



ASSEMBLY — 38TH SESSION

ECONOMIC COMMISSION

Agenda Item 40: Economic Development of Air Transport — Policy

PRINCIPLES ON CONSUMER PROTECTION RIGHTS

(Presented by Colombia)

EXECUTIVE SUMMARY

This working paper analyses the importance of developing principles on consumer protection rights in balance with industry rights, examines the advantages for States and air transport service providers when implementing consumer protection policies and invites Contracting States to ratify the *Convention for the Unification of Certain Rules for International Carriage by Air*, done at Montreal on 28 May 1999 (Doc 9740).

Action: The Assembly is invited to:

- a) support the work of the Council in developing consumer protection policies;
- b) urge the ICAO Secretariat to organize conferences/seminars with Contracting States on consumer protection; and
- c) urge Contracting States to develop consumer protection policies and to ratify the 1999 Montreal Convention.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective C — <i>Environmental Protection and Sustainable Development of Air Transport</i> .
<i>Financial implications:</i>	The activities referred to in this working paper will be undertaken subject to the availability of resources in the 2014–2016 Program Budget and/or from extra-budgetary contributions.
<i>References:</i>	<i>Report of the Sixth Worldwide Air Transport Conference (ATConf/6)(Doc 10009)</i> <i>Manual on the Regulation of International Air Transport (Doc 9626)</i>

¹ Spanish language version provided by Colombia.

1. INTRODUCTION

1.1 Consumer protection is an issue that has become increasingly relevant in a world that has transcended national borders, trends in the growth of tourism and the use of international air transport services. It has also gained greater importance, particularly, but not solely, in large markets.

1.2 Guidance on consumer protection was once primarily provided at the national level, but due to the growing internationalization of economic and social relations, as well as the absence of international jurisdiction for the protection of consumer rights, it is imperative that we develop effective protection for the rights of those using international air transport services, who find themselves in a weak position in the commercial contractual relationship.

1.3 This weak position is a consequence of adhesion contracts, whereby the passenger is unprotected against abuse from a dominant position, while the service provider gives itself more rights than obligations. Therefore, the contractual bond must be based on the exercise of correlative rights and obligations, fairness and justice.

1.4 In practice, consumer rights protection has an international vocation and is a basic issue for globalized markets; and particularly for the international air transport sector.

2. ANALYSIS

2.1 States are first of all asked to develop policies and regulations that guarantee the protection of consumer rights in areas such as reservation, ticket issue, refunds, passenger assistance in the event of delays, cancellations and denied boarding, lost baggage, passenger data protection, facilities for passengers with physical disabilities, pricing transparency, responses to consumer complaints and provision of a quality service based on respect for human dignity and on the due process.

2.2 Consumer protection creates a series of advantages and benefits, not only for passengers traveling for business, study, tourism etc., who will feel motivated to take advantage of the services provided by the air transport sector, but also for States, as a fundamental element in tourism promotion and a driver of economic development in general, considering that air transport is a growing sector.

2.3 Nevertheless, there are events that are beyond the control of service providers and absolve them of responsibility with regard to the passenger's rights: force majeure or acts of God, which require fair treatment in terms of the rights of both the industry and the consumer.

2.4 ICAO is the natural forum for guiding States in the development of consumer protection policies, bearing in mind that the human being is the central focus of aeronautical endeavour and human satisfaction is an ethical imperative of service and the *raison d'être* of the organization's work in the production of standards aimed at preserving the safety of human life in its various aspects.

2.5 It would be appreciated if contracting States could send their consumer protection manuals or regulations to ICAO for assistance in the preparation of globally harmonized minimum principles on this matter.

2.6 There is a requirement for a set of guiding principles on the protection of consumer rights in proper balance with industry rights, in an increasingly globalized and integrated world, in order to bridge the existing gaps in the international field.

2.7 In addition, the Sixth Worldwide Air Transport Conference expressed the need to support the protection of consumers of air transport services and agreed that the effectiveness of the responses from States in terms of regulations could be increased with greater convergence and compatibility.

2.8 It was recommended that, in the short term, ICAO draw up a set of basic principles of consumer protection, with the assistance of specialists from the Air Transport Regulation Panel (ATRP), States and regional bodies.

3. ACTION

3.1 The Assembly is invited to:

- a) request that ICAO, as a natural forum for achieving consensus in the international air transport sector, through its Council, develop policies on consumer protection for the international aeronautical community, in accordance with the analysis presented in paragraph 2.1;
- b) request the Secretariat, as the executing agency of the Council's policies, to organize conferences/seminars with contracting States on consumer protection and to collect existing information on the regulations of contracting States on this matter, in order to develop minimum guiding principles that can be adopted globally; and
- c) request that States comply with the Convention for the Unification of Certain Rules for International Carriage by Air, signed in Montreal on May 28, 1999.

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