



WORKING PAPER

**SEVENTH WORLDWIDE AIR TRANSPORT CONFERENCE
(ATCONF/7)**

Montréal, HQ, 16 to 20 November 2026

Agenda Item 3: Strengthening regulatory and institutional frameworks

3.2: Enhancing air connectivity through progressive economic and regulatory aviation frameworks for international air transport

**EVOLVING THE INTERNATIONAL ECONOMIC REGULATORY FRAMEWORK TO
FOSTER AVIATION FOR THE FUTURE**

(Presented by Brazil, and supported by 19 LACAC Member States¹)

EXECUTIVE SUMMARY

The Convention on International Civil Aviation (Chicago Convention) of 1944 was a remarkable diplomatic achievement for its time, successfully laying the groundwork for a safe and orderly postwar international aviation system that allowed States to develop international markets. However, this framework also created a fragmented global market access with a patchwork of bilateral agreements that force inefficient routings, protects incumbent carriers and has slowed the industry's ability to respond to market changes and innovation.

In contrast, the shipping industry, operating under the *Mare Liberum* principle, enjoys seamless global access, minimal ownership restrictions, and commercial agility, while international aviation continues to operate within a complex patchwork of bilateral negotiations, foreign ownership limits, cabotage prohibitions, and diplomatically slowed innovation.

This paper presents the view on how the current international economic framework, based on absolute State sovereignty, has systematically limited the development of air transport. Ultimately, the framework established by the Chicago Convention, for all its achievements, has left international air transport operating under a model of territorial closure, while the seas have sailed into the twenty-first century under a doctrine of freedom.

Action: The Conference is invited to:

- a) take note of the information presented in this working paper; and
- b) recommend that the Council examine the possible factors contained in the current economic regulatory framework that limits the liberalization of international air transport, and study alternatives to foster a more efficient, competitive and liberalized aviation industry.

<i>Strategic Goal:</i>	This working paper relates to Strategic Goal: <i>The Economic Development of Air Transport Assures the Delivery of Economic Prosperity and Societal Well-Being for All.</i>
------------------------	---

¹ Argentina, Belize, Bolivia (Plurinational State of), Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of).

<i>Financial implications:</i>	
<i>References:</i>	

1. INTRODUCTION

1.1 The Convention on International Civil Aviation (Chicago Convention), signed in Chicago in 1944, established the legal foundation upon which modern international civil aviation has developed. It successfully balanced the sovereign rights of States with the need for international cooperation, creating institutions and standards that have enabled unprecedented growth in global air transport.

1.2 While the Convention established an enduring framework for technical, operational, and safety cooperation, it did not establish a liberal international commercial aviation market. Instead, market access evolved through bilateral air services agreements that determine traffic rights, capacity, frequencies, ownership, and designation of airlines on a State-to-State basis.

1.3 This paper examines the economic consequences of that compromise. It does not question the safety, technical, or sovereignty architecture of the Chicago Convention, which continues to serve the industry well. It questions instead whether the economic regulatory model built on top of that architecture, largely unchanged in its foundational logic since 1944, still serves the interests of States, consumers, and the industry in a global economy that has otherwise moved decisively toward liberalized cross-border trade in goods, capital and services.

1.4 It is important to acknowledge that this system reflected the geopolitical and economic realities of the post-war era, when national airlines were regarded as strategic assets and governments exercised significant control over international commerce. Eight decades later, however, aviation has become an essential component of the global economy, integrated supply chains, tourism, trade, and international connectivity.

1.5 The purpose of this paper is to encourage discussion on whether the existing international economic regulatory framework continues to serve the long-term interests of global civil aviation and whether changes are required so a greater liberalization could deliver broader economic and societal benefits, contrasting current's aviation economic regulatory framework with the trajectory of the shipping industry, an industry with a legal history and physical logic in some ways similar to aviation, but which developed, from the seventeenth century onward, under an entirely different governing principle: the freedom of the seas.

2. DISCUSSION

2.1 In 1609, the Dutch jurist Hugo Grotius published *Mare Liberum*, arguing that the high seas could not be subject to appropriation by any sovereign because they were, by nature, inexhaustible and common to all. Over the following three centuries this principle, freedom of navigation on the high seas, prevailed over rival doctrines of maritime closure (*Mare Clausum*) and became customary international law, later codified in the 1958 Geneva Conventions on the Law of the Sea and the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Under this doctrine, a merchant vessel may traverse the high seas and call at foreign ports to load and discharge cargo without the destination State's prior negotiated permission for the voyage itself, subject only to generally applicable port State and customs controls.

2.2 Unlike international maritime transport, international air services remain subject to extensive economic regulation based on territorial sovereignty. International airlines require negotiated traffic rights before operating between States, while market access is frequently constrained by reciprocal bargaining rather than commercial demand.

2.3 The resulting network of thousands of bilateral air services agreements has created a complex and fragmented regulatory environment. Although many agreements have progressively liberalized traffic rights, substantial restrictions remain commonplace, including:

- a) limitations on market access through negotiated traffic rights;
- b) restrictions on foreign ownership and control of airlines;
- c) prohibitions on cabotage operations;
- d) limitations on airline designation and market entry; and
- e) varying regulatory conditions that increase administrative complexity and reduce commercial flexibility.

2.4 These limitations can reduce competition, inhibit efficient network development, constrain access to capital, and delay the introduction of innovative business models. They may also limit the industry's ability to respond rapidly to changing economic conditions, emerging technologies, and evolving passenger demand.

2.5 By comparison, maritime transport has generally developed under commercial principles that permit operators to optimize routes, investment, and fleet deployment according to market requirements rather than diplomatic negotiations. While maritime transport remains subject to important safety, environmental, and port regulations, its commercial framework is substantially more liberal than that governing international aviation.

2.6 It is recognized that aviation differs fundamentally from maritime transport in several respects, including national security, border management, customs, immigration, public health, and the unique sovereign nature of airspace recognized under Article 1 of the Chicago Convention. These considerations continue to justify an important role for States in regulating international air transport.

2.7 Nevertheless, experience over recent decades – including the development of open skies agreements, regional common aviation markets, and more liberal ownership arrangements in certain jurisdictions – demonstrates that liberalization can stimulate competition, increase connectivity, lower costs, and generate wider economic benefits while maintaining high standards of safety, security, and regulatory oversight.

2.8 The economic case for revisiting this framework has grown, not diminished, with time. Aviation now underpins global tourism, supply chains, and business travel at a scale unimaginable in 1944; a regulatory architecture calibrated to a nascent industry of a few hundred international routes sits uneasily atop a network of tens of thousands of city-pairs. Restricted market access and ownership rules constrain airlines' ability to achieve the scale economies, capital access, and network optimization that competitors in other global industries take for granted, arguably contributing to persistently thin industry margins relative to the value the sector delivers. Meanwhile, emerging commercial models, including advanced air mobility, new-entrant long-haul low-cost carriers, and cross-border joint ventures, continue to test the limits of a bilateral system never designed to accommodate them, often forcing innovation into narrow antitrust-immunized joint ventures or metal-neutral arrangements as workarounds rather than addressing the underlying restriction directly.

2.9 As international aviation continues to evolve, there may be value in examining whether elements of the current economic regulatory framework could be modernized without affecting the fundamental principles of safety oversight and State sovereignty established by the Chicago Convention. Such an examination need not seek to diminish the Convention's enduring achievements. Rather, it could explore whether a revised approach to market access, investment, and commercial cooperation could better align the international aviation system with the realities of the twenty-first century global aviation industry.

3. CONCLUSION

3.1 The Chicago Convention remains one of the most successful multilateral agreements in history and continues to provide the legal foundation for the safe, secure, and orderly development of international civil aviation.

3.2 However, the economic regulatory framework that developed alongside the Convention reflects the geopolitical circumstances of 1944 rather than the commercial environment of today. While gradual liberalization has occurred through bilateral and regional initiatives, the international aviation market remains significantly more restricted than other global transport sectors.

3.3 A renewed examination of the international economic framework may help identify opportunities to promote greater efficiency, competition, investment, innovation, and connectivity while preserving the essential sovereign rights of States and the high standards of safety, security, and oversight that characterize international civil aviation.

3.4 Such a review would support informed dialogue among the International Civil Aviation Organization (ICAO) Member States regarding the future evolution of international air transport and its contribution to sustainable global economic development.

— END —