



ASSEMBLY – 35TH SESSION

EXECUTIVE COMMITTEE

Agenda Item 15: Environmental protection

**UPDATING OF RESOLUTION A33-7: CONSOLIDATED STATEMENT
OF CONTINUING ICAO POLICIES AND PRACTICES
RELATED TO ENVIRONMENT PROTECTION**

(Presented by the 25 Member States of the European Union¹, Norway and Switzerland)

SUMMARY

This paper reviews the revised draft consolidated statement of continuing ICAO policies and practices related to environment protection (A35-WP/77), and offers proposals for a small number of changes to the draft. The consolidated statement is a declaration of ICAO's commitment to ensuring that the continued growth and prosperity of the sector is undertaken in harmony with social and environmental goals, as well as specifying detailed policies and practices. The proposed changes would update and clarify certain policy positions, and retain maximum flexibility for States to develop creative solutions to environmental problems. The changes are not prescriptive, and do not oblige States to take any actions inconsistent with their existing national and international commitments or policies.

REFERENCES

A35-WP/56
A35-WP/76
A35-WP/77
ECAC Working papers

1. INTRODUCTION

1.1 WP/77 presents a revised draft consolidated statement of continuing ICAO policies and practices related to environmental protection. This has been prepared in light of developments since the 33rd Session of the Assembly, including the 6th meeting of the Committee on Aviation Environmental Protection (CAEP) in February 2004, and subsequent Council discussions. The new statement would replace Resolution A33-7.

¹ Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Spain, Slovak Republic, Slovenia, Sweden and the United Kingdom

1.2 The revised consolidated statement is the benchmark by which ICAO's environmental credentials are judged. The policies and practices that it describes are significant beyond the air transport sector, and are studied by many States and stakeholder organisations in the context of wider transport and environmental priorities and commitments. There are possibilities that ICAO's central mission to promote the development of civil aviation can be frustrated by inadequate attention (real or perceived) to the environmental problems associated with the sector. Societal concerns about environmental matters - local, regional and global - are not diminishing, and awareness of specific aviation impacts is growing in some countries.

1.3 It is therefore gratifying that the draft consolidated statement continues to recognise the importance of taking action that addresses all environmental impacts, and sets out a comprehensive package of tools and measures that are available to governmental and non-governmental institutions. The development of these tools and measures owes much to the work of CAEP and, more particularly, the regulatory and air transport industry participants of working groups who devote much effort and resource to achieving common solutions.

1.4 Many of the revisions to Resolution A33-7 reflect the excellent work done since the 33rd Session. They are statements of progress that all can welcome. But ICAO and its Contracting States must remain vigilant to ensure that well-established environmental commitments are kept alive, and that inadvertently negative messages are avoided. Too much attention to what cannot be done, instead of what can be done, will hurt the image and prospects for growth of the sector.

1.5 The proposed changes to the draft statement set out in the Appendix to this paper are a modest attempt to clarify certain positions and help maintain ICAO's position as a key player in determining the future direction of aviation environmental policy.

2. AMENDMENTS TO THE TEXT PROPOSED IN WP/77

2.1 Our amendments are set out in the Appendix. Each change is itemised, with a brief explanation of the purpose of the amendment.

2.2 The amendments are a mixture of (i) amendments to text that has appeared in previous Resolutions but which appears to have become outdated (ii) amendments to proposed revisions in WP/77 (including restoration of some previous text that WP/77 proposes to delete), and (iii) some small bits of entirely new text.

2.3 We consider that all these proposed amendments are entirely consistent with ICAO policy and CAEP recommendations, and are factually correct.

3. FINANCIAL IMPACT OF THE PROPOSED ACTION

3.1 We consider that none of the proposed changes would impact adversely upon the resource requirements of CAEP and the Secretariat.

4. ACTION BY THE ASSEMBLY

4.1 The Assembly is invited to consider and approve the proposed changes in Appendix 1 to this paper when adopting the draft Consolidated statement of continuing ICAO policies and practices related to environmental protection set out in WP/77.

APPENDIX

Note: The sub-headings below relate to the specific appendices of the revised draft *Consolidated statement of continuing ICAO policies and practices related to environmental protection*, as presented in WP/77. Our proposed new text is shown in normal type, with an explanation of the purpose of the change given immediately after in italic type. Where changes are made to existing text, this is shown using strikethrough, with new text shown in italic type. References to page numbers are references to the English language text of the revised draft statement.

Appendix A - General

Proposal 1: The new fifth *whereas* clause on page A-2 to be amended as follows:

"Whereas *the policies of ICAO and its Contracting States should be developed on the basis of* reliable information on the environmental effects of aviation, and;" ~~is essential for the development of policy by ICAO and its Contracting States~~

Rationale: *making the reliability of environmental information an essential requirement for policy development is too restrictive. Whilst reliable information is obviously very important, the absence of full certainty should not preclude precautionary action where it is cost effective to take such action.*

Proposal 2: A new sixth *whereas* clause to appear at the foot of page A-2 as follows:

"Whereas the Rio Declaration on environment and development, made at UNCED 1992, states that where there are threats of serious or irreversible environmental damage, lack of full scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental degradation;"

Rationale: *this new *whereas* clause is the counterpart to the new fifth *whereas* clause described above. It makes clear that the absence of full scientific certainty should not be used as a reason for postponing action aimed at addressing serious environmental problems. An obligation to take precautionary measures is a basic principle of the United Nations Framework Convention on Climate Change, to which virtually all ICAO Contracting States are parties.*

Proposal 3: A minor amendment to the final urging clause on page A-3, as follows:

"7. Urges States to refrain from unilateral environmental measures that ~~would be harmful to~~ *are inconsistent with* the *orderly* development of international civil aviation".

Rationale: *Unilateral measures should never be undertaken lightly, but they may be necessary in certain circumstances. Our proposed change makes it clear that States should refrain from unilateral measures that prevent the orderly development of civil aviation, as opposed to completely unfettered or uncontrolled expansion.*

Appendix B - Development of Standards, Recommended Practices and Procedures and/or guidance material relating to the quality of the environment

Proposal 4: deletion of a few words from the fourth whereas clause of Appendix B, on page A-4, as follows:

"Whereas the environmental impact of aircraft engine emissions, while not fully understood, is a cause of concern;"

Rationale: *The words "while not fully understood" seem to imply a downplaying of these emissions. Although the words are strictly speaking true, there are few if any aspects of human-induced activity that are "fully understood".*

Proposal 5: addition of a new 8th whereas clause, to appear on page A-4 immediately prior to the final whereas clause referring to CAEP, as follows:

"Whereas failure to take adequate steps to address environmental concerns could result in additional pressure for 'demand management' measures or a moratorium on airport development in some regions of the world;"

Rationale: *This proposal is self-explanatory. It is a statement of 'enlightened self interest'. In Europe it is becoming increasingly difficult to take forward much-needed infrastructure projects in the face of calls for measures designed to restrict demand (and therefore restrict growth). This reinforces the necessity of taking effective measures to address environmental impacts, quite apart from the intrinsic desirability of such measures.*

Proposal 6: to bring the date for the new NOx standard in the first operative clause in line with the CAEP/6 recommendation for amendments to Annex 16,

Welcomes the adoption by the Council of the new, more stringent aircraft noise standard in Annex 16, Volume 1 Chapter 4 and the recent proposal for new, more stringent standards or emissions of oxides of nitrogen to be implemented on ~~31 December~~ 1 January 2008.

Rationale: *Appendix H to the CAEP/6 report on Agenda item 1 says that the new standard for NOx will apply "for engines of a type or model for which the date of manufacture of the first individual production type was after 31 December 2007".*

Appendix E - Local noise-related operating restrictions at airports

Proposal 7: Deletion of urging clause 3(h) at the foot of page A-11:

~~h) to take account of the economic and environmental impact on civil aviation in the near term of recent events; and~~

Rationale: *When introduced into Assembly Resolution A33-7 in 2001 this text was intended as a reference to the tragic events of 11 September 2001. It has been overtaken by the new sixth whereas clause in Appendix B (page A-4) which reads as follows: "Whereas following the recent downturn in*

traffic and the reduction in the number of flights, which eased momentarily the pressure on environmental concerns, it is expected that aviation will return to traditional growth patterns in 2005 and beyond". The new reference to the recent downturn in traffic is correctly placed in Appendix B rather than Appendix E (which is about local noise-related matters), and can re-interpreted as a reference to 9/11, the SARS outbreak and other recent turbulent events.

Appendix I - Market-based measures regarding aircraft engine emissions

Proposal 8: addition of a new eighth whereas clause on page A-17, immediately after the seventh whereas clause on taxation, as follows:

"Whereas, given that taxes are imposed by many States on other transport modes and on other sources of greenhouse gases, it is considered that the reassessment of the ICAO policy on exemption of aviation fuel from taxation cannot be precluded;"

Rationale: *It is arguable that the long standing policy on the exemption of aviation fuel for international air transport from taxation should be reviewed, as the context within which it was first developed has now evolved considerably. The policy dates back to a time when civil aviation was still a fledgling industry in need of support to become established, and when the impact of aviation fuel burn on the global climate was not an issue. In some regions there are significant sections of society and influential stakeholders who regard the tax exemption for aviation fuel as outdated, especially compared to other economic activities or transport modes (e.g. private motoring, road freight). Some countries already impose fuel tax on domestic air services, and others are considering doing so. Recent changes to EU law permit the levying of fuel taxes on intra-EU flights where the States of origin and destination agree bilaterally to their introduction. The arguments are as much about equalisation of tax treatment as they are about environmental matters. The new whereas clause does not mandate fuel taxes on international air transport, it simply observes that for some States the prohibition on such taxes may merit reassessment.*

Proposal 9: Amend the revised second noting clause at the foot of page A-17, so that it reads as follows:

"Noting that *in light of analyses conducted by CAEP showing the cost effectiveness of emissions trading as a means to reduce carbon dioxide emissions from aviation, further studies and guidance are needed for the use of could be helpful in framing an emissions trading system for international civil aviation*"

Rationale: *These changes have three effects. First, they retain the conclusion that emissions trading is potentially a cost-effective measure to address carbon dioxide emissions, which has been lost in the text proposed in WP/77. Second, they remove the suggestion that further studies and guidance are a pre-requisite for the development of an emissions trading scheme involving air transport; just such a scheme is under active consideration in the EU. Finally, they remove the suggestion that emissions trading is a long term solution; aviation could be involved in the new EU emissions trading scheme as early as 2008.*

Proposal 10: deletion of the new recognizing clause b)3) at the foot of page A-18, as follows:

~~"3) Recognizes that existing ICAO guidance is not sufficient at present to implement the application of greenhouse gas emissions charges;"~~

Rationale: *WP/76 has correctly indicated the range of views and some of the outstanding issues surrounding the possibility of greenhouse gas charges. However, a blanket prohibition until new guidance is prepared (if agreement could ever be reached on such guidance) is not consistent with the continuing validity of Council's Resolution of 9 December 1996, and would remove the flexibility that some States consider necessary to address their domestic and regional commitments to tackle greenhouse gas emissions. The 1996 Resolution already recognises that there is no universal agreement on this matter, but adding this clause would represent a significant shift in ICAO policies. See also the rationale for proposal 11 below.*

Proposal 11: Reinstatement of the deleted words in urging clause b)4) (which will become b)3) if Proposal 10 above is accepted), as follows:

"3) 4) Urges States to refrain from unilateral action to introduce emission-related levies ~~inconsistent with the current guidance~~ *inconsistent with the current guidance*; and"

Rationale: *reinsertion of the deleted text is consistent with the continuing validity of Council's Resolution of 9 December 1996, and with our proposal 10 above. WP/139 from the 41 Member States of ECAC indicates that region's opposition to what is, in effect, a blanket prohibition on greenhouse gas-related charges until new guidance is prepared. It must be emphasised that opposition to recognizing clause b)3) is not founded upon plans for the imminent introduction of a greenhouse gas-related charge, but upon a strong belief that all options for addressing this serious problem must be kept open.*

Proposal 12: deletion of the final sentence of the requesting clause under the emissions trading heading at the very end of the revised draft statement (page A-19), as follows:

~~"Under both approaches, the Council should ensure the guidelines for an open emissions trading system establish the structural and legal basis for aviation's participation in an open emissions trading system, including key elements such as reporting, monitoring and compliance."~~

Rationale: *The deleted words do not accurately reflect ICAO's role in the two approaches to emissions trading that CAEP6 agreed should be pursued, namely "integrated" and "voluntary" trading. The approach using a new legal instrument under ICAO auspices was ruled out and there has been no development since to justify reopening it. Under the two retained options, ICAO's role would amount only to a supporting role for those states or organisation that first come forward with a voluntary scheme or, in the case of integrated trading, guidance for states to use as appropriate. Guidance could not alone provide "the structural and legal basis" for any scheme. For integrated trading that basis would be laid down by the States deciding to include aviation in their trading schemes.*