

**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
2.3: Fair competition and safeguards**

FAIR COMPETITION AND SAFEGUARDS

(Presented by Pakistan)

SUMMARY

Action by the Conference is in paragraph 2.1.

1. DISCUSSION

1.1 It is expected that the participants in the air transport conference would review issues pertinent to challenges and opportunities that would be available on the air transport being liberalized and the resultant impact it would have on air carriers, air navigation providers and on broader regulatory environment including trade, society at large and on prevailing labor policies. The safeguards that would be required to combat anti competitive practices, whether these be in pricing, capacity provisions and the implications air carriers may be involved in being a part of multilateral cooperative arrangements.

1.2 There is also the apprehension that the future regulatory framework would be aiming to provide flexibility to airlines, that may lead to actions, which could constitute unfair competition and therefore, the need for measures to effectively discourage and eliminate such actions. During the 1994 conference, the general view was that greater liberalization would lead to the increasing use of competition laws to ensure fair competition, and that the extra-territorial application of such laws could lead to controversy and conflict between States. Pakistan was of the view, a stance that was also supported in the 1994 air transport conference by the under developed and third world countries that on account of diverse and unequal opportunities available at their disposal, they would not support the multilateral concept of conducting airlines operations. This provision is also highlighted in the draft being submitted to the international civil aviation organization on the declaration of global principles for international air transport and becomes the very basis for Pakistan not supporting, at least for the present, becoming a part of the multilateral arrangement for conducting airlines operations. International Civil Aviation Organization is also of the view that States that are economically disproportionately placed may phase gradually into the

multilateral framework of airlines operations. That airlines being a catalyst for conveying passengers and goods needs to function in a conducive environment. Pakistan is also of the view that effective measures should be in place before liberalization is under taken which would ensure meaningful participation. Another important issue is developing a mechanism for maintaining healthy competition, preventing designated airlines from Price Dumping, Price Predation, Inordinate High Pricing, Price Discrimination, Capacity Dumping, Capacity Predation, Capacity insufficiency and capacity discrimination. The general view was that greater liberalization would lead to the increasing use of competition laws to ensure fair competition, and that the extra-territorial application of such laws could lead to controversy and conflict between the States.

2. ACTION BY THE ATCONF

2.1 It is recommended that the Conference define what are the specific levels to determine capacity dumping in a market or similarly capacity insufficiency. A way out could be to resort to actual market seat factor data as a yardstick *vis-a-vis* break-even seat factors for a particular city-pair, based on established minimum fares and expected costs of operation, below which airlines are not supposed to lower the prices lest they fall in the category of price dumping / predation or discrimination.

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