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ASSEMBLY — 42ND SESSION

ECONOMIC COMMISSION

Agenda Item 26: Economic Development of Air Transport

OBJECTION TO THE RECENT AMENDMENT TO ARTICLE 8 OF UNITED NATIONS MODEL DOUBLE TAXATION CONVENTION

(Presented by Oman, on behalf of the Arab Civil Aviation Organization (ACAO)[2])

EXECUTIVE SUMMARY

This paper, submitted by Oman on behalf of the Arab Civil Aviation Organization (ACAO), discusses the objections raised by Arab civil aviation authorities to the recent amendment to Article 8 of the Model Double Taxation Convention between Developed and Developing Countries (UN Model Convention), which allows double taxation of airline income by countries to and from which airlines operate. The paper highlights the main concerns about the negative impact of the amendment on the international air transport sector and its potential effects on international travel, tourism and trade, including the expected repercussions on ticket prices and international air freight cost, especially since the amendment contradicts the international consensus among global aviation authorities, namely that topics related to air transport industry, including taxes on international air transport activities, should be discussed under the umbrella of the International Civil Aviation Organization (ICAO).

This working paper submitted by Oman, on behalf of ACAO, provides practical recommendations to ensure the sustainability of the international air transportation sector. The paper is based on the principles outlined in ICAO's Doc 8632 *ICAO's Policies on Taxation in the Field of International Air Transport*.

Action: The Assembly is invited to:

a) endorse reconsidering the retention of the previous version of Article 8 of the UN Model Convention;.
b) underscore that ICAO should remain the main umbrella for discussing and approving all issues related to air transport and taxation of international air transport activities;
c) request ICAO Council to conduct comprehensive studies to assess the potential impacts on the international air transport sector, as a result of amending Article 8 of the UN Model Convention; and
d) support the strengthening of international cooperation to avoid double taxation through bilateral and multilateral agreements, based on what is recommended in Doc 8632— *ICAO's Policies on Taxation in the Field of International Air Transport.*

Strategic Goals:	This working paper relates to Strategic Goal: *The Economic Development of Air Transport Assures the Delivery of Economic Prosperity and Societal Well-Being for All*

[1] Arabic version provided by Oman.
[2] Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Qatar, Saudi Arabia, Somalia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen.

Financial implications:	There are no direct financial implications, as the recommendations aim at minimizing the financial and administrative burden on airlines in order to ensure the sustainability of international air transport.
References:	*United Nations Model Double Taxation Convention* *Convention on International Civil Aviation* (Chicago Convention, 1944) Doc 8632 — *ICAO's Policies on Taxation in the Field of International Air Transport*

1. INTRODUCTION

1.1 Article 8 of the United Nations (UN) Model Double Taxation Convention addresses the taxation of profits arising from the operation of ships or aircraft in international traffic. As previously drafted, Article 8 provides that such profits are subject to tax only in the Contracting State in which the headquarters of the enterprise is located.

1.2 The previous version of Article 8 was designed to streamline taxation regulations and avoid double taxation that could adversely affect international air transportation.

1.3 However, the new amendment to Article 8 by the United Nations Economic and Social Council (ECOSOC) and the United Nations Tax Committee grants the right to impose taxes on airline income by the countries to which and from which airlines operate. As such, the said amendment will have significant negative implications on international air transport. It also contradicts the consensus among the International Civil Aviation Organization (ICAO) Member States, as represented by their respective civil aviation authorities, since it raises concerns on account of being in contradiction to the principles enshrined in Doc 8632 — *ICAO's Policies on Taxation in the Field of International Air Transport*, which emphasizes the importance of ensuring a stable tax environment for the international aviation sector by avoiding unjustified double taxation.

2. OBJECTION OF ACAO ON AMENDING ARTICLE 8

2.1 Impact on the principle of unified taxation:

2.1.1 ACAO believes that this amendment violates the principle of unified taxation, which aims to stabilize the tax system and avoid complications.

2.1.2 Allowing double taxation in countries where air services are used will create an unbalanced environment, which Doc 8632 warns against.

2.2 Increased administrative and financial burdens:

2.2.1 This amendment places additional burdens on airlines in different countries, particularly in developing countries, compelling them to comply with multiple tax regulations, increasing the operational costs of airlines and air carriers and weakening the competitiveness of international air transport.

2.2.2 ICAO Doc 8632 recommends that taxation should be imposed in a manner that minimizes unnecessary administrative burdens.

2.3 Negative impact on passengers and cargo traffic:

2.3.1 Additional tax burdens are expected to be reflected in airfares and international air cargo cost, which will, in turn, affect international travel, tourism and trade.

2.3.2 The amendment also impacts the principles contained in the Convention on International Civil Aviation (Chicago, 1944) which ensure the safe, secure and orderly development of international civil aviation and the establishment of international air transport airlines on the basis of equal opportunity and viable operation.

2.4 Detriment to the principle of equality:

2.4.1 The amendment will lead to significant disparity in tax treatment among international airlines, creating a state of inequality.

2.4.2 Doc 8632 recommends that taxation be conducted in a manner that minimizes unnecessary administrative burdens.

2.5 Complexity of the business environment:

2.5.1 Double taxation requires the adaptation of accounting and management systems, which in turn increases the complexity and financial and economic consequences for the air transport industry and civil aviation, in general, thereby discouraging companies from investing in international air transport.

3. RECOMMENDATIONS OF ACAO

3.1 Given that Article 55 (e) of the Chicago Convention provides that the ICAO Council may "*investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation*," ACAO recommends that:

3.1.1 ICAO request the UN to repeal the current amendment to Article 8 of the UN Model Convention, which would ensure the stability of the global taxation system and avoid complications, in line with ICAO Doc 8632 — *ICAO Policies on Taxation in the Field of International Air Transport*

3.1.2 ICAO Assembly underscore that ICAO should remain the main umbrella for discussing and approving all issues related to air transport and taxation.

3.1.3 ICAO Council be mandated to undertake comprehensive studies to assess the potential economic and administrative implications on the air transport sector in States and on airlines, as a result of amending Article 8 of the UN Model Double Taxation Convention.

3.1.4 ICAO Council be requested to liaise with the United Nations Economic and Social Council (ECOSOC), the United Nations Tax Committee and international bodies concerned with amending the UN Model Double Taxation Convention, and that reference should be made to ICAO Doc 8632 *ICAO's Policies on Taxation in the Field of International Air Transport*, issued by the ICAO, the UN specialized agency concerned with air transport and civil aviation.

4. CONCLUSION

4.1. Considering the financial and economic consequences on the air transport industry, as a result of amending Article 8 of the UN Model Convention and in light of the economic and social importance of the air transport industry to many countries, Oman, on behalf of ACAO, expresses its deep concern over the amendment of Article 8 of the said Convention.

4.2. Oman, on behalf of ACAO, also emphasizes the need to comply with the recommendations contained in ICAO Doc 8632 on taxation policies in the field of international air transport, in order to avoid any adverse effects of unjustified double taxation.

4.3. Oman and ACAO hope that the ICAO Assembly will carefully consider the above objections and will endeavor to ensure that taxation policies for air transport activities are discussed and approved solely under the umbrella of ICAO, the organization specialized in the international air transport, and that taxation policies are formulated in a manner conducive to tax justice without harming the air transport sector.

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