

EXPLANATORY NOTE
on
Revised Discussion
on a
Draft of a Multilateral Convention on Foreign Investment in Airlines

The third “discussion draft” of the Multilateral Convention on Foreign Investment in Airlines, presented by the United States of America, is marked to show how it differs from the second discussion draft circulated in April 2009. The United States received constructive and thoughtful comments on the second draft and appreciated very much others’ consideration of this idea.

The third draft includes an idea suggested by the European Union, which would provide an optional opportunity for a Party to specify countries as to which it agrees to waive, on the basis of reciprocity, limitations on foreign investment in and control of its own airlines (see, in particular, paragraph 1(b) of Article 4). The United States has not reached a judgment as to the advisability of including this optional opportunity in the draft, pending evaluation of others’ views. In this connection, however, the United States notes that, were the Convention to include this additional element, U.S. law would not permit the United States to participate in this aspect.

The third “discussion draft” may be freely shared with interested colleagues and third parties. The United States seeks to foster an open discussion and looks forward to receiving comments on the proposed additional element as well as on any other aspects that others wish to address. As before, the objective is to complete a full exploration of the issues related to the Convention very carefully and only then to consider next steps. As stated when the first draft was circulated a year ago, a decision as to whether the United States would itself sign a multilateral agreement, and under what conditions, must be reserved until the concept is fully developed and others’ views have been considered.