



ASSEMBLY — 39TH SESSION

ECONOMIC COMMISSION

Agenda Item 39: Economic Regulation of International Air Transport — Policy

SMARTER REGULATION: ENSURING THAT NO COUNTRY IS LEFT BEHIND

(Presented by IATA)

EXECUTIVE SUMMARY

Recognizing the value of aviation to the wider economy and society, ICAO's strategic objectives include the economic development of air transport. The Organization has also embarked on the "No Country Left Behind (NCLB)" program – which aims to ensure that all States have access to aviation's significant socio-economic benefits through the adoption of regulations consistent with ICAO policies. Regulations inconsistent with these policies act as a hindrance on aviation's ability to serve as a catalyst for economic and social development and a key contributor to the achievement of the UN's Sustainable Development Goals (SDG). Many governments have also embarked on smarter regulation initiatives, which seek to develop rules that are proportionate, clear and transparent. IATA asks the Assembly to consider incorporating such initiatives into ICAO's NCLB work, and asks governments to consider applying smarter regulation principles to the air transport sector in order to remove barriers to sustainable growth.

Action: The Assembly is invited to:

- a) recognize the value that aviation can deliver to a broad range of stakeholders and the contribution that aviation can make to the achievement of the Sustainable Development Goals (SDG);
- b) request that ICAO augment its "No Country Left Behind" initiative by developing a work program on smarter regulation, which could include:
 - 1) an implementation guide of relevant ICAO policy guidance, SARPs and conventions for member States, including examples of State implementation;
 - 2) capacity building sessions on designing smarter regulation approaches, at the request of member States; and
 - 3) all other relevant measures to ensure widespread knowledge and awareness of ICAO policies as well as use of guidance material on economic regulation;
- c) urge Member States in their regulatory functions to have regard for the policies and guidance material developed by ICAO on economic regulation of international air transport, such as those contained in Doc 9587, Policy and Guidance Material on the Economic Regulation of International Air Transport; and
- d) invite Member States to consider incorporating smarter regulation principles when developing and implementing air transport regulation.

¹ English, Arabic, Chinese, French, Russian and Spanish versions provided by IATA.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives D — <i>Economic Development of Air Transport</i>
<i>Financial implications:</i>	The activities referred to in this paper will be undertaken subject to the resources available in the 2017-2019 Regular Programme Budget and/or from extra-budgetary contributions. IATA is willing to contribute to this work.
<i>References:</i>	A39-WP/8, Consolidated statement of continuing ICAO policies in the air transport field A39-WP/66, Report on Implementation of Recommendations of ATConf/6 and Decisions of A38

1. INTRODUCTION

1.1 Aviation is a vital engine of the global economy. The industry flies a third of world trade by value. It transports over half of international tourists. Aviation is also a connector of nations, families and businesses. It is a direct link between the rapidly developing economies of Asia, Africa and Latin America and the more established European and North American markets.

1.2 Today, aviation supports nearly 63 million jobs and US\$2.7 trillion in global GDP. Over the course of the next 20 years, these figures are expected to rise significantly, to a total of 99.1 million jobs and US\$5.9 trillion in GDP².

1.3 The greatest opportunity for aviation to fulfil its potential as a catalyst for economic and social development is in emerging economies. Today, aviation in the developing world supports 38 million jobs and US\$561 billion in GDP. Growth in revenue passenger kilometres is expected to be 5% per annum in emerging markets over the next 20 years, outstripping the 4.3% growth rate worldwide and the 3.5% growth rate expected in OECD countries. Aviation therefore has the potential to make a crucial contribution to the United Nations' Sustainable Development Goals (SDG). In this context, aviation is a key driver of 'sustained, inclusive and sustainable economic growth' and 'full and productive employment'. It also generates higher levels of health and well-being and lifelong learning opportunities.

1.4 However, there is also a risk of falling short. A proliferation of regulations and policies inconsistent with ICAO SARPS and policy guidance, or which are simply detrimental to the growth and sustainability of the aviation sector, creates additional difficulties for aviation to deliver on its promise. Indeed, if aviation growth rates in the emerging world slow by just 1%, the level of jobs created could drop by 8%, and corresponding economic activity by 17%³:

Table 1: Total Jobs and GDP generated by air transport in emerging markets

	Jobs	GDP Contribution
2014	38 million	US\$561 billion
2034	61 million	US\$1.56 trillion
2034 – assuming 1% lower growth annually	56 million	US\$1.29 trillion

² *Aviation: Benefits Beyond Borders, Air Transport Action Group, July 2016*

³ *Analysis undertaken by Oxford Economics on behalf of the Air Transport Action Group*

1.5 One way of helping aviation deliver on its potential is by applying a “smarter regulation” approach to the sector. A national or regional policy framework consistent with ICAO SARPS and policy guidance, and with globally accepted smarter regulation principles, can unlock the full value of aviation.

2. DISCUSSION

2.1 A number of governments and international organizations around the world have adopted “smarter” or “better” regulation initiatives in order to improve regulatory practice and support economic growth. Examples include:

- a) the Council of Australian Governments’ best practice regulation guide, adopted in 2007;
- b) the OECD Council’s Recommendation on Regulatory Policy and Governance, adopted in 2012;
- c) Canada’s Red Tape Reduction Initiative, which began in 2012;
- d) Malaysia’s Best Practice Regulation Handbook, adopted in 2013; and
- e) the European Commission’s Better Regulation Initiative, announced in 2015.

2.2 Following the lead of governments in this area, IATA adopted its own smarter regulation methodology in 2014. The set of principles seeks to capture the common themes among the various government or international organization programs worldwide. It includes policy design and development principles, and is available in Appendix 1. Key examples include:

- a) consistency and coherence – regulations should be consistent with existing (and planned) rules and practices, so that there are no overlaps and contradictions (nationally or internationally);
- b) there should be an assessment of the regulation impacts;
- c) the drafting of the regulation should involve those who are potentially affected; and
- d) The decision making process should be transparent and objective.

2.3 IATA is seeking to partner with ICAO and Member States to apply smarter regulation principles to the air transport sector, thereby enhancing connectivity and aviation’s role as a social and economic enabler. One opportunity would be assisting in the implementation of policies which are consistent with ICAO standards, recommended practices and policy guidance. Such regulations will offer a coherent, proportionate approach. Examples where progress can be made include:

- a) broader ratification of the Convention for the Unification of Certain Rules for International Carriage by Air - Montreal, 28 May 1999, creating a universal liability regime as per ICAO Resolution A38/20;

- b) implementing taxation legislation consistent with ICAO's policies on taxation (Doc 8632), ensuring economic sustainability of air connectivity;
- c) implementing API/PNR requirements consistent with ICAO standards, allowing efficient, effective use of data; and
- d) taking into consideration the ICAO core principles on consumer protection when designing consumer protection regimes, ensuring a balance between protecting passengers and industry competitiveness.

2.4 Another application of smarter regulation is the provision to policy makers of capacity building necessary to design regulations themselves (e.g. best practices on conducting impact assessments and consultations), thereby providing Member States with the tools necessary to enact policy frameworks that are conducive to sustainable aviation growth. IATA stands ready to assist as appropriate in this effort.

3. CONCLUSIONS

3.1 The Assembly is invited to:

- a) recognize the value that aviation can deliver to a broad range of stakeholders and the contribution that aviation can make to the achievement of the Sustainable Development Goals (SDG);
- b) Request that ICAO augment its "No Country Left Behind" initiative by developing a work program on smarter regulation, which could include:
 - 1) an implementation guide of relevant ICAO policy guidance, SARPs and conventions for member States, including examples of State implementation;
 - 2) capacity building sessions on designing smarter regulation approaches, at the request of member States; and
 - 3) all other relevant measures to ensure widespread knowledge and awareness of ICAO policies as well as use of guidance material on economic regulation.
- c) urge Member States in their regulatory functions to have regard to the policies and guidance material developed by ICAO on economic regulation of international air transport, such as those contained in Doc 9587, Policy and Guidance Material on the Economic Regulation of International Air Transport; and
- d) invite Member States to consider incorporating smarter regulation principles when developing and implementing air transport regulation.

APPENDIX

IATA'S SMARTER REGULATION METHODOLOGY

Definition Statement

Smart regulation delivers clearly defined, measurable policy objectives in the least burdensome way. It is achieved through a transparent, objective, and consultative process.

Policy Design Principles

- Consistency and coherence – Regulations should be consistent with existing (and planned) rules and practices that are applicable to regulated activities so that there are no overlaps and contradictions (nationally or internationally). They should also be predictable and applied with clear oversight responsibility and without discrimination against those being regulated.
- Proportionality – Regulations should be used only when their necessity is demonstrated and should be proportionate to the problems identified so that the costs of compliance are minimized by pursuing the most cost-effective solution.
- Targeted at risk – Regulations should have specific and well-defined objectives that respond directly to the problems identified. Whenever appropriate, flexibility should be given to those being regulated to meet defined objectives.
- Fair and non-distortive – Regulations should be applied fairly and not create discriminatory burdens on any group/s in particular.
- Clarity and certainty – Audiences subject to regulatory compliance need to clearly know the regulations that will apply, what is expected of them, and have sufficient time to be able to comply with new requirements.

Process Principles

- The objective of the regulation should be identified based on sound evidence and available alternatives must be considered to select the most appropriate solution.
- There should be an assessment of the impacts from the regulation.
- The drafting of the regulation should involve those who are potentially affected; the decision making process should be transparent and objective.
- The process of developing the regulation should focus on reducing the compliance burden and allow for regular and systematic review (and subsequent modification, if needed) to ensure that the regulation is still appropriate.
- There should be clear procedures to respond to adjudications and appeals and to revise the regulation if necessary.