

**WORLDWIDE AIR TRANSPORT CONFERENCE: CHALLENGES AND
OPPORTUNITIES OF LIBERALIZATION**

Montreal, 24 to 29 March 2003

- Agenda Item 2: Examination of key regulatory issues in liberalization**
2.2: Market access
2.3: Fair competition and safeguards

**GEORGIA'S VIEW ON CERTAIN ASPECTS OF LIBERALIZATION
(THE NEED TO PROVIDE EQUAL OPPORTUNITIES TO AIR
CARRIERS)**

(Presented by Georgia)

SUMMARY

This paper contains Georgia's position on the need to provide equal opportunities to designated carriers in performing scheduled international air services.

Action by the Conference is in paragraph 2.1.

REFERENCES

Doc 9626, *Manual on the Regulation of International Air Transport*
Doc 9587, *Policy and Guidance Material on the Economic Regulation of
International Air Transport*
Georgia's own experience in market regulation.

1. INTRODUCTION

1.1 The creation of alliances which is a practice that is spreading widely among major carriers deserves cautious attention with respect to market access during the transition phases of liberalization. The granting of market access rights to one carrier from the alliance may be used to develop a specific aviation market not only by this carrier, but also its "partners" in the alliance. Three mega-alliances control more than

half of the world's scheduled aviation market, that is, it may happen that "weak" air carriers will be left outside.

1.2 Major air carriers naturally play a fairly solid role in the economy of their States, but "weak" air carriers also play a substantial role in the economy of their developing States.

1.3 In this regard, we believe that the Conference's decisions should reflect the need to grant to the "weak" carrier of one State the right to be a participant with full rights in the transportation process in developing its "own" market with the potential of the strong designated air carrier of the other State.

1.4 The "weak" carrier should not consider itself "degraded" because of the impossibility of satisfying the consumer's requirements for air services (rather on the contrary, the "weak" carrier together with the "strong" carrier should become necessary to meet passengers' needs).

1.5 In this regard, it appears necessary for ICAO to recommend to States the mandatory conclusion of an agreement between "strong" and "weak" air carriers (interline, code-sharing, special prorated agreement) so that the latter is a participant not only with full rights, but also with equal opportunities in the transportation process. This can also be considered as preferential measures in favour of the "weak" air carrier.

1.6 Developing countries should feel the powerful support of the world aviation community through a reassessment of the fundamental principles of interrelations under a new arrangement of **"not only equal (market) rights, but also equal opportunities"**.

1.7 We understand **"equal opportunities"** to be that in obtaining market access, designated air carriers competing among themselves would provide each other with their potential opportunities for developing the market (what is meant is the mutual use of CRS, the potential of using the ramified route network of the "strong" carrier, mutual recognition and mutual use of documents of carriage and other commercial opportunities). By whom and how these opportunities will be used will depend on the airlines themselves. Competition will be basically expressed in the form of improving the quality and quantity of the services to the consumer. Such a principle mainly favours "His/Her Majesty the Consumer".

1.8 We naturally understand that achieving the above means becoming involved in the organizational activities of subjects of private law. This is a serious barrier for the development of liberalization in view of the great diversity of laws and rules of contracting countries and it is not easy to overcome this barrier. However, in this regard, we must take into account the goals, scales and possible final results of liberalization that are higher than the commercial rights of individual subjects.

2. ACTION BY THE CONFERENCE

2.1 The Conference is invited to:

- a) note Georgia's position on the need to provide equal opportunities to air carriers by concluding a comprehensive commercial agreement at the level of these air carriers;

- b) instruct the Secretary General of ICAO to create a working group to study the legal mechanism for concluding a comprehensive commercial agreement at the level of the air carriers and to develop a draft of such an agreement or the fundamental principles thereof;
- c) add the following fourth subparagraph in paragraph 6.1 (Recommended Regulatory Arrangement) of ATConf/5-WP/11 in the proposed article on “Safeguards against anti-competitive practices”:

“4. The Parties agree that the airlines designated on routes covered by an agreement should have fair and equal opportunities to develop the aviation market of the Parties and that to ensure healthy and sustainable competition, the designated airlines must conclude between them interline, code-sharing and blocked-space agreements.”

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