



WORKING PAPER

ASSEMBLY — 40TH SESSION

ECONOMIC COMMISSION

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

MULTI-PARTY LIBERALIZATION AS STEPPING STONE TO ACHIEVING INTERNATIONAL LIBERALIZATION

(Presented by Singapore, and co-sponsored by Brunei Darussalam, Cambodia, Nauru, Palau, and Trinidad and Tobago)

EXECUTIVE SUMMARY

The development of an international agreement on air services has been slow. However, there has been a series of successful multilateral air transport agreements concluded in the Caribbean, Europe, Latin America and Asia Pacific. All parties have reaped socio-economic benefits from a more generous exchange of traffic rights on a multilateral basis, as countries are more willing to make larger commitments to access a wider multi-party pool of benefits. Multilateral agreements also encourage wider collaboration on capacity-building, aviation safety and doing business issues. There are benefits in concluding ambitious multi-lateral agreements as a pathfinder to an ICAO multilateral air transport agreement.

Action: The Assembly is invited to:

- a) recognize the benefits from ambitious multilateral air transport agreements that go beyond market access, including collaboration in capacity-building, aviation safety and doing business issues;
- b) request ICAO to identify the benefits from market liberalization and potential building blocks and barriers;
- c) request ICAO to examine successful multilateral air transport agreements such as ASEAN Open Skies Agreements and Europe Common Aviation Area agreements to understand key lessons to develop processes and guidelines to aid States in achieving multilateral liberalization; and
- d) urge States to adopt smaller scale multi-party liberalization approach as a stepping stone to achieving a global international multilateral agreement on market access liberalization aligned with ICAO's long-term vision for international air transport liberalization.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective – <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	Not applicable
<i>References:</i>	ASEAN Integration Report 2015; A39-WP/4, <i>Implementation of recommendations of the ICAO Sixth Worldwide Air Transport Conference (ATConf/6) Long-term Vision and Core Principles on Consumer Protection</i>); Report of the Fifteenth Meeting of the Air Transport Regulation Panel (ATRP/15), 2019

1. INTRODUCTION

1.1 There has been greater liberalization of air services globally in the past few decades with more bilateral and multilateral air services agreements (ASAs) concluded. Specifically, there had been more regional agreements concluded in the Caribbean, Europe, Latin America, the Middle East, and Southeast Asia. Parties in these multilateral or regional ASAs such as the ASEAN Single Aviation Market (ASAM) have reaped socio-economic benefits as these agreements commit to a more liberal exchange of traffic rights. However, progress on an international agreement to liberalize market access remains slow due to divergent views and a lack of consensus.

2. DISCUSSION

Multilateral Liberalization and its Challenges

2.1 The ICAO Council had in 2015, through the adoption of the *ICAO Long-term Vision for International Air Transport Liberalization*, committed to “actively pursue the continuous liberalization of international air transport to the benefit of all stakeholders and the economy at large”. There is recognition that liberalization of international air transport serves as a catalyst to the benefits States, consumers, airlines, airports, communities and national economies can gain. The Air Transport Regulation Panel (ATRP) has been working to develop an international agreement on air transport liberalization since 2014. Significant efforts have been devoted to liberalize air transport but there are key issues, particularly traffic rights, safeguards and social impact that remain unresolved. ATRP/15 concluded that a multilateral agreement on market access in the short term would not be achievable. Instead, ATRP would focus on building better understanding amongst States and ICAO of the benefits and challenges of liberalization and barriers to opening market, and provide States with tools to pursue liberalization and the development of their air transport markets.

Building-block Approach to Liberalization

2.2 Recognizing that Member States and the aviation market require time to adapt to a new liberalized environment, the Association of Southeast Asian Nations (ASEAN) comprising ten States, set out to achieve an ASEAN Open Skies Agreements (OSAs)¹ for greater market access over eight years, packaged under three multilateral agreements² with several implementing protocols to facilitate progressive liberalization starting with the less contentious cargo rights leading eventually to include passenger 5th freedom rights. An important milestone was reached in April 2016 with the full ratification of the ASEAN OSAs.

2.3 The conclusion of these agreements has stimulated an increase in connectivity in ASEAN. Intra-ASEAN passenger traffic grew at a compound annual growth rate of 9% between 2010 and 2018. The progressive liberalization has led to more flights and lower costs of travel. Newer ASEAN

¹ The ASEAN OSAs signed in 2009 allows for unlimited 3rd, 4th and 5th freedom rights within the region.

² Multilateral Agreement on Air Services (MAAS) concerns the liberalization of 3rd, 4th and 5th freedom rights between capital cities. Multilateral Agreement on the Full Liberalization of Passenger Air Services (MAFLPAS) concerns the liberalization of 3rd, 4th and 5th freedom rights among non-capital cities. Multilateral Agreement on the Full Liberalization of Air Freight Services (MAFLAFS) concerns the liberalization of 3rd, 4th and 5th freedom rights for freighter services.

Member States, such as Cambodia, Laos, and Myanmar have also benefited and saw an average of 270% growth in traffic, and the emergence of new carriers based in their countries.

2.4 Similarly, in the Pacific region, the ambitious Pacific Island Air Services Agreement (PIASA) also adopts a phased liberalization approach towards full open skies via a three-stage approach³. The PIASA focuses on improving air services connectivity among the Forum Island Countries (FICs) first, before opening aviation access to markets outside the FICs, allowing the various FICs to adopt liberalization at a suitable pace.

Multiplier Effect of Liberal Multilateral Agreements

2.5 Participation in multilateral agreements may require larger commitments to be made by States but in return, States benefit from access to a wider pool of benefits not available through bilateral exchanges. Multi-party exchanges also facilitate consensus by allowing States to balance out the overall gains from the agreement across several parties. The harmonization of national interests and laws, and uniform regulatory measures among members of the European Union (EU) and its extended partners within the European Common Aviation Area allowed them to fully achieve all nine freedoms. The emphasis on collective benefits also paved the way for the EU to conclude OSAs *en bloc* with the United States in 2007 and Canada in 2009, and the EU are exploring liberalization with other parties like ASEAN.

2.6 Southeast Asia has taken a similar approach. In 2011, ASEAN concluded its first ASA with China through the ASEAN-China Air Transport Agreement (ATA) involving the exchange of 3rd, 4th and 5th freedom rights. Direct links have increased more than five-fold to over 500, providing more convenient travel options between China and Southeast Asia. All ASEAN and Chinese carriers have benefited. ASEAN is working to further liberalize the ASEAN-China ATA, as well as conclude similar agreements with its other dialogue partners, namely the European Union, India, Japan, the Republic of Korea, and more recently New Zealand.

Benefits Beyond Traffic Rights

2.7 Beyond opening market access, multilateral agreements also play a crucial role in fostering deeper collaboration and cooperation on issues such as aviation safety, air traffic management, capacity-building and doing business:

- a) in the Americas, the MERCOSUR ASA (1996) of the Southern Common Market the parties also committed to simplify and standardize their laws and regulations concerning air transport services, safety regulation, operations and personnel licensing. The ASA also allows for a review mechanism for parties to continue to remove existing restrictions, and improve the business of air transport; and
- b) in ASEAN, the success of the ASEAN OSAs have led to the ASEAN Transport Strategic Plan 2016-2025 which guides the regional effort to enhance air traffic management, aviation safety and aviation security through the harmonization and convergence of standards and procedures. These facilitated the adoption of the ASEAN Air Traffic Management Master Plan in 2017 supporting the establishment of the Seamless ASEAN Sky (SAS) to facilitate the flow of aircraft across ASEAN

³ Under PIASA, stage 1 liberalizes 3rd, 4th and 6th freedoms, stage 2 liberalizes 5th freedom, and stage 3 liberalizes 5ths on routes to non-members of the agreement for all airlines of the signatories.

through harmonized and safer air traffic management operations. There has also been progress made in regulatory harmonization with the signing of the Mutual Recognition Arrangement (MRA) on Flight Crew Licensing in 2017, and the Implementing Protocol 1 (IP1) on Qualification of Flight Simulation Training Devices to be concluded in 2019.

2.8 Multilateral agreements also served to provide the platform for regular dialogues to deepen collaboration on both aviation economic and technical issues. Following the negotiation and conclusion of the ASEAN-China ATA, ASEAN and China continue to have annual meetings to deliberate aviation matters, discuss doing business issues faced by their carriers and further liberalize the ASEAN-China ATA to enlarge the benefits to ASEAN and Chinese travellers. Similarly, the draft ASEAN-EU Comprehensive Air Transport Agreement also provides for close cooperation in the areas of aviation safety and air navigation services.

3. CONCLUSION

3.1 The growing number of regional and multilateral air services agreements, including OSAs is a positive trend towards a fully liberalized air transport system. While the development and implementation of an international agreement to liberalize market access globally might be a long term goal, States are urged to consider a building-block approach to actively pursuing smaller scale multi-party, phased liberalization. This will be easier to achieve and allow States to gain the socio-economic benefits that such liberalization brings. Collectively, these small-scale agreements could be expanded to provide the underpinnings for an international agreement on air transport market liberalization to be concluded at ICAO.

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