

**ICAO SYMPOSIUM ON
LIBERALIZATION OF AIR TRANSPORT IN ASIA/PACIFIC**

(Shanghai, China, 25 to 27 May 2005)

CHAIRMAN'S SUMMARY

1. INTRODUCTION

1.1 It was my honour and pleasure to be invited to chair the Symposium on Liberalization of Air Transport in Asia/Pacific held in Shanghai, China from 25 to 27 May 2005. In convening this event, ICAO set out to build on the outcome of the fifth Worldwide Air Transport Conference (ATConf/5). In particular, it was intended that the participants would focus on the practical aspects of economic liberalization, exchange views and experiences of liberalization, examine national and regional concerns and problems and consider different options and approaches to liberalization. A total of more than 220 participants representing 32 Contracting States, international organizations, industry, universities and other stakeholders joined in meaningful discussions and freely shared their knowledge, experiences and views.

1.2 The following is my summary of the proceedings. Readers may also wish to refer to the Symposium Proceedings on the website for the full presentation of each of the speakers.

2. WELCOME AND OPENING FORMALITIES

2.1 The Conference was opened by Mr YANG Yuanyuan, Minister of Civil Aviation, China who extended a warm welcome to ICAO, the participating States and other stakeholders. Mr. Yang drew attention to the beneficial impacts liberalization of air transport has on trade, tourism and communication among States. Noting the challenges posed by the strong growth in air traffic in the region, Mr. Yang said that the Symposium was a valuable opportunity for the States to map out their strategies for the continued development of international civil aviation in Asia/Pacific. He informed the participants that China's air traffic had grown to the stage where it now ranked 3rd globally and added that China was increasingly liberalizing its aviation policies to accommodate and promote future development of its air transport sector. Accordingly, the Minister said that China particularly appreciated its active participation as host to the Symposium and welcomed the dialogue that would occur.

2.2 Mr Lalit B. SHAH, Regional Director, Asia/Pacific for ICAO, responded with greetings from the President of the ICAO Council, Dr. Assad KOTAITE, and the Secretary General, Mr. Taieb CHERIF. Mr Shah warmly thanked the General Administration of Civil Aviation of China for its enthusiastic and capable support in hosting the Symposium. He also acknowledged with gratitude the role played by the International Air Transport Association (IATA), working in close cooperation with ICAO to organize and manage the event. Mr Shah emphasized the importance of air transport as a driver of economic growth and development, mainly through its support to trade and tourism and its contribution to the creation and the preservation of friendship and understanding among nations by enhancing the mobility of people between countries and regions. He reminded the Symposium that ICAO and its Contracting States recognize these fundamentals and share a common objective in the safe and orderly development of international air transport on a sound economic basis. He explained that the Symposium was convened in the spirit of a "government/industry dialogue" and that it had brought together the air transport policy makers and regulators, executives from airlines and airports, and other

industry stakeholders to engage in open discussion of the pressing, topical and future issues in air transport regulation affecting the Asia/Pacific region.

3. KEYNOTE ADDRESS

3.1 Mr Jeffrey SHANE, Undersecretary for Policy in the United States Department of Transportation, delivered a keynote address on “Asia-Pacific Aviation Developments: A U.S. Perspective”. Mr. Shane pointed out that the United States is engaging more actively with Asia/Pacific States on a wide range of matters, including safety. He said that the United States is a strong supporter of the Asia Pacific Economic Cooperation Council (APEC) and noted the significant progress being made on a range of transport matters under this forum, including the Multilateral Agreement on the Liberalization of International Air Transport (MALIAT) Agreement. He added that the United States had recently concluded open skies agreements with India and the Maldives and that it also signed its first comprehensive air services agreement with Viet Nam. He said that the China-USA protocol signed in 2004, involves a five-fold, phased-in expansion in capacity. Mr. Shane said that the United States placed great importance on its relations with Asian nations and informed the Symposium that his Administration followed various sub-regional approaches to liberalization with much interest. Mr. Shane also acknowledged that there were many financial failures in the United States after it deregulated its airline industry in 1978. He considered that today’s new budget airlines, including those in Asia/Pacific, are financially stronger with mostly younger fleets that will allow them to continue as a powerful competitive force.

3.2 In the question and answer session which followed, Mr. Shane, in response to questions about the value of open skies agreements to less developed countries, said that open skies has become the default policy for many countries. Singapore pointed out that it was the first State in Asia/Pacific to have an open skies agreement with the United States and noted that the United States has had a non-discriminatory approach in selecting its partners. Mr. Shane was also asked whether it would be better to pursue liberalization multilaterally under the World Trade Organization and General Agreement on Trade in Services (GATS). He said that the United States had made a judgement in the early 1990s that greater progress would be made through bilateral approaches on sector-specific issues. However, he noted that if bilateral liberalization opportunities dry up there will be greater interest in multilateral approaches. The view was also given that rules applied under the WTO-OMC GATS, including “most favoured nation” treatment, make the negotiating process difficult and contribute to the lack of progress on liberalization following this route. In response to questions about the prospect of a more liberal approach by the United States on ownership and control, Mr. Shane noted that progress is more likely to be achieved when it becomes clear domestically that the United States has a national interest in liberalizing this aspect.

4. OPENING SESSION

4.1 Two presentations in the Opening Session provided overviews of the air transport regulatory scene globally and in Asia/Pacific, and of the state of the airline industry in Asia/Pacific.

4.2 Dr Paul HOOPER, Regional Officer, Air Transport, in the Asia/Pacific Regional Office of ICAO observed the commitment made to the process of liberalization by ICAO’s Contracting States at the fourth Worldwide Conference on Air Transport in 1994 and reaffirmed at the fifth Worldwide Conference in 2003. Moreover, ICAO’s Template Air Services Agreements (TASAs) provided a framework to define the scope and nature of liberalization. Key trends in regulation of international air transport were highlighted. He noted that all States are embracing forms of liberalization in the majority of their air services agreements. He also observed that some States are readily embracing “open skies”

types of agreements and that several initiatives are in place to promote liberalization on a sub-regional or regional basis. The MALIAT Agreement was highlighted as a plurilateral approach. It was observed that traffic in Asia/Pacific was expected to exhibit robust growth and that liberalization was gaining momentum. Against this background he pointed out that the Symposium provided an opportunity for States to work cooperatively to ensure that liberalization delivers promised benefits.

4.3 Mr. Peter NEGLINE, Aviation Analyst, JP Morgan, Hong Kong, China predicted a generally positive outlook for Asia/Pacific's airlines, pointing first to the strong position of incumbent airlines. He noted that the airlines had finished 2004 with strong traffic growth despite the imposition of "fuel levies", while at the same time their cargo businesses were expanding. Mr. Negline said that investors were concerned about the widening gap between the price for aviation fuel compared to crude oil. Turning to the impact of budget airlines, Mr. Negline said investors expected some of the new airlines would not survive, but the outlook was generally positive. At the same time, many of the incumbent airlines have strong balance sheets and derive a good deal of income from business travel and cargo operations. Mr. Negline explained investor perspectives on the introduction of new large aircraft, corporate restructuring, and liberalization.

5. SESSION 1: PERSPECTIVES AND EXPERIENCES OF LIBERALIZATION

5.1 The first session on "Perspectives and experiences of liberalization" was moderated by Mr. Ahovalamoemapa FALETAU, Secretary for Civil Aviation, Ministry of Civil Aviation, Kingdom of Tonga and included the following seven presentations:

- a) Dr. LIU Fang, Director of International Affairs Division, General Administration of Civil Aviation, China addressed "China's Experience: A Positive, Gradual, Orderly and Safeguarded Liberalization of Air Transport". Dr. Liu described the competitive situation for China's airlines. She pointed out that, in many countries, liberalization of air transport occurs first in the domestic market and then extends to international services. It was explained that, where China is concerned, liberalization of its international markets has promoted the development of the domestic industry, but this results in more demands to reform regulatory policies. Dr. Liu further explained that China's airlines carry social obligations and that they are continuing to learn how to manage in a competitive environment. For that reason China prefers a path of gradual liberalization;
- b) Ms. Dora KAY, Hong Kong Airport Authority and former President of The International Air Cargo Association (TIACA) presented on the topic "Leading the Way with Cargo Liberalization". Ms. Kay highlighted trends in air cargo in Asia/Pacific, observing that the growth in the value of shipments made by air transport have been outstripping growth in GDP. She further commented that the emergence of China as an economic power owes much to the progressive liberalization of both passenger and cargo operations. Ms. Kay reminded the participants of the differences between passenger and cargo and the recognition given to this in the various initiatives in Asia/Pacific to liberalize air cargo. Ms. Kay said that TIACA continues to be an advocate of liberalization and suggested that reforms in this part of the industry act as a catalyst for more general approaches to liberalization;

- c) Mr. Barry HUMPHRIES, Director, Government & External Affairs, Virgin Atlantic discussed “The Roles for Globalization and the National Interest in Ownership and Control”. Mr. Humphries argued that air transport is a mature sector and no longer needs special treatment. He advocated open skies and liberal approaches to ownership and control of airlines. He informed the Symposium about IATA’s view on this matter. IATA believed that, irrespective of their own policies with respect to support for national carriers, States should not stand in the way of other States wishing to liberalize their ownership and control policies. He added that safety and security were of paramount importance, but that this could be achieved by requiring that any airline designated by a State should have an Aircraft Operator’s Certificate (AOC) from that State. Mr. Humphries argued that removal of the restrictions on ownership and control would do more than any other initiative to liberalize international air transport;
- d) Mr. Udom TANTIPRASONGCHAI, Chairman, Orient Thai Airlines spoke about “Harnessing Liberalization for Tourism and Economic Development”. Mr. Tantiprasongchai drew attention to the measures being taken to liberalize air transport within the Association of South-East Asian Nations (ASEAN) and particularly between Malaysia, Singapore and Thailand. He explained how his airline had been established in 1991 as a result of deregulation of the airline industry in Thailand and how the operation had expanded to meet the growth in tourism in his country. However, he pointed out that the industry faced serious challenges. In particular, he observed that many new airlines were being formed, some with ambitious growth strategies. He drew attention to the relationship between demand and capacity and the economic health of the industry. He also highlighted the need to expand infrastructure and to ensure an adequate supply of competent and experienced people to sustain safe operations. Mr. Tantiprasongchai appealed for transparent regulations and for further liberalization to expand routes and to cater for growth in traffic;
- e) Mr. Roberto C.O. LIM, Vice President-Legal Affairs and Corporate Compliance Officer, Philippine Airlines addressed “The Challenges and Opportunities of Liberalization: The Philippine Perspective”. Mr. Lim emphasised the close links between the national flag carrier and the State, hence the nationality rules on ownership. He informed the Symposium about the importance placed on civil aviation as a public utility in the Philippines’ Constitution. He then reviewed the strategies and methodology of the Philippines to ensure continued participation. He explained that the Government actively promoted participation of the private sector but that the Philippines has a preference for progressive liberalization within the scope of effective regulation; and
- f) Mr John GUNTHER, Chief, Economic Policy Section, ICAO addressed the same topic with a presentation titled “An ICAO/WTO Regulatory Scheme for Airline Support in a Liberalized Environment”. Mr Gunther informed the meeting of a recently completed study by ICAO, with the collaboration of the World Tourism Organization, to develop a regulatory scheme which could be used in a liberalizing environment to provide financial support for airlines on a route-by-route basis. Such support would be, according to a specified and agreed set of criteria, tests and transparent administrative procedures in either a unilateral, bilateral or regional environment. It could be applied for essential air services or tourism development routes to and from Least Developed Countries, and especially island and land locked

developing countries. If used, the scheme could assist such countries to plug in better to tourism development, help provide assurance of services and shift the nature of airline support away from direct generic subsidies to route based support.

Panel The speakers then participated in a panel discussion on different perspectives and experiences of liberalization during which they were joined by Mr. Yang-Jin OH, Senior Deputy Director, Ministry of Communications and Transport, Republic of Korea.

5.2 Mr. Oh drew attention to some of the challenges with liberalization and suggested that more satisfactory progress can be made at a regional level. Mr. Oh added that the main obstacle to liberalization in Asia/Pacific is airport congestion and he directed the Symposium's attention to the competitive impacts of slot allocation mechanisms. Mr. Oh also argued that the industry tended to produce excess capacity on trunk routes under liberalization. The panel then exchanged views with the other participants. Key themes raised included how best to promote the interests of consumers, the development of sub-regional markets, foreign investment in airlines, and the relative merits of rapid liberalization relative to a progressive approach.

6. **SESSION II : INDUSTRY TRENDS, MODELS AND REGULATORY RESPONSES**

6.1 The second session on "Industry trends, models and regulatory responses" was moderated by Mr. Simon CHAN, Acting Chairman, Civil Aviation Authority of Macao, China and included the following five presentations:

- a) Professor Tae OUM, President, Air Transport Research Society and University of British Columbia, Canada, addressed "Impacts of Global Alliances and New Large Aircraft on Airlines and Competition and Traffic Flow Patterns" Professor Oum reasoned that the current regulatory arrangements do not make it possible for airlines in Asia/Pacific to develop efficient networks with multiple hubs. Accordingly, the airlines will continue to favour alliance arrangements in order to compete for the growth in travel in Asia/Pacific. He predicted that the airlines will need to consolidate traffic at the main hubs to take advantage of the capacity of the New Large Aircraft (NLA), putting emphasis on having strong feeder networks. Since the airlines are not able to develop the supporting feeder service networks on more than one continent they will depend to a greater extent on their alliance partners. The competition on the trunk routes will ensure that any efficiency benefits are shared with consumers, but the feeder services will place pressure on airport capacity;
- b) Mr. WU Nianzu, Chairman and President of Shanghai Airport Authority discussed "Shanghai Airports Development: Aiming at World-class Air-Hub". Mr. Wu talked about the "historic opportunity" presented to China to establish itself as a major aviation country as a result of its rapid economic growth. This opportunity had been recognized in Shanghai and Mr. Wu explained the strategy being followed for the city's two airports to work together to establish a major global air transport hub and to support Shanghai's services sectors. An important contribution to this, he said, was to help the airlines in their quest to develop more routes and to increase their frequencies from Shanghai;
- c) Mr. Peter HARBISON, Managing Director, Centre for Asia Pacific Aviation, Australia discussed "Low-Cost Carriers and Start-ups: Ensuring Financial Fitness and

Addressing Competition Consequences”. Mr. Harbison saw the emergence of budget airlines and the expansion in the number of routes served as major indicators of liberalization. He suggested that the budget airlines have become a catalyst for change in what is a heavily regulated region. In that context, he observed that the sub-region with the least activity by these new entrants is in Northeast Asia. Mr. Harbison expected that Asia/Pacific’s low-cost carriers would develop their own strategies in response to the market conditions in the region. In looking to the factors that will constrain or facilitate development of the industry, Mr. Harbison emphasized the need to ensure there are no shortages of skilled labour. He added that transparency in the process of awarding traffic rights among competing national carriers is becoming an issue with multiple designation. He observed that efforts to maintain high standards of safety and security were made easier in the past with direct relationships between safety oversight authorities and national carriers. As a prerequisite to liberalization, Mr. Harbison therefore urged States to consider strengthening their safety oversight capacity, although he emphasized that there is no evidence to suggest that low-cost carriers have an inferior safety record. Noting the trend to liberalize on a sub-regional basis, Mr. Harbison also suggested that States should consider the merits of coordinating their safety oversight through some sort of multinational agency;

- d) Mr. David HAWES, Head of Government and International Relations, Qantas Airways, Australia spoke about “Shifting Models and Competitive Responses from the Full Service Carriers”. Mr. Hawes considered that the main effects of liberalization of international air transport have been to open up new routes and to allow for an increased number of airlines to compete on those routes, including emerging budget carriers. Mr. Hawes argued that under these conditions the industry has moved to a situation of excess capacity on a global basis. In response to the competitive pressures, and in an environment where some key inputs such as fuel are increasing in price and demand has been subject to sharp and unexpected downturns, Mr. Hawes described strategies adopted by full service carriers. He identified national competition regulation as an impediment to this adjustment process because it prevents consolidation. He also highlighted ownership and control requirements as a constraint on the consolidation process that needs to occur to deal with the industry’s overcapacity; and
- e) Mr. J.T. Foo, Regional Marketing Director, Singapore Aircraft Leasing Enterprise discussed “Financing the Airlines’ Expansion”. Mr. Foo informed the Symposium that approximately 20% of the world’s 3,000 aircraft are based in Asia/Pacific. He explained that, whereas government-owned or -backed airlines were once the norm so that investors considered that they were dealing with “quasi-sovereign” risks. Now that there is greater reliance on the private sector and fewer guarantees by governments it has to be recognized that very few airlines have investment grade debt ratings. Mr. Foo went on to explain the implications of this and to elaborate on the factors that affect risks. He added that country credit ratings also had to be taken into account. Also, the rapid growth in Asia/Pacific’s economies increases the competition for investment funds. Mr. Foo explained that States can mitigate the difficulties for their airlines in raising finance by adopting appropriate policies on such matters as withholding taxes. He explained the role that leasing plays as well in managing the risks, especially noting the importance of the Capetown Convention to protect the security and leasing interests in aircraft equipment.

Panel The speakers were then joined by Mr. Kazuaki SAIGA, Vice President, Industry Relations, Japan Airlines in a panel discussion on regulatory responses to current and future market place trends.

6.2 Mr. Saiga reminded the Symposium that competition was not confined to other airlines. He explained how high speed rail (HSR) has had an impact on Japan's airlines and noted that plans are being pursued to link 13 cities in China with HSR. A key theme raised during the question and answer session was how best to allocate operating rights on routes under air services agreements. Mr. Harbison explained the model adopted in Australia with the formation of the International Air Services Commission. Professor Oum pointed out that, where capacity entitlements are limited, States should be careful to evaluate the relative merits of awarding traffic rights to full service carriers and budget airlines. Further discussion ensued about the prospects for the budget airlines in Asia/Pacific and about the future of hub-based strategies versus expansion of point-to-point services.

7. **SESSION III : ENSURING SAFETY, SECURITY AND RESPONSIVE INFRASTRUCTURE FOR LIBERALIZATION**

7.1 The third session on "Ensuring safety, security and responsive infrastructure for liberalization" was moderated by Mr. Peter HARBISON and included the following five presentations:

- a) Mr. WANG Yuan-Zheng, Economist, Economic Policy Section, Air Transport Bureau, ICAO discussed "Safety and Security Implications in a Liberalized Environment". Mr. Wang informed the Symposium about a study undertaken by the ICAO Secretariat into safety and security implications of liberalization as an outcome of the fifth Worldwide Air Transport Conference held in Montreal in 2003. He explained that the study first identified ways in which liberalization could have an impact on safety and security and then it evaluated the adequacy of the current ICAO provisions to deal with any such possibilities. Mr. Wang explained that the work being carried out involves all of the concerned disciplines at ICAO and the need for corrective actions by States and/or ICAO will be considered in the next stage of this work. Mr. Wang illustrated complex situations that have been examined and urged States to be aware of impacts and implications of liberalization on safety and security oversight, to be clear about each party's responsibilities, to fully implement and enforce applicable safety and security rules and regulations, and to make use of Article 83 *bis* to the Convention on International Civil Aviation to avoid complex situations involving aircraft transferred abroad. Mr. Wang also emphasized that the study found that the ICAO rules are generally adequate;
- b) Ms. YU Li Ling, Deputy Director, Center of Aviation Safety Technology, CAAC made a presentation on behalf of Ms. H.E. Zhen, Deputy Standing Director, Civil Aviation Economic Lab of CAAC and Civil Aviation Development Institute on the topic "Face New Challenges Under a New Situation". Ms. Yu explained the new situation of China's civil aviation, the challenges this presents, the safety goals that have been set and the safety research carried out by the Center of Aviation Safety Technology (CAST). Ms. Yu pointed out that China's air traffic had grown at more than 18% per year on average for more than 20 years so that it now ranks 3rd in the world. She informed the Symposium that China had adopted the principles of "safety first, precaution paramount" and that it had reformed its organizations and developed a systematic regulatory framework based on scientific research. In supporting

China's more liberal economic regulation of its airlines, Ms. Yu said that the CAAC had recognized the need to enhance its oversight if China is to realize its ambitions to develop a strong civil aviation sector;

- c) A presentation prepared by Mr. Ajay PRASAD, Permanent Secretary for Civil Aviation, India on "Avoiding Pitfalls of Regulation in Airport Privatization" was read to the meeting on his behalf. Mr. Prasad's presentation began by reviewing the rationale for economic regulation in airport privatization, the types of regulatory approaches available and the identity of the regulator, alternatives to formal regulation, including approaches to controlling prices, and the likely pitfalls when privatizing. He emphasized that the economic regulatory regime must evolve by consultation with all stakeholders;
- d) The topic addressed by Mr. Peter BYSOUTH, Assistant Director, User Charges – Asia Pacific, IATA discussed "The Role of Infrastructure Providers in a Liberalized Environment". Mr. Bysouth emphasized that liberalization in Asia/Pacific is taking place against a background of rapid growth and, in many countries, an ageing workforce. He focused attention on the need to provide trained pilots, technical staff, engineers and safety inspectors if the industry's growth is to be sustained. Mr. Bysouth also provided examples about the way airlines are taking advantage of changes in air traffic management to develop new routes and how this mitigates environmental impacts and reduces costs. As a representative of IATA he urged States to use new technologies to improve performance and to embrace benchmarking to assist in better management. He identified a challenge to develop a world class air traffic system in Asia/Pacific and for the various parties to work together cooperatively to ensure a cost-competitive industry; and
- e) Mr. WONG Woon Liong, Director General of Civil Aviation, Civil Aviation Authority of Singapore spoke about "Low-Cost Carriers in Asia and the Response of Airports". Mr. Wong considered the options for hub airports in dealing with the emerging low-cost carriers. He pointed out that these new entrants could use the existing general purpose facilities, but added that this will contribute to congestion. The alternative is to construct dedicated terminals to suit low-cost airline operations. Key features of such terminals were described and Mr. Wong informed the Symposium that Singapore had chosen to pursue this option and was building a \$50 million air terminal (Singapore) designed to handle 3 million passenger movements per annum. Mr. Wong then described how Changi Airport was approaching the management of its differentiated terminals so that airlines and passengers needs are met.

Panel The speakers were then joined by Mr. Greg MOIX, Director, International Aviation, San Francisco Airport and Member ACI World Governing Board and Professor Dr. Seock-Jin HONG, Graduate School of Logistics, University of Incheon, Republic of Korea in a panel discussion on safety and security implications in a liberalized commercial environment.

7.2 Mr. Moix explained reasons why airlines are actively involved as advocates of the liberalization process. Important reasons advanced were that airports are more involved in community and regional development and that airports take a leading role in attracting new airlines. He added that airports and tourism see themselves as allies and often undertake joint marketing. However, the increasingly commercial nature of airports places much greater importance on financial performance and therefore gives airports a strong imperative to expand their revenue base. Professor Hong focused on

safety issues and observed that airlines undergoing high growth rates find it difficult to embed and maintain a safety culture. In that case he argued that governments need to increase aviation safety oversight when they liberalize so that an appropriate balance between safety and efficiency are sustained. One of the issues raised during open discussions concerned the nature and treatment of consumer concerns with cross-border mergers. Mr. Wang explained that the ICAO study on safety and security implications of liberalization found that airlines need to have only one legal principal place of business and only one Air Operators Certificate (AOC). In response to further questions about safety oversight, Mr. Wang noted the findings by ICAO in relation to its safety audits and that the most outstanding areas where deficiencies are found include the lack of trained personnel and the need for continued surveillance. Mr. Wang also emphasized the importance of *Article 83 bis* that allows a State to transfer oversight duties to the State of operation when this differs from the State of Registration. The ICAO Secretariat also was asked to consider developing guidance for a carrier about safety requirements. The Symposium also debated the potential to earn non-aeronautical revenue from passengers using low-cost airline terminals.

8. SESSION IV : THE FUTURE OF LIBERALIZATION – BLOCS AND OTHER APPROACHES

8.1 The fourth session on “The future of liberalization – blocs and other approaches” was moderated by Mr. John GUNTHER, Chief, Economic Policy Section, Air Transport Bureau, ICAO and included the following three presentations:

- a) Professor Peter FORSYTH made a presentation on the topic “Impacts of Sub-Regional and Plurilateral Air Services Agreement Initiatives”. Professor Forsyth provided a comprehensive overview about the types of sub-regional arrangements put in place in Asia to promote liberalization and also included an assessment of experiences with them. He pointed out that the rationale for liberalization on a sub-regional basis was that a more comprehensive pattern of liberal bilaterals leads to a less distorted pattern of network services to facilitate travel. He also observed that liberalized arrangements on a plurilateral approach provides even greater network options and opens up the potential for significant productivity improvements. However, it was noted that any gains from such an arrangement would be limited for regionally dispersed countries, although it was acknowledged that it is an easier task to conclude liberalized plurilateral agreements. In conclusion Professor Forsyth noted that liberalization could harm the interests of at least some States even though most States might gain. Under these circumstances it was pointed out that this possibility makes it more difficult to conclude agreements;
- b) This was followed by presentations by Mr. Klaus GEIL, European Commission and Ms. ZHANG Lan, General Manager, Marketing and Sales, Air China on “Responding to the European Commission (EC) mandates, including requests to accept a community ownership and control clause”. Mr. Geil informed the Symposium that the 25 member States of the European Union (EU) together have 35% of the world’s traffic. He reminded the participants the EU commenced the process of liberalization in 1987 and that the “Third Package” in 1992 established a common market for air services within the EU. He drew particular attention to the judgement handed down in the European Court of Justice establishing that individual member States could not discriminate amongst EU airlines in their respective air services agreements with the United States. However, the decision has been interpreted to apply to air services agreements with all non-EU States. Mr. Geil

described the actions being taken to ensure that arrangements can be changed to comply with the decision handed down by the Court. Mr. Geil also explained that attempts are being made by the EU to negotiate as a bloc on behalf of its members and included work to promote acceptance of the concept of a “community carrier”, one which has its principal place of business in the EU and which also is majority owned by individuals of the EU.

- c) Ms. Zhang highlighted the differences between Asia and Europe in terms of size of market, network development, services and marketing and pointed out that the EU has taken two decades to reach its current position. In contrast, she said that China’s airlines are just commencing down the path of liberalization. She informed the Symposium that China is now under some pressure to conclude an air services agreement with the European Union, but it expressed reservations about the EU’s mandate to do this. Ms. Zhang said that Air China favours a gradual approach to liberalization that is designed to protect the interests of carriers and consumers.

Panel The speakers were then joined by Mr. Tom BALLANTYNE and Mr. Stanley KUPPUSAMY, Vice President, International Relations, Singapore Airlines in a panel discussion on the EC negotiating challenge, bloc negotiations and their industry implications

8.2 Mr. Ballantyne warned the Asia/Pacific States that they could lose out in negotiations with the EU in any bloc negotiations. He urged the States to consider the MALIAT Agreement as a model for use in liberalization, and he argued that air cargo should be seen as a first step in the liberalization process. Mr. Kuppusamy noted that liberalization is embraced by many of the States in Asia/Pacific. However, he drew attention to unsuccessful attempts to promote liberalization under the Singapore, Australia and New Zealand (SANZ) group of States to negotiate with the EU as a bloc. He attributed this lack of success mainly to the absence of a clear vision on the part of the EC. Mr. Kuppusamy also questioned whether the EU approach to ownership and control was a limiting factor. Mr. Geil presented a different view on this matter and explained that the EU was going through a learning process. The EU had found that horizontal agreements need to be signed on a bilateral basis and he suggested that the agreement signed with Singapore is demonstrably successful because it provides legal certainty to all agreements between Singapore and individual EU members. He added that Singapore had been identified by the EU as a promising candidate for more liberalized agreements. Mr. Geil also explained that the question of foreign direct investment in airlines is a key outstanding issue in the EU’s negotiations with the United States and is a matter that is high on the EU’s agenda. In commenting on the presentation by Ms. Zhang, Mr. Geil said that the EC has asked for a mandate to negotiate with China and that the EC welcomes further discussions with stakeholders.

8.3 Professor Forsyth elaborated on the possibility that some States can lose as a result of joining in a sub-regional or plurilateral approach to liberalization. He explained that Peru withdrew from the MALIAT Agreement when it emerged that its carriers were losing market share to LanChile, but he also noted that Samoa and Tonga had joined the MALIAT after it had been signed by the original five members. Professor Forsyth suggested that further consideration should be given to aggregating liberalized bilaterals as a way forward. In response to discussion about the potential for States to use liberalized bilaterals to allow excess domestic capacity to be dumped on international routes and about whether the World Trade Organization would be able to deal with this eventuality, it was pointed out that anti-dumping provisions under the GATS do not currently apply to the three areas covered by the Annex on Air Services. IATA pointed out that market forces are driving liberalization and that open skies agreements are becoming more complex as airlines employ practical ways, such as branding, to overcome regulatory constraints. Mr. Geil acknowledged the trends of growing complexity and regulatory convergence and emphasized the importance of transparency in making the rules known and understood

by all parties. Mr. Ballantyne warned of the dangers of building complexity into the liberalization process and suggested that already there are too many blocs and sub-regional groupings and that these could prove to be an obstacle to further liberalization.

9. CLOSING SESSION

9.1 In closing the Symposium, Mr. YANG Guoqing, Vice Minister of Civil Aviation, China congratulated the participants on the progress made. On behalf of China, he thanked ICAO, IATA, speakers and delegates for their sincere contributions to the discussions. He also expressed appreciation to the sponsors - Air China, China Eastern Airlines, Shanghai Airlines, Shanghai Airport Authority – for their generous support. Mr. Yang observed that the Symposium had identified trends, models and regulatory responses that would serve all participating States into the future. He also noted the emphasis given to the prerequisites for successful liberalization in the context of rapid growth and other societal changes including the need to ensure safe and secure operations, to develop the necessary airport and air navigation services infrastructure, and to ensure that the industry's human resource requirements are met. Mr. Yang observed the strong commitment in Asia/Pacific to the process of liberalization and also commented on the value of the Symposium for enhancing cooperation and friendship within the region. He concluded by saying that China is willing to work with all countries to ensure that international civil aviation plays its full role in supporting sustained economic growth in Asia/Pacific.

9.2 As the Chairman of the Symposium, I observed a strong consensus on these matters. Many of the participants openly commented on the value they placed on this Symposium and appealed to ICAO to consider holding similar events. For its part, China would consider being the host. I believe these views testify to the success of the meeting and the contribution played by ICAO in assisting States in the liberalization of international air transport.

WANG Ronghua