



## INTERNATIONAL CONFERENCE ON AIR LAW

(Beijing, 30 August – 10 September 2010)

### PROPOSED AMENDMENTS TO DEAL WITH THE NOTION OF “PERSON” UNDER THE MONTREAL CONVENTION

(Jointly presented by Algeria, Canada, India, Singapore and the United Kingdom)

1. In order to ensure that the Montreal Convention follows the standard practice of using gender-neutral language employed in other international instruments, all references to the word “he” in Article 1 should be replaced by the words “that person”.
2. To the extent that the term “person” can include legal entities in some jurisdictions, the Convention should also include an article that contemplates the liability of legal entities without making it mandatory. The proposed Article 3 *bis* draws upon Article 5 *bis* of the 2005 SUA Protocol and Article 5 of the 1999 Convention against the Financing of Terrorism. Whereas these instruments make liability for legal entities mandatory, the proposed amendment would make the extension of liability to legal persons optional.
3. The proposed text reads as follows:

#### Article 3 *bis*

- 1) Each State Party, in accordance with its domestic legal principles, may take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in this Convention. Such liability may be criminal, civil or administrative.
- 2) Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
- 3) If a State Party takes the necessary measures to make a legal entity liable in accordance with paragraph 1, it shall endeavour to ensure that the applicable criminal, civil or administrative sanctions are effective, proportionate and dissuasive. Such sanctions may include monetary sanctions.