



RECOMMENDATION ECAC/16-1

**AIR CARRIERS' LIABILITY WITH RESPECT TO
PASSENGERS**

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AIR CARRIERS' LIABILITY WITH RESPECT TO PASSENGERS

THE CONFERENCE

RECOGNIZING that the international air carrier liability system based on the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed in Warsaw on 12 October 1929 serves the best interests of all those who participate in international civil aviation, as well as those who are affected by it,

RECALLING that the international air carrier liability system has in the past been updated in the light of legal and economic developments,

CONSIDERING that a consensus has been found within ECAC that certain elements of the international air carrier liability system should be improved,

NOTING that such improvement of the international air carrier liability system should if possible concern all States whose airlines participate in international civil aviation.

The CONFERENCE adopts the following RECOMMENDATION

PART I
GENERAL

PURPOSE

1. The purpose of this Recommendation is to propose a means for updating certain elements of the international air carrier liability system with respect to passengers.

DEFINITIONS

- 2.1 "**Inter-carrier Agreement**" means an arrangement between air carriers, concluded on a voluntary basis, in anticipation of a future formal agreement under the law on international treaties.
- 2.2 "**International air carrier liability system**" means the Convention for the Unification of certain Rules relating to International Carriage by Air, signed in Warsaw on 12 October 1929, together with all international instruments, which build on and are associated with it, as well as the Montreal inter-carrier Agreement, dated 4 May 1966.
- 2.3 "**Liability limit**" is as defined in Article 22 of the Warsaw Convention.
- 2.4 "**Special drawing right**" means the special drawing right laid down by the International Monetary Fund.
- 2.5 "**Uncontested part**" means the part of a claim not disputed by either party.

SCOPE

3. The measures contained in this Recommendation should be taken in the interest of all parties who participate in international air transport, irrespective of the nationality of the air carrier in question and of the aircraft used, insofar as the aircraft has a point of origin, point of destination or agreed stopping place within the territory of an ECAC Member State.

PART II

RECOMMENDATION TO THE ECAC MEMBER STATES

4. The ECAC Member States are urged to update certain elements of the international air carrier liability system.

To this end, they are called upon :

- 4.1 to encourage any air carrier licensed by them, or under their supervision or control, to establish an inter-carrier Agreement with the recommended basic elements, as set out in Part III, within one year of the adoption of the recommendation;
- 4.2 to undertake, if necessary, joint efforts to implement the recommended basic elements in a statutory, regulatory or other binding manner;
- 4.3 to urge other international institutions to update certain elements of the international air carrier liability system in such a way as to be binding under the law of international treaties, taking into account the recommended basic elements;
- 4.4 to encourage carriers from third States which have a point of origin, point of destination or agreed stopping place within the territory of an ECAC Member State to also participate in the inter-carrier Agreement.

PART III

RECOMMENDATION TO THE AIR CARRIERS AND THEIR ASSOCIATIONS

- 5.1 The air carriers and their associations are called upon to update certain elements of the existing international air carrier liability system by means of an inter-carrier Agreement, and to incorporate the provisions of the latter in their General Conditions of Carriage, as well as to inform the travelling public in the appropriate form.
- 5.2 The inter-carrier Agreement should comprise at least the following basic elements:
- 5.2.1 The carrier shall pay compensation to the passenger, or those entitled to compensation, for death or injury under the applicable law;
 - 5.2.2 the liability limit for damage in the case of death or injury shall be at least 250 000 special drawing rights per passenger;
 - 5.2.3 the liability limit shall be reviewed not later than three years after the entering into force of the inter-carrier Agreement, and subsequently every three years;
 - 5.2.4 the passenger who has suffered the damage, or those entitled to compensation, shall receive the uncontested part of the claim as soon as possible, and at the latest within three months of the claim being made;
 - 5.2.5 the passenger who has suffered the damage, or those dependants entitled to compensation, shall receive a lump sum from the carrier within ten days of the event during which the damage occurred; the lump sum shall be up to 5 per cent of the liability limit according to the injury incurred and up to 10 per cent in the case of death; the lump sum may be offset against any subsequent sums paid on the basis of carrier liability but is not returnable under any circumstances.
- 5.3 Carriers party to this inter-carrier Agreement shall notify their accession and withdrawal to their Civil Aviation Authorities and ECAC.
