



WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

Montréal, 18 to 22 March 2013

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

2.3: Consumer protection

ENHANCING CONSUMER PROTECTION BY LEGISLATION

(Presented by China)

EXECUTIVE SUMMARY

This working paper introduces China's considerations relating to consumer protection in air transport and progress made in this regard since ATConf/5. It supports the initiative of the International Civil Aviation Organization (ICAO) to develop a set of core principles and guidance materials on consumer protection, and recommends that ICAO organize conferences/seminars to enhance communications among Member States on key issues relating to consumer protection, with a view to enhancing consumer protection in each Member State.

Action: The Conference is invited to agree to the recommendations in paragraph 5.

References: ATConf/6 reference material is available at www.icao.int/meetings/atconf6.

1. INTRODUCTION

1.1 Against the background of economic globalization, China has followed the global trend of liberalizing economic regulation on air transport since ATConf/5 (2003) by gradually reducing restrictions on airline establishment, pricing and flexibility of services to be provided to customers, and encouraging air carriers to fully engage in competition so as to provide consumers with more choices and better products. In the meantime, China promulgated rules and regulations and established air passengers' rights protection offices to strengthen the protection of the legitimate rights of air passengers.

¹ English version provided by China.

2. CHINA'S VIEWS AND PRACTICES ON CONSUMERS PROTECTION

2.1 China believes that the fundamental role of the airline industry is to meet the increasing demand for air travel. As a market economy, the government should gradually liberalize economic regulation, promote competition, encourage air carriers to provide a variety of products so as to meet the increasingly diversified demand. Since the year of 2004, the number of passenger airlines established in China has increased from 26 to 36, with the emergence of premium airlines, low-cost airlines and regional airlines. In 2012, the Chinese airlines carried a total of 320 million passengers, an increase of 200 million passengers compared with the year of 2004. China now ranked the second place around the world in terms of revenue-tonnes kilometres (RTK).

2.2 While maintaining a rapid growth momentum, China believes that the quality of development should be given equal importance, including consumer protection. Only relying on the market mechanism may lead to waste of resources and monopoly. As individuals, consumers are in relatively weak position. When their interests are infringed upon, it requires the government's initiatives to protect their legitimate rights and interests.

2.3 Based on the considerations presented in paragraphs 2.1 and 2.2 above, China has made great efforts to develop its airline industry while at the same time strengthening protection of consumers' rights over the past 10 years. On the one hand, new technologies such as e-ticketing, passenger self check-in have been applied to simplify passengers' air travel experience, and on the other hand, rules and regulations have been promulgated to bring consumer protection onto legal track. At present, two regulations relating to carriage of passengers and baggage and 40 national and industry standards are put into place to govern information disclosure to passengers, baggage carrier liability, overbooking, services to be provided after long time flight delays, services for disabled passengers, etc. In addition, organizational structures have been improved with the establishment of Civil Aviation Authority of China (CAAC) consumer affairs division and China Civil Aviation Consumer Affairs Center responsible for accepting consumers' complaints and handling related issues. In recent years, the above offices have handled more than 1,000 complaints on average per year and released to the public once a month the number of passengers' complaints on each air carrier.

2.4 China takes note of the policies and guidance materials recommended by ICAO relating to consumer protection, which has provided valuable guidance to China in its legislation process.

3. CHALLENGES CHINA IS FACED WITH ON CONSUMER PROTECTION

3.1 With China's economic and social development, China's civil aviation has grown at an average of 17.3 per cent in the past 30 years, yet the development of China's civil aviation is faced with severe challenges. First, air carriers tend to focus on economic benefits and ignore consumers' interests. Furthermore, the shortage of facilities and personnel training due to the rapid expansion of enterprise scale has led to deterioration in airline product quality and passengers' lower degree of satisfaction. Second, the lack of behavior norm for sales agents, ground handling agents as well as foreign air carriers results in insufficient protection of consumers' rights. Third, there is lack of unified and globally accepted criteria on consumer protection, in particular, lack of reference or guidance on the newly emerged and hot issues. The ICAO Member States have adopted various regulations and maintained different levels of consumer protection. Fourth, compared with aviation safety, ICAO organizes fewer conferences or seminars on air transport consumer protection and communications among Member States are insufficient. Based on the above, China is willing to actively participate in ICAO's efforts on consumer

protection, especially in formulating policy guidance, survey on new issues so as to further help improve consumer protection in China and around the world.

4. CONCLUSIONS

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

- a) while air transport development is driven mainly by market forces, government should take necessary measures to maintain fair competition and protect the consumers' rights;
- b) compared with aviation safety, efforts on consumer protection is relatively weak. Each Member State should attach higher importance to consumer protection and meet the minimum level of consumer protection recommended by ICAO; and
- c) ICAO should play a more important role in providing policy guidance, coordinating the Member States efforts and helping the Member States to address the difficult issues relating to consumer protection.

5. RECOMMENDATIONS

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

- a) ICAO should continue to play a leadership role in developing policy guidance to address emerging issues concerning airline consumer protection at the global level;
- b) ICAO should develop a set of core principles on consumer protection under the form of the indicative framework proposed in Appendix B of ATConf/6-WP/5. China recommends to revise Appendix B as follows:

Flight delay assistance: Passengers shall be provided appropriate assistance **(including accommodation and compensation)** (TO BE DEFINED) by the carrier in cases of flight delays. In case of a major disruption (TO BE DEFINED), the passenger shall be entitled to assistance during (NUMBER OF HOURS /DAYS TO BE DEFINED). **Passengers shall be allowed to disembark after (NUMBER OF HOURS TO BE DEFINED) hours on aircraft during which time the aircraft stays on the tarmac)**

Complaints handling system: **Air transport operators including foreign air transport operators shall establish passenger complaints handling office in accordance with national rules and regulations of the States.** Passengers shall have access to a complaint's handling procedure which is expeditious, fair and practicable.

- c) ICAO should continue to monitor consumer protection issues and explore the feasibility of developing a more formal arrangement, such as that of a "global code of conduct"; and

- d) ICAO should promote the awareness and compliance of States of ICAO policy guidance on consumer protection by developing additional training courses or seminars for the benefit of States.

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