



ASSEMBLY — 36TH SESSION

ECONOMIC COMMISSION

Agenda Item 40: Regulation of international air transport services

AIR CARGO AND MARKET ACCESS

(Presented by the International Transport Workers' Federation)

EXECUTIVE SUMMARY

This working paper argues that States should approach the issue of further liberalization of the air cargo sector with caution in order to avoid the creation of competitive disadvantages for air carriers operating combined passenger-cargo services. It also highlights concerns raised about a possible transfer of air cargo into the portfolio of the World Trade Organisation and rejects any further extension of the role of the WTO in this sector. Last, it cautions against laissez-faire liberalization of traffic rights and supports the approach that changes in such rights should evolve through sovereign agreements at the bilateral, multilateral or regional levels, based on reciprocity, a balance of benefit, the protection of the public interest dimension and active policies to promote the participation of all States in the provision of air transport services.

**Action:** The Assembly is invited to consider that:

- a) States should not pursue a policy of separate liberalization of air cargo activities, in order to avoid unfair treatment of passenger transport;
- b) States should, in determining their policies in the field of air cargo, have due regard for reciprocity, a levelled playing field with passenger transport, a balance of benefit, and the protection of the public interest dimension;
- c) any extension of “open skies” agreements or other means of market access liberalization need to be accompanied by effective measures to prevent anticompetitive behaviour;
- d) there should be no further extension of the GATS in the air transport services sector.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives A, B and D. It will further Strategic Objectives A and B by maintaining a fair regulatory regime throughout the aviation industry, and in particular between passenger-cargo combination carriers and cargo-only carriers, and complement Strategic Objective D by studying trends to support sustainable aviation.
<i>Financial implications:</i>	The work outlined in this working paper may need to be undertaken with resources available in the budget 2008-2010.
<i>References:</i>	

<sup>1</sup> English, French and Spanish versions provided by ITF.

## 1. INTRODUCTION

1.1 Air cargo is an important component of international air transport, with growth rates often above and beyond those of passenger traffic. It plays an increasingly important role in the world economy, as well as in national and regional development. It is especially critical for landlocked countries or States which rely on transport of high-value or perishable goods.

1.2 The current regulatory regime of aviation covers both air cargo and passenger services.

## 2. MAINTAINING A LEVEL PLAYING FIELD

2.1 Greater liberalization of the air cargo sector raises concerns about whether or not there should be special or separate treatment for international air cargo operation. Some governments may be reluctant to apply a more liberal treatment of air cargo as they regard their competitive position as an invisible combination of passengers and cargo operation. Treating cargo separately could risk losing leverage in passenger negotiations, especially where carriers do not operate all-cargo services at all.

2.2 Another concern is the competitive balance between different types of air carriers which carry air cargo only and those which carry it in combination with passengers, for example as “belly cargo”. Combination-carriers are part of the passenger regulatory regime and therefore directly affected by the pace of liberalization and other developments under that regime.

2.3 Consequently, if liberalization of international air cargo transport focussed on cargo-only operation and was to be treated differently from passenger services, this would create an unfair competitive advantage. It needs to be taken into additional consideration that around fifty percent of international air cargo is transported on combination-carriers governed by economic regulation appropriate to passenger services. The impact of such unequal treatment would be detrimental to a substantial part of the aviation industry, particularly those carriers with only combination carriers – including its employees.

2.4 In a time when the industry is slowly recovering from one of its worst crisis, aviation workers as well as others dependent upon aviation services, such as shippers, want reliability, stability and certainty. A low-risk or at least a predictable risk environment is crucial to restoring the investor confidence and access to capital that carriers need to return to financial stability at a time when external factors continue to present major challenges to their operations.

## 3. OWNERSHIP AND CONTROL

3.1 Another issue debated in this context is about ownership and control, to which the ITF expresses its concerns and its opinion in a separate Working Paper, “Air Carrier Ownership and Control”. It calls upon the Assembly to consider that the national ownership and control criterion should be retained in the interest of stability, reliability and economic security of air transport provision and that States should retain effective regulatory tools to ensure that the public interest dimension of air transport services can be met;

#### **4. AIR CARGO TO REMAIN UNDER ICAO'S REGULATORY REGIME**

4.1 Air cargo is also considered by some members of the World Trade Organisation (WTO), as a potential activity for inclusion in the Annex on Air Transport Services on General Agreement on Trade in Services, GATS. The ITF shares its concerns with those who continue to reject any further extension of the role of the WTO in this sector. The ITF continues to support the position that changes in traffic rights should evolve through sovereign agreements at a bilateral or multilateral level, based on reciprocity, a balance of benefit, the protection of the public interest dimension and active policies to promote the participation of all States and stakeholders in the provision of air transport services, under the sole regime of ICAO.

4.2 Given the diversity of factors affecting market access rights in international air transport, there is no global consensus amongst States on the incorporation of air transport services within the World Trade Organisation's scope. Even with regard to the three areas of aviation economic activity already included in the scope of the GATS by virtue of the Annex on Air Transport Services, there has been little enthusiasm by States to support further extension of the scope of WTO.

4.3 Additionally, the ITF's key concern with regard to the WTO is that an inclusion into the ~~WTO~~ GATS will inevitably break the link between economic regulation and safety and security regulation, which currently ensures that safety and security is not overridden by economic factors.

#### **5. OPEN SKIES AND AIR CARGO**

5.1 "Open skies" agreements may still contain an element of reciprocity, but they have not necessarily been able to prevent the abuse of dominant market position of some carriers operating under such agreements.

5.2 The ITF believes that clauses to address anticompetitive practices should constitute an essential component of such agreements if the national interest and public service dimension of air operations are to be protected.

5.3 Such agreements have either not achieved their ambitions due to other market access constraints, or – even more seriously – have opened the door to anticompetitive practices and undermined the ability of States to exercise control over the behaviour of carriers that are designated to exercise such liberalized rights.

5.4 The ITF therefore urges States to exercise extreme caution when considering future "open skies" agreements and strongly endorses the approach that States should pursue liberalization "at their own choice and own pace".