



ASSEMBLY — 42ND SESSION

ECONOMIC COMMISSION

Agenda Item 26: Economic Development of Air Transport

**NEED FOR ADDRESSING CHALLENGES TO
EQUAL OPPORTUNITY IN INTERNATIONAL OPERATIONS**

(Presented by India)

EXECUTIVE SUMMARY

This working paper examines persistent practices and artificial barriers that are discriminatory and undermine the fundamental principles of "equal opportunity" as enshrined in the Convention on International Civil Aviation (Chicago Convention). Current slot allocation practices at capacity-constrained airports in developed countries, coupled with other non-tariff barriers, systematically erode the "equal opportunity" principles enshrined in the Chicago Convention, particularly to the detriment of carriers from developing countries. Despite bilateral air services agreements granting traffic rights, the unavailability of slots effectively nullifies these rights, contradicting Article 44's guarantee that every contracting State should have "a fair opportunity to operate international airlines." This working paper calls for the International Civil Aviation Organization (ICAO) to establish a regulatory framework that ensures equitable slot allocation and upholds the fundamental principles of non-discrimination and equal opportunity in international civil aviation.

Action: The Assembly is invited to:

- a) request the Air Transport Regulation Panel (ATRP) to develop specific guidance materials for the Contracting States on effective slot allocation framework, reforming grandfather rights system, transparency in slot-utilization and capacity and ensuring market access for carriers from developing countries in accordance with the principles of the Chicago Convention; and
- b) request the Council to provide guidance on promoting non-discriminatory business operating conditions at international airports, including recommendations for competitive ground handling arrangements and flexible General Sales Agent (GSA) policies that ensure equitable treatment of all designated carriers.

<i>Strategic Goals:</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>
<i>Financial implications:</i>	No direct financial implications for ICAO
<i>References:</i>	<i>Convention on International Civil Aviation (Chicago Convention)</i> <i>ICAO Doc 9587, Policy and Guidance Material on the Economic Regulation of International Air Transport</i> <i>IATA Worldwide Airport Slot Guidelines</i>

1. INTRODUCTION

1.1 While the Convention on International Civil Aviation (Chicago Convention) establishes the foundational principles of "equal opportunity" and non-discrimination, India observes that these principles are increasingly undermined by artificial barriers and unfair practices that prevent carriers from developing countries from realizing their potential in international civil aviation. The Preamble recognizes that "international air transport services may be established on the basis of equality of opportunity." ICAO is mandated under Article 44(f) of the Chicago Convention "that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines," while Article 44(g) requires ICAO to "avoid discrimination between contracting States".

1.2 India and other developing countries have concluded numerous bilateral air services agreements, including those based on the principles of Open-skies, investing substantial capital in aviation infrastructure and fleet development. However, systemic artificial barriers at key developed country airports effectively nullify these traffic rights, resulting in a fundamental contradiction between negotiated government-to-government agreements and actual market access by the carriers.

2. ELEMENTS OF SYSTEMATIC DISCRIMINATION FACED BY CARRIERS FROM DEVELOPING COUNTRIES

2.1 India is world's third-largest civil aviation market in origin-destination (O-D) traffic, following the United States of America (USA) and China. Unlike many contracting States that operate limited international gateway infrastructure, India maintains a large number of international airports, providing extensive market access opportunities. Current market dynamics reveal that foreign carriers operating in India collectively transport more than 50% of all passengers traveling to and from India. Such extensive market penetration by foreign carriers, enabled through preferential slot allocation at their hub airports, has significantly impeded the development of Indian long-haul operations and hub infrastructure.

2.2 As of Summer 2025, there are 215 Slot Coordinated airports worldwide and annually around 43% of the passengers globally depart from a Slot Coordinated airport. These airports utilize opaque coordination frameworks that have systematically produced discriminatory slot allocation practices, disproportionately disadvantaging carriers from developing nations in their efforts to obtain operational slots at major airports within developed countries.

2.3 Carriers from developing countries, such as Indian carriers, face de facto discrimination in slot allocation at major international airports, with limited access to premium slots. The discriminatory 'grandfather rights' system creates a fundamentally anti-competitive environment, wherein new entrants from developing countries are effectively excluded through sub-optimal or minimal slot allocations. To illustrate, 92% of the slots allocated at London-Heathrow Airport (LHR) are based on grandfather rights. This skewed distortion is further exemplified by the fact that carriers such as British Airways held 50% of LHR slots, while carriers from Asia and the Middle East collectively maintain only a meagre share of available slots at the same airport.

2.4 Carriers from developing countries hold disproportionately fewer slots at major EU hubs despite possessing underlying traffic rights in bilateral agreements. Many of these hub airports, classified as Level 3 (slot coordinated), result in limited or less desirable slot availability for airlines from developing countries. This often means that carriers from large source markets like India are unable to deploy new capacity at commercially viable timings, while countries operating such hubs continue to seek increased access to the Indian market without offering reciprocal benefits. This practise has a natural corollary, as the dominant carriers favoured through preferred slot allocation are actively encouraged towards exercise of

6th freedom traffic carriage through their own hub airports. Even, the slot-trading mechanism through secondary markets is posing insurmountable barriers in the form of increased monetary cost towards accessing these preferred slots. The incremental cost is set-off against the consumer buying the tickets, creating an artificial distortion of competition.

2.5 The discriminatory practises circumvent any exchange of bilateral traffic rights and pose an artificial barrier from exercising such rights reciprocally. As a case, despite comprehensive bilateral agreement between India and the United Kingdom (UK), Indian carriers' access has been reduced to secondary airports in London (Gatwick and Stansted Airports) while UK carriers maintain premium LHR access. Similarly, in the case of the Netherlands, Dutch carriers have been allocated additional slots at Amsterdam Airport Schiphol for the upcoming Winter 2025 schedule at an airport that is reducing slots, while Indian carriers have been denied slots altogether, resulting in reduced operations unless slots are allocated. Dutch carriers are, in fact, adding services to India in the coming months while Indian carriers are required to reduce their operations to Schiphol, nullifying the basic principles of the Chicago Convention as well as the letter and spirit of the Air Services Agreements.

2.6 Further, there exists an imbalance in infrastructure creation between developed and developing economies. Developing economies such as India are investing heavily in expansion of airport infrastructure, creating opportunities for all carriers. Conversely, developed economies including the UK, Netherlands, and others either lack plans to enhance airport capacity or are actively reducing existing capacity (as evidenced at Schiphol), creating an unequal playing field that inherently favours legacy carriers from developed nations. Another policy mechanism in developed countries that further aggravates this imbalance is the unilateral implementation of night curfews at major airports, thereby constraining available operational slots while simultaneously transferring night-time noise burdens to developing countries. India formally addressed this concern through a working paper presented in the 37th Session of the ICAO Assembly in 2010 (EX/55).

2.7 Moreover, elements of information asymmetry through non-transparent slot allocation schedules and undisclosed capacity declarations at airports create barriers for access by carriers from developing countries. Structural barriers in secondary trading slot markets add to this exclusionary framework, with lack of any price discovery mechanisms and regulatory approval processes favouring established operators. Collectively, these mechanisms systematically disadvantage carriers from developing nations by restricting market access, manipulating growth opportunities, and denying equal opportunity.

2.8 Further, India maintains a highly liberal business environment for foreign airlines, offering multiple operational flexibility options. Foreign carriers may elect to conduct business operations either through a General Sales Agent (GSA) or establish their own direct offices within India. Under India's airport ground handling policy, airports exceeding specified passenger traffic thresholds are required to designate three Ground Handling Agencies (GHAs), enabling foreign airlines to exercise choice in service providers and negotiate competitive pricing arrangements.

2.9 In contrast, numerous countries impose mandatory GSA requirements on Indian carriers, prohibiting direct operational establishment. Additionally, these countries typically maintain monopolistic ground handling arrangements with single GHA/catering providers at their airports, eliminating competitive pricing options and significantly increasing operational costs for Indian carriers. This asymmetric treatment creates substantial competitive disadvantages for Indian aviation operators in international markets.

3. EROSION OF THE PRINCIPLE OF 'EQUAL OPPORTUNITY' AND DISCRIMINATION UNDER THE CHICAGO CONVENTION

3.1 The Chicago Convention is, inter-alia, founded on principles focussing on fairness and non-discrimination among the contracting States in the operation of international airlines. The goal is to foster equal opportunities in international civil aviation for all Member States and to prevent any unfair or discriminatory practices between them. Particularly, the Preamble to the Convention and Articles 44(f) and Article 44(g) of the Convention embrace the principles of equality of opportunity and non-discrimination.

3.2 Current slot allocation systems fundamentally violate the Chicago Convention's core principles, breaching Article 44(f) by denying developing countries "fair opportunity to operate international airlines" through high secondary market pricing, grandfather rights systems that perpetuate historical advantages, and relegation to non-viable slot pools for new entrants. Article 44(g) which prohibits against State discrimination is contravened through differential regimes that establish preferential access mechanisms favouring incumbents from developed States. In addition, most notably, the Preamble's "equality of opportunity" principle is rendered meaningless as market access becomes determined by historical presence rather than a transparent and equal system for underlying traffic rights to be utilized reciprocally. These mechanisms create economic barriers that prevent competitive parity between carriers from different Contracting States. The Assembly is invited to recognize that the effective implementation of equal opportunity principles requires active elimination of unfair practices, and structural as well as artificial barriers. The Assembly is invited to note that addressing these contemporary challenges is essential for ensuring that the Chicago Convention's foundational principles remain meaningful and effective for all Member States, particularly developing countries seeking to participate fully in international civil aviation.

3.3 The asymmetric business operating conditions where some contracting States maintain liberal policies allowing foreign carriers operational flexibility in GSA arrangements and competitive ground handling options, while others simultaneously impose restrictive mandatory GSA requirements and monopolistic ground handling arrangements on carriers, contravenes the fundamental principle of equal opportunity in international civil aviation. The Assembly may recognize that such discriminatory practices create artificial competitive disadvantages and increased operational costs for carriers from affected States, undermining the principles of fair competition.

4. CONCLUSION

4.1 Discussion on the issues as detailed upon hereinbefore is called for, all the more so in the specific context of the developing nations in aviation, such as India. ICAO's pivotal role in successfully establishing the international civil aviation framework would be further strengthened by committing towards 'equal opportunity', 'non-discrimination', and 'fairness' for all Contracting States. This will enable all Member States including developing and large source markets like India to participate fairly and fully in international aviation's growth and benefits. India emphasizes that genuine equal opportunity cannot exist when bilateral traffic rights are rendered meaningless by discriminatory slot allocation. The Assembly's action on these matters is essential for preserving the integrity of the international civil aviation system and ensuring that all States can realize the benefits of their participation in international air services.