COUNCIL OF THE EUROPEAN UNION

Brussels, 13 October 2010

14885/10

AVIATION 160
RELEX 858

INFORMATION NOTE

From: European Commission
To: Council
Subject: 37th ICAO General Assembly (Montreal, 28 September to 8 October 2010) – Briefing by the Commission and the Presidency

Delegations will find annexed a note by the Commission on the above-mentioned subject, which will be dealt with under "Any Other Business" at the meeting of the Council (Transport, Telecommunications and Energy) on 15 October 2010.
1. INTRODUCTION

Founded in 1944, ICAO is a United Nations specialised agency which acts as the global forum for civil aviation. It aims to promote the safe, secure and sustainable development of civil aviation by getting its members to work together.

The Assembly, composed of representatives from all 190 ICAO Member States, is ICAO’s sovereign body. It meets every three years to review the work of the organisation and set policy for the years to come.

2. EU COORDINATION

It is important to note that both in the months leading up to the Assembly as well as during its proceedings it has been possible to develop exemplary coordination of European positions.

Speaking with a single voice as well as the very good preparation certainly contributed to Europe’s success.

To this effect in all relevant areas of work (including safety, security, ATM and environment) the Commission had created expert-groups bringing together experts in these fields from within the Commission, the European Aviation Safety Agency, Eurocontrol as well as Member States.

Through the involvement of the European Civil Aviation Conference (ECAC) also non-EU European States were involved, as a consequence of which Working Papers and positions before and during the Assembly could be presented on behalf of the EU, its Member States and 17 other European States, 44 in total.
3. THE MAIN ACHIEVEMENTS

3.1. EU-ICAO Cooperation Agreement

The text of the Memorandum of Cooperation (MoC) between the European Union (EU) and the International Civil Aviation Organization (ICAO) providing a framework for enhanced cooperation was initialled. Negotiations had taken place on the basis of a mandate granted by the Council in December 2009.

The MoC provides a framework for the strengthening of cooperation between the EU and ICAO and will make it possible to enhance the influence of the EU within ICAO. This is important, because of the significant regulatory role of the EU in aviation on the one hand, and ICAO's global rulemaking function for international aviation on the other hand.

This is a significant step forward because it is the first formal agreement between the EU and ICAO and confirms the acknowledgement by ICAO of the EU's extensive competence in air transport. Furthermore, the EU's role has been reinforced through recognition that it can participate in ICAO meetings as observer.

It is envisaged to propose a recommendation to the Council on signature at the next Transport Council.

3.2. A global approach to dealing with Volcanic Ash

Europe was able to share its experience and the lessons learnt from the volcanic ash cloud crisis with ICAO.

Many States, together with the Europeans, supported a global approach and the work to be pursued by ICAO through its Task Force, in particular in updating its guidance in this area.

Europe emphasised the following points:

- the role of real data and analysis;
- strengthening the models;
- the role of industry in studying ash tolerance levels (thresholds) for aircraft engines, and
- better integration of meteorological information.

These aspects were agreed as the basis of ICAO's work in this field in the coming months.
3.3. Transparency and Exchange of Safety Information

The EU achieved positive results at the Assembly on aviation safety, in particular in ensuring that ICAO develops a procedure that will allow more transparency towards the travelling public.

As well as ensuring that passengers are aware of the safety situation before they travel, this will help the international community to respond more quickly to any safety problems and prioritise technical assistance to resolve them more effectively.

The Assembly has also agreed to transform the ICAO safety audit programme in a way that will encourage States to share more safety information so that the safety performance of States can be monitored on a continuous basis ("Continuous Monitoring Approach" – CMA).

It was also agreed that ICAO would develop a new Annex to the Chicago Convention on safety management, which Europe has been recommending for some years. The new Annex will describe key State safety functions, as well as contain high level requirements for safety management systems of aviation operators. The Assembly agreed to the European demand that the new Annex should envisage the establishment of Regional Safety Oversight Organisations and regional safety programmes.

To reinforce the efforts to increase the exchange of safety information between key partners, a four-way agreement between the European Commission, ICAO, the US Federal Aviation Administration (FAA), and the International Air Transport Association (IATA) was signed. The Memorandum of Understanding on the Global Exchange of Safety Information will strengthen cooperation between these bodies in exchanging important safety information that is gathered through their respective safety programmes. It represents a first step in arriving at a better and more systematic exchange of aviation safety-related information between various partners which have such information. Indeed, the safety of air passengers can be better guaranteed if eventually all information which stems from various sources (authorities such as EASA or the FAA, ICAO's audit programs or the aviation industry itself) is brought together and shared.

Other notable issues on which the Assembly concluded discussions include recommendations for the development of new standards for the “black boxes” and continuous flight data transmission (in response to the accident of the Air France flight 447 in 2009), the launching of a global programme on runway safety, and the phasing-out of halon used in civil aviation.

The EU succeeded in ensuring that ICAO continues to pursue its work on developing high security standards but insisted also that ICAO should follow a proportionate approach based on measures that facilitate the screening of air passengers and reduce the disruption at airports.

A global action plan for aviation security has been agreed, which has taken up Europe’s recommendations in the following areas:

- the importance of moving to a risk-based approach to ensure the proportionality of security measures at airports;
- the need to strengthen screening of security staff at airports;
- a rapid transition from liquid restrictions to liquids screening.

A Declaration on Aviation Security was also agreed by the Assembly. The Declaration sets out the high-level principles and key priorities for security policy and will provide direction for ICAO's work in the area of aviation security for the years ahead.

3.5. New resolution on international aviation and climate change

After two weeks of continuous and difficult negotiations, a new Resolution on international aviation and climate change was adopted on the final afternoon of the Assembly. The key points within the Resolution are as follows:

- **Global Goal:** ICAO has agreed on an aspirational global medium-term collective goal of capping CO₂ emissions from international aviation from 2020 at the levels in that year, while recognising that States or regions such as the EU can act sooner and be more ambitious. A goal of improving average fuel efficiency by 2 % per year was also agreed.

- **Action Plans:** States will notify to ICAO the different measures that they are taking to meet the agreed goal by submitting Action Plans. States with less than 1% of international aviation activity are not expected to submit plans unless they choose to do so voluntarily.

- **Market-based measures:** ICAO recognises the important role of market-based measures, such as emissions trading, and has agreed to a range of guiding principles to be applied by States designing and implementing them. The EU ETS is consistent with all 15 of these principles. Crucially, ICAO has refrained from language which would make the application of the EU’s ETS to their airlines dependent on the mutual agreement of other States. It was this requirement that led to a stalemate at the last ICAO Assembly in 2007. In this Assembly, the EU agreed to engage constructively in dialogue with third countries during the implementation of its ETS, notably with regard to how to deal with emissions from incoming flights from third countries.
- **De minimis provisions**: An important element in this package is that commercial air carriers of countries falling below a threshold of 1% share of international aviation activity, should qualify for exemption from the application of market-based measures, and that exemptions for smaller aircraft operators may be considered.

A number of States, including the US, China and Russia, indicated their intention to enter reservations on various parts of the Resolution. European States indicated that they will enter reservations in respect of the goals (insufficiently ambitious), the de minimis provisions (which are broader in scope than those in the EU ETS legislation), and on the provision relating to entering negotiations (to make Europe's interpretation clear).

This result is a major step forward. It is a major achievement to have 190 countries adopt a Resolution on such a sensitive issue. Although several many States entered reservations, the situation now is dramatically different from that in 2007, when Europe was isolated against the rest of the world in relation to ETS and "mutual agreement". The adoption of the resolution further reduces the chances of success for legal challenges to the EU legislation. This Assembly has demonstrated that the position now is more complex. The principal division is that between developed and developing countries, and Europe and the US succeeded in attracting support from smaller developing countries away from the larger developing countries led by China.

It is also important to note that the EU's ability to draw upon the support of the 17 non-EU members of ECAC was instrumental in having the Resolution adopted.