



ASSEMBLY — 39TH SESSION

ECONOMIC COMMISSION

Agenda Item 39: Economic Regulation of International Air Transport — Policy

SIGNIFICANT REGULATORY AND INDUSTRY DEVELOPMENTS OF INTERNATIONAL AIR TRANSPORT SINCE THE LAST ASSEMBLY

(Presented by Colombia with the support of the Member States of the Latin American Civil Aviation Commission (LACAC)^{*})

EXECUTIVE SUMMARY

This Working Paper reports on the development of consumer protection through the incorporation of the concept of renegeing into the Colombian regulations, which contributes to the sustainable development of international air transport.

Action: The Assembly is invited to:

- a) review the regulatory progress related to consumer protection of the Colombian State, which is being assessed by LACAC Member States to ensure its incorporation into their Customer Service and Total Quality Resolutions and to serve as a reference for the Region; and
- b) request that ICAO consider this Regulation in the revision it will make to the Core Principles on Consumer Protection in 2017 in order to keep the document current and to ensure that it meets the needs of States and other aviation stakeholders.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective D — <i>Economic Development of Air Transport</i>
<i>Financial implications:</i>	Not applicable.

¹ Spanish version provided by Colombia.

^{*} Argentina, Aruba, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.

<i>References:</i>	Aviation Regulations of Colombia, Part III A39-WP/4, <i>Implementation of recommendations of the ICAO Sixth Worldwide Air Transport Conference (ATConf/6) (Long-term vision and core principles on consumer protection)</i> State letter SP 38/1–15/60, dated 31 July 2015 A39-WP/8, <i>Consolidated statement of continuing ICAO policies in the air transport field</i> Assembly Resolutions in Force (as of 4 October 2013) Assembly Resolution A38-14, <i>Consolidated statement of continuing ICAO policies in the air transport field</i>
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1. INTRODUCTION

1.1 During the 38th Session of the ICAO Assembly held in 2013, the recommendations of the Sixth Worldwide Air Transport Conference (ATConf/6) were ratified. At that time, the Assembly also requested the Council, *inter alia*, that it “develop, in the short term, a set of high-level, non-binding, non-prescriptive core principles on consumer protection, for use as policy guidance...” (Assembly Resolution A38-14, Appendix A, Section 1, paragraph 19).

1.2 On 17 June 2015, the Council of ICAO adopted the text of the Core Principles of Consumer Protection, as guidance for States and concerned stakeholders, on the understanding that these principles would be treated as a “living document,” and therefore, subject to follow-up and monitoring.

1.3 Similarly, the Organization will continue to: a) promote the awareness of the core principles; and b) encourage all States and concerned stakeholders to follow or apply the core principles in their regulatory practices, and to provide feedback to ICAO on their relevant policies, rules or practices, as well as experiences gained or issues encountered in the implementation of the core principles.

2. DISCUSSION

2.1 Addressing the good practice encouraged by the Organization, Colombia wishes to share its recent regulatory experience related to the consumer protection regime, whereby it incorporated into the Aviation Regulations the concept of renege – a concept not provided for since the only items addressed were withdrawals and reimbursements.

2.2 What is the right to renege? It is the right to back out of a sale carried out via non-traditional methods and distance sales (e.g. online sales and call centres). For contracts concluded through these sales mechanisms, this right will be considered as agreed upon by whoever is acquiring the air ticket.

2.3 In order for the right to renege to be applicable, a number of special conditions must be met:

- a) the ticket purchaser must exercise this right within forty-eight (48) hours following the purchase transaction of the acquired ticket;
- b) this right must be exercised within a timeframe equal to or greater than eight (8) calendar days prior to the scheduled implementation date of the air transport contract. This requirement is applicable to domestic routes. As far as international routes are concerned, the aforementioned right to renege must be exercised within a timeframe equal to or greater than 15 days prior to the scheduled date of the flight. For clarification, those days are calendar days and not working days;
- c) the right to renege is applicable to all the various ranges of fares; and
- d) the airline can withhold from the renege passenger an amount equivalent to sixty thousand pesos (\$60,000.00) on domestic tickets or fifty American dollars (\$50.00 USD) on international tickets. Either way, the retained value cannot exceed

ten percent (10%) of the value received from fares, excluding fees, taxes and administrative charges.

2.4 How does renegeing differ from withdrawal? It is important to clarify that the concept of renegeing differs from the concept of withdrawal in the sense that the first is intended to enable passengers to free themselves from the contractual relationship concluded with the airline, and that this contractual relationship could cause them some unexpected damage. It is aimed at the time of purchase. On the other hand, the withdrawal takes place when passengers seek not to carry out the trip, i.e., to suspend in advance the execution of the contract.

2.5 Similarly, the difference between one and the other lies in the timing for exercising the right; in renegeing, the terms for its effectiveness are peremptory since renegeing requires passengers to inform the airline within a maximum of 48 hours from the time of purchase, while exercising the right of withdrawal is limited to 24 hours prior to the commencement of the itinerary.

2.6 Renegeing applies to all ranges of fares; the withdrawal does not apply to promotional fares.

3. CONCLUSION

3.1 Since the core principles are a “living” document and it is known that the Organization plans to revise this guidance in 2017 in order to maintain the core principles current and to ensure that they meet the needs of States and other aviation stakeholders, ICAO is requested to consider this regulation in its monitoring activities, considering that it is being assessed for adoption in the Latin American Region, within LACAC’s Compendium of Resolutions, thus becoming an important reference and contributing to the sustainable development of international air transport.

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