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ASSEMBLY — 38TH SESSION

ECONOMIC COMMISSION

Agenda Item 40: Economic Development of Air Transport—Policy

**NEGATIVE CONSEQUENCES OF CONTINUED LIBERALIZATION: MARITIME STYLE
"FLAGS OF CONVENIENCE" TREND**

(Presented by the International Transport Workers Federation (ITF))

EXECUTIVE SUMMARY

The paper reviews the major effects of aviation deregulation and liberalisation with particular attention to civil aviation transportation workers and the growing emergence of “flag of convenience” scenarios in the airline sector of the industry. It further examines the principal lessons of ATConf/6 in this regard, and stresses two important principles: the implementation of basic safeguards for safety and security and the recognition of the role of aviation workers.

Action: The Assembly is invited to:

- a) urge ICAO to develop in any future work program an explicit recognition that aviation workers are one of the stakeholders whose interests must be considered in evaluating any proposed recommendations or guidelines;
- b) urge ICAO to work in co-operation with other United Nations agencies, particularly the ILO, in order to give a proper follow up to the conclusions of the recent ILO Global Dialogue Forum on the Effects of the Global Economic Crisis on the Civil Aviation Industry; and
- c) urge ICAO to continue its inclusive approach ensuring that all the aviation industry stakeholders can contribute to and share a commitment towards the outcomes of its assemblies and the work of ICAO, by involving the ITF and the relevant professional associations in future aviation liberalisation of ownership and control related work (FOC scenarios) under the roof of ICAO as stated in the A38-WP/71 (*economic regulation of international air transport*) art.4.4.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective C – <i>Environmental Protection and Sustainable Development of Air Transport</i> .
<i>References:</i>	ATConf/6 reference material available at www.icao.int/meetings/atconf6 . A38-WP/71

¹ Arabic, English, French and Spanish versions provided by ITF.

1. INTRODUCTION

1.1 The International Transport Workers' Federation (ITF) is an international trade union federation of transport workers' unions. It consists of 654 independent trade union organisations representing 4.5 million transport workers in 151 countries. It is one of several Global Union Federations allied with the International Trade Union Confederation (ITUC). The ITF represents over 617,000 civil aviation workers world wide and speaks for aviation workers around the world.

1.2 The purpose of this paper is to review the lessons of aviation deregulation and liberalisation to date; identify the key principles agreed on the Sixth Worldwide Air Transport Conference (ATConf/6); and to make concrete and practical recommendations to respond to the needs and interests of an important group of stakeholders in the international air transportation industry who are all too often forgotten or ignored in debates about extending deregulation and liberalisation – namely, civil aviation transportation workers.

2. THE LESSONS OF AVIATION DEREGULATION AND LIBERALIZATION

2.1 As the ITF introduced to the ATConf/6 (WP/99) there is also growing evidence that airlines under liberalisation are increasingly re-structuring their operations to reflect the classic maritime “flags of convenience” (FOC) scenarios.

2.2 The ITF, as a multi-modal organization, has intimate experience with the consequences of “flagging out” in the maritime sector. In fact, the ITF invented the term “flags of convenience” back in 1958. In that sector, the “unbundling” of ownership, nationality and safety oversight and standards have allowed some ship-owners to impose the lowest possible employment standards and conditions for their workers and the most relaxed safety standards and oversight for their operations.

2.3 In the maritime sector, ships and fleets can be “flagged out” to countries (including land-locked nations with no maritime tradition) that offer tax avoidance, lower-cost safety and labour standards and conditions, and inadequate safety supervisory and inspection structures. “Flagging out” is generally driven by the desire to save costs (including paying lower taxes) or to escape effective regulatory control by the State in which the vessel or fleet is beneficially owned. It is the ultimate privatization of regulation. If a ship-owner does not like what the regulator is doing, it quits the flag and finds a more convenient or compliant one.

2.4 The growing number of parallels in today’s civil aviation to traditional maritime “flagging out” scenarios is striking. Offshore registries for civil aviation aircraft exist and are growing. Offshore registries for private aircraft also exist. The rationale for such offshore registration is related to lowering direct and indirect taxes (e.g. Europe VAT is 20.5 per cent compared to none in some registries), lower insurance costs and less bureaucracy.

2.5 Airlines are using “open skies” agreements to choose creatively whether to be regulated and supervised by local or home-based regulation, opening the civil aviation sector to the risk of social dumping, safety dumping, and reduced oversight as regulators should not be “competing” for registering an aircraft.

2.6 As a result, the sustainability of the air transport industry is now in jeopardy with increasing turmoil and worker resistance to such employer tactics.

3. THE CONCLUSIONS OF ATCONF/6

3.1 Based on this history of aviation deregulation and liberalization, one of the ITF's priorities has been to mitigate the worst effects of the negative safety and economic consequences for aviation workers and passengers.

3.2. During the ATConf/6, the ITF was not alone in expressing concerns about “flags of convenience” entering the air transport industry, or in raising questions about the capacity of the nationally based regulatory structures to provide effective safety oversight of globalizing air transport operators and multinational enterprises.

3.3 As a result, the Conference concluded: “liberalization is a means and process, not an end. The objective of regulatory evolution is to create a favourable environment in which international air transport may develop and flourish in an orderly, efficient, economical and sustainable manner, without compromising safety and security, while respecting social and labour standards” (2.1 3.1.b). This has now become a more pressing matter as some of the worst features of “flags of convenience” operations have become increasingly prevalent in aviation.

3.4 Together with the use of FOC practices in civil aviation industry, there are many serious issues for discussion before the Assembly and many challenges face all stakeholders in the years ahead. ITF believes that these will best be met through the inclusive approach adopted by ICAO, an approach that ensures that all the aviation industry stakeholders can contribute to and share a commitment towards the outcomes of this Assembly and the work of ICAO.

3.5 The Conference's recommendations state that “each State may choose its own path and pace in liberalization of air carrier ownership and control, and that safety and security remain of paramount importance in any regulatory change. Due consideration should also be given to the interest of all stakeholders, including that of labor” (2.2.3.1.c).

3.6 The Conference's recommendations include the following:

- a) “c) ICAO should initiate work on the development of an international agreement to liberalize air carrier ownership and control, taking into consideration safety and security concerns, the principle of reciprocity, the need to allow a gradual and progressive adaptation with safeguards, the need to take account of regional experiences, the requirements of various States' domestic laws, and the effects on all stakeholders, including labour;” and
- b) “d) ICAO should involve all parties concerned in the development of the international agreement, and should undertake consultation with experts, States, aviation stakeholders and interested organizations” (2.2/1 c) and 2.2/1d)).

3.7 Furthermore, A38-WP/71 presented by the ICAO Council states: “The Organization will engage and cooperate with Member States, industry, international organizations and other stakeholders in advancing the objective of economic development of air transport. It will foster collaboration with other international organizations to address emerging issues of common interest in the air transport field” (4.4).

4. CONCLUSION

4.1 In light of the discussion above, the following conclusions may be drawn:

- a) air transport workers have been used repeatedly and increasingly since 2000 as the primary shock absorbers for managing the effects of deregulation, liberalization, the periodic business cycles and external shocks in the industry, often with devastating social consequences;
- b) there is growing evidence that airlines under liberalisation are gradually more restructuring their operations to reflect the classic maritime “flags of convenience” scenarios; and
- c) in the face of these developments the safety and security aspects of liberalisation and the need for the participation of all stakeholders in the evolution of the economic regulation of the industry should be recognized and a more balanced view of the social, safety and security aspects of aviation deregulation and liberalisation should be adopted.

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