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Agenda Item 2: Examination of key issues and related regulatory framework

Agenda Item 2.1 : Market access

Agenda Item 2.8: Implementation of ICAO policies and guidance

AIR SERVICES AGREEMENTS PRIORITIZATION METHODOLOGY

(Presented by Brazil)

1. INTRODUCTION

1.1 Traditionally, civil aviation authorities set the agenda for the negotiation of Air Services Agreements on a case-by-case basis, supported by loose economic and political criteria and authorities' perceptions on what should be negotiated next.

1.2 Brazil is no exception to that pattern. Until a few years ago, constituents, airlines and other governmental bodies had little perception of the criteria used to set priorities for air services negotiations. Answering to that question, the National Civil Aviation Agency developed a simple system in order to integrate more transparent criteria to its regulatory activities. In that attempt, different economic, air transport data and air services agreements' data have been tested on a model intended to integrate relevant aspects of the aviation sector into a rational, transparent and meaningful assessment tool.

1.3 As a result, the methodology establishes objective criteria for the prioritization of Air Services Agreements that shall be updated, as well as aids in identifying potential new markets and how they should receive attention from regulators. By introducing objective criteria, the methodology is intended to work as an analytical tool to increase awareness and transparency towards constituents as regards the regulatory agenda of Brazil's Civil Aviation Authority.

2. THE METHODOLOGY

2.1 This methodology considers thorough evaluation of two dimensions: *(i) the level of liberalization of the existing ASAs; (ii) the relevance of the States in the international air transport and economic scenario and its importance to the country applying the methodology.*

2.2 For the purpose of the first dimension, the methodology focus on six typical clauses existing on ASAs and pointed by the World Trade Organization, (WTO, 2006)¹ as relevant to identify market openness in international air services for passengers. They are:

- a) designation of airlines;
- b) capacity;
- c) tariffs;
- d) grant of rights;
- e) route schedule;
- f) code sharing.

2.3 The second dimension of the methodology measures the relevance of each State on air transport markets and its economic ties to the one's own country, and includes the following aspects:

- a) total passengers (domestic and international) boarded and disembarked per year;
- b) fleet size of airlines registered on the country, that operate international schedule air services;
- c) commerce flow between the country analysed and Brazil; and
- d) GDP per capita.

2.4 Bearing in mind that criteria, two rankings are created: the first one sets priorities to renegotiate or update existing ASAs, based on the degree of openness of that country with Brazil and its relevance in international aviation and general economic context.

2.5 The second ranking will apply the criteria to identify new Agreements. Considering it is not possible to apply the criteria of ASA openness for countries with which Brazil has no Agreement, only the second dimension of factors (relevance of international aviation and other economic aspects) will be evaluated.

2.6 The following section deals with the methodology applied to determine prioritization among ASAs.

2.7 **Restrictiveness Index** – Regarding the ASAs' clauses already mentioned, a **Restrictiveness Index** is elaborated to each Agreement out of which Brazil is part. Taking into account this goal, scores are attributed to each specific clause, being 3 points for those considered more restrictive, 2 for intermediates and 1 for the more liberal clauses. The table on **Appendix A** indicates sample scores.

2.8 The **Restrictiveness Index** of each ASA will be obtained by the totalling the score of the respective columns. Depending on how regulators see the relative importance of the clauses in an ASA,

¹ World Trade Organization. Second Review of the Air Transport Annex: Development in the Air Transport Sector – Quantitative Air Services Agreements Review (QUASAR). Document S/C/W/270/Add.1,2006.

they may introduce different weights for clauses considered more relevant. The highest result of the **Restrictiveness Index** suggests the necessity for updating the ASA.

2.9 Naturally, the restrictiveness index is not sufficient to clearly indicate what Agreements should be renegotiated, since old, out-dated Agreements (maybe with distant countries, with whom no air services have been implemented yet), are expected to rank first for being very restrictive. To balance that result, it is necessary to introduce data related to the economic and air transport relevance of countries in respect to, in this case, Brazil.

2.10 **Relevance Index** – According to this Index, all ICAO Member States are classified based of the factors listed on paragraph 2.3 of this Information Paper. To each of these elements the State will receive a score that corresponds to its position, which means that the country ranked first will receive one point, the second 2 points and so on. The Relevance Index of each country will be established by the average of scores in the four factors.

2.11 By applying this methodology, the lowest **Relevance Index** suggests that the State is relatively more important in the international air transport market and in its economic relationships with, in this case, Brazil.

3. CLASSIFYING COUNTRIES AS PRIORITIES

3.1 As demonstrated in paragraph 2 of this Information Paper, the proposed methodology can produce two different classifications. The first one including States that still do not have ASAs with Brazil, and the second for those States with which Brazil already has established an ASA.

3.2 Classification of States without pre-existing ASAs

3.2.1 States without ASAs with Brazil will be classified, inside their continents, according to the **Relevance Index**. States in higher position at the ranking are regarded as priority in their continents. It is important to highlight that, once there is no pre-existing ASA, restrictiveness measures are not considered. The table on **Appendix B** shows States listed in order according to the **Relevance Index**.

3.3 Classification of States with pre-existing ASA

3.3.1 States that already have agreements with Brazil will be classified by continent according to the **Relevance Index** as done in the previous group. In addition, these States will be divided in two groups: those that have the **Restrictiveness Index** above the median and those who have the **Restrictiveness Index** below the median.

3.3.2 Priority States will be defined as those whose Restrictiveness Indexes are above the median and also have a high position at the Relevance Index ranking on its continent at the same time.

3.3.3 Table 3 exemplifies the classification of States with pre-existing ASA with Brazil. States are listed in the order in accordance with their **Relevance Index**. In addition, States that have a **Restrictiveness Index** above the median are shown in red while those whose the Indexes are below the median are shown in green.

3.3.4 Thus, States that gather high **Restrictiveness Index** and a high position on the ranking provided by the **Relevance Index** might be considered as priorities in terms of updating the ASA already existent. They are highlighted in yellow in the sample table provided in **Appendix C**.

4. CONCLUSIONS

4.1 This Information Paper presented a methodology to prioritize the negotiation of Air Service Agreements (ASAs). By introducing objective criteria to the analysis of the order in which ASAs will be (re)negotiated, the methodology is intended to work as an analytical tool for regulators.

4.2 The data used in this study is mainly from public domains and is collectable from these sources. Setting the database is time consuming, though, and countries could benefit from a more condensed, structured database, that could be organized and hosted by ICAO, to the benefit of all Member States.

4.3 Above all else, the methodology contained in this paper is non-exhaustive, meaning that countries usually collect inputs from other sources (political priorities, for instance) to arrange their own set of international negotiations and shall maintain their ability to do so. Regulatory bodies like Civil Aviation Agencies, however, should refer to objective criteria to justify its courses of actions.

4.4 This methodology developed by Brazil might be referred to the Air Transport Regulation Panel for evaluation. If found appropriate, consideration might be given to further develop it as a database and/or software to help Member States adopt similar practices in their own national situation.

APPENDIX A

Air Services Agreements weight according their Restrictiveness

CLAUSE	RESTRICTIVE (3 point)	INTERMEDIATE (2 points)	LIBERAL (1 point)
Tariffs	double acceptance	State of origin	freedom of tariffs
Capacity	previously determinate	free with some restrictions	free determination
Grant of Rights	1st to 4th freedom	1st to 5th freedom with restrictions	1 st to 5 th freedom without restrictions
Routes	restrict	-	open
Codeshare	no clause in the agreement	Bilateral or airlines of a third country with restrictions	airline of third countries
Designation	mono	double	multiple

Countries organized according to their Restrictiveness

(Countries were omitted and are represented by numbers at the first column. *IRest* stands for the Relevance Index)

Country	Tariffs Policy	Capacity	Rights	Codeshare	Designation	Routes	IRest
127	Double acceptance 3	2 / 0 3	1st to 4th 3	---- 3	Mono 3	Restrict 3	33
100	Double acceptance 3	2 / 0 3	1st to 4th 3	---- 3	Mono 3	Restrict 3	33
33	Double acceptance 3	3 / 0 3	1st to 5th (with restrictions) 2	---- 3	Mono 3	Restrict 3	32
113	Double acceptance 3	3 / 0 3	1st to 5th 1	---- 3	Mono 3	Restrict 3	31
82	Double acceptance 3	7 / 0 3	1st to 5th 1	---- 3	Multiple 1	Restrict 3	29
67	Double acceptance 3	24 / 2 3	1st to 5th 1	---- 3	Multiple 1	Restrict 3	29
78	Double acceptance 3	Not Defined 3	1st to 5th 1	Bilateral 2	Mono 3	Restrict 3	29
70	Double acceptance 3	3 / 0 3	1st to 5th 1	---- 3	Multiple 1	Restrict 3	29
27	Double acceptance 3	2 / 0 3	1st to 5th 1	---- 3	Multiple 1	Restrict 3	29
15	Double acceptance 3	3 / 0 3	1st to 5th 1	Bilateral 2	Mono 3	Restrict 3	29
95	Double acceptance 3	3 3	1st to 5th (with restrictions) 2	Bilateral 2	Multiple 1	Restrict 3	28
4	Double acceptance 3	10 / 0 3	1st to 5th 1	Third Countries (with restrictions) 2	Multiple 1	Restrict 3	27
123	State of origin 2	3 3	1st to 5th 1	---- 3	Multiple 1	Restrict 3	26
52	State of origin 2	14 3	1st to 5th 1	---- 3	Multiple 1	Restrict 3	26

Country	Tariffs Policy		Capacity		Rights		Codeshare		Designation		Routes		IRest
41	State of origin	2	28 / 12 (e)	3	1st to 5th (with restrictions)	2	Bilateral	2	Multiple	1	Restrict	3	25
44	State of origin	2	28 / 7	3	1st to 6th	1	Third Countries (with restrictions)	2	Multiple	1	Restrict	3	24
18	State of origin	2	28	3	1st to 5th	1	Third Countries (with restrictions)	2	Multiple	1	Restrict	3	24
61	State of origin	2	14r / 7lc(e)	3	1st to 6th	1	Bilateral	2	Multiple	1	Restrict	3	24
143	State of origin	2	7 / 0	3	1st to 5th	1	Bilateral	2	Multiple	1	Restrict	3	24
77	State of origin	2	2 / 0	3	1st to 5th	1	Bilateral. Third Countries only for points beyond	2	Multiple	1	Restrict	3	24
46	State of origin	2	21 / 14	3	1st to 5th	1	Bilateral	2	Multiple	1	Restrict	3	24
45	Double acceptance	3	3 / 0	3	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	23
79	State of origin	2	7 / 3	3	1st to 4th	3	Third Countries	1	Multiple	1	Open	1	22
12	State of origin	2	14 / 7	3	1st to 5th	1	Bilateral	2	Multiple	1	Open	1	22
125	State of origin	2	7 / 0	3	1st to 6th	1	Bilateral	2	Multiple	1	Open	1	22
47	State of origin	2	7	3	1st to 5th	1	Third Countries	1	Multiple	1	Restrict	3	22
35	State of origin	2	14-3 / 0	3	1st to 5th	1	Bilateral. Third Countries only points beyond	2	Multiple	1	Open	1	22
60	State of origin	2	14 / 0	3	1st to 4th	3	Third Countries	1	Multiple	1	Open	1	22
146	State of origin	2	7 / 7	3	1st to 5th	1	Third Countries	1	Multiple	1	Restrict	3	22
59	State of origin	2	21-21 / 7	3	1st to 5th	1	Third Countries	1	Multiple	1	Restrict	3	22
110	State of origin	2	7 / 7	3	1st to 5th	1	Third Countries	1	Multiple	1	Restrict	3	22
13	State of origin	2	9	3	1st to 5th	1	Third Countries	1	Multiple	1	Restrict	3	22
28	State of origin	2	7	3	1st to 5th	1	Bilateral	2	Multiple	1	Open	1	22
55	Freedom of Tariffs	1	4	3	1st to 5th	1	Bilateral	2	Multiple	1	Restrict	3	21
21	Freedom of Tariffs	1	7 / 7	3	1st to 4th	3	Terceiros país	1	Multiple	1	Restrict	3	21
26	State of origin	2	133 / 7	3	1st to 6th	1	Third Countries	1	Multiple	1	Open	1	20

Country	Tariffs Policy	Capacity	Rights	Codeshare	Designation	Routes	IRest						
91	State of origin	2	49r-7lc / 7	3	1st to 6th	1	Third Countries	1	Multiple	1	Open	1	20
57	State of origin	2	21 / 7 (e)	3	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	20
64	Freedom of Tariffs	1	14	3	1st to 4th	3	Third Countries	1	Multiple	1	Open	1	19
109	Freedom of Tariffs	1	7 M / C Free Determination	3	1st to 4th	3	Third Countries	1	Multiple	1	Open	1	19
49	Freedom of Tariffs to South America and State of origin for other locations	2	R i 42 / 26 (e)	2	1st to 6th	1	Third Countries (with restrictions)	2	Multiple	1	Open	1	19
17	State of origin	2	unlimited with restrictions to GRU/MEX - Ttl 12 Mistas	2	1st to 5th (with restrictions)	2	Third Countries	1	Multiple	1	Open	1	18
34	Freedom of Tariffs	1	21 / i	3	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	17
137	Freedom of Tariffs to South America and State of origin for other locations	2	R i - 21 / 0	2	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	17
62	Freedom of Tariffs to South America and State of origin for other locations	2	R i - 42 / 37 (e)	2	1st to 6th	1	Third Countries	1	Multiple	1	Open	1	17
14	State of origin	2	Free Determination	1	1st to 5th (Restr)	2	Third Countries	1	Multiple	1	Open	1	15
42	Freedom of Tariffs	1	Free Determination (from2014)	1	Not Defined	3	Bilateral	2	Multiple	1	Open	1	15
135	Freedom of Tariffs	1	7 M / 7 C (Liberada qdo ASA entrar em vigor)	2	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	14
50	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th (with restrictions)	2	Bilateral	2	Multiple	1	Open	1	14
16	Freedom of Tariffs	1	Free Determination	1	1st to 5th	1	Third Countries (with restrictions)	2	Multiple	1	Open	1	13
66	Freedom of	1	Free	1	1st to 5th	1	Third	1	Multiple	1	Restrict	3	13

Country	Tariffs Policy		Capacity		Rights		Codeshare		Designation		Routes		IRest
	Tariffs		Determination				Countries						
40	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Bilateral	2	Multiple	1	Open	1	13
8	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 4th	3	Third Countries	1	Multiple	1	Open	1	13
29	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries (with restrictions)	2	Multiple	1	Open	1	13
22	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Bilateral	2	Multiple	1	Open	1	13
39	Freedom of Tariffs	1	Free Determination	1	1st to 5th (-Eur M)	2	Third Countries	1	Multiple	1	Open	1	12
32	Freedom of Tariffs	1	Free Determination	1	1st to 5th (-Eur Oc)	2	Third Countries	1	Multiple	1	Open	1	12
11	Freedom of Tariffs	1	Free Determination	1	1st to 6th (-AM e Eur M)	2	Third Countries	1	Multiple	1	Open	1	12
48	Freedom of Tariffs	1	Free Determination (from2014)	1	Not Defined s	2	Third Countries	1	Multiple	1	Open	1	12
36	Freedom of Tariffs	1	Free Determination	1	1st to 5th c/Restr.	2	Third Countries	1	Multiple	1	Open	1	12
65	Freedom of Tariffs	1	Free Determination	1	1st to 5th (- Eur M)	2	Third Countries	1	Multiple	1	Open	1	12
112	Freedom of Tariffs	1	Free Determination	1	1st to 5th (points beyond only in Codeshare)	2	Third Countries	1	Multiple	1	Open	1	12
2	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
24	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
19	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
6	Freedom of Tariffs	1	Free Determination	1	1st to 6th	1	Third Countries	1	Multiple	1	Open	1	11
31	Freedom of Tariffs	1	Free Determination	1	1st to 6th	1	Third Countries	1	Multiple	1	Open	1	11
10	Freedom of Tariffs	1	Free Determination	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
25	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
7	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
1	Freedom of Tariffs	1	Free Determination (from2015)	1	1st to 6th	1	Third Countries	1	Multiple	1	Open	1	11

Country	Tariffs Policy		Capacity		Rights		Codeshare		Designation		Routes		IRest
5	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
56	Freedom of Tariffs	1	Free Determination	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
88	Freedom of Tariffs	1	Free Determination	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
9	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
3	Freedom of Tariffs	1	Free Determination (from2014)	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11
149	Freedom of Tariffs	1	Free Determination	1	1st to 5th	1	Third Countries	1	Multiple	1	Open	1	11

APPENDIX B

Priorities: Countries without ASAs organized according to the Relevance Index (IRel)

CENTRAL AMERICA	IRel	EUROPE	IRel	AFRICA	IRel	ASIA and OCEANIA	IRel
Country 68	68,3	Country 23	27,5	Country 53	58,0	Country 20	26,3
Country 81	76,7	Country 30	34,8	Country 54	58,0	Country 37	44,5
Country 86	78,0	Country 38	44,8	Country 73	70,7	Country 43	45,3
Country 89	81,0	Country 51	55,8	Country 84	77,7	Country 58	60,8
Country 94	88,5	Country 63	64,0	Country 96	93,8	Country 69	68,8
Country 102	95,0	Country 71	70,3	Country 104	96,8	Country 76	72,5
Country 107	98,5	Country 72	70,5	Country 105	97,5	Country 87	78,7
Country 115	105,5	Country 74	71,7	Country 108	99,3	Country 90	82,3
Country 118	108,3	Country 75	72,3	Country 116	106,0	Country 98	94,0
Country 138	123,5	Country 80	75,7	Country 117	108,3	Country 99	94,3
Country 140	125,0	Country 83	77,7	Country 124	112,0	Country 106	98,5
Country 144	128,0	Country 85	78,0	Country 126	115,3	Country 111	101,0
Country 155	138,0	Country 92	83,0	Country 129	117,0	Country 114	104,5
		Country 93	88,0	Country 130	117,3	Country 120	108,8
		Country 97	94,0	Country 131	117,8	Country 133	119,0
		Country 101	95,0	Country 134	119,0	Country 141	126,0
		Country 103	95,3	Country 136	120,5	Country 142	126,0
		Country 119	108,3	Country 139	124,0	Country 148	132,0
		Country 121	110,7	Country 145	129,0	Country 150	135,0
		Country 122	110,7	Country 147	131,7	Country 151	135,5
		Country 128	117,0	Country 152	136,7	Country 156	139,3
		Country 132	118,7	Country 153	138,0	Country 159	143,7
		Country 167	150,5	Country 154	138,0	Country 161	144,0
		Country 170	153,0	Country 157	140,3	Country 162	144,5
				Country 84	141,3	Country 163	145,7
				Country 160	144,0	Country 164	147,5
				Country 165	147,7	Country 166	150,0
				Country 168	151,0	Country 169	153,0
				Country 171	153,7	Country 175	156,5
				Country 172	154,0	Country 176	157,5
				Country 173	154,7	Country 178	158,0
				Country 174	154,7	Country 185	175,0
				Country 177	158,0		
				Country 179	159,0		
				Country 180	159,5		

CENTRAL AMERICA	IRel	EUROPE	IRel	AFRICA	IRel	ASIA and OCEANIA	IRel
				Country 181	159,7		
				Country 182	165,0		
				Country 183	166,0		
				Country 184	167,7		

APPENDIX C

Classification of Priorities: Countries that already have ASA with Brazil

SOUTH AMERICA	CENTRAL AMERICA AND CARIBE	NORTH AMERICA	EUROPE	AFRICA	ASIA AND OCEANIA
Country 26	Country 52	Country 1	Country 2	Country 44	Country 4
Country 31	Country 57	Country 6	Country 3	Country 47	Country 10
Country 41	Country 59	Country 17	Country 5	Country 55	Country 11
Country 46	Country 64		Country 7	Country 60	Country 12
Country 49	Country 66		Country 8	Country 79	Country 14
Country 61	Country 82		Country 9	Country 109	Country 16
Country 62	Country 88		Country 13	Country 110	Country 18
Country 67			Country 15	Country 112	Country 27
Country 91			Country 19	Country 113	Country 32
Country 137			Country 21	Country 123	Country 33
Country 143			Country 22	Country 125	Country 34
			Country 24	Country 127	Country 35
			Country 25	Country 135	Country 36
			Country 28	Country 146	Country 39
			Country 29	Country 149	Country 45
			Country 40		Country 65
			Country 42		Country 70
			Country 48		Country 78
			Country 50		Country 95
			Country 56		Country 100
			Country 77		

Source: ANAC

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