ATConf/6-WP/104
20/3/13

# WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

**SIXTH MEETING**

**Montréal, 18 to 22 March 2013**

## AGENDA ITEM 1.1

The attached constitutes the report on Agenda Item 1.1 and should be inserted at the appropriate place in the yellow folder.

(6 pages)

**Agenda Item 1: Global overview of trends and developments**
**1.1: Industry and regulatory developments**

## 1.1.1 DOCUMENTATION

1.1.1.1 The Conference considered Agenda Item 1.1 based on the following working papers: WP/17, WP/22 and WP/23 (Secretariat), WP/33 (United Arab Emirates), WP/39 (Egypt), WP/70 Revised (Canada, Germany, Singapore, United Arab Emirates, United States, International Air Transport Association (IATA) and the International Air Cargo Association (TIACA)), WP/53 (presented by Ireland on behalf of the European Union (EU) and its Member States and by the other Member States of the European Civil Aviation Conference (ECAC)), WP/56 (Colombia on behalf of the Latin American Civil Aviation Commission (LACAC)), WP/57 (Chile on behalf of LACAC), WP/65 (World Tourism Organization (UNWTO)), WP/ 102 (Asociación Latinoamericana de Derecho Aeronáutico y Espacial (ALADA)), WP/100 (Airports Council International (ACI)), and WP/80 (Civil Air Navigation Services Organisation (CANSO)). The following information paper was also noted by the Conference: IP/10 (Indonesia).

## 1.1.2 DISCUSSION

1.1.2.1 The Conference supported the Secretariat working papers presented on the achievements since ATConf/5, the sustainability of economic development of air transport and the air transport value chain. The Conference also recognized the value of the work accomplished since ATConf/5 in assisting States in the process of liberalization. It was requested that ICAO ensure that guidance on liberalization be kept current, including the updating of liberalization indicators.

1.1.2.2 Noted were the developments that have taken place in the field of air transport which relate to the emergence of alliances and mergers between airlines. The Conference recognized that there would be value in studying the positive and negative impact on the air transport market, in particular with respect to compliance with competition standards and the prevention of monopolies.

1.1.2.3 Recognizing the close interrelationship between air transport and tourism, the Conference noted the need for closer cooperation and collective action beyond functional “silos” of air transport and tourism as well as the need to foster coordination among all interested stakeholders in general, and between the World Tourism Organization (UNWTO) and ICAO in particular.

1.1.2.4 Various views were expressed on the subject of the pace of liberalization. Some States mentioned the benefits of accelerated liberalization while others felt that different realities and specific situations for States may impact the pace of liberalization. It was argued by other States that a balance between fair competition and further liberalization was required and it was stated that unilateral actions by States may hamper the development of international air transport.

1.1.2.5 The important role that ICAO plays in promoting liberalization was recognized and concern was raised with respect to the funding of ICAO work in the field of air transport. It was considered that ICAO is the optimum forum to advance such work and support was expressed for the

establishment of a dedicated voluntary fund to strengthen the ICAO role in this field, in accordance with ICAO rules of governance and policies.

1.1.2.6 The Conference noted the importance of the ratification of the Convention for the unification of certain rules for international carriage by air (Montreal Convention 1999 – MC99). There was strong support for promoting the ratification of MC99 by States which have not done so and for ICAO to provide assistance.

1.1.2.7 The subjects of safety and State sovereignty of airspace were considered to be outside the scope of the Conference and it was suggested that the issues should be discussed by the Assembly.

1.1.2.8 Finally, the International Labour Office conveyed the points of consensus adopted at an ILO Global Dialogue Forum held in February 2013.

### 1.1.3 **CONCLUSIONS**

1.1.3.1 As a result of the documentation considered and ensuing discussions on industry and regulatory developments under Agenda Item 1.1, the Conference concluded that:

a) ICAO follow up work relating to ATConf/5, in the field of economic regulation, facilitated and assisted States in adapting to changes in the process of regulatory evolution. The continuation of such work would be beneficial to States in the development of air transport;

b) with a view to fostering sustainable development of air transport, profitability differences within the air transport value chain, fragmentation in the regulatory framework, challenges associated with financing the air transport system, infrastructure capacity constraints and unilateral actions by States that have an impact on international air transport must be recognized as impediments to sustainable development of air transport and eliminated in order to cope with the expected growth of world air traffic while fostering sustainable development of the air transport system;

c) the cost of fuel is largely dependent on market forces and the possibility of regulatory intervention appears unlikely. However, it is imperative that the regulatory framework for the development of air transport foster strategies to mitigate the negative economic impact of fuel price volatility;

d) during the past decade, stakeholders of the air transport value chain have been operating in an increasingly competitive environment. These stakeholders are interdependent; operating costs and the operational environment impact the value created by the air transport industry;

e) created initially to respond to market regulation restrictions and to remain competitive and present on the market, alliances have become increasingly complex and interrelated in terms of cooperation frameworks and enormous marketing powers. Despite all the features and benefits of alliances and mergers in the air

transport industry, there are drawbacks and flaws which need to be addressed and ICAO should conduct studies on this issue;

f) both States and relevant international organizations should take a broad, homogeneous and sustainable approach to air transport and tourism policies;

g) taking into consideration the different realities of States, it is recognized that liberalized aviation markets have generally produced significant growth, development and social benefits for States that have embraced them;

h) in order for ICAO to play an important role in air transport liberalization, a dedicated air transport fund may be established with a view to seeking voluntary contributions from Members States so as to enhance the work of the Organization in this field, provided that such a fund is administered in accordance with ICAO rules of governance and policies; and

i) the MC99 has been an effective tool in determining air carriers liabilities and its implementation should be improved so as to provide important benefits to all Parties.

## 1.1.4 RECOMMENDATIONS

**Recommendation 1.1/1 — Industry and regulatory developments**

**The Conference recommends that:**

a) States should recognize the importance of national and regional regulatory frameworks in ensuring compliance of alliances with competition standards and in preventing monopolies; States should also give due consideration to the benefits that alliances create;

b) States should consider the creation of mechanisms that allow for closer co-operation and co-ordination between their tourism and air transport authorities; States should also support an increased co-operation between ICAO and UNWTO on key issues of common interest; States should support and encourage the universal adoption of MC99;

c) ICAO should continue to monitor developments, conduct studies on major issues of global importance, provide a set of basic principles to States and share its analyses on the development of the air transport industry with States, international organizations and the industry;

d) ICAO should update and advance its guidance material on the regulation of international air transport. In particular, it should continue to update the Template Air Services Agreement (TASAs) to keep pace with regulatory evolution and to update liberalization indicators. ICAO should also continue to develop relevant databases such as the *Database of the World's Air Services Agreements* (Doc 9511), as well as case studies of liberalization experiences;

e) ICAO should continue to assist States with air transport liberalization efforts; this could be undertaken, inter alia, through the development of additional training courses, regional

seminars or similar activities for the benefit of States, in accordance with available resources;

f) ICAO should be the only forum for initiating global solutions for the development of a sustainable air transport system for all interested parties; ICAO should continue to cooperate with international and regional organizations and with the industry in order to monitor impediments to a sustainable air transport system and define, in a cooperative manner, key strategies to overcome impediments;

g) ICAO should establish an air transport fund in order to seek voluntary contributions from Member States with a view to enhancing the work of the Organization in this field. This fund should be administered transparently in accordance with relevant ICAO rules of governance and policies; and

h) ICAO should provide assistance with the ratification of MC99, if so requested by a State.

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