



大会 — 第 38 届会议
经济委员会

议程项目 40：航空运输的经济发展 — 政策

欧洲在国际航空运输经济监管方面的优先事项

(由立陶宛代表欧洲联盟及其成员国¹和欧洲民用航空会议的其他成员国²提交)

执行摘要

本工作文件考虑到第六次国际民航组织航空运输会议 (ATCONF/6) 的成果, 提出了应在国际航空运输经济监管方面视为关键领域和优先的建议。

行动: 请大会:

- a) 通过载于第 3.1 段中的行动, 并将其纳入大会 A37-20 号决议当中, 和
- b) 核准在国际民航组织 2014 年至 2016 年工作方案中反映本文件所查明的优先事项。

战略目标:	本工作涉及环境保护和航空运输可持续发展的战略目标。
财务影响:	大部分拟议的国际民航组织工作应在本组织的经常预算下涵盖。但仅此提及 ATCONF/6 关于成立一个专项自愿基金的建议, 以便支持国际民航组织履行在航空运输领域的使命及加强其工作。
参考文件:	ATCONF/6-WP/49 号文件、ATCONF/6-WP/50 号文件、ATCONF/6-WP/51 号文件、ATCONF/6-WP/54 号文件、ATCONF/6-WP/55 号文件

¹ 奥地利、比利时、保加利亚、克罗地亚、塞浦路斯、捷克共和国、丹麦、爱沙尼亚、芬兰、法国、德国、希腊、匈牙利、爱尔兰、意大利、拉脱维亚、立陶宛、卢森堡、马耳他、荷兰、波兰、葡萄牙、罗马尼亚、斯洛伐克、斯洛文尼亚、西班牙、瑞典和联合王国。

² 阿尔巴尼亚、亚美尼亚、阿塞拜疆、波斯尼亚和黑塞哥维那、格鲁吉亚、冰岛、摩尔多瓦共和国、摩纳哥、黑山、挪威、圣马力诺、塞尔维亚、瑞士、前南斯拉夫的马其顿共和国、土耳其和乌克兰。

1. 引言

1.1 第六次国际民航组织航空运输会议（ATConf/6- 2013年3月18日至22日，蒙特利尔）是一次重要活动，会上通过了一系列关于进一步推动国际航空运输全球经济监管框架的建设性建议。ATConf/6的广泛共识是，目前的框架应加以调整，以确保航空运输部门的长期可持续性，并反映今天航空运输运营环境的日益全球化以及竞争剧烈。

1.2 重要的一点是，国际民航组织作为一个组织以及就各个国家来说，都应适当重视ATConf/6的成果，国际民航组织大会第38届会议应核准ATConf/6的关键建议。本工作文件提出了其提交者就国际民航组织及其成员国应就ATConf/6采取何种跟进行动的看法，尤其是在审查国际民航组织关于航空运输领域持续政策的综合声明（大会A37-20号决议）以及在决定国际民航组织2014年—2016年工作方案时应加以考虑。

1.3 根据ATConf/6的结论，应该侧重的关键领域包括市场准入自由化、公平竞争、航空承运人所有权和控制权自由化以及消费者保护等。

2. 经济监管的关键领域

2.1 市场准入的自由化

2.1.1 ATConf/6的广泛共识是，市场准入自由化已经带来了大量的经济效益，对航空运输部门发展有利，并有助其可持续性。会议对全球市场准入监管框架现代化表示支持，以顺应这个瞬息万变并已经全球化的业务环境。会议同意，国际民航组织应在这个进程中发挥牵头作用，为这项工作提供重点，制定市场准入自由化的长期愿景，包括能就此推波助澜的多边协议。

2.1.2 不过，包括本文件提交者的许多国家，也对市场准入和公平竞争之间的密切联系提出强调。事实上，他们强烈认为，在国际航空服务的运营中，进一步的自由化必须伴随着能确保在公平、开放和不歧视的基础上进行竞争的措施。如此一来，就能帮助国际航空运输实现长期可持续性。

2.2 公平和开放竞争

2.2.1 为了让市场准入和航空承运人所有权和控制权自由化取得成功，并对国际航空运输所有参与方都有利，竞争应该是公平、开放并基于公平竞争平台（包括补贴、税收、使用费、专利权、社会保护、消费者权益、环境保护等）。请国际民航组织及其成员国认识到确保公平和开放竞争的保障措施是打破市场准入限制的必要条件。

2.2.2 ATConf/6总结，公平竞争是国际航空服务运行的一项重要总体原则。正如ATConf/6所建议，国际民航组织应开发工具以促进各国之间的合作、对话和信息交流，从而加强国际航空运输监管做法的可兼容性。事实上，监管做法的趋同和兼容性是建立和维护公平竞争的关键总体促能因素。

2.2.3 更具体而言，国际民航组织应更新其关于公平竞争的政策指导，并建议把实现、展现和整合公平和开放的竞争环境的各种条件（见附录A），作为更新政策指导工作的起点。这将使国际民航组织得以就公平竞争及其必要的建立和维护工具制定基本原则。

2.3 航空承运人的所有权和控制权自由化

2.3.1 ATConf/6认识到航空承运人所有权和控制权自由化的效益，呼吁国际民航组织推广和促进这个领域的进一步自由化。国际民航组织应就航空承运人所有权和控制权自由化制定一项多边协定，与此同时，应鼓励成员国继续通过各种现有手段，例如免除双边航空服务协定中的此种限制、或通过对地区或次地区经济集团的利害相共概念加以承认的指定条款等，继续就航空承运人所有权和控制权进行自由化。

2.3.2 适当的保障措施能确保公平竞争平台，例如在安全、财务健全和工作条件等方面，国际民航组织应鼓励其成员国逐步废除关于航空承运人所有权和控制权方面余下的国籍限制规定。这将对航空运输部门的利益有帮助，举例来说，能促进外国投资。

2.4 消费者保护

2.4.1 ATConf/6一致商定，应该对航空运输服务的消费者加以保护并强调，总体而言，加强监管统一和可兼容性可对这种保护起到推波助澜之效。因此，国际民航组织应制定高层、非强制性的核心原则来规范消费者保护，包括不歧视（特别是针对残疾或行动不便的旅客）、信息透明度以及在特定情况下对拒绝登机、临时取消和长期延误的赔偿和援助等。关于制定此种原则的提案已随附在本工作文件之后（见附录B）。

3. 行动

3.1 请大会采取下列行动：

- a) 国际民航组织应制定并通过关于国际航空运输自由化的长期愿景，包括检视可供各国对市场准入自由化的国际协定的做法；
- b) 各国应考虑及公平竞争是国际航空服务运行的一项重要总体原则；
- c) 国际民航组织应积极鼓励各国在其航空服务协定中努力实现公平和开放的竞争，并应确认各国有权要求将此作为同意进一步开放市场准入的条件；
- d) 各国在考虑到国家主权之后，应制定适用于航空运输的竞争法和政策；
- e) 国际民航组织应制定如交流论坛这样的工具，以加强成员国之间的合作、对话和信息交流，从而促进国际航空运输包括劳工方面的监管做法更加兼容；
- f) 国际民航组织应就国际航空运输竞争领域的发展继续监测，并更新其关于公平竞争的政策和指导；
- g) 各国应视其需要和国情，通过各种现有手段，例如免除双边航空服务协定中的此种限制、或通过对地区或次地区经济集团的利害相共概念加以承认的指定条款等，继续就航空承运人所有权和控制权进行自由化；

- h) 国际民航组织应启动关于航空承运人所有权和控制权自由化的国际协定制定工作，并考虑到安全和保安方面的关切、互惠原则、允许逐步渐进调整保障措施的需要、以及有必要顾及地区经验、不同国家国内法的要求、和对所有利害攸关方包括劳工的影响；
- i) 与此同时，各国应考虑在酌情适用适当保障措施之下，逐步废除其国内法中关于航空承运人所有权和控制权的余下限制；和
- j) 国际民航组织应在短期制定一套高层和非强制性的核心原则，以规范航空运输的消费者保护，包括不歧视（特别是针对残疾或行动不便的旅客）、信息透明度以及在特定情况下对拒绝登机、临时取消和长期延误的赔偿和援助等。

3.2 请大会核准在国际民航组织2014年—2016年工作方案中反映第3.1段所述的建议。

3.3 还请大会将这些行动反映在经修改的国际民航组织关于航空运输领域持续政策的综合声明（大会A37-20号决议）当中。

4. 结论

4.1 国际民航组织应继续在国际航空运输经济监管方面发挥牵头作用，以便确保其可持续性。因此，国际民航组织应审查其经济监管领域的政策，并应制定和实施一套能侧重上述四大关键领域以及制定明确优先的2014年—2016年工作方案。

4.2 提交这份文件的国家已准备好支持国际民航组织的工作，实施这种方案，并请其他国家效法如一。还有，请各国在其双边关系中，为了实现可持续航空运输的目标落实国际民航组织政策和原则。

—————

APPENDIX A

CONDITIONS TO REACH A FAIR COMPETITION ENVIRONMENT³

1. In order to develop basic principles of fair competition, it is appropriate to set conditions to help determine whether there exists (or not) fair competition on a given air transport market. The following conditions are suggested:

a) Regulatory conditions:

- 1) the existence of efficient competition law at national or regional level covering the abuse of market power, merger control, anti-competitive agreements and concerted practices, which is applicable to international air transport, as well as clear, transparent and strict state aid rules applicable to undertakings under the jurisdiction of the State concerned⁴ and ensuring the achievement of the objectives associated with fair and open competition; and
- 2) transparent and non-discriminatory minimum rules, based on applicable ICAO Standards and Recommended Practices if any, covering the areas of aviation safety, security, air traffic management, ground handling, slots, air passenger rights, environmental protection, social rights of aviation personnel, taxes/user charges.

b) Institutional conditions:

- 1) separation of institutions: an independent civil aviation authority (independent from airlines, air navigation services providers, airports etc.), an independent competition authority, and an independent judiciary to review decisions by authorities in air transport matters; and
- 2) such independent authorities must have clear regulatory/judicial responsibilities and powers as well as the necessary administrative capacities (including resources) to effectively carry out their responsibilities.

c) Economic conditions:

- 1) when public entities provide - under specific conditions and respecting the applicable strict state aid rules - state aid, subsidies or support to their air carriers, they should act as a rational private investor would do, without distorting competition in the market. In case the market cannot provide air services serving public interest (e.g. to/from remote areas of the country), state aid may be provided subject to transparent and non-discriminatory rules enshrined in strict legal requirements;
- 2) transparent structures and relations between the State and economic entities throughout the whole aviation value chain should be in place including as regards financial flows; and

³ See EU-ECAC Working Paper ATConf/6-WP/51

⁴ See EU Information Paper ATConf/6-IP/4 on competition and state aid policies and laws applied to the air transport sector

- 3) non-discriminatory and transparent treatment of foreign airlines: this would involve, for example, no royalties or mandatory commercial agreements between national and foreign airlines, but commercial freedom of foreign airlines regarding pricing, ticket selling etc., non-discriminatory taxes, refunds, charges and access to airport facilities and services.

2. **Possible instruments to establish and maintain fair and open competition**

2.1. On the basis of a global understanding of fair competition, instruments should be developed and used by ICAO Member States to establish and maintain conditions of fair competition in international air transport. These instruments may include, *inter alia*, national or regional legal and institutional frameworks, comprehensive aviation agreements, fair competition clauses in bilateral air services agreements, and a dispute resolution mechanism preferably through ICAO to resolve fair competition concerns between States, without prejudice to the application of competition law.

APPENDIX B

KEY PRINCIPLES OF CONSUMER PROTECTION⁵

1. The following basic principles are offered for consideration by ICAO to form the basis of an ICAO consumer protection policy in air transport in order to harmonise existing regulation and encourage States without legislation to protect passengers by adopting appropriate rules:

- a) Non-discrimination in access to air transport: this should include preventing air carriers from discriminating during ticketing by nationality, residence, disability or reduced mobility. For persons with disabilities and persons with reduced mobility, the provision of access and assistance has to be granted without any additional charges. Such persons should not be refused carriage on board an aircraft except on reasons of safety, which air carriers would have to justify;
- b) Transparency: this should include the right for the passengers to have accurate, timely and accessible information in particular to:
 - 1) be able to obtain information on what is included within the price of their ticket. Passengers should have access to all relevant information (e.g. on price and charges applicable) in order to make a reasoned decision before buying an air ticket. Such information will enable them to fairly compare ticket prices and provides a level competitive playing field for industry. This approach would also ensure that air carriers detail the conditions and restrictions on any fare offered and that tickets are sold inclusive of all taxes, fees and charges, together with any "optional" charges – such as the carriage of luggage. This would prevent air carriers from advertising "tax-free" prices where charges that passengers have to pay are only added during the process of payment;
 - 2) be advised before departure on which air carrier they will be flying;
 - 3) receive appropriate information before the purchase of their flight ticket and at appropriate stages of travel, particularly when disruption occurs; and
 - 4) renounce travelling and obtain a full refund when the trip is not undertaken as planned due to the actions of the air carrier;
- c) Immediate and proportionate compensation and assistance: This includes compensation to be offered to the passengers under special circumstances, such as denial of boarding, short-notice cancellation of flights and under certain conditions long delays. It also includes the right for passengers to have assistance at departure or at connecting points in the form of, for example
 - 1) right to care, especially meals, refreshments, telephone calls, hotel accommodation and transport between the airport and place of accommodation; and
 - 2) right to rerouting or reimbursement and rebooking.

⁵ See EU-ECAC Working Paper ATConf/6-WP/55