



*Transmittal Note*

**SUPPLEMENT TO DOC 8632**

**ICAO'S POLICIES ON TAXATION IN THE FIELD OF  
INTERNATIONAL AIR TRANSPORT**

**(Third Edition — 2000)**

1. The attached Supplement supersedes all previous Supplements to Doc 8632 and includes information received up to 29 May 2009 from Contracting States as to their position vis-à-vis the Council Resolution on taxation in the field of international air transport.
  2. Additional information received from Contracting States will be issued at intervals as amendments to this Supplement.
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**SUPPLEMENT TO DOC 8632 — FOURTH EDITION**

**ICAO'S POLICIES ON TAXATION IN THE FIELD  
OF INTERNATIONAL AIR TRANSPORT**

Information contained herein reflects the status of implementation of Council's 1999 Taxation Resolutions and Recommendations by Contracting States as notified to ICAO.

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INTERNATIONAL CIVIL AVIATION ORGANIZATION

## RECORD OF AMENDMENTS TO SUPPLEMENT

[illegible]

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of ICAO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

### Table of Contents

<i>State</i>	<i>Pages in Supplement</i>	<i>Date of publication</i>
Argentina	1–2	3/7/09
Armenia	1	3/7/09
Australia	1–2	3/7/09
Austria	1	3/7/09
Azerbaijan	1	3/7/09
Bahrain	1	3/7/09
Barbados	1	3/7/09
Belgium	1–2	3/7/09
Botswana	1	3/7/09
Burundi	1	3/7/09
Canada	1–2	3/7/09
Chile	1	3/7/09
China (Hong Kong SAR)	1	3/7/09
China (Macau SAR)	1	3/7/09
Colombia	1	3/7/09
Cuba	1	3/7/09
Cyprus	1	3/7/09
Czech Republic	1	3/7/09
Ecuador	1	3/7/09
Egypt	1	3/7/09
Estonia	1	3/7/09
Ethiopia	1	3/7/09
Fiji	1	3/7/09
Finland	1	3/7/09
Germany	1	3/7/09
Hungary	1	3/7/09
India	1–3	3/7/09
Iran (Islamic Republic of)	1	3/7/09
Ireland	1	3/7/09
Italy	1	3/7/09
Jordan	1	3/7/09
Kenya	1	3/7/09
Kuwait	1	3/7/09
Lebanon	1	3/7/09
Lesotho	1	3/7/09
Lithuania	1	3/7/09
Malta	1	3/7/09
Mexico	1–2	3/7/09
Netherlands	1	3/7/09
New Zealand	1	3/7/09
Norway	1	3/7/09
Oman	1	3/7/09
Pakistan	1	3/7/09
Panama	1	3/7/09
Peru	1	3/7/09
Poland	1	3/7/09

<i>State</i>	<i>Pages in Supplement</i>	<i>Date of publication</i>
Portugal	1-4	3/7/09
Republic of Korea	1	3/7/09
Russian Federation	1-3	3/7/09
Rwanda	1	3/7/09
Seychelles	1	3/7/09
Singapore	1	3/7/09
Slovakia	1	3/7/09
Slovenia	1	3/7/09
South Africa	1	3/7/09
Spain	1-6	3/7/09
Sweden	1	3/7/09
Switzerland	1	3/7/09
Thailand	1	3/7/09
The Former Yugoslav Republic of Macedonia	1	3/7/09
Tunisia	1	3/7/09
United Arab Emirates	1	3/7/09
United Kingdom	1	3/7/09
United Republic of Tanzania	1	3/7/09
United States	1-3	3/7/09
Uzbekistan	1	3/7/09
Venezuela	1	3/7/09

**ARGENTINA**

**Clause 1** Argentina complies with the Council Resolution contained in Clause 1, with the following clarifications:

- 1) With reference to the exemptions which the Resolution in Clause 1 of Doc 8632 establishes with respect to import and export duties, the situations outlined there are free from the payment of such taxes, with the exception of the hypotheses foreseen which are mentioned in Attachment I hereto.
- 2) With regard to international air transport operations performed in our country by aircraft registered in another State or leased or chartered by enterprises of that State, which are provided for in the Resolution in Clause 1 of Doc 8632 which establishes the exemption from consumption taxes levied on the acquisition of fuel, lubricants and other consumable technical supplies contained in the tanks or other receptacles on aircraft or taken on board, Argentina legislation provides for tax exemption for these products under certain conditions, namely:
  - a) With respect to internal taxes, provided that the fact of being taxable has not been established, provision is made for exemption when these products have been included on the list of stores (products which will be consumed on board) or if the fact of being taxable has been established, the tax will be refunded or credited.
  - b) Although the sale of certain products has the Value Added Tax (VAT) levied on it, the regulations for this tax provide for the refund of the tax in those cases intended for the international transport of passengers and cargo.

**Clause 2** Argentina complies with the Council Resolution contained in Clause 2 which merits the following comments:

- 1) Since 1946, Argentina has maintained the position which provides that each State must have exclusivity in the taxation of the income and the capital of the enterprises performing international transport operations which are constituted or domiciled in that State.
- 2) Starting from the year mentioned in 1) above, specific agreements have been concluded for the avoidance of double taxation in the field of international transport by sea and by air. In addition, the position mentioned in the relevant articles of the broad tax agreements for the avoidance of double taxation (Articles 8, 13 and 22 of the OECD Model Convention) has been established.

**Clause 3** Argentina does not apply types of taxation which may affect the *modus operandi* of international transport by creating obstacles or difficulties for its development, as far as passengers and shippers are concerned. In this regard, the following comments should be made:

- 1) Argentina levies 5 per cent on the price of air tickets for travel abroad which are sold or issued in our country, as well as those sold or issued outside our national territory, to nationals or permanent residents of our country, where the departure point of the journey is at any airport located in our country.

- 2) There is a conceptual difference with respect to the Resolving Clause (2) part where what in Argentina is called a charge for the payment of a service provided by the Nation, Province or Municipality is considered a tax and with respect to which international practices, a position maintained by Argentina, allow for countries to be able to collect such charges which are in general applied on the value of the immovable property and which are intended to cover the costs of city lighting and cleaning.

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**Attachment 1**

**Customs Code of the Argentine Nation (Law 22.415)**

“Article 514

Except for any special provision to the contrary, the loading in a means of transport, national or foreign, of goods which are not freely circulated in the customs territory and which are intended as supplies, of stores or of supplies coming from a warehouse subjected to customs control, shall be considered as if it were importation for consumption and shall be subject to the corresponding payment of taxes.”

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## ARMENIA

In accordance with the Law of the Republic of Armenia “On Value-Added Tax”, a VAT rate of zero percent is applied with to the following:

- a) fuel for fueling aircraft operating flights on international lines, and for the supply of goods envisaged for use by the crew and passengers on aircraft along the entire route;
- b) taxes on services (including air navigation and takeoff and landing), repairs, refitting of transport means operating on international routes, as well as freight services on international routes for passengers, baggage, freight, and postal services, and services provided to passengers during transport;
- c) taxes on services (including taxes for agents and intermediaries) indirectly associated with the services indicated in subparagraph b) above and for the providers thereof;

The zero percent rate applies to resident and non-resident companies.

In accordance with Article 102 of the Tax Code of the Republic of Armenia, the zero percent customs duty applies to the import and export of all types of fuel and oils.

In accordance with the Law of the Republic of Armenia “On the Profits Tax”, revenues received by a foreign company carrying out air transport from the Republic of Armenia or to the Republic of Armenia are subject to taxation, either at the source of payment of income or on the basis of an annual income declaration (if the company carrying out air transport has a separate subdivision in the Republic of Armenia).

Moreover, double tax avoidance agreements for income and property tax are in effect and have been concluded with virtually all of the countries of residence (incorporation) of foreign companies carrying out air transport from the Republic of Armenia or to the Republic of Armenia, as are agreements on air traffic, and the provisions of these agreements concerning international air transports are in conformity with ICAO’s policies on taxation in the field of international air transport.

As of 1 January 2009, Armenia has a double tax avoidance agreement for income and property tax with the following 29 countries: Bulgaria, Ukraine, China, Romania, Russia, Iran, Turkmenistan, Georgia, Lebanon, Latvia, Lithuania, France, Belarus, Greece, Thailand, The Netherlands, Estonia, Belgium, Austria, The United Arab Emirates, India, Poland, Canada, Moldova, Syria, Qatar, Switzerland, Finland and Italy.

In the Republic of Armenia, since 1998, passengers flying out of the Republic of Armenia are charged a state duty of 10,000 Armenian drams (approximately USD 33). According to the amendment to the Law of the Republic of Armenia “On the State Duty” (enters into force on 29 March 2009), the state duty will be included in the cost of an airline ticket and should be paid to the state budget of the Republic of Armenia:

- a) by air carriers of the Republic of Armenia and representatives of foreign air carriers registered in the Republic of Armenia, when operating scheduled air transports;
  - b) by organizations operating airports, when operating nonscheduled air transports.
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## AUSTRALIA

### General Comment

While we understand that ICAO has the right to make recommendations and resolutions regarding international aviation taxation issues, we strongly oppose the creation of separate taxation regimes for particular groups, including international airlines, and would oppose any moves by ICAO to make its taxation policy binding on Contracting States.

Australia's policy remains that questions relating to the taxation of international airlines should be dealt within the context of Australia's overall taxation policy. Australia will therefore continue to address these issues only in double taxation agreements and, less commonly, international airlines profits agreements.

### Extension of ICAO taxation policies to taxes levied at sub-national levels

Australia cannot agree to the provisions extending ICAO taxation policies to local tax authorities. Australian States and Territories have their own taxing powers and the Commonwealth does not have the authority directly to impose its will over taxing powers that they legitimately possess. This is reflected in the fact that Australia's double taxation agreements and airline profit agreements do not cover State taxes.

The following information is provided in relation to national taxation.

### Notification of practice with regard to Doc 8632 — taxation at national level only

#### Clause 1

Australian practice, as reflected in Article 9 of Australia's standard Air Service Agreement complies with Clause 1.

Specifically, aircraft operated in international air transportation by the airlines of each Party are exempt from import restrictions, customs duties, excise taxes, goods and services tax, and similar fees and charges imposed by Australia. Component parts, normal aircraft equipment and other items intended for or used solely in connection with the operation or for the repair, maintenance and servicing of such aircraft are similarly exempt, provided such equipment and items are for use on board an aircraft and are re-exported.

Provided in each case that they are for use on board an aircraft in connection with the establishment or maintenance of international air transportation by the airline concerned, the following items are exempt from import restrictions, customs duties, excise taxes, goods and services tax, and similar fees and charges imposed by Australia, whether they are brought by an airline into Australian territory or supplied to an airline in Australia:

- i) aircraft stores (including but not limited to such items as food, beverages and products destined for sale to, or use by, passengers during flight);
- ii) fuel, lubricants (including hydraulic fluids) and consumable technical supplies, and
- iii) spare parts including engines.

These exemptions also apply when these items are used on any part of a journey performed over Australian territory in the course of an international journey.

- Clause 1 e)** Australia would use its best efforts to ensure that State and local authorities do not impose taxes on items used in operating or servicing aircraft use in international air transport, including fuel, lubricants and consumable technical supplies. However the Australian Government cannot give a commitment that it could ensure the States would not levy taxes in certain cases. The Australian States and local authorities do not at present impose any taxes inconsistent with the tax exemptions for international air transport set out in Australia's model air services agreement or in the ICAO's resolution on the taxation of items used in international air transport.
- Clause 2 a) i)** There are no special rules in Australia's domestic taxation law for taxing the income of a non-resident airline operator, however as a matter of tax administration such airlines must calculate their taxable income in accordance with Australian income tax law. International non-resident non-treaty airline operators will be considered to have complied with Australian income tax law, if they calculate their Australian taxable income in accordance with specific formulas set out by the Australian Commissioner of Taxation.
- Where a comprehensive tax treaty exists, Australia generally follows the OECD's taxation policies as reflected in the OECD Model Tax Convention, and generally taxes profits from the operation of aircraft in international traffic in the country of residence of the enterprise operating the aircraft. Australia has a reservation to the OECD Model Article dealing with the taxation of profits from international air traffic, and reserves the right to tax profits from the carriage of passengers or cargo taken on board at one place in Australia for discharge in Australia. Multiple layers of taxation are avoided as Australia's tax treaties provide relief must be given in the enterprise's state of residence for tax already paid in the country where the profits are sourced.
- Australia taxes capital gains as part of its income tax regime. Under Australia's domestic law non-resident international airline operators are taxed on capital gains arising from the disposal of "taxable Australian property" (essentially Australian real property and the business assets of Australian branches of a foreign resident airline operator). Where a comprehensive tax treaty exists, Australia does not tax capital gains from the alienation of aircraft operated by a non-resident international operator, or of property pertaining to the operation of such aircraft, the country where the international airline operator, or of property pertaining to the operation of such aircraft, the country where the international airline operator is resident is provided with the sole taxing rights.
- Clause 2 c)** Australia has entered 41 comprehensive tax treaties which deal with the taxation of income from international air transport enterprises, and 4 limited agreements in relation to international airline profits.
- Clauses 3 and 4** The Passenger Movement Charge (PMC) is a non-hypothecated tax levied on international passengers departing from Australian airports and is usually collected by the international airline as part of the ticketing/airfares process. It contributes to recovering the costs of a range of aviation security initiatives, processing international passengers at international airports and maritime ports, and issuing short term visas overseas. The PMC is remitted to the Australian Customs Service by the airline following the departure of the aircraft from Australia.
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**AUSTRIA****Clause 1**

- Clause 1 a)** This clause is implemented in Austria for commercial air transport;
- Clause 1 b)** Exemptions are being granted even without the requirement of reciprocity;
- Clause 1 c)** Exemptions are also being granted on departure;
- Clause 1 d)** This definition is acceptable in Austria; and
- Clause 1 e)** There are no such local taxes and duties in Austria.

**Clause 2** Fully acceptable to Austria.

**Clause 2 a)** Austria has concluded a number of bilateral agreements on double taxation, so that multiple taxation inter alia in the field of civil aviation is to be avoided.

**Clause 3** There is no turnover or value added tax for international air transport in Austria, but there is a "Security Levy" to be paid by departing passengers which has the characteristics of a Federal Tax.

**Clause 4** As stated above, Austria respects the existing exemption of international civil aviation from taxation with said one exception.

However, Austria as an EU Member State does not support the introduction of emission trading in Europe as the appropriate economic instrument to reduce/to limit the environmental impact of civil aviation. Moreover, Austria would strongly support any global emission trading system to be achieved under the framework of ICAO and UNFCCC.

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**AZERBAIJAN**

**General comment**

With regard to the resolution in question, please note that we have neither comments nor proposals with respect to the document indicated above.

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## **BAHRAIN**

The State of Bahrain is committed to promote market-based economics and has thus adopted a proactive position within its resources and facilities. Accordingly it does not levy a corporate tax on companies in all fields of activity including airlines. This is designed to facilitate commercial investment.

The State has also concluded several double taxation avoidance agreements in respect of airline activities. Its bilateral air services agreements also contain a special provision exempting airlines from taxes and other charges.

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**BARBADOS**

**Clause 3**

With effect from 1 January 1997 the travel tax of twenty per cent (20 per cent) on airline tickets for journeys commencing in Barbados has been removed. In place of that tax, a value added tax of fifteen percent (15 per cent) has been imposed on airline tickets for journeys commencing, issued or paid for in Barbados.

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**BELGIUM****Clause 1****A. Fuel and lubricants on board aircraft**

An exemption from customs duties is granted on arrival for fuels and lubricants on board aircraft serving scheduled international routes.

An exemption from excise duties is granted for stores, supplies, fuels and lubricants on board aircraft on arrival.

**B. Fuels and lubricants delivered on board an aircraft in Belgium**

Goods from countries outside the EU which are retrieved from a holding facility (e.g. customs bonded warehouse) are exempt from customs duties.

If such goods are re-exported outside the territory of the EU, they are exempted from import duties. This is the case with supplies for aircraft whose final destination is outside the EU.

It should be noted that the exemption from excise duties is restricted to the provision of aviation fuel irrespective of the flight performed.

As to registration and the value-added tax:

The ICAO Resolutions are applied within the limits of the 6th directive of 17 May 1977 of the Council of the European Union (77/388/CEE) transposed into the Belgian legislation.

The latter contains a paragraph providing that the following are tax-exempt:

1. deliveries and imports of aeroplanes, hydroplanes, helicopters and similar aircraft for use by the State and by airlines chiefly engaged in the international transport of persons and goods for remuneration;
2. deliveries to the producers, owners or operators of the aircraft referred to in Item 1 of this paragraph, and imports by them of articles to be incorporated in these aircraft or used in operating them;
3. the provision of services for the production, conversion, repair, maintenance and rental of the aircraft and articles referred to in Items 1 and 2 of this paragraph;
4. deliveries to airlines referred to in Item 1 of this paragraph and imports by them of goods for refuelling the aeroplanes, hydroplanes, helicopters and similar aircraft which these airlines use;
5. the provision of services other than those referred to in Item 3 of this paragraph for the direct needs of the aircraft referred to in Item 1 of this paragraph, except for aircraft used by the State, and of their cargo, such as towing, piloting, rescue and expertise, use of aerodromes, services required for landing, take-off and stay of aircraft on aerodromes, services provided to airlines by airline agents in their capacity as agents, assistance provided to passengers and crews on behalf of airlines.

The VAT code also provides for a tax exemption for intra-Community imports and purchases of goods whose delivery by those liable to tax is, in any case, exempt within the country.



Implementation provisions of the VAT code also provide for the permanent tax-exempt import of the stores on board aircraft serving scheduled international routes.

The provisions of the Belgian legislation are in keeping with the objectives of Clause 1 of the ICAO Resolution. It will also be noted that these exemptions only apply to aircraft used for the international transport of persons and goods, contrary to the provisions of Clause 1 a) of the document and paragraph 3 of the Council's Commentary.

**Clause 2 a)      Income of international air transport enterprises and from aircraft operation**

The Belgian income tax code allows for the exemption, under conditions of reciprocity, of the profits which a foreign company derives in Belgium from operating aircraft which it owns or charters and which stop over in Belgium. This is an exemption from the Belgian non-residents' tax, which is in principle the only possible tax on the income in question.

**Clause 2 b)      Double taxation avoidance agreements**

In the great majority of double taxation avoidance agreements, Belgium has included, following the OECD Model Convention, a provision stipulating that the profits from the operation of aircraft in international traffic shall only be taxable in the Contracting State where the enterprise's place of effective management is located or in that enterprise's State of residence.

This also applies to capital gains arising from the alienation of aircraft, to the salary received for paid work on board aircraft and to any taxes on the wealth constituted by these aircraft.

In the case of Belgium, these double taxation avoidance agreements apply to the personal income tax, the corporate tax, the tax on juridical persons, the non-residents' tax, the special contribution related to the personal income tax and the supplementary crisis tax, including the deductions at source, the surtax on the said deductions as well as the surtaxes on the personal income tax, levied on behalf of Belgium, its political subdivisions or its local communities.

**Clause 3      Subject to what was mentioned in the Commentary on Clause 2 concerning the income of international air transport enterprises, Belgium does not have specific sales taxes on international air transport operations or on international tickets.**

There are airport charges whose proceeds are used to pay for the services provided or to finance investments for the benefit of civil aviation. In particular, this is the case for the use of the facilities developed for the passengers and for the surfaces occupied by handling companies.

The aircraft take-off and landing charges are set in accordance with a rate which varies depending on the weight of the aircraft, its acoustic category and the time of operation. This variation is intended to protect the environment and the peace of those living nearby.

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**BOTSWANA**

Botswana does endorse the ICAO Council Resolution of 24 February 1999 as contained in Doc 8632, Third Edition, 2000. The present legislation does not require the imposition of any taxes or duties of any sort on the said items. As a safeguard, the bilateral air services agreements with other countries contain articles which exempt the designated airlines from payment of such taxes and duties for aircraft engaged in international operations on a reciprocal basis.

Botswana shall keep ICAO informed of any subsequent changes in her position vis-à-vis this resolution.

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**BURUNDI****General comments**

Burundi applies the provisions of Document 8632 and has no restrictions with respect to the Resolution. Exemption and reciprocity arrangements are specified in the bilateral air transport agreements between Burundi and the country of the air transport company concerned.

**Clause 1**

The Government of Burundi exempts from customs and other duties fuel, lubricants and other consumable technical supplies when used in international air transport.

Moreover, it favours the inclusion of a clause to that effect in bilateral air transport agreements in order to ensure reciprocity.

**Clause 2**

In Burundi, the taxation of the earnings of air transport enterprises and of aircraft and other movable property associated with the operation of aircraft engaged in international air transport is effected in the State in which the head office of the enterprise in question is actually located.

Bilateral air transport agreements negotiated by Burundi must include a tax clause to ensure reciprocal treatment for its international air transport enterprises.

**Clause 3**

The Government of Burundi levies no taxes on the sale or use of international air transport.

**CANADA****General Comments**

Canada has a federal system of government. Canada's constitution gives certain taxing powers to the provincial governments and does not require the provinces to conform to the policies of the federal Government in exercising those powers. Municipal governments have also been given their own taxing powers by their respective provincial governments, although more limited.

Therefore, unless otherwise indicated, the following comments only concern taxes and duties imposed by the federal government in Canada.

**Clause 1****Clause 1 a) Fuel**

Aviation fuel used in the provision of international air transportation services is exempt from federal customs duties and excise taxes;

The federal goods and services tax (GST) and the harmonized sales tax (HST), which is levied instead of the GST in provinces that have harmonized their retail sales taxes with the GST, are relieved in the case of aviation fuel that is used to provide international air transportation services.

While all provinces in Canada levy tax on aviation fuel, most provide either partial tax relief for aviation fuel used to provide international air transportation services.

**Lubricants or other consumable technical supplies**

Aircraft stores, lubricants and other consumable technical supplies used in the provision of international air transportation services are for most items exempt from federal customs duties and excise taxes.

The GST/HST is relieved or refunded in the case of consumable technical supplies that are used to provide international air transportation services.

**Clause 1 a) Last paragraph**

The relief from GST/HST described above generally applies where an air carrier is providing international transportation services in the course of its commercial activities.

**Clause 1 e) See **General Comment** above.****Clause 2****Clause 2 a) i) No taxes are levied on income derived by non-residents from the operation of aircraft in international traffic, provided the country where they reside grants substantially similar relief to Canadian residents;****Clause 2 a) ii) No federal property taxes are imposed on aircraft of other Contracting States engaged in international air transport.**

**Clause 2 b)** When non-residents are exempt from federal tax on income and capital directly related to the operation of aircraft in international traffic, the provinces provide simple tax relief.

**Clause 2 c)** Canada has agreements relating to the avoidance of double taxation with the following countries: Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belgium, Brazil, Bulgaria, Cameroon, Chile, China, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, France, Gabon, Germany, Guyana, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Republic of Korea, Kuwait, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Morocco, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela, Vietnam, Zambia, Zimbabwe.

**Clause 3** International passenger and freight air transportation services are generally relieved of the GST/HST. Passenger air transportation services between Canada and the continental United States or the islands of St. Pierre and Miquelon are subject to the GST/HST if the transportation originates in Canada.

There are certain user charges levied in Canada by the federal government and other service providers that are used to defray the costs of providing facilities and services for civil aviation. These charges are not, therefore, taxes for the purposes of the Council Resolution on Taxation of International Air Transport. They include the following:

- Fees charged to air carriers by Nav Canada, a private non-profit corporation, in order to fund the costs of providing air navigation services in Canada;
  - The Air Travellers' Security Charge, which is charged by the federal government to air passengers in order to fund the cost of air travel security measures at Canada's airports; and
  - Airport improvement fees charged by certain airports in Canada in order to help pay for airport improvements.
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**CHILE**

- Clause 1** The Directorate General of Civil Aeronautics of Chile is in full agreement with the Resolution. This position is consistent with the exemption from taxation given by Chile in the cases indicated in Clause 1 of Doc 8632.
- Clause 2** In order to avoid multilateral double taxation, Chile concludes international treaties and agreements with some foreign countries which relate specifically to air transport.
- In general, this type of agreement exempts from taxation the income of the transport enterprises of the other Contracting State derived from their activities, provided that this exemption from taxation is subject to the principle of reciprocity in that other State. Chile has signed treaties with Argentina, Brazil, Colombia, France, Germany, Panama, Paraguay, Spain, the United States, Uruguay and Venezuela.
- Clause 3** In Chile the sale of tickets is exempt from the Value Added Tax (VAT).
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**CHINA (HONG KONG SAR)**

**Clause 1**            Implemented.

**Clause 2**            The Government of the Hong Kong Special Administrative Region has concluded with a number of countries an avoidance of double taxation article for inclusion in our Air Services Agreements. Negotiations are also under way with some other aviation partners.

**Clause 3**            Implemented except for the Air Passenger Departure Tax payable by every passenger departing Hong Kong by air unless exempted.

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**CHINA (MACAU SAR)**

Macau will try its best to formulate and implement policy that is compliant with the principles laid out in the Council Resolution.

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## COLOMBIA

The Colombian Civil Aviation Authority fully agrees that the increase in taxation could have an impact on the growth and development of air transport. It feels that decisions regarding such questions, which are of great importance to any State, should be made based on the knowledge and capacity States deem applicable to matters of taxation, and in compliance with individual fiscal policies.

Only careful study of the matter by each State will ensure that an additional financial burden on air transport will not result in unfavourable discrimination against international civil aviation in relation to other modes of transport. The tax structure deemed appropriate by each State should be based on this principle.

As an ICAO Member State, Colombia accepts the policies established in Doc 8632 (2000) which deal with the taxation of: 1) fuel, lubricants and other supplies; 2) income of international air transport enterprises and aircraft and other movable property; and 3) the sale and use of international air transport.

The following, inter alia, is reflective of the measures adopted by our national government further to these policies:

- 1) The tax burden of the aviation industry is generally similar to that of the other sectors of the national economy.
  - 2) Aviation fuel used to supply international air transport services is not taxed because it is considered an export.
  - 3) All international air carrier revenue is considered mixed income and is taxed at a rate of 33 per cent on taxable income.
  - 4) As regards passengers, in general, a value-added tax (VAT) of 16 per cent is applied on the sale of tickets. However, on international RT flights this is applied only on 50 per cent of the ticket price (eight per cent).
  - 5) International cargo transport is exempted from the VAT.
  - 6) In order to avoid multiple taxation, an agreement to eliminate duplicate taxation was established with the Government of Panama.
  - 7) The Convention on International Interests in Mobile Equipment and the Aircraft Protocol thereto (UNIDROIT) were formalized.
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**CUBA**

Cuba is in agreement with the Council Resolution concerning the matter referred to in ICAO's policies on taxation in the field of international air transport. Said Resolution is in harmony with the provisions of the Cuban legislation in force.

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**CYPRUS**

- Clause 2 a) i)** With respect to the taxation of income of international air transport enterprises and taxation of aircraft and other movable property. Under the provisions of article 18 of the Income Tax Law, profits or benefits arising from a business of operating aircraft, carried on by a person not resident in Cyprus for tax purposes, are exempt from tax provided that the Minister of Finance is satisfied that an equivalent exemption is granted by the country in which such person is resident to persons that are resident in Cyprus.
- Clause 2 c)** In accordance with the Agreements for the Avoidance of Double Taxation concluded between and other States, profits from the operation of aircrafts in the international traffic are taxable only in the Contracting State in which the effective management of the enterprise is situated.

**CZECH REPUBLIC**

- Clause 1** According to the Act no. 353/2003 coll. on Excise Taxes, mineral oils used as a propellant in international air transport and for aero work are exempted from excise tax with the exception of mineral oils used for private recreational flying which arises from Directive 2003/96/ES restructuring the taxation of energy products and electricity supplies.
- Clause 2** Income taxes in international air transport are proceed from the Czech Tax Law namely Act no. 586/1992 coll. on Income Taxes. The Ministry of Finance agrees with the principle of reciprocity based on tax collection only in the state where an enterprise has its head office, which arises from conducting agreements on abolition of double taxation.
- Income taxes from operating aircrafts in international transport as well as income taxes from income of employees in air transport proceed from bilateral agreements on abolition of double taxation. The Czech Republic has conducted agreements with 75 states. These agreements also deal with taxation and exclusion of international double taxation of income from stealing aircrafts operated in international transport or moveable property used to operate these aircrafts.
- According to Act no. 235/2004 coll. on Value Added Tax (VAT), the following is exempted from tax together with the claim of tax deduction:
- delivery, adjustments, repair, maintenance or charter of aircrafts, including charter of aircrafts with a crew, which are used by airlines and operate transport of people and goods among member states and third countries;
  - delivery, repair, maintenance or charter of equipment which is installed or used in these aircrafts.
- The delivery of goods used for supplementation of the above-mentioned aircrafts is also exempted from tax together with the claim of tax deduction.
- Some parts, usual aircraft equipment and other items used only in connection with operating or repair, maintenance and operation of an aircraft are exempted provided that they are used solely on board of the aircraft and exported again.
- According to bilateral agreements, aircrafts of Contracting States are exempted from customs, taxes and other duties imposed by national authorities.
- Clause 3** According to the Act no. 235/2004 coll. on Value Added Tax, transport of people and luggage including services relating directly to transport among member states of the EU and among member states and third countries are exempted from VAT. Tax deduction can be also claimed in the event that the transport is provided by a person registered in other member states or by a foreign person obligated to pay VAT.
- Clause 4** The Czech Republic fully complies with this Resolution.
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**ECUADOR**

- Clause 1** Ecuador complies with clauses 1 a), b), c) and d). As to clause 1 e), tax is levied on the value of each gallon of aviation fuel and lubricants used within Ecuador by any aircraft engaged in international and domestic commercial service (Art. 28 of the Civil Aviation Act), as established in order to finance the costs of facilities and services.
- Clause 2** Ecuador has a regulation making all enterprises and individuals subject to annual "Income Tax" which must be paid to the Ministry of Finance.
- Clause 3** In Ecuador, no tax is levied on operators' gross revenues or sales.
- Sales of international air passenger tickets issued in Ecuador are taxed at 10 per cent of their value. This amount is collected by the Ministry of Finance.
- Any change which takes place will be notified to the Organization.
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**EGYPT****General Comments**

It is necessary to abide by ICAO's policies on taxation in the field of international air transport in accordance with Article 24 of the Chicago Convention.

Airport and aeronautical services fees collected by Egypt are appropriate in view of the cost associated with the extension of these services and are consistent with ICAO recommendations; they are also reasonable compared to fees levied by other countries.

**Clause 1**

Egypt does not levy taxes on fuel, lubricants and other consumer technical supplies in accordance with Article 24 of the Chicago Convention and with the provisions of bilateral agreements between Egypt and those countries.

**Clause 2**

As for taxes on the revenues of airlines, Egypt concludes bilateral agreements with various countries in order to provide against double taxation on the revenues and sales of airlines, on a reciprocal basis.

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**ESTONIA****General Comments**

In its general taxation policies Estonia agrees to the ICAO policies and has considered its position in national law making. The most recent amendments to Estonia's tax laws have been intending to make laws compatible with those applied by the European Union (EU).

**Clause 1**

Concerning taxes on fuel, lubricants and other consumable technical supplies, Estonia does not pose duties on fuel imported in the tanks of the aircraft. Also, if the supplies are brought into the custom zone but not beyond it to the country, the duties are not charged either.

The following table presents an overview of import duties applied by Estonia:

<i>Product</i>	<i>Rate of import duty</i>
Electrical traffic regulating equipment	15 per cent
Mechanical airport and air traffic equipment	10 per cent
Transport equipment used in airports for cargo relocation	15 per cent
Aircrafts, helicopters	5 per cent

Source for the table is Estonia's Law on tariffs (Journal of Official Documents RT1/1997, 78, 1321).

Please note that the Law allows the government to sign favourable bilateral treaties with other countries to support international trade. The preferential treatment will no longer be in force after Estonia joins the World Trade Organization. The government hopes to do so before the end of 1999.

**Clause 2**

Estonia has signed bilateral contracts with its major air traffic partners to avoid double taxation on the income of international companies. These countries include Finland, Sweden, Denmark, Norway, Germany, the United States of America, Latvia, Lithuania, United Kingdom, Canada and several other countries. Those agreements are bilateral and vary to some extent. No property taxes are applied by Estonia. Airlines registered in the country are subject to a 26 per cent corporate tax. However, there is a strong political will to lower the corporate tax rate.

**Clause 3**

Airline tickets are not subject to the 18 per cent sales tax (VAT) that is applied on most products including domestic airline tickets. The law on Value Added Tax was published in the Journal of Official Documents RT I/1993, 60, 847 for the first time in 1993. According to a 1997 amendment to the law, VAT is not to be paid on the import of aircraft that are only utilized in international transport. Recently, the process of harmonization with the EU regulations has been initiated.

## ETHIOPIA

- Clause 1**      The Government of Ethiopia exempts lubricants and other consumable technical supplies from customs and other duties when used in international air transport in accordance with Article 24 of the Chicago Convention and with the provisions of bilateral agreements between Ethiopia and those countries.
- Clause 3**      As for taxes on the revenues of airlines, Ethiopia concludes bilateral agreements with many countries in order to provide avoidance of double taxation on the revenues and sales of airlines, on a reciprocal basis.
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**Fiji**

Fiji's Income Tax and Value Added Tax Legislations are compatible with ICAO's policies on taxation regarding international carriage of passengers and goods.

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**FINLAND**

- Clause 1**            Implemented, with exception that the exemptions do not apply to non-commercial general aviation. The exemptions do not require reciprocal treatment by other States.
- Clause 2**            Implemented. The exemptions require a reciprocal agreement between States.
- Clause 3**            Implemented.
- Clause 4**            Implemented.
- Clause 5**            Supported.

**GERMANY**

Although the resolution[s] may not comply with the policy of its Government on a long-term basis, Germany follows this[these] resolution[s] at present as far as it matches with the policy and law of the European Union. The Government of Germany may decide[d] to introduce also in international commercial air transport a taxation on the consumption of fuel and lubricants as well as a taxation on the sale and use of international passenger air transport.

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## HUNGARY

**Clauses 1 and 2** In Hungary these kinds of preferences are given within the framework of the bilateral Air Services Agreements:

- aviation turbine fuel is subject to consumption tax, however, depending on the consumption, excise duty is reimbursed to MALEV Hungarian Airlines; **foreign airlines do not pay consumption tax;**
- de-icing, hydraulic and cooling liquids, as well as technical expendable means are free of tax for both MALEV and foreign airlines.

The above listed fuel and lubricants, as well as technical expendable means are also free of customs and duties.

**Exemptions refer exclusively to materials and technical expendable means which are destined for use of operation of aircraft.**

**Clause 3** Under this regulation airlines should be exempt from all kinds of taxes. For the time being we are not in a position to take into account and enforce the said regulation (moreover within the foreseeable future we can't introduce the regulation in our country).

The regulation is not acceptable to us on the one hand because of the narrow material-financial circumstances of our national economy, its relatively low economic potential; on the other hand, to an airline as an entrepreneurship, the same conditions of economics and law of economy should apply which determine the circumstances of the economic system and activity of entrepreneurs in general.

The airline is significantly favoured within the framework of the exemptions detailed in Clauses 1 and 2, the exemptions by which undertakings operating in the field of air transport have an advantage.

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**INDIA****General Comment**

India supports the resolution adopted at the 36th Session of the Assembly.

- Clause 1** Fuel, lubricants and other technical supplies on board an aircraft arriving at an Indian airport, or departing from it, are exempt from customs duty or any other tax. However, any such item taken on board while at an Indian airport is subject to sales tax according to the laws of the State in which the airport is located. In some states, the rate of sales tax is higher for non-scheduled flights compared to scheduled flights. A proposal for taking a legislative measure to treat sale of ATF to international carriers as deemed export and to exempt it from sales tax, is under consideration of the Government.
- Clause 2** A list of countries with whom Double Taxation Avoidance Agreement has been concluded is enclosed.
- Clause 3** There is no tax on air cargo shipments or on air tickets. But a departure tax called Foreign Travel Tax is levied on every passenger leaving India by flight.

## ATTACHMENT

**INDIA'S DOUBLE TAXATION AVOIDANCE AGREEMENTS NOTIFIED**  
**(As of 16 September 1996)**

No.	Name of the Country	Effective from Assessment Year
1.	Australia	1993–1994
2.	Austria	1963–1964
3.	Bangladesh	1993–1994
4.	Belgium	1975–1976 / 1976–1977
5.	Belgium (S. Protocol)	1988–1989 / 1989–1990
6.	Brazil	1994–1995
7.	Bulgaria	1998–1999
8.	Canada	1987–1988
9.	China	1996–1997
10.	Cyprus	1994–1995
11.	Czechoslovakia	1986–1987
12.	Denmark	1990–1991 / 1991–1992
13.	Finland	1985–1986
14.	France (Revised)	1996–1997
15.	Federal Republic of Germany	1958–1959
16.	F.R.G. (Protocol)	1984–1985
17.	German Democratic Republic	1985–1986
18.	Greece	1984–1985
19.	Hungary	1989–1990
20.	Indonesia	1989–1990
21.	Israel	1995–1996 / 1997–1998
22.	Italy	1978–1979
23.	Italy (Revised)	1997–1998
24.	Japan (Revised)	1991–1992
25.	Kenya	1985–1986
26.	Libya	1983–1984 / 1984–1985
27.	Malaysia	1973–1974
28.	Malta	1997–1998
29.	Mongolia	1995–1996
30.	Mauritius	1983–1984
31.	Nepal	1990–1991
32.	Netherlands	1990–1991
33.	New Zealand	1988–1989
34.	Norway	1988–1989
35.	Philippines	1998–1999
36.	Poland	1991–1992
37.	Romania	1989–1990
38.	Singapore (Revised)	1995–1996
39.	Spain	1997–1998
40.	South Korea	1985–1986
41.	Sri Lanka (Revised)	1981–1982
42.	Sweden (Revised)	1990–1991
43.	Switzerland	1996–1997
44.	Syria	1983–1984
45.	Tanzania	1982–1983 / 1983–1984
46.	Thailand	1987–1988 / 1988–1989

No.	Name of the Country	Effective from Assessment Year
47.	United Arab Emirates	1995–1996
48.	United Arab Republic	1969–1970 / 1970–1971
49.	United Kingdom (Revised)	1995–1996
50.	United States of America	1992–1993
51.	U.S.S.R. (Now applicable to Russia)	1991–1992
52.	Vietnam	1997 –1998
53.	Zambia	1979 –1980

**IRAN**

The Islamic Republic of Iran is in full agreement with the proposals provided they are done on a basis of reciprocity.

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**IRELAND**

**Clause 2** With respect to the taxation of income of international air transport enterprises and taxation of aircraft and other moveable property:

Ireland currently has 46 Double Taxation Conventions in force with other countries and it is expected that this figure will soon exceed 50.

In accordance with Article 8 of the OECD Model Tax Convention on Income and Capital, it is Ireland's policy to include provisions in its Double Taxation Conventions which exempt from direct taxation in Ireland profits derived from the operation of aircraft in international traffic.

**Clause 3** With respect to taxes on the sale and use of international air transport: each Contracting State shall reduce to the fullest practicable extent and make plans to eliminate as soon as its economic conditions permit all forms of taxation on the sale or use of international transport by air, including taxes on gross receipts of operators and taxes levied directly on passengers or shippers.

Ireland will introduce an Air Travel Tax with effect from 30 March 2009, in respect of each passenger departing on a flight from an Irish airport for both domestic and international destinations. The revenue from this tax accrues directly to the Irish Exchequer.

A rate of €2 will apply where the flight is to a destination located not more than 300 kilometres from Dublin Airport. Otherwise a rate of €10 will apply.

The following exemptions will apply in the case of:

- an aircraft capable of carrying fewer than 20 passengers;
  - flights from airports where the number of departures of passengers in the previous calendar year was less than 10 000;
  - members of the aircraft crew (including any relief crew);
  - a child under the age of two who does not occupy a seat on the aircraft;
  - a disabled person, and one person accompanying the disabled person for the purposes of providing care and assistance; and
  - transit and transfer passengers.
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**ITALY**

- Clause 1** The Italian policies on taxation in the field of international air transport are consistent with ICAO's policies on taxation of international air transport and, in particular, with the principles set out in the Council Resolution in Doc 8632.
- Clause 1 a) to c)** The exemption referred to in this clause is granted as a rule.
- As regards passenger and cargo planes, the exemption in respect of fuel, lubricants and other consumable technical supplies taken on board for consumption during the flight is granted on the basis of special provisions included in bilateral agreements on air transport.
- Where no special agreement exists, the above mentioned exemption is granted on the basis of actual reciprocity.
- Clause 1 c)** The exemptions outlined above do not apply to pleasure aircraft. As for pleasure aircraft, the exemption in respect of fuel and lubricants (not in respect of other consumable technical supplies) is granted only to aircraft departing from Italy to non-European Union Member countries.
- Clause 1 d)** The exemptions are those covered in this clause.
- Clause 1 e)** Under the law in force in Italy there are no taxes on air transport levied by the local taxing Authority.
- Clause 2**
- Clauses 2 a) and b)** Italy follows the principles stated in these clauses, which are given practical effect through the agreements mentioned under Clause 2 c) below.
- Clause 2 c)** The provisions aimed at avoiding double taxation of the income and capital of airlines are normally included in general bilateral agreements signed by Italy in the specific field of double taxation or are the subject of special agreements.
- Clause 3** International air transport of goods and passengers is exempt from taxation on the sale or use (e.g. VAT, stamp tax etc.).
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## **JORDAN**

No taxes are imposed by Jordan in the field of international air transport. It is guided in this connection by ICAO Doc 8632 and all other ICAO documents, Annexes and resolutions.

The Jordanian policy is based on the principle of reciprocal exemption from taxation on international air transport revenues. In so doing, Jordan seeks to reach agreements on reciprocal tax exemptions on airline incomes with other countries. The objective is to reduce the financial burden on airlines operating in this field.

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## KENYA

Several States do not adhere to the ICAO policies on taxation and as a result they continue to regard air transport as a source of funding for various purposes. In Kenya we have had several cases as explained below:

**Withholding tax on income earned offshore.** The national carrier, Kenya Airways has been subjected to withholding tax on expenses incurred offshore, for instance commission to travel agents outside Kenya, professional fees incurred outside Kenya and paid outside Kenya among others.

**Taxation of international travel income.** The national carrier, Kenya Airways has been charged tax in a number of countries of operation in Africa. Where as there are tax exemptions in the bilateral air service agreements, such exemptions are not honored.

The solution lies in countries honouring what the agreements entered between them.

## KUWAIT

The State of Kuwait is committed to the implementation of the provisions and decisions regarding policies that govern taxation in the field of air transport. These include the following:

- 1) No local taxes are currently imposed on the purchase of fuels, lubricants and technical and consumer supplies used by **foreign** aircraft. Such exemption is stipulated in the bilateral agreements that are concluded with various countries.
- 2) Reciprocal exemption from taxation on airline revenues and profits is provided for either in bilateral agreements (if so agreed to by the other party) or in special agreements between the competent authorities in both countries.
- 3) No taxes are currently received by Kuwait on sales of air transport services.

**LEBANON**

Lebanon reaffirmed its position of not resorting to levying high taxes and charges in the field of air transport, and advised its acceptance of the resolution contained in Doc 8632. Concerning taxation of fuel, lubricants and other supplies, Lebanon complies with the provisions of Article 24 of the Chicago Convention, in all its bilateral agreements, on the basis of reciprocity.

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## LESOTHO

Lesotho does conform with the ICAO consolidated resolution and commentary.

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## LITHUANIA

### Clauses 1 to 3

According to the Law on Value Added Tax of the Republic of Lithuania a zero-rate of VAT shall be applied to the supply or hiring of aircraft or charter in the case of supply or hiring of the aircraft to taxable persons who receive more than a half of their annual income from transporting passengers and/or cargo on international routes or supply or other services for reward; as well as maintenance and repairs of the above-mentioned aircrafts (except for aircrafts intended for personal needs), if this service is provided to the above-mentioned taxable persons.

According to the Law on Value Added Tax of the Republic of Lithuania, a zero-rate of VAT shall be charged on the supply of conventional and requisite equipment to the above-mentioned aircraft, maintenance and repairs of the installed equipment, supply of spare parts for the above-mentioned aircraft.

A zero-rate of VAT shall be applied to the supply of goods for the provisioning of aircraft to taxable persons who receive more than a half of their annual income from transporting passengers and/or cargo on international routes.

Goods within the meaning of the Law on Value Added Tax of the Republic of Lithuania shall be goods (food products, etc.) intended for use by passengers and/or crew members on board the above-specified aircraft, also as fuel (engine fuel) and lubricants.

According to the Law on Excise Duty of the Republic of Lithuania there is a case when excise goods are exempted from the Excise Duty if they are supplied for the fuelling and provisioning of passenger and/or cargo aircrafts on international routes. In addition to the cases of exemption, the following shall be subject to exemption from excise duty: engine fuels supplied for use as fuel for the purpose of air navigation (including aircraft fuel used in the field of the manufacture, development, testing, maintenance and servicing of aircraft), except for aircraft fuel supplied to aircrafts used for private pleasure flying. The aircraft shall be deemed used for private pleasure flying when the aircraft is used by its owner or other person (through hire or through any other means) for other than commercial purposes.

It should be noted that according to Lithuanian zero-rate of VAT and the exemption from the Excise Duty shall not be applicable where an aircraft is used for personal needs. (According to the European Union *acquis*).

Therefore, we would like to propose the exclusion of private flights from Clause 1 of the ICAO Council Resolution.

Considering Clause 2 of the ICAO Council Resolution, we would like to inform you that the Government of the Republic of Lithuania has 46 agreements for the avoidance of double taxation with Governments of Ireland, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Czech Republic, Denmark, United Kingdom, Estonia, Greece, Georgia, Iceland, Spain, Italy, Israel, U.S.A., Canada, Kazakhstan, China, Korea, Croatia, Latvia, Poland, Luxembourg, Macedonia, Malta, Moldova, Norway, Netherlands, Portugal, France, Romania, Russian Federation, Singapore, Slovakia, Slovenia, Finland, Sweden, Switzerland, Turkey, Ukraine, Uzbekistan, Hungary, Germany (based on OECD Model Convention). In accordance with the above-mentioned agreements there are no objections to Clause 2 paragraph a) of the ICAO Council Resolution.



Considering Section 11 of the Commentary on the Council Resolution, it should be noted that in the agreements contracted by Lithuania, the taxation rights granted to the Contracting State are not associated with the location of a company's administrative body, but rather with the place of its juridical registration.

Enterprises, including airlines, registered in the Republic of Lithuania are subject to Corporate Income Tax of 20 per cent rate.

Considering Clause 3 of the ICAO Council Resolution, we would like to inform you that according to the agreement of the Avoidance of Double Taxation, there are no inconsistencies with Clause 3 of the ICAO Council Resolution.

It should be noted that the Property Tax for the aircraft or other movable property, related to aircrafts used international air service is not applied.

Regarding the above information, the Ministry of Transport and Communications of the Republic of Lithuania supports ICAO Council Resolution on Taxation of International Air Transport.

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**MALTA****Clause 1**

**Clause 1 a) i), ii)** Council Resolution of 24 February 1999 on taxation of fuel, lubricants and other consumable technical supplies at the point of arrival and departure is fully complied with.

**Clause 1 a) iii)** This Council Resolution of 24 February 1999 on taxation of fuel, lubricants and other consumable technical supplies at points of arrival/departure in the same State is not applicable to Malta where only one international airport is available for use.

**Clause 2**

Council Resolution of 24 February 1999 on taxation of income of international air transport enterprises and on taxation of aircraft and other moveable property associated with the operation of aircraft in international air transportation is also complied with. Malta has concluded a number of air service agreements which contain a clause stating that profits from the operator of aircraft shall be only taxable in the State where the effective management of the enterprise is situated.

**Clause 3**

Council Resolution of 24 February 1999 on taxes related to the sale or use of international air transportation is fully complied with.

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## MEXICO

### Clause 1

In Mexico, the fuel throughput charge, the Value Added Tax (VAT) and the air navigation services charge, collected as a fee per litre of fuel provided, are the only charges that fall under these sections, according to ICAO definitions. Unlike the VAT, the fuel throughput charge and the air navigation services charge are designed to recover costs incurred in the provision of those services, bringing them under the exceptions established by ICAO itself. Fuels, therefore, do not need to be exempted from this charge.

With regard to the VAT, in Mexico, under Article 1, subparagraph of the relevant law, individuals or legal entities that sell goods on Mexican territory must pay a 15 per cent tax whatever their nationality or wherever the goods are to be consumed, even considering that, as far as this latter point is concerned, such goods are partly consumed on our territory.

Since the VAT is a general tax that applies to all goods and services sold in the country, it is not possible to give preferential treatment to a particular sector of the economy (in this case the aviation sector).

For its part, the Customs Law allows entry to or exit from Mexican territory free of foreign trade tax of all merchandise destined for use in maintaining the aircraft of national airlines that provide international services and are established in accordance with the relevant laws. Furthermore, regulations under that law stipulate that fuel shall be provided to aircraft free of foreign trade tax, except for the restrictions established under international conventions.

### Clause 2

At the present time, Mexico is developing an extensive network of conventions to avoid double taxation of income. Some of these conventions are in force and others are under negotiation.

The taxation policy followed in this area is to grant reciprocal exemptions, through bilateral tax conventions, on income derived from international air transport and associated activities. Nevertheless, it is important to mention that under some of the Mexican conventions, contrary to the approach suggested by ICAO, the determining factor in selecting the country in which such taxes are to be collected is the state of residence of the airline that is providing the services.

At the present time, the Secretariat of Finance and Public Credit is approaching many states with a view to concluding bilateral agreements to avoid double taxation in a number of areas, including air transport. As a result, the above-mentioned Secretariat has even asked that the Directorate General of Civil Aeronautics of the Secretariat of Communications and Transport not include clauses to avoid double taxation in its bilateral air transport agreements, so as to prevent duplication of rules in this area.

On the other hand, under Chapter II of the Income Tax Law, concessionaires must, without exception, pay taxes on all income in cash, goods, credit services or any other form received during the fiscal year. With regard to the Property Tax, under Article 7 of the Law on General Communication Routes, airports cannot be taxed since they are Federal public property. As a result, if the operation or management of an airport is granted as a concession, the concessionaire would not be obliged to pay the land tax on the building in question.

### Clause 3

In Mexico, the Airport Use Fee and the VAT fall into this category, since they apply at the time that an air transport ticket is sold. Nevertheless, the Airport Use Fee is an exception because the income from this source is to be used to cover the costs of maintaining the passenger service areas in airports. This type of charge, therefore, cannot be eliminated according to ICAO's own policies.

With regard to the VAT, the comments presented under Clause 1 apply, except for international air transport, for which only part of the service is deemed to be provided on our territory. Following this criteria, under Article 16 of the Law concerning VAT, only 25 per cent of the service is deemed to be provided on Mexican territory when the travel commences there.

The remaining portion of the price of the service is taxed in accordance with Article 29, subparagraph VI of the above-mentioned law, that is, for the purposes of that law the service is deemed to be exported, and therefore a rate of 0 per cent is applied to the value of the service provided (75 per cent, the remainder).

The airport use charge is established in the decree under which persons in their capacity as passengers on departing flights use international airports administered by Airports and Auxiliary Services. Furthermore, Article 200 of the Federal Law on Charges provides that individuals or legal entities using Mexican ports must pay an export port charge; also, Article 205 of the same law stipulates that this charge will not be levied in the case of concessions.

Finally, the Mexican Government's Model Convention on Air Transport contains clauses on the taxation of international air transport that have been approved by our tax authorities, so all bilateral air transport agreements that Mexico has concluded with other countries contain clauses intended to prevent undue taxation of international air transport.

These clauses are subject to bilateral negotiations. Nevertheless, any policy or decision that involves amending them must be submitted to the appropriate taxation authority.

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**NETHERLANDS****Clause 1**

**Clause 1 a)** This clause is implemented in the Netherlands for air transport other than private pleasure flying;

**Clause 1 d)** The expression “customs or other duties” as defined in clause d) is acceptable (“other consumable technical supplies” only as far as practicable); and

**Clause 1 e)** No local duties and taxes are levied on fuel, lubricants and other consumable technical supplies.

**Clause 2**

**Clause 2 a)** The Netherlands grants to air transport enterprises of other States engaged in international air transport and not established in the Netherlands:

- i) exemption, on the basis of reciprocity, from income tax in any form on income derived in the Netherlands from the operation of aircraft in international air transport;
- ii) in the case of corporations, exemption from property taxes, capital levies or other similar taxes, on aircraft and other movable property pertaining to the operation of aircraft in international air transport;

**Clause 3**

The turnover tax on aircraft to be operated as a public conveyance mainly in international traffic and on goods designed as supplies of these outgoing aircraft, as well as the turnover tax on the service rendered in connection with these aircraft and goods is nil.

The turnover tax on the transportation of passengers by aircraft is nil if the destination or port of embarkment is situated outside the Netherlands.

With the exception of transport within the European Union, the turnover tax on the international transport of cargo by an air charter or carrier is nil.

**Clause 4**

As stated above, the Netherlands respects the existing exemption of international aviation from taxes. However, the Netherlands is in favor of the introduction of market-based options, e.g. excise duty on kerosine, value added tax, environmental charges — to reduce or to limit the environmental impact of aviation.

The Netherlands will continue its efforts to promote the introduction of possible market based options at the international level, preferably in the framework of ICAO.

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**NEW ZEALAND**

**Clause 1** New Zealand complies with the resolving clauses.

**Clause 2**

**Clause 2 a) i)** An airline of another State will be liable to income tax on its income sourced from New Zealand, unless:

- (i) a Double Tax Agreement operates to prevent New Zealand taxing the New Zealand sourced income of a foreign airline; or
- (ii) the Commissioner of Inland Revenue has exempted the airline from income tax in New Zealand.

A Double Tax Agreement (DTA) overrides New Zealand taxation legislation where the two are inconsistent. New Zealand has 24 DTAs and they all contain an Article dealing with shipping and air transport. The Article typically provides that the profits of an airline can only be taxed in the country of residence of the airline.

A DTA applies only to income tax and therefore does not exempt a foreign based airline from Goods and Services Tax or other taxes or levies where the airline would be liable under the Goods and Services Tax Act or other Act.

**Clause 2 a) ii)** New Zealand complies with this clause.

**Clause 2 c)** There is no provision in New Zealand law for an Air Services Agreement to give an exemption from tax. New Zealand negotiates DTAs as appropriate. Additionally, the Commissioner of Inland Revenue may exempt from income tax the New Zealand derived income of a foreign airline where the Commissioner is satisfied that the other country will give a like exemption to a New Zealand resident airline.

**Clause 3** As noted in Clause 2, airlines of other States are subject to income tax on operations in New Zealand unless a DTA or exemption applies. Such airlines are also liable for Goods and Services Tax for goods or services supplied in New Zealand and not used in the conduct of international air transport.

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**NORWAY**

- Clause 1** With respect to the taxation of fuel, Norway introduced with effect from 1 January 1999, a tax payable on fuel taken on board for all domestic flights. The revenue from the tax accrues direct to the Norwegian Exchequer. All international flights are at present exempted from taxation of fuel taken on board, in compliance with the resolution.
- Clause 3** With respect to the taxes on the sale and use of international air transport, a tax is levied per passenger on the main routes in Southern Norway as well as on international scheduled and non-scheduled flights. The revenue from the tax accrues direct to the Norwegian Exchequer.
- Clause 4** Although the resolution does not fully comply with the policy of the Government of Norway, Norway follows — with the exception of the above-mentioned taxes — these resolutions at present. Norway will furthermore make a reservation as far as tax on fuel taken on board on international flights is concerned.
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**OMAN**

- Clause 1** With regard to Clause 1 concerning taxation of fuel, lubricants, and other consumable technical supplies and aircraft spare parts, all airlines are exempt from taxation in all cases as referred to in Doc 8632 on the basis of the Chicago Convention and Bilateral Agreements concluded by the Sultanate. There are no other taxes imposed on the above-mentioned items.
- Clause 2** With regard to Clause 2 concerning taxation of airline revenues, the competent authorities in the Sultanate conclude double taxation agreements with the countries that so request. The Sultanate has signed an appreciable number of these agreements. There is also a collective agreement among the Arab countries for mutual exemptions from taxes on the activities and equipment of air transport. Accordingly, the competent authorities exempt the airlines of member States in this Agreement from taxes on their profits from sales. The Ministry of Communications and the other competent authorities seek to grant such exemptions on the basis of reciprocity to encourage air transport activities to and from the Sultanate.
- Clause 3** With regard to Clause 3 concerning taxation of the sale and use of international air transport, we have no taxation on the operators or passengers or shippers apart from the fees that are imposed in return for a specific service and these are set at reasonable rates corresponding with the level of the services rendered.
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**PAKISTAN**

- Clause 1** Clause 1 a) is concurred to the extent of exemption from custom duties subject to the condition that concessions envisaged therein are based on the principles of reciprocity and would be implemented through a bilateral agreement.
- Clause 2** As regards to Clause 2 concerning taxation of income from international operation of aircraft, airlines are governed through bilateral tax treaties which generally are directed towards reciprocal tax exemption.
- Clause 3** This resolution is in conflict with the settled principle in that sovereign States can levy taxes and use them for such purposes as such States may decide. These rights cannot be abridged by resolution like the one under reference and no State can be expected to collect and spend tax in accordance with the wishes of or schemes laid out by any foreign agency like ICAO. It may also be mentioned that the resolution is incapable of implementation inasmuch as that no line can possibly be drawn as to where the use of international air transport starts or ends and how must the application objectives of taxes collected could be realized. We may also like to add that taxes are levied on the income from air transport business having its source in the taxing country. For the convenience of the taxpayer as well as that of business, the measure of determining the quantum of income is the gross receipts which may then be taxed at an appropriately reduced rate. This is a practice followed worldwide. However, where States agree through bilateral treaties to avoid double taxation, this income may either be taxed at reduced rates or totally exempted from tax on a reciprocal basis.

Airport tax collected from departing passengers is directly credited to the civil aviation authority.

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**PANAMA**

**Clauses 1 to 3** Panama's position is the same as that in Clauses 1 to 3 of Doc 8632. Panama's legislation provides for exemption of all taxation on fuel, oils, lubricants, equipment and spare parts which airlines keep for their own consumption, even if these items are nationalized.

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## PERU

Since Peru is presently in the process of reactivating its economy, it will continue to apply its tariff policy in all fields of economic activity until stabilization is achieved.

As a result, Peru shall inform ICAO at the proper time when the conditions of its economy make it possible to apply ICAO's Policies on Taxation in the Field of International Air Transport contained in Doc 8632.

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**POLAND**

Poland is a member of the European Union. Therefore national and EU laws are applicable.

**Clause 1 a)**

This clause is implemented in Poland, except for:

- fuel taken on board of aircraft used for private leisure flights, which is not exempt from excise tax;
- lubricants or other consumable technical supplies, which are subject to 0% rate of the value added tax.

**Clause 2**

This clause is implemented in Poland. Foreign air transport enterprises may enjoy exemption from income taxes on the basis of agreements on double taxation (to-date Poland has concluded such agreements with 84 States).

**Clause 3**

This clause is implemented in Poland. Services related to air transport are subject to 0% value added tax rate.

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**PORTUGAL**

**Clause 1** In respect to taxation of fuel, lubricants and other consumable technical supplies:

Value Added Tax (Decree-Law n° 394-B/84, of 26 December as amended) – Import of consumable goods, consumed or kept onboard aircraft used on international air navigation are exempt from VAT. Export of consumable goods used on aircraft operated by airlines mainly engaged in the carriage of international traffic are also exempted. Consumable goods are understood as being: fuels, lubricants, and other consumable technical supplies destined to the functioning of aircraft and other technical equipment placed onboard.

Special taxes (Decree-Law n° 566/99, of 22 December as amended) – the supply of oil products and energy products used in air navigation, except for private leisure aviation, are not subject to the tax. Aircraft and helicopters used in commercial flights, for the transportation of passengers or cargo, against remuneration or hire or in the interest of public authorities are exempted.

The Council Directive 2003/96/EC on taxation of energy products and electricity gave EC Member States the option to agree among each other to waive the exemption from taxation of aviation fuel used on intra-Community air routes. EC Members shall avoid inserting in Air Services Agreements any provision that may limit this option.

Nevertheless, the majority of bilateral air services agreements concluded by Portugal contemplate equal treatment as regards customs duties, inspection fees or other national duties and charges on fuel, lubricant oils, and consumable technical supplies kept or taken on board aircraft engaged in international, scheduled and non-scheduled air services.

Charges are related to the cost of the services provided for civil aviation and are collected by airport authorities. There is also a charge on aircraft refuelling.

The revenue from such charges is directly allocated to civil aviation, namely in financing airport activities.

**Clause 2** In respect to the taxation of income of international air transport enterprises and taxation of aircraft and other moveable property – Portugal has over 65 bilateral agreements in place to avoid double taxation (see table in attachment). Airlines of these countries operating to Portuguese territory with an established office are exempted from taxation on the income derived from their activity, on the basis of reciprocity, since payment of such taxes is limited to their domestic domicile.

In case of absence of an agreement to avoid double taxation it is generally understood that airlines are exempted from taxes on income, as it is usually considered that delegations are a mere extension of their enterprises. The special aircraft tax (Single Circulation Tax – Decree-Law n° 22-A/2007, of 29 June 2007) is only imposed on the owner of privately used aircraft resident in Portugal.

**Clause 3** In respect of taxes on the sale and use of international transport, Portuguese legislation on Value Added Tax (Decree-Law n° 394-B/84, of 26 December as amended, Art. 14, paragraph r.) provides for full exemption of international passenger carried by air.

**Clause 4**

In respect of actions to be taken as regards this resolution, the Portuguese authorities consider that fiscal exemption can be a useful instrument to further the development of air transport. However, it should be reasonably compatible with the fiscal national policy that serves the interests of the community in general. In the field of taxation, Portugal is also a party to the options taken at EU's level.

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## CONVENTIONS TO AVOID DOUBLE TAXATION CONCLUDED BY PORTUGAL

COUNTRY	LEGAL DIPLOMA	ENTRY INTO FORCE
Algeria	AR 22/06, 23 March	1.5.2006
Austria	DL n° 70/71, 8 March	28.2.1972
Belgium	DL 619/70, 15 December. Additional Convention (AR 82/00, 14 December)	19.2.1971, 5.4.2001
Brazil	AR 33/01, 27 April	15.10.2001
Bulgaria	AR 14/96, 11 April	18.7.1996
Cape Verde	AR 63/00, 12 July	15.12.2000
Canada	AR 81/00, 6 December	24.10.2001
Czech Republic	AR 26/97, 9 May	1.10.1997
Chile	AR 28/06, 6 April	n.a.
China	AR 28/00, 30 March	8.6.2000
Cuba	AR 49/01, 13 July	28.12.2005
Denmark	AR 6/02, 23 February	24.5.2002
Estonia	AR 47/04, 8 July	23.7.2004
Finland	DL 494/70, 23 October	14.7.1971
France	DL 105/71, 26 March	18.11.1972
Germany	L 12/82, 03 June	8.10.1982
Greece	AR 25/02, 4 April	13.8.2002
Hungary	AR 4/99, 28 January	8.5.2000
India	AR 20/00, 6 March	5.4.2000
Indonesia	AR 64/06, 6 December	n.a.
Ireland	AR 29/94, 24 June. Additional Protocol AR 62/06, 6 December	11.7.1994
Italy	L 10/82, 1 June	15.1.1983
South Korea	AR 25/97, 8 May	21.12.1997
Latvia	AR 12/03, 28 February	07.3.2003
Lithuania	AR 10/03, 25 February	26.2.2003
Luxembourg	AR 56/00, 30 June	30.12.2000
Macau	AR 80-A/99, 16 December	01.1.1999
Malta	AR 11/02, 25 February	05.4.2002
Mexico	AR 84/00, 15 December	09.1.2001
Mozambique	AR 36/92, 30 December	01.1.1994
Netherlands	AR 62/00, 12 July	11.08.2000
Norway	DL 504/70, 27 October	1.10.1971
Pakistan	AR 66/03, 2 August	n.a.
Poland	AR 57/97, 9 September	4.2.1998
Romania	AR 56/99, 10 July	14.7.1999

COUNTRY	LEGAL DIPLOMA	ENTRY INTO FORCE
Russia	AR 10/02, 25 February	11.12.2002
Singapore	AR 85/00, 15 December	16.3.2001
Slovakia	AR 49/04, 13 July	2.11.2004
Slovenia	AR 48/04, 10 July	13.8.2004
Spain	AR 6/95, 28 January	28.6.1995
Sweden	AR 20/03, 11 March	19.12.2003
Switzerland	DL 716/74, 12 December	17.12.1975
Tunisia	AR 33/00, 31 March	21.8.2000
Turkey	AR 13/06, 21 February	18.12.2006
United States	AR 39/95, 12 October	1.1.1996
United Kingdom	DL 48/97, 24 July	20.1.1969
Ukraine	AR 15/02, 8 March	11.3.2002
Venezuela	AR 68/97, 5 December	8.1.1998

Note: AR – Resolution from the Republic's Assembly  
DL – Decree-Law  
L – Law



**REPUBLIC OF KOREA**

**Clause 1**           Acceptable.

**Clause 2**

**Clause 2 a) i)**       In accordance with the agreements on the avoidance of double taxation, the “residence principle” is generally applied to the taxation on the income of air transport enterprises from the operation of aircraft in international air transport.

**Clause 2 a) ii)**     Property taxes on aircraft and other movable property can be exempted on a reciprocal basis.

**Clause 3**           Value Added Tax on the sales or use of international transport can be exempted on a reciprocal basis.

## RUSSIAN FEDERATION

Russian Federation taxation matters, including those in the field of international air transport, are regulated by the corresponding legislation, as well as by agreements between Russia and other States and by bilateral intergovernmental agreements on international air services.

All the agreements provide for the application, on a reciprocal basis and under corresponding conditions, of full or partial exemption of individual types of income and property from taxation in one of the States, as well as procedures for the elimination of double taxation of income and property.

In developing the tax legislation of the Russian Federation and corresponding agreements with other States, account is taken of the generally accepted principles and norms of international law and Russia's international treaties, including ICAO's Policies on Taxation in the Field of Air Transport.

According to the treaty practice of the Russian Federation, the article on exemption of customs duties must be included in bilateral air services agreements.

With respect to the exemption from taxation of air transport enterprises, the practice in the Russian Federation consists of including provisions for tax exemptions (attached hereto) in air services agreements or for avoidance of double taxation of income in individual international agreements.

**PROVISIONS FOR EXEMPTION FROM CUSTOMS DUTIES AND TAXES**

1. Aircraft engaged in the operation of air services designated by the air transport enterprises of one Contracting State Party, as well as the organic equipment, spare parts, fuel stores, lubricants and aircraft supplies (including food, drink and tobacco products) on board such aircraft shall, upon entry into the territory of another Contracting State Party, be exempt from customs duties, taxes and other similar fees and charges provided that such equipment, spare parts, stores and supplies remain on board the aircraft until shipped back.
2. The following shall also be exempt from customs duties, taxes and other similar fees and charges :
  - a) aircraft supplies brought on board in the territory of one Contracting State Party within the limits established by the competent authorities of that Contracting State Party, and intended for use on board an aircraft engaged in the operation of air services designated by the air transport enterprises of another Contracting State Party;
  - b) equipment and spare parts brought into the territory of one Contracting State Party for the maintenance or repair of an aircraft engaged in the operation of air services designated by the air transport enterprises of another Contracting State Party;
  - c) fuel and lubricants intended for use by aircraft engaged in the operation of air services designated by the air transport enterprises of one Contracting State Party, even if these supplies are used on a route segment which lies within the territory of another Contracting State Party, in which they were taken on board.
  - d) requisite documents and forms used by the designated air transport enterprises of another Contracting Party and containing their logos, including tickets and air waybills delivered or to be delivered by the designated air transport enterprises of one Contracting State Party to the territory of another Contracting State Party involved in the operation of designated air services.
3. Use of supplies, stores and spare parts, as well as the afore-mentioned documents, for purposes other than those referred to in paragraph 2 above, is prohibited. The items referred to in paragraph 2 above may be subject to customs control or monitoring by customs authorities until such time as they are shipped back or reassigned in accordance with customs regulations.
4. Airborne equipment, as well as supplies, stores and spare parts found on board an aircraft engaged in the operation of air services designated by one Contracting State Party, may only be offloaded in the territory of another Contracting State Party if the customs authorities of the latter Contracting State Party so agree. In that case, they will be under the control of the customs authorities until such time as they are shipped back or reassigned in accordance with the customs regulations of said Contracting State Party.
5. Baggage and cargo in direct transit shall be exempt from customs duties, taxes and charges.
6. Charges for services provided, customs formalities and storage are levied in accordance with the legislation of the Contracting State Parties.

With respect to the exemption from taxation of air transport enterprises, the practice in the Russian Federation consists of including provisions for tax exemptions in air services agreements or for avoidance of double taxation of income in individual international agreements.

### PROVISIONS FOR AVOIDANCE OF DOUBLE TAXATION

1. Each Contracting Party shall, in the territory of its own State, exempt the designated air transport enterprise of another Contracting Party from any taxes and levies on income and profits collected from the designated air transport enterprises from the operation of established air services.
2. Each Contracting Party shall, in the territory of its own State, exempt the designated air transport enterprise of another Contracting Party from any taxes and charges on its assets.
3. The employees of a designated air transport enterprise who are citizens of one Contracting Party, shall be exempt from all income tax on their salary.

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**RWANDA**

- Clause 1** In line with the provisions of Bilateral Air Service Agreements concluded between Rwanda and other countries, Rwanda, on reciprocal basis, does not levy taxes on fuel, lubricants and other consumer technical supplies. The exemption is also extended to all aircraft engaged in international air transport not covered by Bilateral Air Service Agreements.
- Clause 2** Bilateral Air Service Agreements concluded between Rwanda and other countries provide for avoidance of double taxation on the revenues and sales of airlines on a reciprocal basis.
- Clause 3** Rwanda levies no taxes on the sale or use of international air transport.

**SEYCHELLES****Clause 1**

**Clause 1 a) i), ii)** Regulation 177 allows an officer to “seal” aircraft stores on arrival. These stores are exempt from customs duty or any other taxes unless diverted to home consumption.

**Clause 1 a) iii)** Not applicable, only one international airport. A small aircraft departing for foreign territory would not be charged for local fuel consumption.

**Clause 2**

Section 69 of the Business Tax Act refers to direct taxation on the turnover of goods, passengers, etc., that is paid within Seychelles at a rate of 5 per cent. The Section refers to shipowners of charters; however, it is extended to airline companies as well.

Agreements would be reached regarding taxation with any airline company who would wish to establish themselves here in Seychelles as regards capital equipment, consumables and operating materials.

**Clause 3**

Fees collected from departing passengers (passenger service fees) are directly credited to the Civil Aviation Division.

Under the Investment Promotions Act, companies (including airline companies and freight forwarders) would be entitled to import exemptions on capital equipment, consumables and raw materials. Corporate tax relief is also available when accepted by the Minister responsible for Finance.

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**SINGAPORE**

- Clause 1** Customs duties on lubricant and jet fuel have been suspended since 1 April 1994. Even before 1 April 1994, duty exemption was available under the Customs Duties (Exemption) Order 1990 for any jet fuel, lubricants and other consumable technical supplies taken on board any aircraft as air stores. Similar relief is also available under the goods and services tax (GST) legislation. Hence we are able to comply with the resolutions/recommendations under Clause 1.
- Clause 2** Issues pertaining to reciprocal exemption from taxation would be more appropriately dealt with under a bilateral agreement for the avoidance of double taxation (DTA) or an agreement for reciprocal tax exemption rather than under the ICAO policy document.
- Singapore has in force 60 DTAs and 6 reciprocal agreements which provide for full or partial income tax exemption on profits derived from the operation of aircraft in international traffic.
- In general, our DTAs and reciprocal agreements provide for gains from the alienation of aircraft operated in international traffic or movable property pertaining to the operation of such aircraft to be taxable only in the country of residence or place of effective management of the operator. However, they do not cover property taxes and capital levies or similar taxes on property.
- Clause 3** Any reduction or elimination of taxes related to the sale or use of international air transport would be given only to the extent provided under our relevant domestic laws.
- Under our domestic laws, the supply of services comprising the transport of passengers or goods and the letting on hire of aircraft are zero-rated supplies for goods and services tax (GST) purposes.
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**SLOVAKIA**

**Clause 1** Slovakia complies with this Resolution in international air services (consumption tax), international air scheduled passenger services and international air freight services (VAT, value-added tax). Also the rule of reciprocity is invoked. Slovakia endeavours for wider application — the definitive decision could be made by the Ministry of Finance.

**Clause 2** Principles of this Resolution are included in bilateral air transport agreements. During the first 3 years of Slovakia's existence (from 1/1/1993) experts' negotiations were completed with these States:

Bulgaria, Cyprus, the Czech Republic, Denmark, Greece, Netherlands, Croatia, India, Indonesia, Israel, Kuwait, Hungary, Norway, Poland, Austria, Romania, Russian Federation, Slovenia, United Kingdom, Germany, Syria, Switzerland, Sweden, Turkey, Ukraine, Vietnam and Yugoslavia.

Bilateral air transport agreements were signed at the top level with representatives of the following States:

Bulgaria, Netherlands, Croatia, Israel, Poland, Russian Federation, Slovenia, Ukraine. The agreements are effective, except with Israel and Slovenia.

Besides the above-mentioned, taxation of the income of international air transport enterprises, aircraft and other movable property associated with the operation of aircraft in international air transport is covered by bilateral agreements to avoid double taxation. The Ministry of Finance is in charge for these specific kinds of agreements.

**Clause 3** Slovakia fully complies with this Resolution.

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**SLOVENIA**

- Clause 1** The international conventions ratified by Slovenia are implemented directly in accordance with the Customs Law (Official Gazette of the Republic of Slovenia Nos. 1/95 and 28/95). In particular, implementation regulations adopted on the basis of the Customs Law provide for exemption of payment of customs duty for fuel and lubricants in the tanks or, pursuant to the Decree on the determination of use of reduced rates of duty and zero customs duties (Official Gazette of the RS Nos. 73/95 and 17/97), no customs duty has been provided for aircraft fuels. Neither is sales tax imposed in the above-mentioned cases.
- Clause 2** In compliance with the Law on Corporate Profit Tax (Official Gazette of the RS Nos. 72/93, 20/95 and 34/96) the provisions of the agreements on the avoidance of double taxation are directly applied for taxpayers who are resident in the States with which the agreement has been concluded, if such agreement defines the issue of taxation or regulates it in a different manner than it is regulated in the above law.
- Clause 3** In compliance with the Law on Sales Tax (Official Gazette of the RS Nos. 4/92, 71/93 and 16/96) and the Rules on the Application of the Law on Sales Tax (Official Gazette of the RS Nos. 6/92 - 37/95) sales tax is not levied on export services which also include international transport of goods and passengers, if the starting point is in the territory of the Republic of Slovenia and the destination point abroad, or if the starting point is abroad and the point of destination in the territory of the Republic of Slovenia.
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## **SOUTH AFRICA**

This matter relating to taxation is under broader discussion with the industry stakeholders. South Africa will note its position once all information is on hand.

It must be noted though, that the Constitution of South Africa, 1993 (Act No. 200 of 1993) makes provision for the imposition of certain taxes by the provinces. It can therefore not, at this stage, be confirmed that such taxes will comply with the Resolution.

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**SPAIN****Clause 1****Value Added Tax**

As regards air transport taxes and the Value Added Tax, the regulations governing the VAT in Spain contain the measures necessary to implement the principles contained in Clause 1 of the ICAO document in question (Doc 8632), insofar as this tax is concerned (See Law 37/1992, Articles 18, 22, 24, 26, and 27).

**Special taxes**

The following facts are with regards to special taxes in the field of air transport:

1. The lubricating oils used for aircraft in international air transport are not subject to the tax that Spain levies on hydrocarbons, since such oils are not included in the scope of the tax (Article 46, para. 1 of Law 38/1992 on special taxes, dated 28 December).
2. Fuels (avgas and kerosene) to be used in air navigation (international or domestic), except for private recreational aviation, are exempt from the Tax on Hydrocarbons (Article 51, para. 2a) of Law 38/1992 on special taxes, dated 28 December).

For this purpose, Spanish legislation defines private recreational aviation as the use of an aircraft which is not public property by its owner (or by a person permitted to use it under a rental agreement or some other arrangement) for non-commercial purposes, and especially for purposes other than the carriage of passengers or cargo or the provision of services for remuneration.

**Customs duties**

With regard to customs duties on fuels, lubricants and other similar technical supplies:

1. EEC Regulation 918/83 on customs exemptions states in Article 133 that *“the provisions of this Regulation shall not prevent member States from granting: ... 1 g) exemptions granted within the framework of agreements concluded on a reciprocal basis with third countries parties to the Convention on International Civil Aviation (Chicago 1944) for the application of Recommended Practices 4.42 and 4.44 of Annex 9 to that Convention.”*
2. Clause 1 a) i) in Doc 8632, which contains the Resolution of the ICAO Council, refers to exemption from customs duties on fuel, lubricants and other consumable technical supplies that are in the aircraft upon arrival in the customs territory of another State, provided that no quantity is unloaded. This issue, which was included in basic form in Article 24a) of the Chicago Convention, has been extended to cover other technical supplies such as those mentioned above, although the provisions of Article 24 of the Convention are broadened in that there is no obligation that such supplies still be aboard the aircraft upon departure from the customs territory.

Spain has not expressed any reservation with regard to para. 4.42 of Annex 9 to the Convention on International Civil Aviation as regards supplies and, as a result, there will be no difficulty in applying, Clause 1 a) i) of the above-mentioned document.

With regard to Clause 1 a) ii) in the above-mentioned Clause 1, if the aircraft leaves the State for another customs territory in the same State or any other State, there are no customs duties since the supplies are domestic.

With reference to fuels, the following should be noted:

Article 8.7 of EEC Directive 92/81 establishes that:

“No later than 31 December 1977 the Council shall review the exemptions provided for in paragraphs 1 (b) [(Art. 8.1.b) exemption for commercial aviation fuel] and 2 (b), on the basis of a report by the Commission and taking account of the external costs entailed in such means of transport and the implications for the environment and shall decide unanimously, on a proposal from the Commission, whether to abolish or modify those exemptions.”

In this context, some Member States of the European Union have already stated their position in favour of the abolition of this exemption for environmental reasons. The Spanish position in this regard still has to be established by the various Ministries involved.

In addition, with regard to Clause 1 a) iii), when an aircraft makes successive stops at two or more airports within the same customs territory, the supplies carried on board are domestic and are not subject to customs duties.

The Value Added Tax and special taxes are governed by the Spanish legislation in force (Laws 37/1992 and 38/1992, Articles 22.6 and 9, paragraph f). The laws on VAT and special taxes could be applied to other laws such as the law regulating the IGIC and APIC in the Canaries and the law regulating the production and import tax in Ceuta and Melilla.

#### **Clause 2**

With regard to Clause 2 concerning taxation of the revenues of international air transport enterprises, Spain has signed 35 agreements to avoid double international taxation in the area of taxes on revenue and property. These agreements contain an article concerning the profits from the international operation of aircraft, providing that such profits can only be taxed in the State of the Operator. Most refer to the State in which the firm has its effective headquarters; the others refer to the State of residence of the firm.

In the case of States with which there is no agreement to avoid double international taxation of revenue and property, there are air navigation agreements that are also intended to limit the taxation of profits to the State of the Operator, as well as unilateral agreements that base the exemption of non-resident operators on reciprocity and are applied by means of Orders.

The Attachment contains a list of the double taxation agreements ratified by Spain to date, as well as the agreements and ministerial orders currently in force.

#### **Clause 3**

As regards the principles contained in this Section, Spanish regulations provide for full exemption of international passenger transport by air from the Value Added Tax (Law 37/1992, Art. 22, para. thirteen).

## ATTACHMENT

**COUNTRIES WITH WHICH SPAIN HAS AGREEMENTS ON  
DOUBLE TAXATION OF INCOME AND PROPERTY**

*Note.— In the following list, BOE stands for Boletín Oficial del Estado and O.M. stands for Orden Ministerial (Ministerial Order).*

FRANCE	27-6-73 (BOE 7-5-75) O.M. 28-4-78 (BOE 6-9-78) Agreement Comp. 6-12-77 (BOE 30-4-79).
SWEDEN	16-6-76 (BOE 22-1-77) O.M. 27-7-77 (BOE 9-8-77) O.M. 18-2-80 (BOE 1-3-80).
NORWAY	25-4-63 (BOE 17-7-64).
SWITZERLAND	26-4-66 (BOE 3-3-67). O.M. 20-11-68 (BOE 26-11-68).
AUSTRIA	20-12-66 (BOE 6-1-68). O.M. 26-3-71 (BOE 29-4-71).
GERMANY	5-12-66 (BOE 8-4-68) O.M. 10-11-75 (BOE 4-12-75). O.M. 30-12-77 (BOE 17-1-78).
FINLAND	15-11-67 (BOE 11-12-68).
BELGIUM	24-9-70 (BOE 27-10-72) O.M. 27-2-73 (BOE 26-3-73).
NETHERLANDS	16-6-71 (BOE 16-10-72) O.M. 31-1-75 (BOE 13-2-75).
DENMARK	3-7-72 (BOE 28-1-74) O.M. 4-12-78 (BOE 5-1-79).
JAPAN	13-2-74 (BOE 2-12-74).
BRAZIL	14-11-74 (BOE 31-12-75).
UNITED KINGDOM	21-10-75 (BOE 18-11-76) O.M. 22-9-77 (BOE 11-10-77).
ROMANIA	24-5-79 (BOE 2-10-80).
ITALY	8-9-77 (BOE 22-12-80).
CANADA	23-11-76 (BOE 6-2-81).
CZECHOSLOVAKIA	8-5-80 (BOE 14-7-81).
POLAND	15-11-79 (BOE 15-6-82).
MOROCCO	10-7-78 (BOE 22-5-85).
USSR	1-3-85 (BOE 22-9-86).
TUNISIA	2-7-82 (BOE 3-3-87).
LUXEMBOURG	3-6-86 (BOE 4-8-87).

HUNGARY	9-7-84 (BOE 24-11-87).
UNITED STATES	22-2-90 (BOE 22-12-90).
BULGARIA	6-3-90 (BOE 12-7-91).
CHINA	22-11-90 (BOE 25-6-92).
AUSTRALIA	24-3-92 (BOE 29-12-92).
ECUADOR	20-5-91 (BOE 5-5-93).
ARGENTINA	21-7-92 (BOE 9-9-94).
MEXICO	24-7-92 (BOE 27-10-94).
INDIA	(BOE 7-2-95).
IRELAND	(BOE 27-12-94).
PHILIPPINES	(BOE 15-12-94).
REPUBLIC OF KOREA	(BOE 15-12-94).
PORTUGAL	(BOE 7-11-95).

**MINISTERIAL ORDERS GOVERNING THE EXEMPTION OF  
AIRLINES OF THE FOLLOWING COUNTRIES**

	<b>DATE OF ORDER</b>	<b>DATE OF BOE</b>	<b>AIRLINE AND CERTIFICATE</b>
CUBA	20.2.68	2.3.68	EMPRESA CONSOLIDADA CUBANA DE AVIACION (16.4.68)
UAR	20.12.68	31.12.68	UNITED ARAB AIRLINES (21.1.69)
PERU	2.7.69	9.7.69	AEROLINEAS PERUANAS, S.A. (10.7.69)
CONGO	22.12.71	2.2.72	AIR CONGO (3.2.72)
SOUTH AFRICA	18.2.72	25.2.72	
LEBANON	31.1.76	25.2.75	MIDDLE EAST AIRLINES. AIR LIBAN. S.A.L. (MEA) (11.3.75)
NIGERIA	26.1.76	9.2.76	
KUWAIT	27.6.78	2.8.78	
URUGUAY	7.2.66 7.2.83	17.2.66 14.2.83	PRIMERAS LINEAS URUGUAYAS DE NAVEGACION AEREA (P.L.U.N.A.) (6.4.83)
ISRAEL	5.2.85	30.3.85	EL AL ISRAEL AIRLINES (9.4.86)
GREECE	6.5.85	25.5.85	OLYMPIC AIRWAYS, S.A. (10.6.85)
PARAGUAY	24.4.87	9.5.87	LINEAS AEREAS PARAGUAYAS (LAP) (11.5.87)
SEYCHELLES	6.5.91	10.6.91	AIR MARKETING REPRESENTATIVES, S.A. (AMR) (4.7.91)
PANAMA	19.10.94	10.11.94	
COLOMBIA	There is no reciprocity order, but there is an additional protocol (exchange of notes of 5.9.66) to the Air Agreement of 11.12.51 which has the same effect.		AEROLINEAS NACIONALES DE COLUMBIA (AVIANCA) (18.4.68)

**AGREEMENTS ON DOUBLE TAXATION OF MARINE AND AIR NAVIGATION**

SOUTH AFRICA	16.10.73	(BOE 19.12.73)
IRELAND	25.2.75	(BOE 16.4.77)
CHILE	28.12.76	(BOE 11.7.78)
VENEZUELA	6.3.86	(BOE 1.2.89)



**SWEDEN**

In light of the discussions in various fora about market based measures as tools in the limiting of the impact of international civil aviation on climate change, our opinion is that taxes levied on the uplift or levied on air transport should not be ruled out as possible future measures.

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**SWITZERLAND****General Comment**

Air transport is a matter of the Swiss Federal Government and is therefore regulated by Federal laws. L'administration fédérale des contributions (AFC) publishes a brochure on air transport (Brochure 540-11-Air Transport, dated 1 January 2008) containing all relevant information on the Swiss taxation of international air transport.

(See <http://www.estv.admin.ch/f/mwst/dokumentation/publikationen/pdf/540-11-f.pdf>).

**THAILAND**

- Clause 1** Thailand complies with the revised sections of the document dealing with taxation of fuel, lubricants and other consumable technical supplies.
- Clause 2** Concerning taxation of income and aircraft, the Value Added Tax system, based on the principle of reciprocity, is applied in Thailand.
- Clause 3** Regarding taxes on the sale or use of air transport, Thailand aims to carry out its practice in accordance with ICAO policies.

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**THE YUGOSLAV REPUBLIC OF MACEDONIA**

- Clause 1** According to Article 3 from the *Law on Excise* (Official Gazette of the Republic of Macedonia No. 32/01) “mineral oils used in air traffic except when used in a plane for private purposes shall be exempt from excise tax”.
- Clause 3** In accordance to the Article 23 from the *Law on Value Added Tax* (Official Gazette of RM No. 44/99, ...114/2007) international transportation of passengers shall be exempted from Value Added Tax – tax exemptions in the country not entitled to tax credit deduction. Also, according to the Article 24 international air transport of passengers shall be exempted from Value Added Tax – tax exemption in the country entitled tax credit deduction and such tax exemption shall be applied to airlines with headquarter abroad only when there is a reciprocity.

**TUNISIA**

The consolidated resolution is in accordance with Tunisia's relevant fiscal policy.

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**UNITED ARAB EMIRATES**

The United Arab Emirates is fully in compliance with ICAO's policies on taxation in Doc 8632.

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**UNITED KINGDOM**

- Clause 1** There are no national or local taxes imposed within the United Kingdom on fuel, lubricants or consumable technical supplies contained on board or taken on board for use by aircraft in international air transport, other than on aircraft engaged in private pleasure flying.
- Clause 2** The United Kingdom has implemented more than 100 agreements with other States which effectively implement Clause 2 in respect of the United Kingdom and those States. The United Kingdom is always willing to consider holding bilateral discussions with a view to concluding further such agreements covering the profits of international air transport.
- Clause 3** The United Kingdom introduced, with effect from 1 November 1994, a duty payable in respect of each chargeable passenger departing on a chargeable flight from a United Kingdom airport for both domestic and international destinations. The revenue from the duty accrues direct to the United Kingdom Exchequer. The Government announced in 2008, changes in these arrangements to ensure that the sector better reflects its environmental impact and makes a fair and equitable contribution to public services. These changes will be implemented in November 2009.
- Clause 4** The United Kingdom is strongly in favour of market-based measures, which are distinct from charges or taxes and are the most economically efficient way to reduce emissions. Notwithstanding the Resolution, the United Kingdom is in favour of fiscal measures and charges to reduce or to limit the environmental impact of aviation. These options include, but are not limited to, excise duty on kerosene; value added tax; and environmental charges.
- The United Kingdom continues to actively support international action to address aviation's climate change effects, in particular through the application of market-based measures. The United Kingdom considers that it would be preferable for such action to be taken at a global level. However, in the absence of appropriate global action, regional action represents an important first step.
- To note, the United Kingdom is also responsible for a number of overseas territories and dependencies, which may apply taxes and/or charges according to their particular local circumstances.
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## UNITED REPUBLIC OF TANZANIA

Aviation fuel and lubricants do **not attract any taxes**. However, there are duties, levies, fees and charges that are payable as follows:

**Table 1: JET A-1 FUEL**

S/N	Type of Payment	Level of Payment
1	Inspection fees at local Port	USD/T 0.09
2	Destination Inspection Fees	1.2% of CIF
3	Regulatory Charges	USD/T 0.25
4	Tanzania Bureau of Standards	0.2% of CIF
5	Local inspection	USD/T0.18
6	Wharfage	USD/T0.18
7	Other Charges	1.6% of CIF + VAT

**Table 2: AVGAS100L FUEL**

S/N	Type of Payment	Level of Payment
1	Destination Inspection Fees	0.1% of CIF
2	Wharfage Charges	1.6% of CIF+VAT

**Table 3: AVIATION LUBRICANTS**

S/N	Type of Payment	Level of Payment
1	Destination Inspection Fees	0.1% of CIF
2	Import Duty	25% of CIF
3	Handling and Wharfage Cost	1.6% of CIF+VAT

The above mentioned duties, levies, fees and charges are normally passed on to consumers.



**UNITED STATES**

- Clause 1** With respect to **taxes on fuel, lubricants or other consumable technical supplies**
- Clause 1 a) i)** This clause is implemented in the United States.
- Clause 1 a) ii)** Subject to the comments in clauses b), c) and e) below, this section is implemented in the United States for federal taxes on aviation fuels, lubricants and other consumable technical supplies taken on board aircraft for consumption during flight.
- Clause 1 a) iii)** Subject to reciprocity, exemptions apply with respect to flights between points within the United States when part of an international flight.
- Clause 1 b) and c)** Exemptions, credits or refunds of Federal fuel taxes and customs duties are granted with regard to supplies for (i) military aircraft of any country; and (ii) civil aircraft engaged in foreign trade with the United States, or in trade between the United States and any of its possessions. However, in the case of civil aircraft registered in a foreign country, these exemptions, credits or refunds are granted only if the foreign country allows, or will allow, substantially reciprocal privileges in respect of U.S. registered aircraft. The United States does not anticipate the expansion of these exemptions to foreign civil aircraft other than those engaged in foreign trade with the United States.
- Clause 1 d)** See answer to b) and c) above and e) below.
- Clause 1 e)** This clause is implemented in the United States with respect to the purchase of bonded or foreign trade zone (FTZ) fuel at many international airports. Several States of the United States already exempt fuel used on international flights from State excise taxation. Except for situations involving the purchase of bonded or FTZ fuel, various States of the United States collect taxes on fuel taken on board. In some of these States, the tax revenues are allocated to civil aviation use. While the United States is sympathetic with the objective of eliminating local taxes for such fuel, under the Federal structure of the U.S. Government, and in light of the decisions of the United States Supreme Court in *Wardair Canada v. Florida Dept of Revenue*, 477 U.S. 1, 106 S.Ct. 2369, 91 L. Ed. 2d 1 (1986); *see also, Intel. Containers Intern. Corp. v. Huddleston*, 113 S.Ct. 1095 (1993), the United States does not anticipate that international air transport will be exempted from these State taxes in the immediate future (with the exception of purchases of bonded or FTZ fuel).
- Local sales and excise taxes on fuel at public (federally supported) airports are permitted only to the extent such taxes are “expended for capital or operating costs of --(A) the airport; (B) the local airport system; or (C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the actual air transportation of passengers or property” (*i.e.* a “user charge”). (49 U.S.C. 47107 (b))
- Clause 2** With respect to **the taxation of income of international air transport enterprises and taxation of aircraft and other moveable property**
- Clause 2 a) i)** The United States is in accord with the principles set forth in this Clause and, in accordance with its existing laws, has for a long period of time followed the practice of granting on a reciprocal basis the exemptions provided for in this Clause. The reciprocal exemption is confirmed through a bilateral agreement with the other country on a reciprocal basis by means of an administrative ruling. Some of the exemptions apply reciprocally only to aircraft registered in the other country.

**Clause 2 a) ii)** No Federal property tax applies to property of an air transport enterprise. Some State or local Governments within the United States may, however, impose a tax on certain movable personal property of such enterprise (not including commercial aircraft).

**Clause 2 b)** The bilateral agreements referred to under Clauses 2 a) and c) are applicable only to Federal taxes. Federal law specifically precludes State taxation of U.S. and foreign air carriers on the basis of "Gross Receipts" (see 49 U.S.C. 4011(b)).

**Clause 2 c)** Reciprocal income tax exemptions are in effect with more than 65 countries, however, the income exempted may vary based on the degree of reciprocity available through the other country's law. In some cases, where reciprocal exemption is provided in a pre-1987 tax treaty, it is limited to aircraft documented under the laws of the country of the residence of the operator or lessor. Reciprocal exemptions provided under U.S. law (beginning in 1987) and recent tax treaties are available to residents of the other country without regard to where the aircraft is documented.

**Clause 3** With respect to **taxes on the sale and use of international air transport** (Information below is current as of 1 April 2009)

All taxes or charges imposed on the sale of international air transport, or use of international air transport facilities and services, are dedicated for, or do not exceed, the costs of airport, air navigation and aviation security facilities and services. These charges include:

- \* A \$12.00 tax for any international air transportation beginning or ending in the United States. The \$12.00 tax is indexed for inflation (for example, the rate for 2009 is \$16.10). For air transportation between the continental United States and a 225 mile zone in Canada or Mexico, a 7.5 per cent ticket tax applies if the payment was made within the United States, while the \$12.00 applies if the payment was made outside the United States. These taxes go into the Airport and Airway Trust Fund.
- \* A \$5.50 passenger charge for customs inspections; a \$7.00 passenger charge for immigration inspections; and a \$5.00 passenger, and \$70.50 aircraft, charge for animal, plant and health inspections (APHIS). These charges are dedicated toward the costs of these services.
- \* A tax on fuels for non-commercial aviation of 19.4 cents per gallon for aviation gasoline, and 21.9 cents per gallon for kerosene for use in aviation. 4.3 cents of this amount goes into the general fund 0.1 cent of this amount goes into the Leaking Underground Storage Tanks (LUST) fund. The balance goes into the Airport and Airway Trust Fund, which is dedicated to aviation purposes.
- \* A September 11 Security Fee of \$2.50 per passenger enplanement (up to \$5 per one-way trip and \$10 per roundtrip), and an Aviation Security Infrastructure Fee that varies by carrier, assist in covering aviation security costs incurred by the Transportation Security Administration.
- \* The Federal Aviation Administration charges overflight fees to operators of aircraft that fly in U.S.-controlled airspace, but neither take off nor land in the United States. There are two types of fees:
  - Enroute – \$33.72 per 100 nautical miles (nm), Great Circle Distance (GCD), from point of entry into point of exit from U.S.-controlled airspace.
  - Oceanic – \$15.94 per 100 nm, GCD

In addition to these Federal taxes and charges, State or local commercial airport operators may, with the approval of the Federal Aviation Administration, implement a maximum \$4.50 passenger facility charge dedicated to specific airport capital improvements, with a maximum \$9.00 charge (two airports) for any one-way itinerary, regardless of the number of airports utilized.

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**UZBEKISTAN****Clause 1**

- Clause 1 a)** Supplies carried on board an aircraft arriving in Uzbekistan are not considered imported and they are exempt from customs duties if they are not unloaded from the aircraft. Supplies unloaded temporarily are not subject to customs duties.
- Clause 1 b)** The exemptions mentioned above with respect to Clause 1 a) are also granted upon departure.
- Clause 1 c)** The provisions of Clause 1 and Clause 2 apply regardless of the type of operation performed.
- Clause 1 d)** The expression “customs duties” includes import and export duties.

**Clause 2**

- Clause 2) a) i)** On the basis of reciprocity, Uzbekistan grants air transport enterprises of other Contracting States exemption from taxation on income derived in its territory from the operation of aircraft in international air transport.
- Clause 2 a) ii)** Uzbekistan grants exemption from property taxes, capital levies and other similar taxes on aircraft in international air transport.
- Clause 2 b)** In accordance with Clauses a) i) and ii), tax exemption is granted in accordance with the appropriate provisions included in bilateral air services agreements or on the basis of bilateral agreements relating to double taxation.

Uzbekistan has concluded the above-mentioned agreements with the following States:

**Bilateral air service agreements**

Each of these agreements contains a provision on airline tax exemption. They have been concluded between Uzbekistan and China, Republic of Korea, Austria, Viet Nam, Norway, Denmark, Sweden, Kuwait.

**Bilateral agreements**

Agreements on the avoidance of double taxation have been concluded between Uzbekistan and Belarus, Ukraine, India, United Kingdom, Thailand, Russian Federation, Republic of Moldova, Pakistan, Poland.

- Clause 2 c)** In its policy, the Government of Uzbekistan strives to conclude agreements with other States which are prepared to act on the basis of reciprocity.
- Clause 3** Passengers departing from Uzbekistan on international flights pay a passenger service charge of U.S.\$ 10.
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**VENEZUELA**

A number of different government bodies of the Bolivarian Republic of Venezuela such as the People's Ministry of Tourism and the People's Ministry of Science and Technology levy a tax of one percent of the gross income of national air transport companies, in support of tourism and technology development policies.

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