



WORKING PAPER

ASSEMBLY — 41ST SESSION

ECONOMIC COMMISSION

Agenda Item 35: Economic Regulation of International Air Transport — Policy

DRAFT CONVENTION ON FOREIGN INVESTMENT IN AIRLINES

(Presented by Qatar)

EXECUTIVE SUMMARY

This working paper aims to provide a brief summary of the work done for the draft Convention on Foreign Investment in Airlines with the objective of resolving the remaining issues of concern to agree on a draft of the Convention. The State of Qatar has continuously reiterated its position on the importance of having a Convention on Foreign Investment in Airlines, particularly as airlines worldwide are still financially struggling, due to the commercial and operational challenges caused by the impact COVID-19 pandemic.

Action: The Assembly is invited to:

- a) review and consider the State of Qatar's position and conclusions, as outlined in paragraphs 2 and 3 of this working paper, in any future discussions with a view to finalizing the draft Convention on Foreign Investment in Airlines in line with *ICAO Long-term Vision for International Air Transport Liberalization*; and
- b) urge the Air Transport Regulation Panel (ATRP) under the Air Transport Committee (ATC) to continue the deliberations, including through the working group, to resolve the remaining issues of concern and with a view to further progress this task.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective — <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	The activities referred to in this paper will be undertaken subject to the resources available in the ICAO 2023 – 2025 Regular Budget and/or from extra budgetary contributions.
<i>References:</i>	Doc 10140, <i>Assembly Resolutions in Force (as of 4 October 2019)</i> Doc 10139, <i>Assembly 40th Session, Montréal, 24 September – 4 October 2019, Economic Commission Report</i> A41-WP/13-EC/3, <i>Progress Report on Economic Regulation of International Air Transport</i>

1. INTRODUCTION

1.1 Assembly Resolution A40-9, Appendix A, Section II, Resolving Clause 6, requested the ICAO Council to address the remaining issues of concern towards the development of a Convention on Foreign Investment in Airlines, in line with *ICAO Long-term Vision for International Air Transport Liberalization*.

1.2 Further to the assignment of the Council, the ATRP under the ATC has been working to examine the outstanding issues of concern in progressing on developing the draft Convention, including through correspondence, small - regionally -based groups and virtual meetings.

1.3 During the meetings the following outstanding issues were identified and extensively discussed: feasibility/appetite of having a Convention on Foreign Investment in Airlines; “free riders” and “bad actors”; labour and social issues; fair competition and associated issues; and regulatory oversight.

2. THE STATE OF QATAR’S POSITION

2.1 During the meetings and communications with the ATRP, the State of Qatar has continuously reiterated its position on the importance of moving forward and concluding a Convention on Foreign Investment in Airlines, particularly as airlines worldwide are still facing commercial and operational challenges due to the impact of COVID-19.

2.2 The State of Qatar has also consistently underscored that one of the reasons that the ATRP must expedite the work and decision on the development of a Convention on Foreign Investment in Airlines is to support the airlines’ recovery from the impact of the pandemic through cross border investments, while promoting the implementation of the *ICAO Long-Term Vision for International Air Transport Liberalization*.

2.3 Furthermore, the State of Qatar supports the outcome of the ATRP discussions with regards to: “Bad Actors”, highlighting the existence of national laws, regulations and institutional bodies in place to deal with such issues; “Free Riders”, considering the need to minimise opportunities for the “free riders” to benefit from this Convention; and Regulatory Oversight, Fair Competition, as well as Social and labour issues, emphasising that all these issues shall continue to be governed by existing air services agreements or equivalent arrangements entered by Parties to the Convention.

2.4 As indicated in paragraph 2.2 of A41-WP/13, presented by the Council of ICAO, the ATRP has agreed that *“there is a need for further in-depth discussions on the issues of concern and concluded that it intends to sustain the engagement and enthusiasm already generated by continuing discussions on the work, through a working group, in order to resolve the remaining issues of concern, with a view to further progress the tasks.”*

2.5 Although the State of Qatar fully agrees with the need for further discussions on the remaining issues of concern and has already requested membership in the working group, to resolve the remaining issues of concern, the State of Qatar considers it of paramount importance that in such discussion the ATRP reflect on the greater benefits that this Convention will offer to each State and to airlines in terms of trade, jobs, tourism and the wider economy.

3. CONCLUSION

3.1 The State of Qatar reiterates its willingness to move forward to conclude a Convention on Foreign Investment in Airlines. The challenges that airlines continue to face due to the impact of COVID-19 underscores the reason why we should and must expedite our work and decisions on this matter, in order to provide the required support to the airline industry, through cross border investments, as it recovers from the pandemic.

3.2 The State of Qatar has firmly stated that, when discussing a Convention to open-up foreign investment in airlines, the nationality of the owners of an airline should not be the primary consideration in determining whether or not such airline should be allowed to operate. The most important factors should be that such airline is operating to/from our States within a safe, secure, financially sound, and properly regulated framework.

3.3 The State of Qatar reaffirms its position that with regards to this Convention, it should be treated as a supplementary legal provision to the existing air services agreements or equivalent arrangements (ASAs/MOUs). Therefore, provisions on fair competition, social and labour matters, passenger rights and environmental considerations shall continue to be governed by the existing ASAs/MOUs entered by the Parties to this Convention, and accordingly, no specific provisions on these issues should be required or included in this Convention.

3.4 The State of Qatar is also of the opinion that traffic rights negotiated between States were granted on the basis of the benefit air transport offers to each country; accordingly, as long as the nationality and effective regulatory control of the airline remain in the country designating that airline, the spirit and benefits of such air services agreements or equivalent arrangements negotiated between those countries will prevail.

3.5 The State of Qatar fully supports ICAO's plan of work as presented in paragraph 3.2 of A41-WP/13, presented by the Council of ICAO, with a view to finalizing this draft Convention.

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