



ASSEMBLY — 41ST SESSION

ECONOMIC COMMISSION

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

GRANTING OF SEVENTH FREEDOM RIGHTS TO ALL-CARGO SERVICES

(Presented by Chile and supported by 16 Latin American Civil Aviation Commission (LACAC) Member States²)

EXECUTIVE SUMMARY

This paper discusses the need for ICAO to promote a multilateral agreement granting Seventh Freedom rights to all-cargo services in order to further liberalize air transport and enable responses to present and future emergencies by increasing the speed and volume of goods delivery and streamlining supply chains to meet the needs of populations.

Action: The Assembly is invited to:

- a) reflect on the lessons of the COVID-19 pandemic for the air cargo market, including the significant development of e-commerce; and
- b) promote the development of a specific international agreement that allows for greater flexibility in granting traffic rights to air cargo services, taking account of the unique characteristics of that market.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective — <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	
<i>References:</i>	Resolution A40-9, <i>Consolidated statement of continuing ICAO policies in the air transport field</i> <i>Report of the Sixteenth Meeting of the Air Transport Regulation Panel (ATRP/16)(2022)</i>

¹ Spanish version provided by Chile

² Aruba, Belize, Brazil, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Uruguay and Venezuela (Bolivarian Republic of).

1. INTRODUCTION

1.1 The Sixth Worldwide Air Transport Conference (ATConf/6) in 2013 proposed the basis for what is now called the *ICAO Long-term Vision for Air Transport Liberalization*, adopted by the Council of ICAO in 2015, with the goal of encouraging States to move toward greater liberalization. It was understood at the time to be a goal shared by all of the Member States, but one that would be implemented at a pace and speed to be determined by each State acting in its sovereign capacity.

1.2 In the midst of this process, the COVID-19 pandemic struck, impacting air services continuity and international connectivity.

1.3 However, the pandemic also showed that, in unforeseen circumstances or a global emergency, only the coordinated collective efforts of the States can serve to mitigate the negative impacts on lives and national economies. The negative experience demonstrated that, in the event of a supply crisis such as that resulting from COVID-19, aviation can and must drive solutions, and States must support these endeavours.

2. THE EXPERIENCE OF STATES IN THE LACAC REGION

2.1 In view of the various impacts of the pandemic such as the growth in demand for cargo flights, efforts by States to coordinate actions to restore connectivity, and the need to urgently adopt extraordinary measures in response to an unprecedented situation, in December 2020 the Latin American Civil Aviation Commission (LACAC) took up a proposal by Brazil and Chile to create a simple and efficient tool outside of the existing regulatory frameworks of Member States to facilitate cargo operations up to the Seventh Freedom. The initiative was realized in the form of a Memorandum of Understanding (MoU) agreed in a spirit of mutual understanding and cooperation, with a vision extending beyond the specific policies that each State has a right to implement, with the proviso that there should be no distortion of fair and healthy competition among operators. The text of the MoU establishes reciprocal granting of traffic rights under the Seventh Freedom for scheduled and non-scheduled all-cargo services on an equal-opportunity basis with no geographical or capacity restrictions. The agreement complements traffic rights already granted bilaterally or multilaterally by LACAC States, and does not affect other freedoms or terms previously agreed and applied, such as requirements for issuing and revoking airline permits.

2.2 The MoU was initially signed by ten States: Brazil, Chile, Dominican Republic, Ecuador, Guatemala, Panama, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of), but remained open to fast-track accession by the other LACAC Members. Likewise, each State party has the option to announce its withdrawal from the MoU at any time, effective six months following said announcement.

2.3 It is well known that the Seventh Freedom is fundamental for cargo services to achieve maximum efficiency. Nevertheless, the right is not commonly granted in negotiations between States. For this reason, the MoU intended for the Seventh Freedom to be granted on an exceptional and temporary basis, effective only until 31 December 2021 and possibly for one additional year from that date for States that so wished. However, at the end of that period, the instrument was renewed by the express wish of the original signatory States.

3. THE RESPONSE BY ICAO

3.1 Appendix A, Section I, Article 12 of Resolution A40-9 of the 40th Assembly requested the Council of ICAO to continue working to foster a better understanding of the benefits and challenges of liberalization and of barriers to market access, in pursuit of a multilateral approach to be developed at the appropriate time. Previously at the 38th Assembly, Resolution A38-14, Appendix A, Section I, Article 14 had called for the development of a specific international agreement to facilitate greater liberalization of air cargo services.

3.2 At various ICAO events and meetings such as ICAO Air Services Negotiation Event (ICAN) and ICAO Air Transport Symposium (IATS), the view was repeatedly expressed that, due to the unique characteristics of air cargo operations and the growing number of global operators in the express delivery sector, with distribution hubs in different countries, air cargo services require more commercial freedom to meet the needs of the global air cargo industry. This became abundantly clear during the COVID-19 pandemic.

3.3 As well, without prejudice to the recommendations of the Council Aviation Recovery Task Force (CART) at the High-level Conference on COVID-19 (HLCC 2021), some States and industry representatives such as the Global Express Association (GEA) and The International Air Cargo Association (TIACA) noted that ICAO ought to move toward a specific international agreement on the liberalization of all-cargo services, in view of the contributions to the global pandemic response and the major difference in business needs between all-cargo and passenger services.

3.4 The matter was also discussed at the Fourteenth Meeting of the Air Transport Regulation Panel (ATRP/14) in 2017, resulting in an agreement to develop a specific protocol to liberalize air cargo with traffic rights up to the Seventh Freedom. The work was begun at ATRP/15 in 2019 on the basis of a *draft Supplemental Agreement on the Liberalization of Air Cargo Services in International Air Transport* presented by the ICAO Secretariat. However, diverging positions prevented consensus and prompted the Air Transport Committee (ATC) of the Council of ICAO to suspend the work.

3.5 Finally, at ATRP/16 in April 2022, the matter was again discussed, this time taking account of the information gathered and lessons learned from the COVID-19 crisis and the e-commerce boom. It remains to be seen whether it is worthwhile to push for the agreement.

4. CONCLUSIONS

4.1 Recent experience has highlighted the distinct nature of all-cargo services compared to passenger services as regards business models, operational requirements, limitations, dependencies and the regulatory framework. All of these factors argue in favour of a specific international agreement to facilitate the liberalization of air cargo services that would serve a rapidly recovering market and achieve the resulting benefits for States and industry.

4.2 The ICAO-led initiatives to develop a multilateral agreement on the granting of rights to air cargo services were launched before the COVID-19 pandemic brought new insights and lessons, and prior to the increase in the number of on-line transactions and global express delivery operators, as well as the proliferation of distribution centres in different countries.

4.3 The world will no doubt face other crises in the future arising from such threats and phenomena as food shortages, population displacements, climate change, natural disasters or health

emergencies. Moreover, the impressive growth in cargo e-commerce and the evolution of its business models make it necessary to progress the *ICAO Long-term Vision for Air Transport Liberalization*. In such scenarios, logistical supply chains must be rapidly activated and effectively managed, and air transport must be prepared not only technically, but also from a regulatory point of view.

4.4 Therefore, the Assembly is invited to give consideration to the foregoing rationale and, accordingly, support continuing efforts to develop a specific international agreement to facilitate greater liberalization of all-cargo services.

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