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LEGAL COMMITTEE – 33RD SESSION

(Montréal, 21 April – 2 May 2008)

PROPOSED AMENDMENTS TO ARTICLE 25 – ASSISTANCE IN NON-PARTY STATES

(Presented by United Kingdom)

Article 2

1. This Convention applies to damage to third parties which occurs in the territory of a State Party caused by an aircraft in flight on an international flight, as a result of an act of unlawful interference. ~~This Convention shall also apply to such damage that occurs in a State non-party as provided for in Article 26.~~

2. If a State Party so declares to the Depositary, this Convention shall also apply to damage to third parties that occurs in the territory of that State Party which is caused by an aircraft in flight other than on an international flight, as a result of an act of unlawful interference.

3. **As provided for in Article 25 this Convention shall apply to damage:**

- (a) **that occurs in a State non-Party; or**
- (b) **caused by an aircraft in flight other than on international flight where the State Party in which the damage occurs has not made a declaration under paragraph 2 of this Article.**

Article 2(3) would become Article 2(4).

Chapter VI

Additional Assistance in case of events in States non-party

Article 25 – Additional Assistance in certain cases of events in States non-party

1. Where an operator, which has its principal place of business, or if it has no such place of business, its permanent residence, in a State Party, is liable for damage occurring in a State non-Party, the Conference of Parties may decide, on a case-by-case basis, that the Supplementary Compensation Mechanism shall provide financial support to that operator.

2. The Conference of Parties may decide, on a case-by-case basis, that the Supplementary Compensation Mechanism shall provide compensation to third parties for damage caused by an aircraft in flight other than on an international flight which occurs in a State Party that has not made a declaration under Article 2, paragraph 2, [if the operator of that aircraft has its principal place of business, or if it has no such place of business, its permanent residence, in that State]¹.
3. Such financial support or compensation may only be provided in respect of damage that would otherwise have fallen under the Convention ~~if the State non-party had been a State Party~~ and if the State in which the damage occurs ~~non-party~~ agrees in a form acceptable to the Conference of Parties to be bound by the provisions of this Convention in respect of the event giving rise to such damage unless otherwise agreed by the Conference of Parties. The financial support or compensation shall not exceed the maximum amount for compensation set out in Article 18, paragraph 2. If the solvency of the operator liable is threatened even if financial support is given under paragraph 1, such support shall only be given if the liable operator has sufficient arrangements protecting its solvency.

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¹ If a connecting factor between a State and its operators is maintained in this way, damage caused by a third-country carrier performing carriage within that State would not be covered under this Convention.