

**DECLARATION OF RESERVATION OF THE REPUBLIC OF ARGENTINA IN  
RELATION TO RESOLUTION A37-17/2 – CONSOLIDATED DECLARATION OF  
THE PERMANENT POLICIES AND PRACTICES OF ICAO RELATED TO  
PROTECTION OF THE ENVIRONMENT – CLIMATE CHANGE**

Mr Secretary General,

Dear Sir,

The Republic of Argentina recognises the critical importance of dealing with climate change and therefore recognises the need to make an effort to find ways and means to limit or reduce the impact of greenhouse gas emissions (GGE) from international civil aviation on the world's climate. The Republic of Argentina equally recognises the principles and provisions on common but separate responsibilities and respective capacities, and the fact that developed countries should take the initiative within the Kyoto Protocol of the United Nations Framework Convention on Climate Change (UNFCCC). It also recognises the principles of non-discrimination and equality, as well the equality of opportunities for the development of international civil aviation set out in the Chicago Agreement.

The Republic of Argentina agrees to pursue a strategy consolidating efforts designed to achieve the world goals to which it aspires, with regard to the contribution of the international aviation sector in facing the worldwide challenge to solve the problem of greenhouse gas emissions (GGE). These goals should be based on an exhaustive examination of the best technology available, the best accepted operating practices and all other measures that help to reduce greenhouse gas emissions (GGE).

During the 37<sup>th</sup> Session of the ICAO Assembly, the Republic of Argentina adhered to the position of the Republic of Cuba, when it expressed its position with regard to climate change in study note A37-WP/271 (Revision 1), which was submitted on behalf of and with the express support of the 21 Member States of the Latin American Civil Aviation Commission (LACAC).

The Republic of Argentina is aware of the difficulties that arose during the 37<sup>th</sup> Session of the ICAO Assembly, as well as at previous specialist meetings, in obtaining a general consensus that would fulfil the above-mentioned principles, and hopes that in the forthcoming discussions of the ICAO Council the necessary consensus is obtained, to which end the Representative Delegation of Argentina will try and support all the initiatives aimed at finding a common viable and satisfactory solution.

On the basis of the above, and as a result of Resolution 17/2 –Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate change, the Republic of Argentina was able to note the different reservations made by several Member States and that their content did not reach the desired level of consensus; it therefore supports the “Cuba Declaration” (Appendix A), read on 8 October, 2010 at the Plenary Session of the Assembly, in which the reservation of the Republic of Argentina is based on paragraphs 6, 12, 14, 15 and 16 of Resolution A37-17/2, which we attach and which forms part of the text of this note. Also, as stated in the “Cuba Declaration”, it correlates to the “Argentina Declaration” (Appendix B), which was read on 8 October at the 8<sup>th</sup> Session of the Executive Committee representing Argentina, Brazil, China, Cuba, India and Saudi Arabia, and a copy whereof is attached to this note. As stated in the above-mentioned declarations, we wish to point out that the aspects related to neutral carbon growth, the so-called MBMs and the de minimis exceptions are referred to the Council of the ICAO for its further report to the 38<sup>th</sup> Assembly of ICAO.

This information is sent so that the above-mentioned Reservation can be recorded in the document containing the Assembly Resolutions in Force (as of 8 October 2010) (Appendix A) and the text of the declarations mentioned in the Reports and Minutes of the 37<sup>th</sup> Session of the Assembly (Executive Committee and Plenary).

Thanking you for the attention given to our request, I take this opportunity to send my best wishes to you, Mr Secretary General.

[signature]

Jorge Andrés GELSO

Representative of Argentina on the ICAO Council.

Attachments: Appendices A and B

**Declaration of the Head of the Delegation of the Republic of Cuba made at the Plenary  
Session of the 37<sup>th</sup> Assembly of the ICAO on Friday, 8 October, 2010**

“CUBA: Thank you very much, Mr Chairman

As you know, Mr Chairman and distinguished delegates, our country has paid special attention to the subject of climate change. Cuba has supported and supports the leadership role of ICAO in focusing on the matter of international civil aviation emissions, and we set great store by its work and its management at the head of the informal working group.

Many of our States here today are members of the United Nations Framework Convention on Climate Change and, as a result, we have obligations and rights to observe in this context. So, we recognise the great contribution that developed countries have historically made to the world’s greenhouse gas emissions and, as a result, that protection of the environment, as it was considered then and now, must be carried out on the basis of fairness and according to the principle of common but differentiated responsibilities (CBDR) of the States.

We have concluded that we have certainly taken significant steps since the Resolution approved at the 36<sup>th</sup> Assembly, and although it is true that some points such as those shown in the Assembly related to the trade of emissions rights, and I mention that in that Resolution it was set out “that the contracting States were urged not to introduce an emissions rights trade applicable to aircraft operators from other contracting States, except by means of mutual consent between those States”, although it is true that this text does not appear in this draft Resolution, we still consider that advances have been made that we cannot lose.

On this basis of the advances achieved, and taking into account that consensus on some of these aspects has been made difficult, we, the countries who put forward the proposal read by Argentina, including India, Saudi Arabia, Brazil, Cuba and other States, consider that we should have a certain flexibility so that, in fact, we do not lose what has been achieved so far, and we could continue working to this end.

We, the countries signing this Resolution, namely: Argentina, Brazil, China, Saudi Arabia, India, Cuba and others who have joined us, consider that we must make reservations with regard to paragraphs 6, 12, 14, 15 and 16 of the Resolution.

So, we think that, in order to be able to reach a consensus and be able to move forward, we could express these reservations and they should be taken into account in the minutes, in the reports of this point on Agenda 17 at our Assembly and, once expressed, we propose to the Assembly that a resolution be made, a decision be taken, for the matters relating to neutral carbon growth, MBMs, the *de minimis*, the *de minimis* exceptions to be referred to the ICAO Council, for subsequent study as soon as possible, so that there can be a report to the 38<sup>th</sup> Session of the Assembly for consideration. That is to say, once again, Mr Chairman, our position is that we would support the proposal arising from all the conversations and all the discussions we have held, for the reservations of the countries of Argentina, Brazil, China, Saudi Arabia, India and others that have joined us in this purpose, relating to paragraphs 6, 12, 14, 15 and 16 to appear in the report of point 17 of the Agenda of this Assembly. And that we should take the decision, on behalf of the Assembly, for the matters relating to neutral carbon growth, MBMs and the *de minimis* exceptions to be referred or transferred to the ICAO Council for subsequent study as soon as possible, in the shortest possible time, and for a report on this to be made to the 38<sup>th</sup> Session of the Assembly for its consideration.

On this basis, we could unite and support Resolution 17/2 as set out in WP/402. Thank you very much.

**PRESIDENTE: Thank you so much, Cuba. Did I hear you well, you are talking on behalf of those countries that have spoken before, and you would support that we want to take into consideration your reservation on those points you have mentioned.** T

CUBA: Reservations relating to paragraphs 6, 12, 14, 15 and 16. And our proposal for the agreement to be taken by the Assembly, for the matters relating to neutral carbon growth, MBMs and the *de minimis* exception to be referred to the ICAO Council for further study as soon as possible and for its report on the advances in this respect to be made during the 38<sup>th</sup> period of sessions of the Assembly.

**PRESIDENTE: Thank you so much Cuba, Argentina and all those countries who have supported this now. "we take note of those observations and your reservations".**

**Declaration from the Head of the Delegation of the Republic of Argentina and  
Representative of Argentina on the ICAO Council., Mr Jorge A. Gelso, made at the  
eighth Plenary Session of the Executive Committee on Friday, 8 October, 2010, in the  
ICAO Assembly Hall**

Thank you, Mr Chairman,

Several delegations of the States here today at this Assembly are not able to give our consent to the draft Assembly Resolution 17/2, and so we understand that WP/402 and its content cannot be adopted by this Executive Committee, and thus by the Plenary of the Assembly. I ask the Chairman of the Executive Committee to include in the minutes of the Executive Committee and the Assembly the following declaration, which I will read in English in consideration of the Delegations present who are signatories thereto.

*Thank you Mr. Chairman.*

*I am given this onerous task to speak on behalf of the developed countries represented by China, India, Brazil, Saudi Arabia, Cuba, Libya and others who constitute almost half of the world's population.*

*For the last year, the President of the Council of ICAO along with Secretariat and member States have tirelessly worked and done their best to move forward from the very progressive High Level Meeting Resolutions reached in October 2009. Despite our best intentions we could not reach a consensus, either in the Director General Civil Aviation (DGCA) Group, the Council of ICAO or the informal group constituted in this Assembly.*

*On behalf of our group of States, I would like to request the Executive Committee to consider the following:*

- a) Any world order created to satisfy the ambitions of a group of States, which does not have the consensus from a large number of developing countries constituting almost half of world's population, would be a task fraught with futile consequences;*
- b) ICAO has a rich tradition of finding consensus on important issues. We should not deviate from this path; and*



- c) *Member States who share different views should give a thought to the appeal of our group. We are not here to create problems for the progress in climate change negotiations. We are ready to actively support and till now we have a much better and cleaner environment record in this area compared to the developed nations. So why is it that large developing countries like China, Brazil, India, etc. have problem in agreeing to this declaration in its present form? This is because we do not want to seal the fate of our future generation and deprive them of the economic benefits of aviation for a problem solely created by the developed countries. We would like our future generations to reap the benefits of development as enjoyed by certain developed nations, we must find more innovative solutions to the problem of climate change rather than putting a cap on our growth.*

*Mr. Chairman, we are constrained to express our reservation on the proposed Draft Resolution (17/2) in its present form. I am going to highlight the points of common position of our group for consideration of the Executive Committee and then in the Plenary and would like to request the Assembly to record this in the proceedings.*

*Based on the United Nations Framework Convention on Climate Change (UNFCCC), it is well recognized and agreed that:*

- The largest share of historical and current global emissions of Green House Gas (GHG) has originated in developed countries.*
- Climate system should be protected on the basis of equity and in accordance with their common but differentiated responsibilities (CBDR).*

*Further*

- We Support that ICAO takes a leading role in addressing emissions from international aviation.*
- All member states of ICAO are also member States of UNFCCC, and thus they have to respect the rights and obligations agreed under UNFCCC.*
- We emphasise the importance of CBDR and that this principle is also applicable to addressing emissions from international aviation through ICAO assistance to developing countries (financial resources, technology transfer and capacity*

*building) is an agreed commitment of developed countries, and must be further specified in the context of international aviation.*

- *There should not be carbon neutrality goal for developing countries, as it will negatively impact the growth of their aviation as well as their economic development. Enforcing such goals on developing countries is contradictory to agreed principle of CBDR.*
- *Market based measures are only applicable to developed countries, in order to help them meet their commitments.*
- *Developing countries oppose any unilateral action by any single or a group of countries and any measures applied must be based on mutual consent between all States involved and affected.'*
- *CBDR already provides a clear framework for de minimis exception for all developing countries; actions from developed countries are obligatory, whereas developing countries may contribute voluntarily subject to receiving technical and financial support.*

*I, on behalf of our group, propose the following way forward:*

- *Developing countries are still working constructively and wish to have a positive outcome from the 37th Assembly that captures the significant agreements and progress made in ICAO during the last three years.*
- *The importance of conducting feasibility studies on more ambitious goals, including carbon neutral growth, and the impact of such goals on all countries, especially developing countries should be presented in the 38th Assembly.*
- *The importance of capturing significant progress from last Assembly in the Group on International Aviation and Climate Change (GIACC) and High Level Meeting on International Aviation and Climate Change (HLM-ENV) is reemphasized.*
- *The importance of establishing a mechanism for providing assistance to developing countries (financial, technical and capacity building) should be clearly recognized.*
- *Consensus is the basis of our work. Attempting proposals that do not respect the*

*international agreements and have no consensus in the ICAO Assembly is counter-productive and will only weaken the efforts of ICAO to take a leading role in this matter.*

- *Issues like carbon neutral goal (CNG) and market-based measures (MBM) are under discussions in the Conference of Parties (COP) of UNFCCC. We may await further development in this matter before we proceed here in ICAO.*

*To end my declaration, I would sincerely appeal to all States to agree on placing the consensus agreements made in the High Level Meeting on International Aviation and Climate Change (HLM-ENV) as an Assembly Resolution and strongly resolve to work towards finding a consensus on other issues and place it before the next Assembly in 2013.*





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**PERMANENT DELEGATION OF BRAZIL TO THE  
INTERNATIONAL CIVIL AVIATION ORGANIZATION**

Letter No.: 337/ BRASICAO

Montreal, 22 November, 2010

Mr. Raymond Benjamin  
Secretary General of ICAO  
Suite 12.15

Dear Mr. Secretary General,

I wish to refer to the 37<sup>th</sup> Assembly of ICAO and its resolution A37-17/2: "Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate change". As you recall, Brazil engaged the discussions on this topic in a constructive manner, which we intend to keep in the future rounds of talks related to the issue, and sustained a very clear stance on the necessity of making any decisions adopted in the ICAO context consistent with United Nations Framework Convention on Climate Change (UNFCCC) and the guiding principles of the multilateral climate regime, especially the provisions on "common but differentiated responsibilities and respective capabilities".

Since the final text of the aforementioned resolution did not fully address my country's concerns, a reservation to its paragraphs 6, 12, 14, 15 and 16 was presented jointly with Argentina, Cuba, India, Saudi Arabia and others. In this regard, I would like to reiterate the position voiced in the statements made at that time by the delegations of Argentina and Cuba, which I attach hereto for your reference, and to kindly request that the Brazilian reservation be included in the records of the Assembly as well as in other relevant ICAO documents.

My delegation is looking forward to continuing to contribute to this challenging debate.

Please accept, sir, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read "R. Magno", is written over a horizontal line.

**RAYMUNDO SANTOS ROCHA MAGNO**  
Ambassador  
Permanent Representative of Brazil to ICAO

**Reservation lodged by Australia to Resolution A37/17/2 on international aviation and climate change.**

“Australia does not accept and will not be bound by paragraphs 6 and 15 of resolution 17/2 adopted by the 37<sup>th</sup> Assembly on 8 October. Australia supports the implementation of the strategy endorsed by all ICAO member states participating at the High Level meeting (HLM-ENV) held in October 2009. HLM-ENV endorsed the Programme of Action developed by the Group on International Aviation and Climate Change (GIACC). An important element of the GIACC Programme of Action is that all states would contribute what they can in the efforts to address the impact of greenhouse gas emissions from international aviation operations on climate change, with states to choose the measures to adopt having regard to the particular circumstances.

Paragraph 6 is inconsistent with the GIACC programme of action in that paragraph 6 subparagraph c) introduces a distinction between developed and developing states in relation to the expectations. While it can be expected that some states will be able to achieve more success than others in reducing or containing emissions from international aviation activities, the respective contributions should be determined by the circumstances of each state and its reasonable capacity to contribute, not by reference to a distinction between developed and developing states.

Paragraph 15 of resolution 17/2 establishes an expectation that any carrier from a state whose international aviation sector accounts for less than 1% of total global traffic by revenue ton kilometres would be exempt from any market based measure established on a national, regional or global scale. This would exempt carriers from important aviation states, not just from states of lesser significance in international aviation. It would exempt carriers which are significant competitors on many international routes, leading to substantial market distortion and carbon leakage. The establishment of such a high threshold for a so called *de minimis* approach and any extension of the *de minimis* approach to the application of market-based measures has not been subjected to any real analysis and could undermine the effectiveness of the GIACC programme of action.”

**WRITTEN STATEMENT OF RESERVATION BY BELGIUM ON BEHALF OF THE EUROPEAN UNION (EU), ITS 27 MEMBER STATES, AND THE 17 OTHER STATES MEMBERS OF THE EUROPEAN CIVIL AVIATION CONFERENCE (ECAC) ON RESOLUTION A37-17/2: CONSOLIDATED STATEMENT OF CONTINUING ICAO POLICIES AND PRACTICES RELATED TO ENVIRONMENTAL PROTECTION – CLIMATE CHANGE**

The European Union (EU), its 27 Member States, and the 17 other States members of the European Civil Aviation Conference (ECAC) support a comprehensive approach to reducing aviation emissions, encompassing progress on technology and standards, operational measures, and market-based measures. We believe that it is necessary actively to pursue such a comprehensive approach since, as confirmed by the 4<sup>th</sup> Assessment Report from the IPCC, none of these measures will have a sufficient impact on aviation emissions in isolation.

The 44 European States welcome the adoption by the 37<sup>th</sup> Assembly of Resolution A37-17/2, as a step forward from Resolution A36-22 which it supersedes and replaces. They note that there were also a number of key aspects where no consensus was reached. Furthermore, a large number of States indicated their intention to place reservations on parts of the Resolution. This highlights the challenges of taking forward discussions limiting the climate impacts of aviation at a global level.

The 44 European States welcome the Resolution's recognition that it does not set a precedent for or prejudge the outcome of negotiations under the UNFCCC and its Kyoto Protocol nor represent the position of the Parties to the UNFCCC and its Kyoto Protocol. They also welcome the Resolution's recognition that some States may take more ambitious actions prior to 2020. Aviation is contributing to the EU's greenhouse gas reduction commitments through its inclusion in the EU-wide target to reduce emissions by 20% in 2020 from 1990 levels. From 1 January 2012, airlines' carbon dioxide emissions are included in the EU emissions trading system which will be applied by 30 European States.

There are four areas of the Resolution on which European States have entered reservations, in relation to paragraphs 6, 14, 15 and 17. Even though the Resolution is not binding, the European states enter these reservations in order to fully clarify their position with regard to expectations for the UNFCCC climate negotiations to deliver ambitious targets for global greenhouse gas reductions and to ensure effective implementation of the EU Emissions Trading System (ETS).

In relation to Paragraph 6, the European States believe that the collective "aspirational" goal which is formulated to apply from 2020 is insufficiently stringent. By 2020, global international aviation emissions are projected to be around 70% higher than 2005 levels, even with the 2% per year fuel efficiency improvement foreseen in the Resolution. Allowing aviation emissions to peak only in 2020 would result in ten years of considerable growth in emissions and

would not see aviation contributing adequately to attain the maximum 2°C temperature rise which requires global emissions to peak well in advance of 2020. Accordingly the European Union has consistently advocated that the global reduction target for greenhouse gas emissions from international aviation should be a 10% reduction by 2020 compared to 2005 levels. Europe remains committed to its more ambitious goals for net emission reductions from international aviation by 2020.

In relation to the last 16 words of paragraph 6(c), European States do not consider that actions by some States prior to 2020 should offset growth in emissions from any particular group of States, in the sense of action by the former excusing a failure to take action by the latter.

In relation to Paragraph 14 on market-based measures, the EU emphasises that the EU ETS allows it to take into account measures adopted by third countries in relation to incoming flights to the EU with a view to exempting them from the system. Such exemptions would follow consultations with these States, and the EU is ready to engage constructively in such consultations so as to reach agreement. It is important also to make clear that in no way can paragraph 14 be construed as requiring that market-based measures may only be implemented on the basis of mutual agreement between States. The Chicago Convention contains no provision which might be construed as imposing upon the Contracting Parties the obligation to obtain the consent of other Contracting Parties before applying the market-based measures referred to in Resolution A37-17/2 to operators of other States in respect of air services to, from or within their territory. On the contrary, the Chicago Convention recognises expressly the right of each Contracting Party to apply on a non-discriminatory basis its own laws and regulations to aircraft of all States.

In relation to Paragraphs 15 and 17 regarding *de minimis* provisions applicable to all market-based measures, including taxes and charges, the EU notes that its ETS contains *de minimis* provisions in relation to individual commercial aircraft operators that do not discriminate on the basis of nationality, an approach which Europe considers more appropriate and less prone to distort competition between carriers. The EU further notes that modification of the scope of these provisions would require an amendment of the EU's legislation. An exemption for operators from States below a *de minimis* threshold would also be problematic if it related to taxation.

*De minimis* provisions of the sort envisaged in Paragraph 15 would potentially exempt airlines from well over 160 countries from the scope of all market-based measures everywhere in the world, including in respect of flights within Europe. Such a provision would, if applied, increase market distortion and the risk of carbon leakage, in contradiction to paragraph (g) of the guiding principles listed in the Annex to Resolution A37-17/2.

Accordingly Belgium, on behalf of the European Union (EU), its 27 Member States, and the 17 other States members of ECAC, hereby enters a formal reservation on paragraphs 6, 14, 15 and 17 of Resolution A37-17/2, and

requests that these reservations be formally recorded in the report and the minutes of the 37<sup>th</sup> Session of the ICAO Assembly.



MISSION PERMANENTE DU CANADA AUPRÈS DE L'ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE  
DOYEN DES MEMBRES DU CONSEIL  
PERMANENT MISSION OF CANADA TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION  
DEAN OF THE COUNCIL MEMBERS

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Montreal,  
November 18, 2010

H.E. Mr. Raymond Benjamin  
Secretary General  
International Civil Aviation Organization  
« La Maison de l'OACI »  
Suite 12.15

Excellency:

I have the honour to refer to A37-WP/402 presented to the last General Assembly by the working group established by the President of the Assembly. The working paper addresses the subject of climate change and contains Resolution 17/2.

Attached is the statement made at the closing plenary of the 37<sup>th</sup> Assembly by the head of the Canadian delegation, which should be considered as Canada's written confirmation of its position with respect to A37-WP/402.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Lionel Alain Dupuis

Attach.

**Canada's Statement of Reservation regarding  
Working Paper 402 (Resolution A37-17/2):  
Consolidated Statement of Continuing ICAO Policies and Practices Related to  
Environmental Protection – Climate Change**

Canada came to the Assembly very much with a view to continuing the good work of the HLM of 2009 and moving forward together, the premise of moving forward together is an important one for us as it is for ICAO, given the Chicago Convention principle of non discrimination and the nature of the international air industry. We support ICAO's role as the lead institution for civil aviation matters and believe this is the right forum for the discussion on climate change and international aviation.

Progress on the international aviation climate change agenda was entrusted to ICAO by the UNFCCC and we must continue to advance this agenda. We believe that progress has been made, the issues that have been discussed in the Working Group established by the Chairman are complex and difficult and many difficult compromises have been made by all States to find a package that we might accept. We have all made compromises in an effort to find a comprehensive approach that could be acceptable. The challenge for us is how we reconcile this package approach with the fact that numerous delegations have expressed concerns or reservations with respect to specific paragraphs. We cannot simply remove some elements for further review and assume that the remaining text would be unchanged; this is not the basis on which the Working Group engaged in crafting *WP/402* worked. Canada views several elements of *WP/402* as positive advancements; we note the commitment to strive to achieve a collective medium term global aspirational goal of carbon neutral growth from 2020. We also note that this would be the first time that principles are identified to guide the design and implementation of MBM, and notable too is a commitment to accelerate work on technical and financial support to developing countries, technical transfer and capacity transfer.

However these positive elements are only part of the package and Canada has two specific concerns; we cannot accept 6C), that is the subparagraph under the medium term goals paragraph, this language appears problematic I believe to many States, and, for this reason we would recommend that the Assembly note this WP and the progress to date but we cannot support disaggregating some elements while others remain in active discussion. We would also make a reservation with respect to paragraph 15, which deals with an exemption from MBM for commercial aircraft operators of States below the de minimis threshold. A specific de minimis threshold for States in MBM takes us well beyond the broad principles that are contained in the annex of this Working Paper to a very specific application. Accepting the clause will affect the form of future MBMs. It seems to us that adoption of this is premature. The application of a de minimis threshold to States under MBM was raised for the first time during the course of this Assembly, in our view this has meant too little time for the needed discussion and study to understand the implications of this approach given the complexities of the aviation industry and the risk and challenges resulting from potential market distortion and carbon leakage. Canadian carriers participate on many routes that involve States that would be captured by the de minimis threshold as proposed.

I do look forward to Council debate on this subject to help inform our further thinking, but based on the above comments, we would recommend that the entire paper with any reservations and declarations be referred to Council for further deliberations.



# **China's Statement of Reservation on Resolution A37-17/2: Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection – Climate Change**

With regard to Resolution A37-17/2: consolidated statement of continuing ICAO policies and practices related to environmental protection – climate change, the Chinese Delegation makes the following statement:

International aviation in developing countries is still growing and is unable to achieve carbon neutral growth (hereinafter “CNG”) from 2020. It is unfair and unrealistic to have developing countries commit to CNG from 2020.

Climate change is mainly caused by the historical emissions and current high per capita emissions from developed countries. Consequently developed countries should take the lead in GHG emissions (including emissions from international aviation) reduction in accordance with the provisions of the *United Nations Framework Convention on Climate Change* and its *Kyoto Protocol*. More ambitious goals than CNG from 2020 should be achieved by the developed countries in international aviation.

Regrettably, the developed countries are not willing to clearly recognize their obligations and responsibilities in Resolution A37-17/2. In Operative Paragraph 6 (c) of this resolution, a clear wording of “the developed countries” should have been used, but developed countries insisted on the use of the term “some countries” which is rather ambiguous. For the sake of clarity, it is the understanding of the Chinese Delegation that “some countries” in Operative Paragraph 6 (c) in Resolution A37-17/2 refer to “the developed countries”. Therefore, the developed countries should take more ambitious measures and actions expeditiously to cut emissions from their international aviation aggressively to offset an increase in emissions from the growth of air transport in developing countries. Only in this way can we achieve the global goal of CNG in international aviation.

With regard to “de-minimis exemption” in Operative Paragraph 15 of Resolution A37-17/2”, it is the view of the Chinese Delegation that the concept of “de-minimis exemption” does not apply to the developed countries. International Civil Aviation Organization should urge the developed states to take specific actions to implement provisions relevant to “de-minimis exemption” so that those developing countries which are under the de-minimis threshold can receive real benefit

rather than an empty check which is unable to be encashed.

Regarding “the establishment and implementation of market-based measures(MBMs)” in Operative Paragraph 14 of Resolution A37-17/2 , the Chinese Delegation believes that MBMs can only be applied on the basis of mutual agreement and consensus.

Accordingly, the Chinese Delegation hereby enters a formal reservation on Operative Paragraphs 6, 14 and 15 in ResolutionA37-17/2: consolidated statement of continuing ICAO policies and practices related to environmental protection – climate change and requests the statement above be formally recorded in the report of the 37th Session of ICAO Assembly.

E. McCarthy

Job No. E10-4358

**RUSSIAN FEDERATION**

Ref.: 435/10

Montreal, 18 October 2010

Sir,

I send you herewith the text of the Statement of the Russian Federation regarding Resolution A37-17/22, made on 8 October 2010 during the plenary meeting of the 37<sup>th</sup> Session of the ICAO Assembly.

Accept, Sir, the assurances of my highest esteem.

[sgd] A.A. Novgorodov  
Representative of the Russian  
Federation to ICAO

Enclosure: 1 page

Mr. Raymond Benjamin  
Secretary General

**STATEMENT OF RESERVATION OF THE RUSSIAN FEDERATION  
REGARDING RESOLUTION A37-17/2: CONSOLIDATED STATEMENT OF  
CONTINUING ICAO POLICIES AND PRACTICES RELATED TO  
ENVIRONMENTAL PROTECTION – CLIMATE CHANGE**

In view of the absence of an evident need to apply market-based measures prior to 2020 in the context of achieving the “global aspirational goals” on CO<sub>2</sub> emissions reduction, the Russian Federation urges Contracting States to refrain from the unilateral application of market-based measures.

Considering that the “non-discrimination” principle was deleted from the text of the Resolution and also that the Resolution, as submitted to the Assembly for approval, tolerates “carbon leakage” and “market distortions”, the Russian Federation does not rule out the introduction of adequate retaliatory measures by other Contracting States in respect of the operators of Contracting States which introduce market-based measures unilaterally.

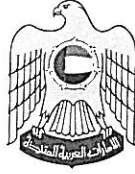
The Russian Federation will also refrain from applying the *de minimus* principle (operative clauses 12 and 15 of the Resolution) until ICAO completes the development of the agreed concept of the application of that principle.

## **Interpretative Statement Intervention**

With a strong commitment to advancing international aviation, Singapore came to this Assembly with the aim of reaching a meaningful consensus Resolution on international aviation and climate change. We were therefore flexible in discussing and working on the key issues to achieve consensus on a package that addresses the needs and concerns of all ICAO Member States, especially Developing States. There is clearly unanimity that ICAO should continue to take leadership in addressing international aviation emissions and the environment. We are also close to having a consensus resolution, except for the four paragraphs which the Assembly President has highlighted.

One specific provision that we had exercised the greatest of flexibility is Paragraph 15 of the Resolution on the application of a de minimis exemption for market based measures (MBM). We note that the paragraph will be further discussed by the ICAO Council and would like to provide our interpretation of this paragraph in terms of its implementation for the Council to take into account with the view of minimizing market distortions.

In our view, a de minimis exemption applied to an MBM is to exempt aircraft operators with low international aviation activity so as not to impose an excessive cost burden on them. Hence, in its implementation, the threshold for such a de minimis exemption is best applied based on the Revenue Tonne Kilometre (RTK) of aircraft operators, rather than strictly on the RTK of States. We see the RTK of States being only a proxy for the RTK of aircraft operators, in that States with very low RTK are most likely to have aircraft operators with very low RTK. In this regard, in applying a de minimis exemption to aircraft operators, the de minimis threshold should be set at an appropriate level to cover only aircraft operators that truly need exemption. The RTK of an aircraft operator, which is a better reflection of its market share and fuel burn, is the most appropriate measure of whether it qualifies for exemption from an MBM.



10 November 2010

**Mr. Raymond Benjamin**  
**Secretary General**  
**International Civil Aviation Organization (ICAO)**  
**999 University Street**  
**Montreal, Quebec**  
**Canada**

**Ref.: 37<sup>th</sup> Session ICAO Assembly – Resolution 17/2 – UAE Reservation**

Dear Mr. Benjamin,

The government of the United Arab Emirates (UAE) has the pleasure of writing in relation to the Resolution 17/2 “*Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection – Climate Change*” (Resolution 17/2), adopted by the 37<sup>th</sup> Session of the International Civil Aviation Organization (ICAO) Assembly on Friday, 08 October 2010.

At the last session of this Assembly, the UAE Delegation verbally formulated an express reservation to Paragraph 15 of Resolution 17/2. This was done in Arabic. For the purpose of clarifications and to avoid translation discrepancies, the UAE would be most obliged if ICAO’ Secretariat could register the filing of its official reservation to Resolution 17/2 as follows:

**“The UAE regards Paragraph 15 of this Resolution as contradicting and being inconsistent with the *Chicago Convention*”**

The UAE remains most grateful for your kind consideration to this matter.

Very truly yours,

**Capt. Aysha Al Hamili**  
**UAE Representative on the ICAO Council**



REPRESENTATIVE OF THE UNITED STATES OF AMERICA  
TO THE  
INTERNATIONAL CIVIL AVIATION ORGANIZATION

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October 20, 2010

Mr. Raymond Benjamin  
Secretary General  
International Civil Aviation Organization  
Suite 12.15

Dear Mr. Benjamin:

Please find attached the document, "Statement of Reservation of the United States of America regarding Resolution A37-17/2: Consolidated Statement of Continuing ICAO Policies and practices Related to Environmental Protection -- Climate Change."

If I can be of further assistance, please do not hesitate to contact me at extension 8304.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane E. Woerth".

Duane E. Woerth  
Ambassador

Attachment: as stated

**Statement of Reservation  
of the United States of America  
regarding Resolution A37-17/2: Consolidated Statement  
of Continuing ICAO Policies and Practices Related to  
Environmental Protection – Climate Change**

Tackling climate change is one of the most fundamental challenges that international aviation faces. The United States affirms the essential role of ICAO in developing a global, collective approach to address the contribution of international aviation to climate change that allows the aviation sector to grow in a sustainable fashion. The United States is committed to limiting or reducing the impact of aviation greenhouse gas emissions on the global climate. We are pleased to note that this is a shared perspective, as all member States have agreed at past sessions of the Assembly of the International Civil Aviation Organization (ICAO).

The United States has taken an active role at home and with partners in ICAO to implement a comprehensive set of programs to reduce our emissions through better scientific understanding, innovative aircraft technology, improved air traffic management efficiency, operational improvements, and development of sustainable alternative fuels for aviation. This work will provide the foundation of our efforts to help meet a global carbon neutral growth goal.

ICAO made substantial progress at the 37<sup>th</sup> Session of the Assembly toward establishing a global, collective approach on international aviation and climate change. Indeed, Resolution A37-17/2 makes significant steps forward in many respects, but it requires further work.

From the outset, the United States made clear that all the elements of A37-17/2 were to be considered as a package. The United States and others sought to find common ground and make compromises to reach a complete agreement on a package approach. Because we were not able to complete our negotiations, further work remains to be done on this resolution in order to reach a balanced package. We are committed to contributing fully to those efforts in order to ensure a resolution incorporating a global and ambitious approach. To achieve this, there must be balance among elements of the resolution, including the level of ambition of the global, medium-term goal; the clear understanding that States must engage in constructive negotiations in order for market-based measures (MBMs) to be applied; the threshold level for application of a *de minimis* concept regarding the expectation of States' participation in the global effort and application of MBMs to operators from States below the *de minimis* threshold; and technical assistance for States with special needs.



The collective character of the carbon neutral growth goal in paragraph six of the resolution reflects the fact that addressing international aviation emissions is a global issue. Data on cumulative international aviation emissions over the past four decades show that international air transport operations from both developed and developing countries have made significant contributions to the problem.

In addition, it is important to recall that Resolution A37-17/2 sets out a collective, non-attributable goal that does not place any binding obligation or requirement on individual States. It encourages action based on States' national circumstances and capacities.

The United States reiterates its reservation on the following paragraphs of Resolution A37-17/2:

- 1) Paragraph 6: We have concerns about a number of the conditions attached to the medium term goal adopted in this paragraph. We believe that several of the conditions in subparagraphs a) through e) go too far, and in particular we object to subparagraph c), which would weaken the imperative for global action, unduly differentiate among ICAO Member States in a manner inconsistent with the Chicago Convention, and potentially compromise the environmental effectiveness of collective international efforts. The United States also recalls that we had sought a more ambitious and achievable goal of carbon neutral growth by 2020 based on a 2005 baseline. We note that a range of States—developed and developing—wish to take action and that emissions from a range of States—developed and developing—will continue to grow. As stated above the United States is already undertaking ambitious actions that could help meet the goal. The United States believes paragraph 6 of Resolution A37-17/2, requires further work, particularly with regards to the characterization of efforts of all States.
- 2) Paragraph 15: While the United States supports the *de minimis* concept with regard to guiding expectations on whether States should contribute to the goal, we note that questions remain regarding its application to MBMs. This concept requires further discussion and clarity before it can be implemented, and its value should be considered in relation to the overall balance of the package. Therefore, the United States believes further work is required on paragraph 15 of Resolution A37-17/2.
- 3) Annex of Market-Based Principles: We have a number of concerns regarding the principles listed in the Annex in this Resolution with respect to application of market-based measures. The current principles at various points are not well-defined, overly prescriptive, or difficult to realistically apply to international aviation. Therefore, the United States believes further work is required on the Annex in Resolution A37-17/2.

Resolution A37-17/2 is a package. As noted above, while appreciative of the efforts that went into developing this resolution, we continue to believe that more work needs to be done to ensure a balanced and effective package. Accordingly the United States looks forward to working with other ICAO Member States on addressing all the issues set out in the resolution, including in particular those described above, in order to find collaborative solutions that will allow for sustainable growth in international aviation.