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WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

Montréal, 18 to 22 March 2013

- Agenda Item 2: Examination of key issues and related regulatory framework**
2.8: Implementation of ICAO policies and guidance

DRAFT REPORT

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2.8.1 DOCUMENTATION

2.8.1.1 The Conference considered Agenda Item 2.8 based on the following working papers: WP/16 and WP/24 (Secretariat), WP/61 (United States), WP/27 (Bahrain on behalf of Arab Civil Aviation Commission (ACAC)), WP/42 (Morocco on behalf of a group of Arab States), WP/63 World Tourism Organization (UNWTO), and WP/99 International Transport Workers' Federation (ITF)). The following information paper was also noted by the Conference: IP/17 (Brazil).

2.8.2 DISCUSSION

2.8.2.1 The Conference unanimously recognized ICAO's leadership role in the economic regulation of international air transport and in the development of comprehensive policy guidance. States expressed support for ICAO's activities with respect to updating, enhancing and promoting its policies, guidance and other material related to economic regulation. There was general support for the need to keep ICAO principles, policies and guidance current and responsive to the changing situations and requirements of States. There was also general support for ICAO to continue to promote awareness and explore means by which to enhance the status of its policies for wider use and adherence by States.

2.8.2.2 Regarding a possible new Annex to the Chicago Convention, there was no consensus on its development as of today. However there was general recognition of the usefulness of such an Annex to enhance the implementation of ICAO policies and guidance. One view expressed that the new Annex may impinge on State sovereignty and be at odds with the need for States to liberalize air transport at their own pace. The different nature between standards and recommended practices (SARPs) adopted in the technical field and ICAO guidance in the air transport field was also mentioned. Other States supported the idea of establishing a new Annex but considered that such an undertaking would require further consideration. Many delegates requested that this issue be considered jointly by ICAO and States with a view to conducting analyses on the scope and content of a new Annex.

2.8.2.3 The Conference also unanimously supported the need to establish priorities for ICAO's work in the air transport field. Regarding the practicalities of such a prioritization, different views were expressed. Some States considered that the Conference, in its earlier deliberations, had established the following areas as priorities: market access, air carrier and ownership, fair competition and consumer protection; others suggested that the issues of infrastructure financing and taxation should also be considered as priorities, stating that all ATConf/6 agenda items are of equal importance and interrelated. It was suggested that these priorities should be established on the basis of usefulness, time constraints, complexity of tasks, and available resources. Finally, it was agreed that air transport is a priority for the Organization and that the new ICAO Strategic Objective, namely Economic Development of Air Transport, has equal status in importance as all other ICAO Strategic Objectives.

2.8.2.4 It was also pointed out that during the Twelfth Air Navigation Conference (ANConf/12) and the High-Level Conference on Aviation Security (HLCAS), no prioritization had been carried out. To assist ICAO in this prioritization, it was suggested that a State letter be disseminated requesting views on

the priority issue. Considering the limited time available, the proposal was not considered realistic within the existing time frame leading to the 38th Session of the ICAO Assembly.

2.8.2.5 Finally, the meeting was reminded that according to ICAO procedures, the priorities should be established by the ICAO Council.

2.8.2.6 The proposal to develop an electronic arbitration mechanism for dispute settlement in national legislation was discussed by the Conference but there was no support expressed for the proposal.

2.8.2.7 A view was expressed that ICAO should recognize the interests of aviation workers in its guidance material.

2.8.3 CONCLUSIONS

2.8.3.1 From the documentation and ensuing discussions on the implementation of ICAO policies and guidance under Agenda Item 2.8, the Conference concluded that:

- a) air transport is a priority, as already recognized by the Council which adopted a new Strategic Objective: Economic Development of Air Transport. The leadership role of ICAO in economic regulation of international air transport, and in the development of comprehensive policy guidance to assist States in the creation of a favourable regulatory environment for the sustainable development of air transport and for the benefit of all stakeholders, is indisputable;
- b) ICAO policies and guidance material on the economic aspects of international air transport regulation remain relevant but need to be kept current and responsive to the changing situations and needs of States and aviation stakeholders;
- c) there is a need for ICAO, in cooperation with the industry, to ensure widespread awareness and improved implementation of its policies as well as use of its guidance material on economic regulation; and
- d) it is necessary that ICAO conduct analyses on the scope and content of a possible Annex to the Chicago Convention on sustainable economic development of air transport, and to work jointly with States on the usefulness and feasibility of such an Annex, including exploring other acceptable solutions.

2.8.4 RECOMMENDATIONS

Recommendation 2.8/1 — Implementation of ICAO policies and guidance

The Conference recommends that:

- a) States should recognize the importance and relevance of ICAO policies and guidance and give due regard to them in regulatory practices;
- b) States should exert all efforts to ensure adherence to commitments relating to provisions of

Assembly Resolutions in the air transport field;

- c) States should incorporate ICAO principles, policies and guidance in national legislations, rules and regulations, and in air services agreements;
- d) ICAO should continue to promote its policy guidance on the economic regulation of international air transport, and encourage States to use such guidance in their regulatory practice;
- e) ICAO should ensure that policies, guidance and other material related to economic regulation remain relevant, current, and responsive to changing situations and requirements of States;
- f) ICAO should continue to consider additional ways and means by which to enhance the status of its policies for the sustainable development of the air transport system, and should assess the value of a possible new Annex to the Chicago Convention on economic development of air transport, or other acceptable solutions; and
- g) ICAO should establish priorities in the Recommendations agreed by the Conference.
