



Arab Civil Aviation Commission (ACAC) Seminar

(Rabat, Morocco, 21 – 22 December 2005)

“Bringing at Par National Legislation for the Liberalization of Arab Air Transport”

**Presentation by Mrs. Magda Boulos
Economist, Economic Policy Section
International Civil Aviation Organization**

I am honored today to be invited as a speaker and to address this distinguished gathering of air transport policy makers, regulators and industry officials. It is a great privilege to share some thoughts with you on how to adapt and bring at par national legislation for the implementation of the Arab Air Transport Liberalization Agreement.

This presentation will first provide an overview of the role of ICAO in harnessing liberalization, a redirection or reorientation of ICAO's work at the global, regional, bilateral and national level. Within the context of liberalization, it will particularly highlight ICAO's role in promoting regional initiatives and provide insights as to some of the challenges you may be facing during the implementation of the liberalization programme ahead of you. I will finally wrap up by drawing your attention to some observations that you may wish to consider as a State and as part of this regional achievement.

The fifth Air Transport Conference of 2003 was a watershed event in ICAO's history of air transport liberalization. It was also a catalyst behind enhancing ICAO's role in the development of air transport. For the first time 800 delegates attending this Conference did not question the concept of liberalization, but rather gathered to explore “how” to advance it. They recognized that the liberalization forces at work in a globalized world was inevitable and an unavoidable part of the future of international air transport. In coming together, they gave ICAO a mandate of hope and expectation to “facilitate, promote and assist States in the liberalization process”. Now, what we need to do is harness liberalization, adapt it to aviation's particular characteristics, and seek to optimize its benefits for national and regional development. In moving ahead with this task to bring the aviation community to a more open, efficient and economical air transport system, ICAO is very mindful of the disparities between States, the concerns of continued participation and the unquestioned requirements of safety and security.

I will not go over the outcome of the Conference which resulted in a very elaborate work. A Declaration of Global Principles for liberalization, two recommendations relating to ownership and control and the role of ICAO, seven model clauses for optional use in air services agreements and about 67 Conference conclusions covering all agenda items. And of course the Template Air Services Agreements (TASA) which have become a familiar tool for many States who have usefully integrated it in bilateral as well as regional agreements. But rather today, I would like to mention few salient Conference implications relating to our topic of discussion.

First, the Conference recognized the merits of a case study approach to liberalization

experiences, in that it provides a suitable vehicle for the analysis and dissemination of information on such experiences of States at national, sub-regional, regional or plurilateral levels. Such cases on liberalization may assist States to further develop their liberalization approaches and policy options. Throughout this Seminar we have been listening to very valuable experiences that you will be able to evaluate and adapt for your own benefit. ICAO too, has, since the Conference, gone a long way in building a broad database of national and regional liberalization experiences for the information of States. We have developed over 30 case studies, of differing degrees of liberalization, that are now disseminated on the ICAO Air Transport Bureau website. A wealth of information, including the background information, the regulatory framework for liberalization and the impact and developments in key elements such as traffic and competition is available.

Secondly, another issue discussed was the national ownership and control provision, and how it is dealt with, within a genuinely liberalized air transport. The Conference fully recognized the need for regulatory reform of this provision, encouraged flexibility and a willingness to accommodate the prospect of more significant transnational ownership of airlines, and to give designated airlines the potential to have access to global capital markets. This is not to say, however, that more flexibility and reforming of ownership and control is the panacea which opens doors for airlines to capital markets. An airline still needs to be an attractive investment proposition to attract outside capital. Perhaps also more significant, as a regional grouping, you have succeeded in developing an institutional structure with arrangement, procedures and a legal framework for a new negotiating dynamic involving third parties. Of course, it implies a political will to implement and continue on this path of institutional consolidation.

Let me touch on the third issue which also has implications for a viable regional industry. Any benefits to liberalize the market will not be achievable if certain players in the market are subject to special treatment by their governments. The Conference here recognized that in a situation of transition to liberalization, a State may continue to provide support to its airlines to ensure participation in, and sustainability of, its air transport industry. However, State aids/subsidies which only confer benefits on national air carriers, but are not available to competitors in the same market, may distort trade in international air services and can constitute unfair competitive practices. There may be instances where State assistance can produce benefits in terms of restructuring airlines and an assurance of service. Within a liberalized system, it remains possible to give emergency assistance, but it is important to do so on the basis of strictly enforced rules and non-discriminatory treatment. State aids in the European Union, for example, follow a strict policy where the Commission applies the “one time, last time” condition to any State aid that it approves.

Air transport is an industry of strategic importance and all States want to ensure that, in a liberalized environment, air service is preserved and that the national industry is as healthy as possible. If we are here today it is because the Arab world have come together and have become fully aware of the importance and necessity to liberalize and to share the opportunities of liberalization. ICAO recognizes that, for the Arab States, for those who went through this process, liberalization was not entered into lightly. The ongoing process of implementation of the Agreement and the gradual arriving at acceptable liberalization measures was no easy task and took much negotiation. We support and encourage regional achievements and have produced a whole range of practical regulatory tools and guidance for the regulators to use. ICAO is behind you and we will continue to facilitate and assist you so that air transport in this region develops in a safe and orderly manner.

In the course of liberalization, you may perhaps raise concerns over the national carrier not adapting to a more open environment, putting jobs and air services under threat, or you may have concerns over losing service to essential but uneconomic routes, as the focus of carriers becomes based more on profitable routes, or maybe new entrants are focussing on major trunk routes and dropping regional services. But also in no time, you will realize that you have come a long way. You will be able to share your

liberalization developments and, hopefully, successful experiences with others who also want to move along your path.

In the final part of this presentation, I would like to draw your attention to a number of important aspects that you need to ensure, and properly address as regulators. First and foremost is the importance of looking into the economic and safety aspects, as well as the importance of having common standards on safety and security. Safety and security should, at no time, be compromised by economic considerations. This may be particularly challenging for those of you who have taken a regional approach as an effective means of pursuing regulatory change in international air transport. A recent study by the ICAO Secretariat concluded that economic liberalization and the evolution of business and operating practices have implications for safety and security regulation, which need to be addressed properly. There are potential problems for identifying the line of responsibility which tend to arise in situations where the operations or arrangements involve multiple parties from different States, or where the aircraft is based and operated in places other than the State of Registry and/or State of the Operator. For instance, some examples of this occur in situations where there is an increased level of air transport activity, new entrant operators or non-traditional service providers, or in situations where airlines are facing financial exigencies. There are also concerns in situations where operations involve multiple partners and the use of another's brand, such as codesharing and franchising. This could raise questions of levels of involvement vis-à-vis other authorities and the extent of involvement in safety oversight arrangements. Some States require foreign airlines, with which their national airlines have codesharing arrangements, to meet a similar level of safety. All these situations put additional pressure on the capacity of States to develop a coherent policy in order to meet the required safety and security regulatory functions. You need, therefore, to be clear on the responsibility and obligation to exercise these functions. You need to be clear about arrangements between a State and the regional authority, especially vis-à-vis third parties. There also needs to be harmonization and transparency on a broader scale and facilities put in place to oversee the implementation of safety and security obligations.

As you may know, ICAO will be convening a Directors' General of Civil Aviation Conference on a Global Strategy for Aviation Safety from 20 to 22 March 2006. The Conference will be *inter alia* looking at how to improve ICAO's Standards and Recommended Practices (SARPs) and guidance material, and in assisting its member States in resolving safety-related deficiencies, such as those identified under the Universal Safety Oversight Audit Programme.

Another aspect to bring to your attention is the emerging trend of regionalism towards negotiations in air transport. While the regional approach has many advantages, bloc approaches may also have potential pit falls. For example, they could sometimes develop into a fortress. It is important as you join together as a regional bloc to be receptive to other parties, and to evolve towards the agreement with open arms without excluding others. This is particularly true when, and if, bloc to bloc negotiations happen, they should not result in reduced market access for non-bloc parties or be solely exclusive to these two blocs. We need to be reminded of the importance of the principle of non-discrimination, as emphasized by the Chicago Convention.

I should also mention harmonization, both in regulations and resources. What you have accomplished so far is not to be underestimated and you have to protect it. Internal integration and cooperation may often seem difficult but essential. You need to pull your forces and resources together so that you may avoid unilateral actions. Harmonization remains of paramount importance as each Party has its national interest to protect and you come along at different levels of development and resources. You need to do this by maximizing your strengths and minimizing the shortfalls of regional integration.

One last issue, perhaps encompassed in all the above, is the development of human resources

in terms of quantity and quality. Any anticipated success for implementation of the Agreement lies eventually on the need to recruit and keep competent and trained personnel in sufficient numbers to strengthen the effectiveness of the national administrations. This will also have an impact on the competitiveness and profitability of the air transport industry in terms of liberalization and technological change.

Thank you again for your kind invitation to share these thoughts with you today.

— END —