTION**

1.1 Indonesia's Law No.8 of 1999 on Consumer Protection is applicable to all sectors as *lex generalis*, including the air transport sector.

1.2 To ensure protection of passenger rights while balancing it with airlines' capabilities, for domestic flights, the Ministry of Transportation issued Ministerial Decree No. 77 of 2012 on Air Carrier Liability. This Decree adopts the Montreal Convention of 1999 principles and also the Law on Consumer Protection with more specification for commercial air transport activities.

1.3 For international flights, Indonesia is not yet a party to the Montreal Convention 1999. At present, in depth consultations are ongoing regarding the domestic flight regulations to be used as a template for regulating international flights, and regarding accession to the Montreal Convention 1999.

## 2. INDONESIA'S CONSUMER PROTECTION REGULATION

### 2.1 Air Carrier Liability

2.1.1 In the case of destruction, loss, damage or delay, of cargo and damage sustained in case of death or bodily injury of a passenger or third parties, the air carrier shall compensate for a certain amount.

2.2 **Flight Delays** – In case of delay, the air carrier shall provide the following:

- a) For a delay of more than 4 hours, the air carrier shall give compensation for the amount of Rp. 300.000,00 (three hundred thousand rupiah) either by cash or any other manner with the same amount e.g. a voucher; or if there is no flight to the last destination of the passenger (s); it shall give compensation of 50% of Rp. 300.000,00 (three hundred thousand rupiah), in addition to offering a flight to the closest airport of the last destination.
- b) It shall arrange for comparable air transportation or, if not available, for other transportation, scheduled to arrive at the place of his destination. In case of downgrading of seats, the passenger shall be given the equivalent amount of payment. The air carrier shall provide a connecting flight until the passenger arrives at destination as agreed on the ticket, with no additional charges.

2.3 **Denied boarding** – For denied boarding, the air carrier shall provide the following:

- a) Arrange for comparable air transportation which is scheduled to arrive at the destination as agreed on the ticket, with no additional charge; and/or
- b) Provide refreshments or meals, hotel accommodation, and land transport from airport to the hotel and vice versa (in case there are no other flights to the same destination).

2.4 **Cancellation of flight**– There is an exception for technical reasons and bad weather

2.4.1 In case of cancellation, the air carrier shall inform the passenger of the cancellation not more than 7 days prior the flight, and if it is not acceptable to the passenger, shall reimburse the total value of the fare, taxes and charges. If the cancellation is informed within 7 days, and it is not acceptable to the passenger, the air carrier shall arrange for comparable air transportation or, if not available, for other transportation, with scheduled arrival at the destination as agreed on the ticket. Re-scheduling of a flight which is at a significantly different time of flight from the previously scheduled one, should be assumed as cancellation of a flight.

2.5 **Insurance obligation for air carrier** – There is an obligation for the air carrier to have adequate insurance coverage.

## 3. DISCUSSION

3.1 In spite of any barrier during the implementation of its domestic flights regulation on Consumer Protection, Indonesia has the intention to make it a basis for regulating international flights and to prepare the accession to the Montreal Convention 1999. There are some problems to be overcome

particularly with regard to jurisdiction, since the Indonesian legal system law does not recognize any execution from foreign court decisions.

3.2 Indonesia commends the ICAO initiative to develop consumer protection regulation, which is very much appreciated; it should be taken into account that it requires further coordination with consumer protection authorities in each State. Therefore, Indonesia prefers to have those consumer protections principles serving as guidelines rather than as regulation for the country to be binding.

#### 4. **RECOMMENDATIONS**

4.1 The following recommendations are proposed for consideration by the Conference:

- a) ICAO should develop consumer protection principles for use by Member States, as a guideline and not as a strict regulation that all Member States should be part of;
- b) ICAO should develop alternative solutions for States that have legal constraints, so that any complaints can be settled.

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