

**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**

**PREFERENTIAL MEASURES FOR DEVELOPING COUNTRIES**

(Presented by Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cap Verde, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe)

**SUMMARY**

This Working Paper restates the need for preferential measures for developing countries as adopted by the 32nd Assembly and also reviews progress made in implementing these measures and further proposes an implementing mechanism for these measures.

Action by the Conference is in paragraph 2.

**REFERENCES**

Doc 9644, *Report on the World-wide Air Transport Conference on International Air Transport Regulation: Present and Future*  
ATConf/4-WP/80 - Preferential measures for developing countries  
A32-WP/156-Preferential measures  
State letter EC 2/75-97/1 of 17 January 1997  
ATConf/5-WP/11 - Safeguards to ensure fair competition.

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<sup>1</sup> French version provided by African States.  
(3 pages)  
ATConf.5.WP.082.2.en.wpd

## 1. INTRODUCTION

1.1 During the 4th Worldwide Air Transport Conference (ATCONF/4) African States submitted Working Paper WP/80 on Preferential Measures for Developing Countries stressing the concern of marginal participation of developing countries in international air transport.

1.2 Recognizing the fact that this situation was caused by several factors, including inequalities in respect with market access, the paper recommended that the new regulations should incorporate “preferential measures” and whose implementation would gradually eliminate these inequalities.

1.3 Therefore, the African States proposed that ICAO studied the preferential measures which were intended to form part of future regulation concerning market access, structural impediments, competition laws, the environment, taxation and trade practices.

1.4 The Conference agreed with the proposal put forward by the African States and recommended that ICAO carried out a study on preferential measures to form part of future regulation concerning market access, structural impediments, competition laws, the environment, taxation and trade practices for submission to the Extraordinary Session of the Assembly.

1.5 The Conference recognized that the development of civil aviation was critical for the socio-economic development of all States, and should conform to the objectives in Article 44 of the Chicago Convention, in view of a meaningful participation of all States in the international air transport system. Therefore, the Conference recommended that ICAO study, within the overall context of the economic regulations of international air transport, and in the light of the discussion on the matter, preferential measures for developing countries, and subsequently develop appropriate recommendations; then, report on progress made having to be submitted to the next Ordinary Session of the Assembly.

## 2. IMPLEMENTATION AND FOLLOW UP MEASURES

2.1 As recommended by the Conference, the ICAO Secretariat conducted the aforementioned Study which was subsequently, by decision of the Council dated 22 November 1996, distributed by State letter EC 2/75-97/1 of 17 January 1997, to Contracting States for information and possible use by them of the preferential measures suggested therein.

2.2 In agreeing that it should be disseminated, the Council noted that the aforementioned Study was of an informative nature only, and that it was up to States, based on their particular needs and circumstances, to determine whether, when and how to apply any preferential measures in their regulatory relationships.

2.3 Taking into account this relatively new concept in the economic regulation of International Air Transport, the Council also requested States to send their comments or views on the Secretariat study, and particularly their practical experience with respect to the use of preferential measures, for reporting to the 32nd Ordinary Session of the Assembly.

2.4 At the 32nd Ordinary Session of the ICAO Assembly, in the Working Paper A32-WP/156, the African States urged again the international aeronautical community to give special consideration to the needs of developing countries and to the implementation of preferential measures.

2.5 Further to the discussion on this issue, the Assembly urged States to give special consideration in their air transport relationships to the interests and needs of developing countries and, where circumstances warrant, to grant appropriate preferential measures.

### 3. CONCLUSIONS AND RECOMMENDATION

3.1 Since the last Worldwide Air Transport Conference, the legal, institutional, economic and political context of international air transport has evolved significantly. However, the situation in developing countries has still not improved and inequalities which characterized the operation of International Air Transport are still prevailing.

3.2 In view of this situation, it is necessary to reiterate the relevance of the implementation of preferential measures.

3.3 In this respect, preferential measures on a non-reciprocal basis should include:

- a) Access to financial resources and technology;
- b) Non-reciprocal preferential market access to developed markets;
- c) Relaxation of ownership criteria for designation purposes;
- d) Safeguards and safety net measures; and
- e) Slot allocation.

3.4 In this regard, it is proposed that ICAO develop a model clause on Preferential Measures to facilitate their implementation.

### 4. ACTION BY THE CONFERENCE

4.1 The Conference is invited to:

- a) reaffirm the validity and relevance of Preferential Measures;
- b) urge States to grant when it is possible, Preferential Measures in their air transport relationships; and
- c) recommend that ICAO develop a model clause on Preferential measures to facilitate their implementation.

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