INTERNATIONAL CONFERENCE ON AIR LAW

(Montréal, 26 March to 4 April 2014)

COMMENTS ON A LIST OF OFFENCES

(Presented by the International Air Transport Association (IATA))

1.   **INTRODUCTION**

1.1   This Working Paper sets out IATA's support for the inclusion of a list of offences in the Tokyo Convention 1963 ("the Convention").

2.   **LACK OF CLEAR DEFINITION OF AN OFFENCE**

2.1   The Convention currently does not provide for a definition of what constitutes a criminal offence, leaving this issue to be determined by the penal law of the State having jurisdiction over the incident in question. Further clarity would be beneficial.

2.2   Conduct that may constitute a criminal offence in the State of embarkation, the State of registration of the aircraft, the State of the operator or the State of the perpetrator or victim may not be a criminal offence in the country where an unruly passenger is disembarked.

2.3   Police or prosecution authorities, in practice, may not pursue an unruly passenger at all because they are not certain how the conduct complained of fits into the scope of their domestic criminal law. In many cases, authorities simply prefer to release the passenger to his or her onward journey.

2.4   In IATA's view, some elaboration of the types of conduct prohibited would improve certainty for passengers, law enforcement authorities and airlines.

2.5   IATA supports the spirit of the language proposed in Article VIII of the draft Protocol as set out in DCTC Doc No. 3 but still considers that further particularity could be achieved. Many of the concerns expressed about the effect of criminalising minor offences might be answered by giving States latitude to sanction certain behaviour by administrative or civil law means.

3.   **CONCLUSION**

3.1   IATA requests that the Diplomatic Conference note the concerns identified in this Working Paper and take into consideration in its deliberations IATA's general support for the wording of Article VIII of the draft Protocol, subject to the comments made above.

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