



International Civil Aviation Organization

WORKING PAPER

A39-WP/438¹
EC/39
14/9/16
Revision No. 1
22/9/16
(Information paper)

ASSEMBLY — 39TH SESSION

ECONOMIC COMMISSION

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

**COMMENTS ON THE 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 International Transport Workers' Federation (ITF))

REVISION NO. 1

EXECUTIVE SUMMARY

With respect to the Air Transport Regulation Panel (ATRP) work, the International Transport Workers' Federation (ITF) notes that some progress was made by the Panel. However, this progress has been uneven, with major issues remaining unresolved. This unevenness is slowing down the pace of the progress. The ITF also notes that many of the issues addressed in its separate comments to relevant Working Groups of the Panel haven't been adequately addressed. ITF believes that the social dimension of ICAO's liberalization agenda should be dealt with in a holistic manner and, therefore, the draft Agreement and its associated protocols should not be adopted until such issues are properly addressed. This paper provides the comments of ITF on the development of the draft multilateral agreement relating to air services and its associated protocols, for consideration by the Assembly.

Action for the panel is in Point 3

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective D — <i>Economic Development of Air Transport</i>
<i>Financial implications:</i>	Not applicable
<i>References:</i>	Not applicable

¹ English, Arabic, Chinese, French, Russian and Spanish versions provided by ITF

1. INTRODUCTION

1.1 The International Transport Workers' Federation (ITF) is an international trade union federation of transport workers' unions. It consists of 674 independent trade union organizations representing 4.8 million transport workers in 147 countries. It is one of several Global Union Federations allied with the International Trade Union Confederation (ITUC). The ITF represents over 650 thousand civil aviation workers worldwide and speaks for aviation employees globally.

1.2 The purpose of this paper is to comment on the development of the progress made regarding the development of international agreements on liberalisation of market access, air cargo and air carrier ownership and control by the Air Transport Regulation Panel (ATRP).

2. DISCUSSION

2.1 According to the ITF the issues and shortcomings that slow down the progress are as follows:

Issues regarding a comprehensive Agreement that provides a full treaty framework

2.2 If the Final Agreement "provides a full treaty framework" this will entail a drastic change to the global civil aviation industry.

2.3 The ITF believes that this question cannot be pursued rigorously without a comprehensive impact analysis of the Draft Agreement.

2.4 Such an analysis will provide a review of the impact of macro and micro economic regulatory policy on the ability of air transport services to implement their requirements under the proposed regulations.

2.5 Only an impact analysis would allow Member States and stakeholders to assess the impacts of this choice on their air carriers, their aviation industry and related economic activities, as well as safety, labour, tax and social security.

2.6 Member States and stakeholders should be given the chance to discuss this question on the basis of a comprehensive impact analysis and provide their inputs accordingly. Otherwise, achieving a mature outcome will be impossible.

2.7 The challenge for the Panel is to demonstrate that its economic and trade-in-services policies are indeed consistent with ICAO's security and safety goals. Not only should ICAO policy be integrated but, put another way, a failure to achieve one objective can seriously undermine the other. In this respect, the lessons learnt from the horrific events of 11 September 2001 in the United States should not be forgotten. These events showed that the failure of security or safety can have cataclysmic effects on the economic health of air transportation.

Issues regarding the inclusion of capacity and traffic rights in the Head Agreement

2.8 ICAO has always seen liberalization as a process, not an end in itself. In line with this, it has always been emphasised that States should pursue liberalization as they deem appropriate, based on

their own choices and pace according to the stages of development of their civil aviation systems, and subjective and objective conditions.

2.9 The ITF believes that Parties should be allowed to liberalize their commercial market at their own pace as aviation is a key component of States' economic and social infrastructures.

Issues regarding ownership

2.10 The ITF believes that ICAO should not proceed with a serious change in the criteria of airline ownership until the Secretariat has conducted a full and detailed study on the impact of transnationalization and international restructuring of air carriers on the current system of aviation safety regulation.

2.11 The lack of a proper impact assessment is worrying for aviation workers particularly, regarding the potential consequences of the proposed replacement of Ownership & Control provisions with "principal place of business", without providing a meaningful definition of this concept.

2.12 The ITF has already made concrete proposals regarding the definition of critical concepts and terms, including the principal place of business, but these haven't been taken into consideration so far.

The danger of flags of convenience (FOCs)

2.13 The ITF believes that this would open the door wide open to aviation FOCs with all the related safety, security and social consequences. Moreover, the ITF thinks that leaving airline safety regulation to States chosen on the basis of vague and undefined notions of where an airline's 'Principal Place of Business' might be declared is very problematic.

2.14 The risk of flags of convenience entering the global civil aviation industry comes not only through rules of ownership but through the liberalization or international restructuring of the industry without developing and implementing proper safeguards.

2.15 This year the ITF marks the 68th Anniversary of its Flags of Convenience Campaign in the maritime industry. This is 68 years of experience which we would rather not have had, witnessing the corrosion of safety standards as industry regulation disappeared. Flags of convenience are the ultimate scam to evade social and safety regulation. Full blooded flags of convenience have not entered the global aviation industry yet, but the maritime industry must remind us of the key importance of the link between the operator and the regulator.

The danger of global oligapolization

2.16 As guided by the Assembly, liberalization of market access, air cargo services and air carrier ownership and control should be developed by building on past experiences and achievements by States in liberalization.

2.17 These experiences point out that liberalization of global air transport without proper safeguards and fair competition could lead to an aviation industry completely dominated by global megacarriers. The industry would be prey to aviation flags of convenience carriers. For workers, this involves important issues concerning the global distribution of employment and economic rights. Such a

strong consolidation at a global level would be detrimental for passengers as well as flight safety and security oversight.

Issues regarding fair competition

2.18 ITF believes that liberalization should go hand in hand with the elimination of market-distortions, particularly unfair competition practices through taxation.

2.19 If some airlines benefit from access to cheap (airport) infrastructure, fuel and capital directly or indirectly, this will create unfair competition and distort the ‘level playing field’ even further.

2.20 It is a known fact that certain airlines are seeking direct or indirect subsidies from airports (e.g. lower airport charges), from local authorities (e.g. a fixed euro amount per passenger transported to their region) and/or from national government bodies (e.g. governments helping and even working together with their carriers to gain international market share). This allows some airlines to unfairly cross-subsidise their operations and ticket prices to the detriment of their non-subsidised competitors.

2.21 ICAO must safeguard the principles of fair taxation, before liberalizing the market further. Otherwise, the industry will create a global oligopolistic structure based on “unfair skies”.

Safeguards on social/labour issues

2.22 The ITF would like to point out the uneven progress of the work, particularly the safeguards lagging behind, which hinders the possibility of establishing a holistic approach. The ITF sees this condition of imbalance as an outcome of delaying the discussion and work on safeguards at previous stages.

2.23 The ITF believes that social dimension cannot be left to be dealt with at a later stage or developed at a much slower pace. According to the original mandate of the ATRP, the panel is expected “to ensure respect for the highest levels of safety and security and the principle of fair and equal opportunity for all States and their stakeholders.” Therefore, the draft Agreement and its associated protocols should not be adopted until social issues are properly addressed.

2.24 The ITF fully endorses IFALPA’s draft labour/social dimension clause and considers it to be an excellent base text for discussion.

3. ACTION

3.1 The Assembly is invited to consider the comments of the ITF presented in this paper.