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ASSEMBLY — 39TH SESSION

REPORT OF THE ECONOMIC COMMISSION ON AGENDA ITEM 39

(Presented by the Chairman of the Economic Commission)

The attached report on Agenda Item 39 has been approved by the Economic Commission.

Note.— After removal of this covering sheet, this paper should be inserted in the appropriate place in the report folder.

(6 pages)

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

39.1 In WP/4, the Council reported on the development and adoption of the ICAO long-term vision for air transport liberalization and core principles on consumer protection as part of the implementation of the recommendations of the Sixth Worldwide Air Transport Conference (ATConf/6) and relevant Assembly resolutions. The Assembly was invited to endorse the Organization's plan for the promotion and implementation of the long-term vision and the guidance on consumer protection.

39.2 In WP/5, the Council presented a progress report on the development of international agreements on the liberalization of market access, air cargo and air carrier ownership and control as of April 2016, including information on further work to be undertaken with respect to the finalization of the agreements.

39.3 Through WP/66, the Council reported on the work accomplished by the Organization in the implementation of ATConf/6 recommendations since the last Session of the Assembly. It also presented the future work programme in the areas of air transport policy and regulation for endorsement by the Assembly. The implementation of the work programme would support ICAO's *No Country Left Behind* (NCLB) initiative and contribute to enhancing the economic sustainability of air transport.

39.4 WP/149 was presented by fifty-four Contracting States and members of the African Civil Aviation Commission (AFCAC). The paper described the efforts being made on the liberalization of air transport in Africa through the implementation of the Yamoussoukro Decision (YD) aimed at the establishment of a Single African Air Transport Market by 2017. It called on States to support and collaborate for the full implementation of the YD in the spirit of ICAO's NCLB, and for ICAO to organize regional workshops and seminars on air transport liberalization.

39.5 In WP/130, Bahrain reported on certain issues related to the existence of numerous passengers' rights regimes and called for the development by ICAO of guidance material for the purpose of unifying traveller protection systems.

39.6 WP/204 presented by Brazil, Chile, New Zealand and Singapore highlighted the benefits and the need to have an ambitious multilateral agreement on the liberalization of market access. They held the view that the proposed ICAO multilateral agreement to liberalize market access should encompass the exchange of not only 3rd and 4th freedom traffic rights, but should also include, at least, 5th freedom traffic rights.

39.7 WP/313 was presented by Colombia with the support of the Member States of the Latin American Civil Aviation Commission (LACAC). The paper reported on Colombia's experience in incorporating the concept of "reneging" into its consumer protection regulations, and invited ICAO to take this experience into account when updating its core principles on consumer protection.

39.8 In WP/173, Qatar presented its views and suggestions with respect to the proposed provisions on market access, safeguard measures and air carrier ownership and control in the international agreements on the liberalization of market access and air carrier ownership and control, currently under development by the Air Transport Regulation Panel (ATRP). It also discussed some issues relating to ICAO's policies in the air transport field, including on consumer protection.

39.9 In WP/242, the Republic of Korea recalled the benefits of air transport market liberalization and presented suggestions on strategies for the enhancement of fair competition and called for ICAO to develop solutions to help States achieve a more competitive environment for international air transport.

39.10 In WP/246, the Republic of Korea provided information on the operation and growth of the Low Cost Carriers (LCCs) in the country, which contributed to creating more demand in the market, promoting growth of the industry and improving consumer benefits. It called on ICAO to facilitate information sharing among Member States on policies and experiences concerning LCCs.

39.11 Through WP/252, the Republic of Korea shared information on the benefits of liberalization and deregulation of air services industry to the country, including growth of the air transport and tourism industries and enhanced consumer benefits. It called for information sharing among Member States on liberalization of air services, and expressed support to ICAO's on-going efforts thereon.

39.12 In WP/259, the Republic of Korea highlighted the adoption by the ICAO Council of the core principles on consumer protection in June 2015, and the progress made by the State toward harmonization between its consumer protection regime and ICAO's core principles. Some strategies were suggested to proactively address consumer protection, including consumer education and the use of technologies.

39.13 In WP/231, Airports Council International (ACI) presented its views on the current industry guidelines on slot allocation, believing that important criteria for the efficient use of scarce capacity such as destinations served, size of aircraft or best offer for the public are ignored or, at best, regarded as optional secondary criteria. ACI proposed that the issue be referred to a panel to explore and evaluate the potential benefits of alternative capacity allocation methods for airport slots.

39.14 In WP/127, the International Air Transport Association (IATA) described negative economic impacts of the proliferation of taxes. It urged States to adhere to *ICAO's Policies on Taxation in the Field of International Air Transport* (Doc 8632) and called for ICAO to enhance cooperation with the industry and to enhance its guidance on the impact of taxes and other levies.

39.15 In WP/134, IATA highlighted the problem faced by airlines in some countries with respect to local currency conversion and remittance of revenue to their home countries. The paper urged Member States to work collaboratively with airlines to find innovative solutions to the problem of "blocked funds" due to scarcity of foreign currency.

39.16 Through WP/140, IATA advocated the need for States, when developing or implementing air transport regulation, to adopt the smarter regulation approach based on rules that are proportionate, clear and transparent. It called on ICAO to incorporate the smarter regulation principles into its NCLB initiative, in order to remove proliferation of regulations and policies that are inconsistent with ICAO Standards and Recommended Practices (SARPs) and policy guidance.

39.17 In WP/340, IATA described the role of its Worldwide Slot Guidelines (WSG) in the management and allocation of airport slots, and the involvement of all stakeholders in the review and revision process of the WSG. It held the view that the existing industry working groups and fora offered by the WSG sufficiently address slot allocation issues.

39.18 WP/440 was presented by Chile, which provided information on its positive experience in liberalizing market access by unilaterally granting cabotage rights to other countries, including in some bilateral and multilateral air services agreements. It proposed that more flexibility should be promoted in liberalization, including provisions for granting of cabotage rights when developing multilateral open skies air services agreements.

39.19 Through information paper WP/189, the Air Transport Research Society (ATRS) highlighted the positive effects of liberalization on the wider economy. It stressed the need to move towards the implementation of a unified liberalized regulatory system, which will cater to a sustainable and safe air transport sector, and provide economic growth, employment and socio-economic prosperity for all countries and regions.

39.20 In its information paper WP/352, the International Federation of Air Line Pilots' Associations (IFALPA) presented its views concerning the development and inclusion of a labour clause in the multilateral agreement on liberalization of market access and air carrier ownership and control being developed by the ATRP.

39.21 Information paper WP/438 was presented by the International Transport Workers' Federation (ITF). The paper presented ITF's views on some aspects of the work undertaken by the ATRP in the development of international agreements on the liberalization of market access, air cargo and air carrier ownership and control, the progress of which was reported in A39-WP/5.

39.22 In considering the reports of the Council presented in WPs/4, 5 and 66, the Commission expressed appreciation for the work accomplished by ICAO in the implementation of ATConf/6 recommendations pursuant to the action plan endorsed by the last Assembly. It noted, in particular, the development and adoption of the ICAO long-term vision for international air transport liberalization which would serve as an inspirational guide for States in pursuing their liberalization goals, and the core principles on consumer protection as guidance for use by States and industry stakeholders in their regulatory and operational practices.

39.23 With respect to the work of the Organization in the development of international agreements for the liberalization of market access, air cargo and air carrier ownership and control, the Commission noted the progress made and the remaining challenges reported in WP/5. It was recognized that broad support was required from States for the formulation of the multilateral agreement. It was also acknowledged that divergent views remained over key issues such as scope of exchange of traffic rights and safeguard provisions. The Commission noted that this task is being carried out by the ATRP, and agreed that the Panel should continue its work, taking into account the views and suggestions expressed at this Commission, including those presented in WPs/204, 173, 242, 440 and Information papers 352 and 438.

39.24 Regarding the concerns expressed over the planned timeline for the finalization of the draft international agreements, it was clarified that flexibility exists subject to the progress of the work by the ATRP. The Commission agreed that ICAO should continue this work in line with the long-term vision for liberalization, bearing in mind the mandate and guidance given by the last Assembly, and taking into account the views and suggestions expressed during the discussion.

39.25 The Commission also took note of the information on developments and experiences of States in air transport liberalization, including those presented in WPs/149, 246, 252 and Information paper 189. There was broad recognition of the benefits of liberalization, while various views were presented concerning the need for measures to ensure effective participation and fair competition. A State indicated that safeguard measures covering social issues should be considered. There was also general support for flexible approaches by States in liberalization given the disparity in their developmental stages and the specific challenges facing them. The Commission welcomed the regional liberalization efforts such as those adopted by the African States. In this respect, the Commission agreed that States should be encouraged to continuously pursue liberalization in line with the ICAO long-term vision, and that assistance should be considered by ICAO within available resources, in particular the Voluntary Air Transport Fund, and existing platforms, including capacity building and sharing of experiences amongst States.

39.26 General support was expressed for the “smart regulation” approach advocated by IATA in WP/140, which encouraged States to adopt this approach in their regulatory practices. It was noted that the principles of this approach would be considered by ICAO within the context of its NCLB initiative.

39.27 On the subject of consumer protection, the Commission noted the information shared by several States on their experiences and the issues encountered in WPs/130, 313 and 259. It was recognized that consumer protection required attention by both regulatory authorities and the industry. Noting that ICAO has already adopted the core principles on consumer protection which is a living document, the view was expressed that in any future review, the core principles should remain high level, non-binding and non-prescriptive as endorsed by the last Assembly. The Commission agreed that States and the industry should be encouraged to apply the ICAO core principles, and that ICAO should continue to promote the principles, monitor the developments and review them as and when required.

39.28 With respect to the concerns over the proliferation of taxation on international air transport highlighted in WP/127, there was general acknowledgment that such an imposition could have negative impacts on national economy which is not conducive to sustainable air transport development. There was wide support for the need for States to adhere to the ICAO policies on taxation in the air transport field contained in Doc 8632. A view was expressed that States have sovereignty over taxation policies. The Commission agreed that States should be encouraged to follow the ICAO policies on taxation.

39.29 On the issue of local currency conversion and remittance of airline revenues raised in WP/134, it was recognized that such problems could also negatively affect the operation of international air services. The Commission agreed that States should take measures, such as those expressed in WP/134, to address the concerns of air carriers in line with relevant ICAO guidance.

39.30 Concerning the issue of slot allocation raised in WP/231 presented by ACI, and WP/340 presented by IATA, the Commission heard and welcomed the joint statement made by both Organizations, which recognized the need to optimize the use of scarce capacity, particularly at capacity constrained airports. As such, the two Organizations agreed to work collaboratively on the ongoing process to develop a more efficient and effective slot allocation process. They also agreed that such a process must ensure transparency, certainty, consistency, fairness and non-discrimination, as well as

remaining globally harmonized. The Commission noted that ACI and IATA would work with States, the industry stakeholders as partners and would report progress to the next session of the Assembly.

39.31 In concluding its discussion, the Commission endorsed the future work plan of the Organization in the field of air transport policy and regulation, and agreed that the Council should give due consideration to the views and suggestions presented during the deliberations with respect to the implementation of its work programme in this field for the next triennium.

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