



INTERNATIONAL CIVIL AVIATION ORGANIZATION

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## ASSEMBLY — 35TH SESSION

### ECONOMIC COMMISSION

#### **Agenda Item 27: Regulation of international air transport services, and outcome of the fifth Worldwide Air Transport Conference**

#### **THE VIEW OF AIR CARRIER OWNERSHIP AND CONTROL (NATIONALITY CLAUSE)**

(Presented by Argentina, Brazil, Fiji, India, Japan, Mongolia, Pakistan, Philippines, the Republic of Korea, Saudi Arabia and Viet Nam)

#### **SUMMARY**

This paper is intended to provide basic understanding of Brazil, Fiji, India, Japan, Pakistan, Philippines, the Republic of Korea and Saudi Arabia how ICAO should play a role in the field of international air transport liberalization, including air carrier ownership and control, for the Assembly discussions under Agenda Item 27.

Action by the Assembly is in paragraph 5.

### **1. INTRODUCTION**

1.1 The fifth Worldwide Air Transport Conference (ATConf/5) was held in Montreal in March last year, and Contracting States discussed lots of issues relating to the global liberalization of International Air Transport including air carrier ownership and control. There were wide varieties of views presented by States based upon their present situations, which they were facing. As consensus, the Conference concluded that there is a need for flexibility to enable all States to follow the approach of their own choice of liberalization at their own pace, and ICAO should play a role to support the decision making of each State through providing options.

1.2 It is recognized that the European Community introduces some form of liberalizing air carrier ownership and control requirements. It is not inappropriate that the like minded countries wish to get together for such an activity, but ICAO, as the consolidated body of all Contracting States, should not be involved in such an activity considering its role agreed in the Conference.

## **2. CHARACTERISTICS OF AIR CARRIER OWNERSHIP AND CONTROL**

2.1 The international aviation, where each State makes bilateral agreements, is under the framework established in the Chicago Convention, in which airspace sovereignty has a full respect as a basic principle. The air carrier ownership and control is a fundamental concept for nations that aim to develop their air transport network with maintaining their own flag carriers. In addition, this is a sensitive issue, considering a current strong concern on a nation's responsibility for safety and security.

2.2 Therefore, this issue should be decided by each State without any intervention by the others. There are various ideas and points of view in the world. We don't intend to interfere with voluntary activities of other like-minded States or areas that wish to establish their own system inside their group.

2.3 However, we strongly believe that nobody should insist that other States, whether in a direct or indirect manner, change their view of air carrier ownership and control.

## **3. DISCUSSIONS IN ATCONF/5**

3.1 ICAO is a collective body of sovereign States. The issues like nationality of air carriers, which are very sensitive and about which each country has its own different view, should be treated carefully. Therefore, ICAO should not be biased and should not lend a hand on any particular party on any controversial issue about which everybody is not in the same boat.

3.2 This perspective is clearly agreed in the ICAO ATConf/5. "Declaration of Global Principles for the Liberalization of International Air Transport", which was adopted in the ATConf/5, says in its item 4.4 that "Each State will determine its own path and own pace of change in international air transport regulation".

3.3 The result of ATConf/5 should be considered under this consensus. Though the declaration notes in its item 4.6 that "States should give consideration to accommodating other States in their efforts to move towards expanded trans-border ownership and control of air carriers", we should understand this description in line with our agreed concept that we have a strong respect for each nation's own decision making.

## **4. CONCLUSION**

4.1 ICAO should be highly deliberate about this sensitive and controversial issue without joining any particular party, unless there is any overall consensus among member States. We strongly believe that the issue about air carrier ownership and control should be exclusively determined by each State.

5. **ACTION BY ASSEMBLY**

5.1 The Assembly is invited to:

- a) note the conclusion (4.1) above when discussing air carrier ownership and control; and
- b) confirm that each Contracting State can make their own decisions about the choice of air carrier ownership and control requirement.

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