



A41-WP/637  
EC/44  
1/10/22

**ASSEMBLY — 41ST SESSION**

**ECONOMIC COMMISSION**

**DRAFT TEXT FOR THE REPORT  
ON  
AGENDA ITEM 35**

The attached material on Agenda Item 35 is submitted for consideration by the Economic Commission.

**Agenda Item 35: Economic Regulation of International Air Transport — Policy*****Recovery measures from the impact of the COVID-19 pandemic***

35.1 In WP/11, the Council presented the economic and financial measures to address the impact of the COVID-19 pandemic, based on the ICAO guidance and the recommendations of the Council Aviation Recovery Task Force (CART) and the High-level Conference on COVID-19 (HLCC 2021). The Assembly was invited to endorse the organization's work plan and consider the information contained in the paper for update of Assembly Resolution A40-9, Consolidated Statement of continuing ICAO policies in the air transport field.

35.2 Through WP/171, Czechia on behalf of the European Union and its Member States<sup>1</sup> and the other Member States of the European Civil Aviation Conference<sup>2</sup> and the United States, highlighted the importance of bilateral and multilateral Air Services Agreements (ASAs) to international air transport as they provide a predictable framework where air carriers can operate and sustain future air services. The paper recommends that the Air Transport Regulation Panel (ATRP) be requested to prepare guidelines based on the proposed principles in order to provide States with the flexibility to impose restrictions during crisis periods, whilst protecting the integrity of ASAs.

35.3 WP/402 presented by Dominican Republic, reported on its experience in reactivating rapid, safe, reliable and sustainable international passenger operations and the rebuilding of its tourism industry from the impact of the COVID-19 pandemic. The paper recommended the promotion among Member States of the ICAO guidance on economic and financial measures as the industry recovers from the impact of the COVID-19 pandemic.

35.4 In WP/317, Oman proposed the development of a practical strategic guidance document for Member States civil aviation authorities, airport management authorities, charge-levying authorities and other relevant regulatory stakeholders, which would be activated at times of global pandemics and crises to address pandemic-related economic challenges to ensure the sustainability of the global air transport sector. The paper explained that the strategic guidance document would standardize support patterns in the industry.

35.5 In WP/411, Venezuela (Bolivarian Republic of) supported by Panama and Dominican Republic, highlighted details of the measures it applied to support its industry on the recovery from the impact of the COVID-19 pandemic. The paper informed that the measures taken were based on the ICAO guidance document on economic and financial measures to mitigate the impact of the Coronavirus outbreak on aviation.

35.6 In WP/511, Indonesia provided information on the importance of the role of tourism in the recovery of its aviation-related infrastructure from the impact of the COVID-19 pandemic. The paper highlighted the locally developed Creative Tourism Model, dependence and contributions of aviation (through the use of seaplane) to the tourism industry and socio economic sustenance of Indonesia.

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<sup>1</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

<sup>2</sup> Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, Republic of Moldova, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, Switzerland, Türkiye, Ukraine and the United Kingdom.

35.7 Considering the economic and financial measures developed, based on the report of the ICAO CART to address the impact of the COVID-19 pandemic, presented in WP/11, the Commission acknowledged the usefulness of the measures, which are comprehensive and balanced. While encouraging States to adopt the identified seven key principles whenever economic and financial support are extended to its air transport industry, it requested that the principles should be updated in order to adequately address emerging issues. The Commission therefore endorsed the Organization's work plan in supporting the safe and efficient recovery of the sector and fostering its economic resilience to future challenges.

35.8 The Commission acknowledged that the proposal put forward in WP/171, would be useful in ensuring that the experience of the devastating impact of the COVID-19 pandemic on international air transport is avoided in future crises. The Commission noted that, as stated in WP/13, the review of the Template Air Services Agreement (TASA) to include a model clause on health-related measures in order to provide States with the flexibility to impose regulatory measures, is part of the future Work Programme of the Organization and therefore requested that the proposed principles in paragraph 5 of WP/171 be considered by the ATRP, when carrying out the task. Two States however expressed the views that the proposed principles are impractical and may create discrimination.

35.9 The Commission took note of the proposal for the development of a strategic guidance document for States to address economic challenges and standardize support patterns made in WP/317, as well as the support expressed for the paper. The Commission was however of the view that the ICAO guidance on economic and financial measures presented in WP/11 serves the same purpose as the proposal made in WP/317.

35.10 The Commission welcomed the information provided in WP/402, WP/411 and WP/511 concerning the experiences in reactivating air passenger services within the States' respective air transport markets, post COVID-19 pandemic. The Commission further expressed support towards the proposal for the promotion of the use of the ICAO guidance on the economic and financial measures, as recommended by ATRP/16.

### ***Liberalization and ICAO International Agreements***

35.11 In WP/13, the Council presented a progress report on the development of a draft Convention on Foreign Investment in Airlines; the emerging issues on air cargo services; the increasing international operations of unmanned aircraft; and the building of a better understanding of the benefits of liberalization and barriers to opening market access. The Assembly was invited to endorse the Organization's work programme for advancing the liberalization of international air transport.

35.12 In WP/322, Chile with the support of 18 Member States<sup>3</sup> of the Latin American Civil Aviation Commission (LACAC) presented approaches to evaluate the impact of signing new ASAs under the policy of liberalization and open skies, as reflected in the increase in traffic demand and economic gains for air transport and related markets. The paper requested the Council to develop standardized methodological guidance that would enable States to evaluate the advantages and benefits of signing liberalized agreements.

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<sup>3</sup> Aruba, Belize, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Uruguay and Venezuela (Bolivarian Republic of).

35.13 WP/372 presented by Chile and supported by 16 Member States<sup>4</sup> of LACAC and co-sponsored by The International Air Cargo Association (TIACA), reported the experience of Member States of LACAC during the COVID-19 pandemic, to create a simple and efficient tool outside of the existing regulatory frameworks by signing a Memorandum of Understanding (MoU), to facilitate cargo operations up to the Seventh Freedom. The paper urged the Assembly to 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.

35.14 WP/100 presented by Czechia on behalf of the European Union and its Member States and the other Member States of the European Civil Aviation Conference and co-sponsored by TIACA, explained the need for ICAO's different committees, panels and working bodies to be coordinated to ensure that cross-cutting policies are effective and that the long-term economic prospects of the air transport system are fully considered. The paper encourage States to ensure that national regulations on air transport reflect and complement key ICAO priorities and call on ICAO to update its guidance materials.

35.15 In WP/164 Qatar presented its views and support 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 of the COVID-19 pandemic. The paper urged the ATRP to resolve the remaining issues of concern with a view to progressing the task.

35.16 WP/166 presented by Qatar and co-sponsored by TIACA and the Universal Postal Union (UPU), highlighted how the pandemic has reinforced the fact that all-cargo services operate under different conditions from passenger services and the vital role of all-cargo services in providing economic benefits and transporting critical medical goods. The paper expressed support for the ongoing work of the ATRP on whether there is enough justification for the development of a specific international agreement to facilitate further liberalization of air cargo services.

35.17 Through WP/409, Venezuela (Bolivarian Republic of) supported by Dominican Republic and Panama, Member States of LACAC, and co-sponsored by TIACA, reported on benefits of signing a regional multilateral instrument, which allowed cargo airlines to operate optimally with traffic rights up to the Seventh Freedom during the COVID-19 pandemic. The paper urged ICAO to promote air cargo liberalization through multilateral agreement among its Member States in view of the numerous benefits.

35.18 In Information paper WP/223, 19 Member States<sup>5</sup> of the Common Market for the Eastern and Southern States (COMESA) provided details of the ongoing initiatives that would improve air transport in the region, such as the implementation of the Single African Air Transport Market (SAATM), strengthening of regulatory and institutional capacity of civil aviation institutions, and improving air navigation efficiency.

35.19 Considering the report of the Council in WP/13, the Commission noted the progress made on ICAO's work in the field of economic regulation of international air transport since the 40th Session of the ICAO Assembly and endorsed, in principle, the proposed work programme of the Organization for advancing the liberalization of international air transport. Views were expressed on the on-going tasks of

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<sup>4</sup> Aruba, Belize, Brazil, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Uruguay and Venezuela (Bolivarian Republic of).

<sup>5</sup> Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia, and Zimbabwe.

the ATRP, including: 1) addressing the outstanding areas of concern (such as labour and social considerations, fair competition and associated issues, and regulatory oversight) in developing a Convention on Foreign Investment in Airlines; 2) examining the need for the development of a standalone international agreement for the liberalization of air cargo services; and 3) conducting an in-depth assessment on the need to develop the economic regulation of international operations of unmanned aircraft systems, amongst others. Broad support was expressed for the ATRP to continue its work on these tasks, while efforts are being made by the Organization to continue to build a better understanding of the benefits and challenges of liberalization and barriers to opening market access amongst States.

35.20 The Commission agreed with the proposal made in WP/100 for appropriate interactions between different committees, panels and working bodies within the Organization, to ensure that economic aspects are given due consideration in any future work of the Organization. The Commission also welcomed the proposal for Member States to ensure that their national regulations on air transport reflect and complement key ICAO priorities and guidance, which should be updated from time to time.

35.21 The Commission expressed support to the proposal expressed in WP/164 for the ATRP to continue its ongoing work in resolving the outstanding issues of concern to facilitate the progress on the development of the draft Convention on Foreign Investment in Airlines, as this would reinforce the recovery of the industry from the impact of the COVID-19 pandemic. A view was however expressed that the liberalization of air carrier ownership and control should not be addressed in isolation, but as part of the liberalization of market access.

35.22 Considering WP/166, WP/372 and WP/409, the Commission noted the information and experiences shared by the States and the support expressed for a more regulatory and operational flexibility for air cargo operations, through the development of a specific international agreement to liberalize air cargo services. The Commission was however of the view that the ATRP should continue its ongoing work on the examination of whether there is enough justification for developing a specific international agreement to facilitate further liberalization of air cargo services, as presented in WP/13.

35.23 With respect to the proposal made in WP/322, views were divided on the development of guidance and specific tools, to determine the benefits of having liberalized agreements, in line with the ICAO Long-Term Vision for International Air Transport Liberalization. While some States were in support of the proposal, the majority expressed preference for exchange of experiences amongst States rather than developing guidance and tools. The Commission therefore requested ICAO to develop a Compendium on States' Liberalization efforts to share experiences and promote the ICAO Long-Term Vision for International Air Transport Liberalization.

35.24 The Commission welcomed the information presented in WP/223 on the ongoing initiatives to improve air transport in the COMESA region.

### ***Consumer Protection***

35.25 Through WP/447, Venezuela (Bolivarian Republic of) supported by Panama and Dominican Republic reported that as a result of the COVID-19 pandemic, it included extraordinary measures in its passenger rights regulation, to strengthen users' trust in public air transport services, in the interests of rapid, safe, reliable and sustainable international air operations in case of emergency situations.

The paper urged ICAO to continue to develop regulations on air transport consumer protection, which gives guidance to Member States on measures that protect and assist passengers in emergency situations.

35.26 In reviewing WP/447, the Commission agreed that ICAO should continue to enhance measures to strengthen consumer protection, including during emergency situations. The Commission noted that the ICAO Core Principles on Consumer Protection, is a “living document”, which can be refined and improved from time to time, in response to the dynamic nature of the industry and therefore agreed that the proposal in WP/447, be considered within the framework of the ICAO Core Principles by the ATRP.

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