



ASSEMBLY — 39TH SESSION

ECONOMIC COMMISSION

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

PROGRESS REPORT ON THE DEVELOPMENT OF INTERNATIONAL AGREEMENTS ON
THE LIBERALIZATION OF MARKET ACCESS, AIR CARGO AND
AIR CARRIER OWNERSHIP AND CONTROL

(Presented by the Council of ICAO)

EXECUTIVE SUMMARY

This paper reports on the progress made regarding the development of international agreements on liberalization of market access, air cargo and air carrier ownership and control. The Air Transport Regulation Panel (ATRP) examined the draft text of the agreements and reached general agreement on certain provisions of an administrative and technical nature, while other core elements of the agreement involving the exchange of commercial rights and safeguard provisions remain open for discussion. It is envisaged that the final draft text of the agreements will be presented to the next panel meeting in mid-2017, followed by consideration of the Council.

Action: The Assembly is invited to:

- a) request the Council to continue this undertaking in accordance with the mandate and guidance given by Assembly Resolution A38-14;
- b) endorse the Organization's plan of work as presented in paragraph 3; and
- c) consider the information contained in this paper for the update of Assembly Resolution A38-14, Consolidated Statement of continuing ICAO's policies in the air transport field.

<i>Strategic Objective:</i>	This working papers relates to Strategic Objective 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.
<i>References:</i>	Resolution A38-14, Consolidated statement of continuing ICAO policies in the air transport field A39-WP/8, Consolidated statement of continuing ICAO policies in the air transport field Doc 10022, <i>Assembly Resolutions in Force (as of 4 October 2013)</i> Doc 10027, <i>Report of the Economic Commission of the 38th Session of the Assembly</i>

1. INTRODUCTION

1.1 The Assembly Resolution A38-14 requested the Council, inter alia, “to develop and adopt a long-term vision for international air transport liberalization, including examination of an international agreement by which States could liberalize market access...”, “to develop a specific international agreement to facilitate further liberalization of air cargo services,” and “to initiate work on the development of an international agreement to liberalize air carrier ownership and control”.

1.2 The examination and development of international agreements for liberalization of market access, air cargo services and air carrier ownership and control is an important step taken by the Organization in modernizing the global air transport regulatory framework. As guided by the Assembly, such arrangements should be developed by building on past experiences and achievements by States in liberalization.

2. PROGRESS MADE ON THE TASKS

2.1 The Air Transport Regulation Panel (ATRP) was tasked with this undertaking, which requires balancing the varying interests and situation, desired approaches and opportunities of all parties.

2.2 At its twelfth meeting (ATRP/12, May 2014), the panel examined the aim, form, scope, and core elements of the agreements to be developed as a first step. In light of the complexity of the issues involved and the linkage between the subject matters, a working group (WG) was established to analyze and prepare draft text of either a comprehensive or supplemental agreement on market access liberalization, and an agreement related to air carrier ownership and control.

2.3 The ATRP-WG reviewed in June 2015 the first draft of two agreements prepared by its rapporteur, one on the liberalization of market access (with two protocols covering passenger and combination services and air cargo), and the other on the liberalization of foreign investment restrictions in international airlines. General agreement was reached on certain provisions (i.e. 10 of the 20 Articles) largely of an administrative and technical nature which included definitions, recognition of certificates, safety, security, user charges consultation and withdrawal. Several key areas were also identified, mainly on grant of commercial rights, safeguard provisions, and airline designation and authorization, where consensus was unable to be reached, and which needed further consideration by the panel.

2.4 At its thirteenth meeting (ATRP/13, September 2015), the panel examined the revised draft agreements which incorporated the outcome of the WG meeting, focussing mainly on the key areas requiring guidance. To advance its work in a more structured manner, the WG was expanded to address and prepare draft texts on five key areas: traffic rights, safeguards, air carrier ownership and control, amendment, and reservations.

2.5 The third ICAO Air Transport Symposium (IATS, March 2016) was held with the theme *Addressing competition issues: towards a better operating environment* and provided useful insight on issues relating to competition in international air transport. These discussions benefited the work of the ATRP in connection with the development of draft agreements.

2.6 The ATRP-WG met again in April 2016 to review the proposals developed by the focal points of the WG. On the draft amendment and reservations articles, the WG agreed that the Legal Affairs and External Relations Bureau (LEB) be consulted on the options for such articles. Views were also exchanged on the proposed air carrier ownership and control provisions, which the WG agreed to take forward. While there remained different views on how to address the provisions on traffic rights and

safeguards, the discussion helped foster a better understanding of the various perspectives and available options, and provided a good direction for further work.

3. FURTHER WORK

3.1 In conformity with the mandate and guidance of the Assembly and the goals of the ICAO long-term vision for liberalization, the Organization will give priority to the finalization of the draft text of the international agreements on liberalization of market access including air cargo and on air carrier ownership and control, which is a part of the economic regulatory framework work programme.

3.2 The ATRP-WG will continue its work with a view to producing a final draft text of the international agreements by the end of 2016 or early 2017. It is envisaged that the draft text will then be examined further by the next panel meeting (ATRP/14, June 2017), and its result will be submitted for review by the Air Transport Committee and the Council. Subject to the outcome of these considerations, Member States will be consulted on the draft text of the agreements, prior to their finalization.

3.3 If the draft agreement texts are approved by the Council, the preparation of the international agreements for signature by States will be undertaken in accordance with the relevant process and procedures, including the need to go through a review process by the Legal Committee, depending on the agreed final form of the agreements. These agreements are intended for signature by any “willing and ready” party. Those who are not ready to sign at the initial stage can join at a later date when they resolve to do so.

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