



WORKING PAPER

ASSEMBLY — 40TH SESSION

ECONOMIC COMMISSION

Agenda Item 32: Economic Regulation of International Air Transport — Policy

**DEVELOPMENT OF GLOBAL FRAMEWORKS FOR ECONOMIC REGULATION
IN THE AREA OF INTERNATIONAL AIR TRANSPORT**

(Presented by Colombia)

EXECUTIVE SUMMARY

Under Resolution A39-15, the ICAO Assembly requested the Council “to complete the examination of an international agreement by which States could liberalize market access, and continue the development of an international agreement to liberalize air carrier ownership and control and a specific international agreement to facilitate further liberalization of air cargo services, taking into account the goals of the ICAO long-term vision for international air transport liberalization, and the past experience and achievements of States, including existing market access liberalization agreements concluded at bilateral, regional and multilateral levels, as well as the various proposals presented during the Sixth Worldwide Air Transport Conference (ATConf/6);”

In the past triennium, the mandated tasks were carried out and progress was made in relation to a draft Convention on Foreign Investment in Airlines; on the matter regarding market access and air cargo services, consensus was not achieved.

Consequently, the decision adopted on these regulatory developments is: a) to undertake further work to complete the development of the draft Convention on Foreign Investment in Airlines; b) to cease work on the development of an international agreement to facilitate further liberalization of air cargo services; and c) to build a better understanding of the benefits and challenges of liberalization and barriers to opening market access, both in terms of passenger and cargo services and, in particular, to identify what is required by States in order to assist them to move towards liberalization.

Action: The Assembly is invited to:

- a) Undertake further work on the development of global frameworks for economic regulation in the area of international air transport;
- b) Include these activities as priorities for the 2020-2021-2022 triennium in the ICAO Business Plan; and
- c) Consider the information contained in this working paper in order to update Resolution A39-15, *Consolidated statement of continuing ICAO policies in the air transport field*.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective – <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	
<i>References:</i>	Doc 10075, <i>Assembly Resolutions in Force</i> (as of 6 October 2016) Doc 10078, <i>Report of the Economic Commission of the 39th Session of the Assembly</i> A40-WP/22-EC/7 [Resolution A39-15], <i>Consolidated statement of continuing ICAO policies in the air transport field</i> AT-WP/2169, Report on the Fifteenth Meeting of the Air Transport Regulation Panel (ATRP/15) ICAO Business Plan 2020–2022

¹ Spanish version provided by Colombia.

1. INTRODUCTION

1.1 Considering the proposals presented at the Sixth Worldwide Air Transport Conference (ATConf/6), the 39th Assembly issued Resolution A39-15, where the Council was requested “to complete the examination of an international agreement by which States could liberalize market access, and continue the development of an international agreement to liberalize air carrier ownership and control and a specific international agreement to facilitate further liberalization of air cargo services, taking into account the goals of the ICAO long-term vision for international air transport liberalization, and the past experience and achievements of States, including existing market access liberalization agreements concluded at bilateral, regional and multilateral levels...”

1.2 The development of these tasks was entrusted to the Air Transport Regulation Panel (ATRP), attached to the Air Transport Committee (ATC). The ATRP held two plenary meetings, as well as two working group meetings to fulfil the assigned tasks.

2. RESULTS FROM THE WORK COMPLETED

2.1 **International agreement by which States could liberalize market access.** There are still differences on matters related to the [liberalization] levels of traffic rights, safeguards and reassurances in labour matters, *inter alia*. The ATRP concluded that there is limited prospect for consensus in the short term. Similarly, it was decided to undertake further work to gain a better understanding of the advantages of market access liberalization and its barriers.

2.2 **International agreement to liberalize air carrier ownership and control.** The Panel worked on a draft Convention on Foreign Investment in Airlines, which provides for a ‘waiver’ from ownership and control limitations so that foreigners could access airline ownership. In particular, it is stipulated that majority-owned airlines, which are under the effective control of nationals of any State that becomes party to this multilateral agreement, could use the traffic rights available in the applicable Air Service Agreements.

The Panel agreed to undertake further work to address the divergence of views on the remaining issues to be resolved, some relating to potential “free riders” and regulatory oversight.

2.3 **International agreement to facilitate further liberalization of air cargo services.** A draft Supplemental Agreement on the Liberalization of Air Cargo Services in International Air Transport was analysed, in which a freedom system was established regarding traffic rights up to the seventh freedom of the air, as well as in relation to capacity and flexibility.

At the 217th Session of the Council, the Air Transport Committee reviewed the report of the 15th Meeting of the ATRP on the tasks assigned thereto.

The Committee decided that the Panel:

- a) Undertake further work to complete the development of the draft Convention on Foreign Investment in Airlines;
- b) Cease work on the development of an international agreement to facilitate further liberalization of air cargo services; and
- c) Build a better understanding of the benefits and challenges of liberalization and barriers to opening market access, both in terms of passenger and cargo services

and, in particular, identify what is required by States in order to assist them to move towards liberalization.

3. CONCLUSION

3.1 The work and effort of the ATRP must be recognized. However, the international community has been waiting for these regulatory developments since 2013. It is therefore considered relevant that further work be undertaken on developing global frameworks for economic regulation in the area of international air transport. Moreover, these activities should be included as priorities for the 2020-2021-2022 triennium in the ICAO Business Plan given that the future development of a more modern and ambitious multilateral agreement on market access liberalization will have to follow a flexible and pragmatic approach that allows for reservations in order to ensure that it will be adhered to by a large number of States.

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