



**WORKING PAPER**

**WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)**

**SIXTH MEETING**

**Montréal, 18 to 22 March 2013**

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

**Agenda Item 2.1 : Market access**

**FACILITATING THE DEVELOPMENT OF INTERNATIONAL BUSINESS AVIATION**

(Presented by the United States of America)

**EXECUTIVE SUMMARY**

This paper provides an overview of the importance of the international business aviation industry and outlines how the United States treats international business aviation operations from an economic perspective.

It is important for there to be compatible regulatory frameworks among States to allow for the orderly development of the business aviation industry at the global level, and ICAO could materially assist in this regard.

**Action:** The Conference is invited to:

- a) endorse the conclusion in paragraph 6; and
- b) agree to the recommendations presented in paragraph 7.

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

**1. INTRODUCTION**

1.1 Business aviation is an important component of a comprehensive international air transportation system. It promotes economic growth and international trade, particularly in less developed and rural regions where infrastructure, a lack of economic development and other constraints can make commercial aviation unviable.

1.2 A robust international business aviation sector complements commercial aviation by increasing access to air transportation, helping to maximize the contribution of the air transport sector to the global economy.

## 2. DISCUSSION

2.1 For the purposes of this paper, we use the term business aviation to mean the *non-commercial* use of aviation to facilitate and conduct business. Examples of such operations include:

- c) an individual using his or her own aircraft for business purposes (“owner-operated”);
- d) a corporation using its own aircraft to transport employees and/or individuals with whom it is engaged in business (“corporate aviation”)<sup>1</sup>; and
- e) the use by individuals or corporations of aircraft in which they have an ownership interest as part of a fractional ownership program (“fractional ownership”).

2.2 The key commonality among these various types of business aviation operations, in terms of distinguishing them from commercial aviation operations, is that they are not held out to the general public for remuneration or hire. Instead, they constitute the private use of aircraft by owners and/or individuals associated with those owners in the conduct of their business.

2.3 The treatment of international business aviation operations must take into account the unique operating requirements of the sector; most importantly, its timeliness and flexibility needs, including the expedited filing and processing of any and all operating permissions, including flight plans. Business aviation’s primary comparative advantage over other forms of air transportation is its ability to offer business people tailored travel times and routings that can be changed with minimal advanced notice. States that effectively accommodate the needs of business aviation do so to the benefit of consumers, airports and communities, and their overall economies.

## 3. U.S. ECONOMIC TREATMENT OF INTERNATIONAL BUSINESS AVIATION OPERATIONS

3.1 The United States believes that its economic approach to the treatment of international business aviation operations accommodates the sector’s unique operating requirements, and we commend the general concepts underlying our approach, outlined below, to all Contracting States.

3.2 The United States treats the various sub-types of business aviation operations outlined in paragraph 2.1 as non-commercial aviation. As such, these operations are not subject to international air services agreements and have the freedom to fly within the United States and between the United States and other countries.

3.3 For the purposes of defining fractional ownership programs, which the United States considers to be a form of owner-operated business aviation, the United States uses the following criteria. A fractional ownership program must include:

- a) two or more aircraft;
- b) owners that meet the minimum threshold of ownership or long-term leasehold interest per aircraft (1/16 for airplanes or 1/32 for helicopters); and

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<sup>1</sup> See ICAO definition in ICAO Annex 6, part 2.

- c) a dry lease exchange agreement among its owners, and a multi-year contract with a single program manager who provides aviation expertise and management services for participants in the program.

#### **4. INTERNATIONAL REGULATORY COMPATIBILITY**

4.1 Compatible economic treatment among States will allow for the safe, secure, and orderly development of the business aviation industry at the global level.

4.2 For these reasons, the United States has sought to work with other States to increase compatibility in the economic treatment of international business aviation operations as non-commercial aviation.

4.3 Work to this end has included a Record of Understanding between Canada, Mexico and the United States on the economic treatment of business aviation and fractionally-owned aircraft operations, as well as a jointly implemented approach with major European partners on the economic treatment of particular types of international business aviation operations.

4.4 Currently, the United States is working with its partners in Asia-Pacific Economic Cooperation (APEC) to develop a set of agreed core principles to guide APEC Economies in their economic treatment of business aviation operations. This work program was officially endorsed at the 7<sup>th</sup> APEC Transportation Ministers' Meeting in September 2011, and will be carried forward by APEC's Transportation Working Group. In their Joint Statement, APEC Transportation Ministers recognized the potential that exists for the business aviation industry to have a significant positive economic impact in the APEC region.

#### **5. BUSINESS AVIATION IN THE ICAO CONTEXT**

5.1 ICAO has previously addressed issues with respect to business aviation, including classifying the sector's various sub-types (i.e.: commercial, corporate, owner-operated, etc.) for statistical purposes<sup>2</sup>, and addressing policy issues related to airport access and air traffic management.<sup>3</sup> However, ICAO has not yet developed guidance material or recommendations as to how Contracting States ought to treat international business aviation operations from an economic standpoint.

#### **6. CONCLUSIONS**

6.1 In order to lend greater clarity and transparency to the economic treatment of international business aviation operations and promote its global development, it is critical for: (1) States to apply an economic approach toward international business aviation operations that accommodates the sector's unique operating requirements, as outlined in paragraph 2.3; and (2) ICAO to assist materially by establishing guidance material on how business aviation operations should be treated from an economic regulatory standpoint.

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<sup>2</sup> See *Review of the Classification and Definitions Used for Civil Aviation Activities*; ICAO Working Paper STA/10-WP/7

<sup>3</sup> See *Study on International General and Business Aviation Access to Airports*; ICAO August 2005.

7. **RECOMMENDATIONS**

7.1 The Conference is invited to recommend that:

- a) for the purposes of national regulatory actions relating to the economic treatment of international business aviation operations, Contracting States should treat the types of operations outlined in paragraph 2.1 as non-commercial aviation; and
- b) taking into account the non-commercial nature and the operational flexibility needed by business aviation, ICAO should develop guidance material for the economic treatment of international business aviation operations.

— END —