

**ASSOCIATION OF ASIA PACIFIC AIRLINES  
RESOLUTION NO. 5  
Series of 2004**

**A RESOLUTION CALLING ON GOVERNMENTS TO PROVIDE  
APPROPRIATE SUPPORT TO THE AVIATION INDUSTRY  
IN LIGHT OF THE PROPOSAL BY THE INSURANCE MARKET TO INVOKE  
NEW AVIATION INSURANCE WAR CLAUSE EXCLUSIONS**

The AAPA ASSEMBLY OF PRESIDENTS, in its 48<sup>th</sup> meeting duly assembled,

RECOGNISING THAT:

- I. The aviation insurance market is reviewing proposals to invoke new exclusions in policy coverage designed to exclude a number of “perils” under a new clause designated AVN 48C;
- II. The aviation insurance underwriters are proposing to withdraw provisions for write back with respect to liabilities specified under the new exclusion clause;
- III. The aviation hull war market is also preparing to introduce a new policy form, LSW555C, that will also restrict or exclude cover for these “perils”;
- IV. Article 50 of the Montreal Convention obliges States to require their carriers to maintain adequate insurance covering their responsibility under the Convention;
- V. ECAC Resolution 25/1 of 27 November 2002 resolved that the obligation of insurance for third-party damages in the event of an accident (up to a maximum of SDRs 90,000,000) should include damages arising from war and terrorism activity;
- VI. A number of governments have specific regulations governing the liability coverage of those “perils”, for example, the USA (DOT 14 Part 205); Canada (Part 7 of the Canadian Transportation Agency Air Transportation Regulations); Switzerland (Air Navigation Act of 1948 and Air Navigation Decree of 1973); and Australia’s Civil Aviation Act (Carrier’s Liability) 1959;

VII. EU Regulation 785/2004, which will enter into force on 30 April 2005, stipulates compliance by airlines with minimum insurance requirements for war and terrorism risks;

VIII. Non-compliance with specific State requirements could result in sanctions, including denial of landing rights and the refusal of overflights into controlled airspace;

**BELIEVING THAT:**

IX. Acts of war and terrorism are targeted at States and therefore should be the responsibility of governments to assume the liabilities resulting from such acts including those perpetrated by weapons of mass destruction (nuclear, biological, chemical, radioactive and electromagnetic) which are national security issues; and

**RESOLVES:**

X. TO CALL for the provision of appropriate government measures and assurances to ensure that the aviation industry is able to continue operating without commercial hull and liability coverage for losses as a result of the “perils” stipulated in the exclusion clause designated AVN 48C and the new policy form LSW555C.

APPROVED this 26<sup>th</sup> day of November 2004.

Certified correct:

Attested by:

ANDREW J HERDMAN  
Director General

YI-TAEK SHIM  
AAPA Chairman - 2004