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ASSEMBLY — 36TH SESSION

PLENARY

REPORT OF THE ECONOMIC COMMISSION ON AGENDA ITEMS 41, 42, 43 AND 44

(Presented by the Chairman of the Economic Commission)

The attached report on Agenda Items 41, 42, 43 and 44 has been approved by the Economic Commission. Resolution 43/1 is recommended for adoption by the Plenary.

Note.— After removal of this covering sheet, this paper should be inserted in the appropriate place in the report folder.

Agenda Item 41: Regulation of the provision of airports and air navigation services

41.1 At its second meeting, the Commission considered economic and organizational aspects of infrastructure management on the basis of a report by the Council (WP/15). In addition, 8 papers were presented by States and observers: WPs 100, 101, 103, 109, 119, 120, 141 and 143. For ease of consideration, the Commission divided this agenda item into the following four topics: report by the Council; policies on charges; economic performance; and infrastructure development.

Report by the Council

41.2 In WP/15, the Council reported on major work accomplished by ICAO under the Airport and Route Facility Management Programme. Since the 35th Session of the Assembly, relevant ICAO policy and guidance material had been updated and promoted, and several studies had been conducted in order to assist States to operate airports and air navigation services in an efficient and cost-effective manner. The Council also provided a brief overview of the regulatory and industry trends and developments in the management of airports and air navigation services entities, with the identification of the following key issues: commercialization, economic oversight, best commercial practices, and measurement of performance and productivity. Based on the assessment of these key issues, the Strategic Objectives and the Business Plan of the Organization, the Council presented the Organization's plan of action for the next triennium in the field of economic and organizational aspects of infrastructure management. It would include close monitoring of developments, promoting and keeping existing policy and guidance current and responsive to States' needs, developing new guidance as required and fostering cooperation between stakeholders. The Assembly was invited to endorse the future work plan of the Organization and request Contracting States to cooperate with and support ICAO's work in this field. Attention was drawn to the convening of a Conference on the Economics of Airports and Air Navigation Services, scheduled for 15-20 September 2008.

41.3 In consideration of the report of the Council, the Commission expressed satisfaction for the work undertaken and accomplished by ICAO since the last Assembly. There was wide support for the future work programme proposed in WP/15 on regulation of the provision of airports and air navigation services. In this context, the Commission welcomed the Conference with the recognition that most of the topics raised in the Council's WP/15 would be covered by it. The Commission also endorsed the Council's request that Contracting States cooperate with and support ICAO's work in this field.

Policies on charges

41.4 In WP/119, the Airports Council International (ACI) supported the ICAO's policies on airport charges in Doc 9082. It advocated that economic regulation of airport charges should only be applied to ensure that existing undue market power was not abused by the airport operator, and that a regulatory mechanism should only be actuated when direct consultations between the airport operator and users had not produced an agreement on airport charges. In WP/120, the International Transport Workers' Federation (ITF) commented on ICAO's policies on charges in Doc 9082 and called for a review of the current charging formula for air navigation services. Such a review should include consultation with all stakeholders, including the professional associations concerned.

41.5 In an information paper (WP/143), the Russian Federation described the current status and development of charging policy for the utilization of Russian airspace.

41.6 During the ensuing discussion, several views were expressed regarding the need for the separation of regulation and service provision, and the need of economic oversight of service providers, regardless of their structure or ownership. It was also reaffirmed that in any case safety, security and economic oversight remained the responsibilities of States.

41.7 The Commission noted the views expressed by ACI and ITF on consultations with users and ITF's call for a review of the current charging formula for air navigation services with respect to the application of the aircraft weight element. The view was expressed that ICAO's current policy provided for certain flexibility in the use of aircraft weight for air navigation charges. The Commission expressed support for further development of policy and guidance material on economic oversight of airports and air navigation services providers, measuring economic performance and consultations with users, taking into account non-discrimination and transparency in establishing charges, and that these topics be discussed at the upcoming Conference.

Economic performance

41.8 In WP/100, the Civil Air Navigation Services Organisation (CANSO) stressed that good air navigation services performance results from good governance and ultimately from good government policy-making. It urged that policy-making must consider the various elements of governance that drive air navigation services performance rather than relying too heavily on regulatory oversight mechanisms. In WP/101, CANSO provided an overview of its recently developed global ATM performance measurement framework, which would assist individual air navigation services providers in optimizing their performance and serve the needs of air navigation services oversight bodies.

41.9 The Commission noted the views expressed in the two working papers presented by CANSO, and concluded that these issues should be considered in the context of the upcoming Conference.

Infrastructure development

41.10 In an information paper (WP/103), ACI highlighted the continuing growth in traffic and airports' capital expenditure, and expressed the view that existing airport capacity and moderate expansion would be insufficient to meet forecast traffic demand.

41.11 In an information paper (WP/109), Pakistan described its economic and aviation growth, new aviation policy and investments in airport and related infrastructure for development of hubs in the region.

41.12 In an information paper (WP/141), India highlighted traffic trends and forecast, developments of airport infrastructure especially through public-private partnership (PPP), as well as its action plan for meeting the upcoming challenges.

41.13 The Commission noted, without comments, the above three information papers, as well as ACI's position for priority to be given to airport infrastructure expansion and investment (WP/119).

41.14 In the context of infrastructure development, a view was expressed that where the Technical Cooperation Bureau (TCB) assists States in airport and/or air navigation development plans, the TCB should provide information regarding the impact that the investments could have on the entity's cost basis and should also provide guidance on how to recover the related costs.

Agenda Item 42: Other air transport issues

42.1 At its second meeting, the Commission considered developments in the statistics and forecasting programmes on the basis of a report by the Council (WP/20).

42.2 In WP/20, the Council presented a progress report on ICAO's work in the fields of statistics, forecasting, economic planning and air carrier economics. Over the past three years, progress continued with the Integrated Statistical Database (ISDB) which has permitted the automation of processes and development of the data warehouse, resulting in cost savings, effective quality controls, improved timeliness in reporting, and expanded coverage and functionality of the ICAO statistical programme. Long-term forecasts of air traffic to 2025 and medium-term forecasts covering the periods 2005-2007 and 2006-2008 were produced and published. Regional Traffic Forecasting Group (TFG) meetings were held in different regions. Forecasting and economic analysis support continued to be provided to the Committee on Aviation Environmental Protection (CAEP). Studies continued to be carried out during the triennium on regional differences in international airline operating economics. The Council emphasized the importance to the Organization of using performance measurement and assessment tools, including the proper alignment of the Organization's resources with its Strategic Objectives. It is recognized that the means of measuring and monitoring safety performance are critical to the future success of the ever-growing air navigation system. The Council acknowledged the need to harmonize definitions and to strengthen the quality and relevance of safety-related data maintained by ICAO and to use the Organization's analytical resources to shed light on where interventions will have the greatest impact. In this context, ICAO's statistical databases, its forecasting capabilities and its resources in economic analysis will be valuable in supporting the development of requirements-driven and results-oriented programmes, services and expertise.

42.3 The Commission noted the activities undertaken and endorsed the future work plans of the Organization in the fields of statistics, forecasting and economic analysis, emphasizing the importance of availability of detailed, accurate and up-to-date data and information for various aviation deliberations, as well as planning and decision-making activities. The need of Contracting States to cooperate with ICAO to achieve these plans was also stressed.

Agenda Item 43: Consolidated statement of continuing ICAO policies in the air transport field

43.1 At its second meeting, the Economic Commission considered the subject of the consolidated statement of continuing ICAO policies in the air transport field on the basis of WP/21 and the Appendix which contains a draft resolution for adoption by the Assembly (Resolution 43/1).

43.2 The Commission noted that the consolidated statement of continuing ICAO policies in the air transport field as contained in the Appendix to WP/21 had been developed in response to Resolution A35-18 which required the Council of ICAO to keep the consolidated statement under review and advise the Assembly as appropriate when changes were needed. Accordingly, a substantive review of Resolution A35-18 had been undertaken and a revised version of the Resolution was presented in the Appendix to WP/21.

43.3 The Commission also noted that the changes suggested were a result of developments in liberalization and the challenges facing the regulation of air transport, statistics, forecasting and economic planning as well as measures relating to the security and integrity of travel documents. A number of editorial improvements had also been introduced in the revision.

Resolution 43/1

Consolidated statement of continuing ICAO policies in the air transport field

Introduction

Whereas the Convention on International Civil Aviation establishes the basic principles to be followed by governments to ensure that international air transport services may be developed in an orderly, regular, efficient, economical and harmonious manner and it is therefore one of the purposes of ICAO to support principles and arrangements in order that international air transport services may be established on the basis of equality of opportunity, sound and economic operation, mutual respect of the rights of States and taking into account the general interest;

Whereas air transport is a major factor in promoting and fostering sustained economic development at national as well as international levels;

Whereas it is becoming increasingly difficult, particularly for developing countries, to secure the necessary resources required to optimize the opportunities and meet the challenges inherent in the development of air transport, and to keep pace with the challenges posed by demands on air transport;

Whereas the Organization prepares guidance, studies and statistics on the development of air transport for Contracting States on a continuing basis and these should be kept current, focused and relevant and should be disseminated to Contracting States through the most effective means;

Whereas Contracting States are required to provide accurate and factual statistical data and other information in order that the Organization may prepare this guidance;

Whereas the Organization is moving toward management by objective with more focus on implementation over standard setting;

Whereas guidance developed by the Organization, and action taken by the Organization in implementing its Strategic Objectives, should assist Contracting States in developing policies and practices that facilitate the globalization, commercialization and liberalization of international air transport; and

Whereas it is important for Contracting States to participate in the work of the Organization in the air transport field;

The Assembly:

1. *Resolves* that the Appendices attached to this resolution and listed below constitute the consolidated statement of continuing ICAO policies in the air transport field, as these policies exist at the close of the 36th Session of the Assembly:

Appendix A — Economic regulation of international air transport

Appendix B — Statistics

Appendix C — Forecasting and economic planning

Appendix D — Facilitation

Appendix E — Taxation

Appendix F — Airports and air navigation services

Appendix G — Air carrier economics

Appendix H — Air mail

2. *Urges* Contracting States to have regard to these policies and their continuing elaboration by the Council in documents identified in this consolidated statement and by the Secretary General in manuals and circulars;

3. *Urges* Contracting States to make every effort to fulfill their obligations, arising out of the Convention and Assembly resolutions, to support the work of the Organization in the air transport field, and, in particular, to provide as completely and promptly as possible the statistical and other information asked for by the Organization for its air transport studies;

4. *Requests* the Council to attach particular importance to the problem of financing the development of the human and technical resources necessary to ensure the best possible contribution of air transport to the economic and social well-being of developing countries;

5. *Requests* the Council, when it considers that it would be of benefit in assisting its work on any air transport question, to seek the consultation of expert representatives from Contracting States by the most appropriate means, including the establishment of panels of qualified experts reporting to the Air Transport Committee or of Secretariat study groups, and work by correspondence or by meetings;

6. *Requests* the Council to convene Conferences or Divisional meetings, in which all Contracting States may participate, as the principal means of progressing the resolution of issues of worldwide importance in the air transport field, when such meetings are justified by the number and

importance of the issues to be dealt with and where there is the likelihood of constructive action upon them;

7. *Requests* the Council to provide for workshops, seminars and other such meetings as may be required to disseminate ICAO's air transport policies and associated guidance to and amongst Contracting States;

8. *Requests* the Council to keep the consolidated statement of ICAO's air transport policies under review and advise the Assembly as appropriate when changes are needed to the statement; and

9. *Declares* that this resolution supersedes Resolution A35-18.

APPENDIX A

Economic regulation of international air transport

Section I. Agreements and arrangements

Whereas the basic principles of sovereignty, fair and equal opportunity, non-discrimination, interdependence, harmonization and cooperation set out in the Convention have served international air transport well and continue to provide the basis for its future development;

Whereas multilateralism in commercial rights to the greatest possible extent continues to be an objective of the Organization;

Whereas within the framework of the Convention, Contracting States have many differing regulatory goals and policies but share a fundamental objective of participation through reliable and sustained involvement in the international air transport system;

Whereas one of the objectives of the Convention is that international air transport services may be operated soundly and economically and in that regard the International Air Services Transit Agreement (IATA) facilitates the achievement of that objective for the Contracting States who are already parties to it;

Whereas the Assembly has repeatedly stressed the obligation of each Contracting State to comply with Article 83 of the Convention by registering with the Council as soon as possible all arrangements relating to international civil aviation, in accordance with the *Rules for Registration with ICAO of Aeronautical Agreements and Arrangements*;

Whereas undue delays and non-compliance relating to the registration of aeronautical agreements and arrangements are not desirable for the accuracy and completeness of regulatory information and for enhancing transparency;

Whereas the establishment of international air transport fares and rates should be fair, transparent and designed to promote the satisfactory development of air services ; and

Whereas there is a need to adapt to the changing regulatory and operating environment in the air transport field and the Organization has developed policy guidance for the regulation of international air transport, including model clauses and template air services agreements, for optional use by States in bilateral or regional agreements;

The Assembly:

1. *Reaffirms* the primary role of ICAO in developing policy guidance on the regulation of international air transport and in facilitating liberalization;
2. *Urges* Contracting States that have not yet become parties to the International Air Services Transit Agreement (IASTA) to give urgent consideration to so doing;
3. *Urges* all Contracting States to register cooperative agreements and arrangements relating to international civil aviation with ICAO in accordance with Article 83 of the Convention and the *Rules for Registration with ICAO of Aeronautical Agreements and Arrangements*;
4. *Urges* Contracting States to keep the Council fully informed of important problems arising from the application of air services agreements or arrangements and of any developments achieved or contemplated which tend toward the objective of multilateralism in the exchange of commercial rights;
5. *Requests* the Council to continue to cooperate with regional and subregional bodies in their examination and development of measures of cooperation, including liberalized arrangements, and the results of these measures, in order to see whether similar or other measures should at the appropriate time be recommended to Contracting States for application on a wider basis;
6. *Requests* the Council to continue the comparative and analytical study of the policies and practices of Contracting States and airlines concerning commercial rights and the provisions of air services agreements and to inform all Contracting States of any new developments in international cooperation, including liberalized arrangements, with respect to commercial rights;
7. *Requests* the Council to keep under review the machinery for establishing the Organization's policy guidance on the regulation of international air transport, and to revise or update it as required;
8. *Requests* the Council to review periodically the rules for registration of aeronautical agreements and arrangements with a view to simplifying the process of registration;
9. *Requests* the Secretary General to remind Contracting States of the importance of registration without undue delay of aeronautical agreements and arrangements and to provide such assistance to Contracting States as they may require in registering their aeronautical agreements and arrangements with the Council; and
10. *Requests* the President of the Council and the Secretary General to promote universal adherence to and implementation of the International Air Services Transit Agreement (IASTA) and to urge Contracting States to inform the Secretariat of their intentions with respect to adherence to the agreement.

Section II. Cooperation in regulatory arrangements

Whereas certain economic, financial and operational constraints unilaterally introduced at the national level affect the stability of, and tend to create unfair discriminatory trading practices in, international air transport and might be incompatible with the basic principles of the Convention and the orderly and harmonious development of international air transport;

Whereas the provision of regular and reliable air transport services is of fundamental importance to the development of the economies of many developing States, including those dependent on tourism;

Whereas the strict application of the criterion of substantial ownership and effective control for the authorization of an airline to exercise route and other air transport rights could deny to many States a fair and equal opportunity to operate international air services and to optimize the benefits to be derived therefrom;

Whereas air carrier designation and authorization for market access should be liberalized at each State's pace and discretion progressively, flexibly and with effective regulatory control in particular regarding safety and security;

Whereas the broadening or the flexible application of the criteria for airline designation and authorization could help create an operating environment in which international air transport may develop and flourish in a stable, efficient and economical manner, and contribute to the participation objectives of States in the liberalization process, without prejudice to States' obligations for aviation safety and security;

Whereas the realization of developmental objectives among such States is increasingly being promoted by cooperative arrangements in the form of regional economic groupings and functional cooperation symbolic of the affinity and community of interest which are particularly shared among developing States belonging to such regional economic integration movements; and

Whereas the exercise of route and other air transport rights of a developing State having such community of interest by an airline substantially owned and effectively controlled by another developing State or States or its or their nationals sharing the same community of interests will serve to promote the foregoing interests of developing States;

The Assembly:

1. *Urges* Contracting States to avoid adopting unilateral measures that may affect the orderly and harmonious development of international air transport and to ensure that domestic policies and legislation are not applied to international air transport without taking due account of its special characteristics;

2. *Urges* Contracting States to accept such designations and allow such airlines to exercise the route rights and other air transport rights of a State or States, in particular developing States, within the same grouping, under mutually acceptable terms and conditions including air transport agreements negotiated or to be negotiated by the parties concerned;

3. *Urges* Contracting States to recognize the concept of community of interest within regional or subregional economic groupings as a valid basis for the designation by one developing State or States of an airline of another developing State or States within the same regional economic grouping where such airline is substantially owned and effectively controlled by such other developing State or States or its or their nationals;

4. *Urges* Contracting States to give consideration to the use of alternative criteria for airline designation and authorization, including those developed by ICAO, and to adopt a flexible and positive approach to accommodate other States in their efforts to liberalize air carrier ownership and control without compromising safety and security;

5. *Invites* Contracting States with experience in various forms of joint operation of international air services to submit to the Council, on a continuing basis, full information concerning their experience, so that the Organization may have in this particular field all information that might be of assistance to Contracting States;

6. *Requests* the Council, when approached, to render all feasible assistance to Contracting States wishing to enter regional or subregional economic groupings with respect to the operation of international air services; and

7. *Requests* the Council to give assistance, when approached, to Contracting States that take the initiative in developing cooperative arrangements for the joint ownership and operation of international air services, directly among themselves or whose airlines develop such arrangements, and to promptly circulate to States information concerning such cooperative arrangements.

Section III. Airline product distribution

Whereas the advancement of information and electronic technologies have had a significant impact on the way the airline industry is doing business, particularly on its product distribution; and

Whereas ICAO has developed a Code of Conduct for the Regulation and Operation of Computer Reservation Systems (CRSs) for States to follow, and two related Model Clauses for optional use by States in their air services agreements.

The Assembly:

1. *Requests* the Council to monitor developments in airline product distribution and related regulatory practices, and disseminate information to Contracting States on significant developments; and

2. *Requests* the Council to review whether there is a continued need for the ICAO CRS Code and Model Clauses in light of the industry and regulatory changes.

Section IV. Trade in services

Whereas on the issue of including aspects of international air transport under the General Agreement on Trade in Services (GATS), ICAO has actively promoted an understanding by all parties concerned of the provisions of the *Convention on International Civil Aviation* and of the particular mandate and role of ICAO in international air transport;

The Assembly:

1. *Reaffirms* the need for ICAO to continue to explore future regulatory arrangements and develop recommendations and proposals to meet the challenges facing international air transport, responding to the internal and external changes affecting it;

2. *Recognizes* that such arrangements should create an environment in which international air transport may develop and continue to flourish in an orderly, efficient and economical manner without compromising safety and security, while ensuring the interests of all Contracting States and their effective and sustained participation in international air transport;

3. *Reaffirms* the primary role of ICAO in developing policy guidance on the regulation of international air transport;

4. *Urges* Contracting States that participate in trade negotiations, agreements and arrangements relating to international air transport to:

- a) ensure internal coordination in their national administrations and in particular the direct involvement of aeronautical authorities and the aviation industry in the negotiations;
- b) ensure that their representatives are fully aware of the provisions of the Convention on International Civil Aviation, the particular characteristics of international air transport and its regulatory structures, agreements and arrangements;
- c) take into account their rights and obligations vis-à-vis those ICAO Contracting States which are not members of the World Trade Organization;
- d) examine carefully the implications of any proposed inclusion of an additional air transport service or activity in the GATS bearing in mind, in particular, the close linkage between economic, environmental, safety and security aspects of international air transport;
- e) promote a full understanding of the role and mandate of ICAO in developing policy guidance on economic regulation, including liberalization of international air transport, and consider using this guidance; and
- f) file with ICAO under Article 83 of the Convention copies of any exemptions and specific commitments pertaining to international air transport made under the GATS;

5. *Requests* the World Trade Organization, its Member States and Observers to accord due consideration to:

- a) the particular regulatory structures and arrangements of international air transport and the liberalization taking place at the bilateral, subregional and regional levels;
 - b) ICAO's constitutional responsibility for international air transport and, in particular, for its safety and security; and
 - c) ICAO's existing policy and guidance material on the economic regulation of international air transport and its continued work in the field; and
6. *Requests* the Council to:
- a) continue to exert a global leadership role in facilitating and coordinating the process of economic liberalization while ensuring safety, security and environmental protection in international air transport;
 - b) pursue in a proactive manner developments in trade in services that might impinge on international air transport and inform Contracting States accordingly; and
 - c) promote continued effective communication, cooperation and coordination among ICAO, the World Trade Organization, and other intergovernmental and non-governmental organizations dealing with trade in services.

Section V. Elaboration of policy guidance

Whereas governments have international obligations and responsibilities in the economic regulation of international air transport;

Whereas economic liberalization and the evolution of air transport industry will continue to bring about opportunities, challenges and issues with respect to the regulation of international air transport; and

Whereas the Organization has addressed many of the regulatory issues and compiled related policies and guidance material;

The Assembly:

1. *Urges* Contracting States in their regulatory functions to have regard to the policies and guidance material developed by ICAO on economic regulation of international air transport, such as those contained in Doc 9587, *Policy and Guidance Material on the Economic Regulation of International Air Transport*; and

2. *Requests* the Council to ensure that these policies and guidance material are current and responsive to the requirements of Contracting States, and to develop guidance on emerging issues of general interest where required.

APPENDIX B

Statistics

Whereas ICAO's Statistics Programme provides an independent and global foundation for the purpose of fostering the planning and development of international air transport;

Whereas each Contracting State has undertaken that its international airlines shall file the statistics requested by the Council in accordance with Article 67 of the Convention;

Whereas the Council has also laid down requirements for statistics on domestic airline operations, international airports, and international route facilities, pursuant to Articles 54 and 55 of the Convention;

Whereas the Council has laid down requirements for data collection on civil aircraft on register pursuant to Article 21 of the Convention;

Whereas the Council has adopted a policy of management by objective which requires measuring the performance of the Organization as a whole and of its constituent parts in meeting the Strategic Objectives of the Organization;

Whereas the development of ICAO's validation and storage integrated statistical database provides Contracting States and other users with an efficient online system for the retrieval of statistical data;

Whereas a number of Contracting States have still not filed, or have not filed completely, the statistics requested by the Council; and

Whereas cooperation amongst international organizations active in the area of collection and distribution of aviation statistics may enable reduction in the burden of filing statistics;

The Assembly:

1. *Urges* Contracting States to make every effort to provide the statistics required on time and to submit them electronically whenever possible;

2. *Requests* the Council, calling on national experts in the relevant disciplines as required, to examine on a regular basis the statistical data collected by ICAO in order to meet more effectively the needs of the Organization and its Contracting States, and to establish the necessary metrics to monitor the performance of the Organization in meeting its Strategic Objectives, to improve the uniformity of the statistics, the completeness and timeliness of reporting by Contracting States, and the form and content of analyses; and

3. *Requests* the Council to:

a) continue to explore ways of closer cooperation with other international organizations active in the collection and distribution of aviation statistics; and

- b) make arrangements, on an appropriate basis, for assistance to be given upon request to Contracting States by personnel of the Secretariat for the improvement of their civil aviation statistics and their statistical reporting to the Organization.

APPENDIX C

Forecasting and economic planning

Whereas ICAO's independence in carrying out investigations into trends and in applying economic analyses provides a necessary foundation for fostering the planning and development of international air transport;

Whereas Contracting States require global and regional forecasts of future civil aviation developments for various purposes;

Whereas the Council, in carrying out its continuing functions in the economic field, must foresee future developments likely to require action by the Organization and must initiate such action in good time;

Whereas the Organization has to regularly assess its performance against the Strategic Objectives with particular focus on safety, security, environment and efficiency; and

Whereas the Organization requires specific forecasts and economic support for airports and air navigation systems planning and environmental planning purposes;

The Assembly:

1. *Requests* the Council to prepare and maintain, as necessary, forecasts of future trends and developments in civil aviation of both a general and a specific kind, including, where possible, local and regional as well as global data, and to make these available to Contracting States and support data needs of safety, security, environment and efficiency;

2. *Requests* the Council to develop methodologies and procedures for the preparation of forecasts, the analysis of cost-benefit or cost-effectiveness, and the development of business cases to meet the needs of the Organization, the regional air navigation planning groups and, as required, other systems or environmental planning bodies of the Organization; and

3. *Requests* the Council to make arrangements to collect and develop material on current forecasting methods both for the purposes described in clauses 1 and 2 and for dissemination to Contracting States from time to time as guidance in their own forecasting and economic planning.

APPENDIX D

Facilitation

Section I. Development and implementation of facilitation provisions

Whereas Annex 9, *Facilitation*, was developed as a means of articulating the obligations of Contracting States under Articles 22, 23 and 24 of the Convention and standardizing procedures for meeting the legal requirements referred to in Articles 10, 13, 14, 29 and 35;

Whereas implementation of the Standards and Recommended Practices in Annex 9 is essential to facilitate the clearance of aircraft, passengers and their baggage, cargo and mail and manage challenges in border controls and airport processes so as to maintain the efficiency of air transport operations;

Whereas it is essential that Contracting States continue to pursue the objective of maximum efficiency in air transport while at the same time safeguarding international civil aviation;

Whereas the development of specifications for machine readable travel documents by the Organization has proved effective in the development of systems that accelerate the movement of international passengers and crew members through clearance control at airports while enhancing immigration compliance programmes; and

Whereas the development of a set of standard signs to facilitate the efficient use of airport terminals by travellers and other users has proved effective and beneficial;

The Assembly:

1. *Urges* Contracting States to give special attention to increasing their efforts to implement Annex 9 Standards and Recommended Practices.
2. *Requests* the Council to ensure that Annex 9, *Facilitation*, is current and addresses the contemporary requirements of Contracting States with respect to administration of border controls, cargo and passengers, and the protection of passenger and crew health;
3. *Requests* the Council to ensure that the provisions of Annex 9, *Facilitation*, and Annex 17, *Security*, are compatible with and complementary to each other;
4. *Requests* the Council to ensure that its specifications and guidance material in Doc 9303, *Machine Readable Travel Documents*, remain up-to-date in the light of technological advances and to continue to explore technological solutions aimed at improving clearance procedures; and
5. *Requests* the Council to ensure that Doc 9636, *International Signs to Provide Guidance to Persons at Airports and Marine Terminals*, is current and responsive to the requirements of Contracting States.

Section II. International cooperation in protecting the security and integrity of passports

Whereas the passport is the basic official document that denotes a person's identity and citizenship and is intended to inform the State of transit or destination that the bearer can return to the State which issued the passport;

Whereas international confidence in the integrity of the passport is essential to the functioning of the international travel system;

Whereas Member States of the United Nations have resolved, under the Global Counter-Terrorism Strategy, adopted on 8 September 2006, to step up efforts and cooperation at every level, as appropriate, to improve the security of manufacturing and issuing identity and travel documents and to prevent and detect their alteration or fraudulent use;

Whereas high-level cooperation among States is required in order to strengthen resistance to passport fraud, including the forgery or counterfeiting of passports, the use of forged or counterfeit passports, the use of valid passports by impostors, the use of expired or revoked passports, and the use of fraudulently obtained passports;

Whereas the use of stolen blank passports, by those attempting to enter a country under a false identity, is increasing worldwide; and

Whereas ICAO has established the Universal Implementation of Machine Readable Travel Documents (UIMRTD) project to assist States in matters including project planning, implementation, education, training and system evaluation services, so that States can meet the 2010 deadline for the issuance of MRPs and has set up the Public Key Directory (PKD) to strengthen the security of biometrically-enhanced MRPs (ePassports);

The Assembly:

1. Urges Contracting States to intensify their efforts to safeguard the security and integrity of their passports, to protect their passports against passport fraud, and to assist one another in these matters;
2. Urges those Contracting States that have not already done so, to issue machine readable passports in accordance with the specifications of Doc 9303, Part 1, no later than 1 April 2010;
3. Urges Contracting States to ensure that the expiration date of non-machine readable passports falls before 24 November 2015;
4. Urges those Contracting States requiring assistance under the UIMRTD project to contact ICAO urgently;
5. Requests the Council to continue the work on enhancing the effectiveness of controls on passport fraud by implementing the related SARPs of Annex 9 and developing guidance material to assist Contracting States in maintaining the integrity and security of their passports and other travel documents;
6. Urges those States issuing ePassports to join the ICAO PKD; and

7. Urges those Contracting States that are not already doing so, to provide routine and timely submissions of lost and stolen passport data to Interpol's Automated Search Facility/Stolen and Lost Travel Document Database.

Section III. National and international action and cooperation on facilitation matters

Whereas there is a need for continuing action by Contracting States to improve the effectiveness and efficiency of clearance control formalities;

Whereas the establishment and active operation of national facilitation committees is a proven means of effecting needed improvements; and

Whereas cooperation on facilitation matters amongst Contracting States and with the various national and international parties interested in facilitation matters has brought benefits to all concerned;

The Assembly:

1. Urges Contracting States to establish and utilize national facilitation committees and adopt policies of cooperation on a regional basis among neighboring States;

2. Urges Contracting States to participate in regional and subregional facilitation programmes of other intergovernmental aviation organizations;

3. Urges Contracting States to take all necessary steps, through national facilitation committees or other appropriate means, for:

a) regularly calling the attention of all interested departments of their governments to the need for:

1) making the national regulations and practices conform to the provisions and intent of Annex 9; and

2) working out satisfactory solutions for day-to-day problems in the facilitation field; and

b) taking the initiative in any follow-up action required;

4. Urges Contracting States to encourage the study of facilitation problems by their national and other facilitation committees and to coordinate the findings of their committees on facilitation problems with those of other Contracting States with which they have air links;

5. Urges neighboring and bordering States to consult one another about common problems that they may have in the facilitation field whenever it appears that these consultations may lead to a uniform solution of such problems;

6. Urges Contracting States to encourage their aircraft operators to continue to cooperate intensively with their governments as regards:

- a) identification and solution of facilitation problems; and
- b) developing cooperative arrangements for the prevention of illicit narcotics trafficking, illegal immigration and other threats to national interests;

7. *Urges* Contracting States to call upon international operators and their associations to participate to the extent possible in electronic data interchange systems in order to achieve maximum efficiency levels in the processing of passenger and cargo traffic at international terminals; and

8. *Urges* States and operators, in cooperation with interested international organizations, to make all possible efforts to speed the handling and clearance of air cargo, while ensuring, at the same time, the security of the international supply chain.

APPENDIX E

Taxation

Whereas international air transport plays a major role in the development and expansion of international trade and travel and the imposition of taxes on aircraft, fuel, and consumable technical supplies used for international air transport, taxes on the income of international air transport enterprises and on aircraft and other movable property associated with the operation of aircraft in international air transport, and taxes on its sale or use, may have an adverse economic and competitive impact on international air transport operations;

Whereas ICAO policies in Doc 8632, *ICAO's Policies on Taxation in the Field of International Air Transport*, make a conceptual distinction between a charge and a tax in that “a charge is a levy that is designed and applied specifically to recover the costs of providing facilities and services for civil aviation, and a tax is a levy that is designed to raise national or local government revenues which are generally not applied to civil aviation in their entirety or on a cost-specific basis”;

Whereas it is a matter of great concern that taxes are increasingly being imposed by some Contracting States in respect of certain aspects of international air transport and that charges on air traffic, several of which can be categorized as taxes on the sale or use of international air transport, are proliferating;

Whereas the matter of aircraft engine emission-related levies is addressed in Assembly Resolution A36-..., *Consolidated statement of continuing ICAO policies and practices related to environmental protection*; and

Whereas the resolution in Doc 8632 supplements Article 24 of the Convention and is designed to recognize the uniqueness of international civil aviation and the need to accord tax exempt status to certain aspects of the operations of international air transport;

The Assembly:

1. *Urges* Contracting States to follow the resolution of the Council as contained in Doc 8632, *ICAO's Policies on Taxation in the Field of International Air Transport*; and
2. *Requests* the Council to ensure that the guidance and advice contained in Doc 8632 are current and responsive to the requirements of Contracting States.

APPENDIX F

Airports and air navigation services

Section I. Charging policy

Whereas ICAO policies in Doc 9082, *ICAO's Policies on Charges for Airports and Air Navigation Services* make a conceptual distinction between a charge and a tax in that “a charge is a levy that is designed and applied specifically to recover the costs of providing facilities and services for civil aviation, and a tax is a levy that is designed to raise national or local government revenues which are generally not applied to civil aviation in their entirety or on a cost-specific basis”;

Whereas the matter of aircraft engine emission-related levies and market-based options is addressed separately in Assembly Resolution A36-..., *Consolidated statement of continuing ICAO policies and practices related to environmental protection*;

Whereas Article 15 of the Convention establishes the basis for the application and disclosure of charges for airports and air navigation services;

Whereas the Council has been directed to formulate recommendations for the guidance of Contracting States with regard to the principles on which providers of airports and air navigation services for international civil aviation may charge to recover the costs of their provision and derive other revenue therefrom, and with regard to the methods that may be employed to that effect; and

Whereas the Council has adopted and revised, as necessary, and published in Doc 9082, *ICAO's Policies on Charges for Airports and Air Navigation Services*;

The Assembly:

1. *Urges* Contracting States to ensure that Article 15 of the Convention is fully respected;
2. *Urges* Contracting States to base the recovery of the costs of the airports and air navigation services they provide or share in providing for international civil aviation on the principles set forth in Article 15 of the Convention and additionally in Doc 9082, *ICAO's Policies on Charges for Airports and Air Navigation Services*, regardless of the organizational structure under which the airports and air navigation services are operated;

3. *Urges* Contracting States to ensure that airport and air navigation services charges only be applied towards defraying the costs of providing facilities and services for civil aviation;

4. *Urges* Contracting States to make every effort pursuant to Article 15 of the Convention to publish and communicate to the Organization any charges that may be imposed or permitted to be imposed by a Contracting State for the use of air navigation facilities and airports by the aircraft of any other Contracting State; and

5. *Requests* the Council to ensure that the guidance and advice contained in Doc 9082 are current and responsive to the requirements of Contracting States.

Section II. Economics and management

Whereas in handling growing volumes of traffic the global costs of providing airports and air navigation services continue to rise;

Whereas Contracting States are placing increased emphasis on improving financial efficiency in the provision of airports and air navigation services;

Whereas a balance should be maintained between the respective financial interests of providers of airports and air navigation services on the one hand and air carriers and other users on the other and which should be based on promoting cooperation between providers and users;

Whereas Contracting States have called on the Organization to provide advice and guidance aimed at promoting equitable recovery of airport and air navigation services costs;

Whereas Contracting States are increasingly assigning the operation of airports and air navigation services to commercialized and privatized entities, which may have less awareness and knowledge of States' obligations specified in the Convention and its Annexes and of ICAO's policies and guidance material in the economic field, and are using multinational facilities and services to meet the commitments they have assumed under Article 28 of the Convention; and

Whereas the Council has adopted provisional policy guidance on the allocation of Global Navigation Satellite System (GNSS) costs to ensure an equitable treatment of all users;

The Assembly:

1. *Reminds* Contracting States that with regard to airports and air navigation services they alone remain responsible for the commitments they have assumed under Article 28 of the Convention regardless of what entity or entities operate the airports or air navigation services concerned;

2. *Urges* Contracting States to cooperate in the recovery of costs of multinational air navigation facilities and services and to consider the use of the provisional Council policy guidance on the allocation of GNSS costs;

3. *Requests* the Council to continue to develop ICAO's policy and guidance material with a view to contributing to increased efficiency and improved cost-effectiveness in the provision and operation of airports and air navigation services, including the foundation for a sound cooperation between providers and users;

4. *Requests* the Council to continue its refinement of its policy guidance on the allocation of GNSS costs and the coordination of technical, legal and economic aspects, including cost-efficient interoperability;

5. *Requests* the Council to promote ICAO's policies on user charges and related guidance material, including organizational and managerial advice, in order to increase the awareness and knowledge of them among States and commercialized and privatized airports and air navigation services entities;

6. *Requests* the Council to keep the economic situation of airports and air navigation services under review and make reports thereon to Contracting States at appropriate intervals; and

7. *Urges* Contracting States to make every effort to provide with the least possible delay the financial data relating to their airports and air navigation services to enable Council to provide such advice and prepare such reports.

APPENDIX G

Air carrier economics

Whereas there is a continuing interest among users, including international organizations with interests in tourism, aviation and trade, in the level of international air carrier costs of operation, fares, rates and appropriate revenue yields;

Whereas the objective studies by ICAO on international air transport costs and revenues are widely used by Contracting States and other international organizations, have promoted neutrality and have resulted in a more equitable system of revenue sharing; and

Whereas ICAO requires air carrier revenue, cost and operational data to assist the Council in assessment of the effectiveness of measures proposed for the implementation of the Strategic Objectives of the Organization, and for environmental planning, investment studies and other purposes;

The Assembly:

1. *Requests* the Council to instruct the Secretary General to issue periodically a study on regional differences in the level of international air transport operating costs, analysing how differences in operations and input prices may affect their levels and the impact that changes in costs may have on air transport tariffs; and

2. *Urges* Contracting States to make every effort to obtain from their international air carriers with the least possible delay the cost, revenue and other data requested by ICAO.

APPENDIX H

Air mail

Whereas the Assembly has given ongoing directions with regard to ICAO's work in the field of international air mail;

The Assembly:

1. *Urges* Contracting States to take into account the effects on international civil aviation whenever policy is being formulated in the field of international air mail, and particularly at meetings of the Universal Postal Union (UPU); and
2. *Directs* the Secretary General to furnish to the UPU, on request, information of a factual character which may be readily available.

Agenda Item 44: Assembly resolutions to be consolidated or to be declared no longer in force

44.1 The Plenary had referred Appendix C of WP/28 on Assembly resolutions to be consolidated or to be declared no longer in force to the Economic Commission, which agreed with the Council's recommendation that following action under Agenda Item 43, none of the resolutions in Part III of Doc 9848, *Assembly Resolutions in Force (as of 8 October 2004)*, be declared no longer in force.