

**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
2.1: Air carrier ownership and control**

DESIGNATION AND AUTHORIZATION

(Presented by Cuba)

REFERENCES

Doc 9626, *Manual on the Regulation of International Air Transport*
Doc 7500, *International Air Services Transit Agreement*
Doc 7300, *Convention on International Civil Aviation*
Circ 281, *Outlook for Air Transport to the year 2010*

Action by the Conference is in paragraph 2.

1. INTRODUCTION

1.1 The 1944 Chicago Convention safeguards the principles of the sovereignty of airspace, equality of opportunity, non-discrimination and the rights of countries to designate their national airline to operate international air services.

1.2 Domestic services have been regulated by a system of licences and cabotage rights within each country have been reserved exclusively for national airlines.

1.3 The discretionary criteria to authorize certain international air services based on the ownership of the airlines assume a double examination to determine:

- a) who has the majority ownership; and
- b) who exercises effective control.

1.4 The *International Air Services Transit Agreement* (Doc 7500) grants aircraft used on scheduled services the right to overfly and land for non-traffic purposes.

1.5 Section 5 of Article 1 of the *International Air Services Transit Agreement* provides that a State may withhold or revoke these rights if it is not satisfied that substantial ownership and effective control of an air transport enterprise of another State are vested in that Contracting State which is a Party to the Agreement or in its nationals.

2. **DISCUSSION**

2.1 The internationally generalized practice for the designation and authorization of international air carriers, stipulated in air services agreements, has been to grant the right to designate one or more airlines for the operation of the agreed services and to set the limited conditions of the agreement that allow the other party to withhold the authorization from those carriers.

2.2 At present, the conditions because of which it is possible to withhold (and also suspend) an authorization are usually that the designating party or its nationals do not exercise substantial ownership or effective control; they do not demonstrate sufficient readiness to obey the laws and regulations of the receiving party or the capability to comply with certain requirements of a technical nature.

2.3 In view of the changes that have occurred in the regulations of Contracting States in relation to international air transport, as well as the experiences accumulated in this sector, it is necessary to consider the new proposals offered by ICAO to continue developing the international air transport industry in a safe, orderly, gradual and efficient manner, in view of the new challenges.

3. **ACTION BY THE CONFERENCE**

3.1 The Conference is invited to consider what is stated in paragraph 2.3 of this working paper during the development of the declaration of principles.

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