

INTERNATIONAL CIVIL AVIATION ORGANIZATION

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## ASSEMBLY – 32ND SESSION

### ECONOMIC COMMISSION

**Agenda Item 31: Regulation of international air transport services**

#### REPORT BY THE COUNCIL ON COMPUTER RESERVATION SYSTEMS (CRS)

##### SUMMARY

This paper reports on the Council's work since the 31st Session on reviewing and revising the ICAO CRS Code of Conduct and formulating model clauses designed to strengthen and complement it. The Assembly is invited to take the action indicated in paragraph 6.

##### REFERENCES

Doc 9656, A31-EC  
Doc 9644, AT Conf/4  
Doc 9587, *Policy and Guidance Material on the Regulation of International Air Transport*  
State letter EC 2/28-97/97 dated 12 December 1997  
State letter EC 2/28-96/74 dated 9 August 1996

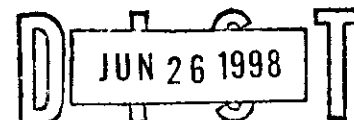
#### 1. INTRODUCTION

1.1 Assembly Resolution A31-13 *inter alia* requested the Council to:

- a) complete its review of the form and content of the ICAO Code of Conduct for the Regulation and Operation of Computer Reservation Systems as a matter of priority;
- b) consider the development of a model clause on computer reservation systems for use in bilateral air services agreements or multilateral arrangements with a view to reinforcing or complementing the Code without undermining its effectiveness; and
- c) bear in mind the particular need for close and effective collaboration between ICAO and the World Trade Organization in view of the inclusion of computer reservation systems in the GATS (General Agreement on Trade in Services).

This paper summarizes action on these three tasks.

(5 pages)



## 2. THE REVISED CODE

2.1 The Council completed its review of the ICAO CRS Code and on 25 June 1996 adopted a revised Code which, effective 1 November 1996, replaced in its entirety the Code adopted by the Council in 1991. The new Code is the result of a two-year review marked by extensive consultations with States, air carriers, travel agents, CRS vendors and international organizations. The Organization was assisted in this review by a Secretariat Study Group on CRS, which worked extensively by correspondence and met twice (14-16 February 1995 and 5-8 September 1995).

2.2 The revised Code takes into account current market practices as well as the Recommendation of the World-wide Air Transport Conference (Montreal, 1994). The Code has been developed for world-wide applicability and consequently reflects the critical need for harmonization of the various national and regional CRS regulations while recognizing that States may, consistent with the Code's principles, go beyond it in regulating certain aspects of CRS.

2.3 The principal changes in the Code, compared with the one adopted by the Council in 1991, include expanding the applicability to cover non-scheduled air services and information systems such as the Internet (where States find this necessary), strengthening the safeguarding of the privacy of personal data, requiring that passengers be informed of codeshared and non-scheduled flights, establishing additional criteria for CRS fees, adopting more specific criteria for the order of flight displays, limiting the number of times codeshared flights can be displayed, prohibiting fictitious bookings, and permitting developing countries to delay operations by foreign CRS vendors in their territories until 31 December 2000.

2.4 The Code necessitates no formal process of ratification, but each Contracting State which commits itself to follow the Code is expected to notify ICAO of its decision. The term "following the Code" means that a State endeavours to apply the general principles of behaviour in the Code in its regulation of CRSs or follows policies or applies rules which are consistent with the Code within its territory and in its relations with other States which also follow the Code.

2.5 The Code was distributed to States under cover of State Letter EC 2/28-96/74 dated 9 August 1996 with a request that, in accordance with Article 12 of the Code, they notify the Secretary General as to their intentions with respect to following the Code. As of 1 December 1997 the following States had responded that they either follow the revised ICAO CRS Code or that the CRS laws, regulations or codes of conduct for CRSs applied by them are consistent or compatible with the Code: Fiji, France, Jordan, Kingdom of the Netherlands (Aruba), Kuwait, Portugal, Romania, Thailand and United States. (During the comparable period after the adoption of the original ICAO CRS Code, 30 States informed ICAO that they either followed the Code or that their CRS laws, regulations or codes were generally consistent with it.) At the time this paper was written reviews were underway of the CRS codes of conduct of the European Civil Aviation Conference and of the European Union and of the national CRS regulations of the United States.

2.6 States were reminded of the importance of informing ICAO concerning their intentions with respect to the revised Code by State Letter EC 2/28-97/97 dated 12 December 1997. An update of responses will be provided at the time of the Assembly Session.

### **3. THE MODEL CLAUSES**

3.1 In conjunction with adopting the revised CRS Code, on 25 June 1996 the Council approved two model CRS clauses, designed for different situations. The first model clause is to be used when none of the States involved in the bilateral or multilateral agreement or arrangement in which the clause is to be included has rules or regulations concerning CRSs. The second model clause is to be used when one or more of the States involved has rules and regulations concerning CRSs. The purpose of these clauses is to reinforce and complement the CRS Code by encouraging States to use it in their bilateral or multilateral aviation relationships, in addition to following it on a national basis.

3.2 States most likely to employ the model clauses are those which are following the ICAO Code. However, none of the States listed in paragraph 2.5 above has registered with ICAO an air services agreement with another State in that list which was concluded after 1 November 1996. In one instance after that date one of these States concluded a bilateral air services agreement with another State which has not informed ICAO that it is following the ICAO Code; that agreement included a detailed article on computer reservation systems which contained many of the provisions in the ICAO Code.

### **4. LIAISON WITH THE WORLD TRADE ORGANIZATION**

4.1 During the review of the Code the Secretariat co-ordinated suggested changes to the ICAO Code with the staff of the Services Division of the World Trade Organization, which indicated that the resulting text did not conflict with the GATS. Consequently, ICAO Contracting States which are Parties to the GATS can follow the revised ICAO CRS Code consistent with that agreement.

4.2 Since the adoption of the Code, ICAO personnel have exchanged information with personnel of the World Trade Organization on several aspects of the question of exempting developing countries from CRS market access provisions as well as on the nature and extent of CRS operations in developing States.

### **5. CONTINUED WORK ON CRS**

5.1 The Organization's continuing work on CRS will focus on:

- a) encouraging States to use the new ICAO Code and the model clauses and to keep the Secretary General informed as to their positions thereon; and
- b) monitoring developments in this area with a view to any possible changes which may be required in the Code.

This focus is reflected in text intended to supersede Resolution A31-13 in the proposed Consolidated Statement of Continuing ICAO Policies in the Air Transport Field to be considered by the Assembly under Agenda Item 33 (see Appendix to this paper).

**6. ACTION BY THE ASSEMBLY**

**6.1 The Assembly is invited to:**

- a) note this report on the Council's work on updating the ICAO CRS Code of Conduct and formulation of model CRS clauses; and
- b) review the text in the Appendix to this working paper with a view to its adoption under Agenda Item 33 as part of the Consolidated Statement of Continuing ICAO Policies in the Air Transport Field.

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## **APPENDIX**

### **TEXT ON COMPUTER RESERVATION SYSTEMS IN PROPOSED CONSOLIDATED STATEMENT OF CONTINUING ICAO POLICIES IN THE AIR TRANSPORT FIELD**

#### **Economic regulation Section III. Computer reservation systems**

*Whereas* there is a need to define principles of world-wide applicability for computer reservation systems based on transparency, accessibility and non-discrimination to enhance competition among airlines and among such systems, to afford international air transport users access to the widest possible choice of options to meet their needs, and to avoid abuse of these systems which can lead to harmful practices in the distribution of air carrier products;

*The Assembly:*

1. *Urges* Contracting States:
  - a) to follow the revised ICAO Code of Conduct for the Regulation and Operation of Computer Reservation Systems adopted by the Council on 25 June 1996;
  - b) to use as appropriate the Model Clauses, approved by the Council on the same date, to strengthen and complement the Code; and
  - c) to co-operate at the bilateral, regional and inter-regional levels with a view to reducing difficulties connected with the introduction and operation of computer reservation systems in various parts of the world; and
2. *Requests* the Council to revise the ICAO CRS Code when required.

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