



International Civil Aviation Organization

WORKING PAPER

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**English and
Spanish only¹**

ASSEMBLY — 36TH SESSION

ECONOMIC COMMISSION

Agenda Item 40: Regulation of international air transport services

**OBSERVATIONS ON THE PRESENT PROPOSAL FOR EXTENDING THE APPENDIX ON
AIR TRANSPORT SERVICES IN THE WTO'S GATS**

(Presented by Cuba)

EXECUTIVE SUMMARY

The purpose of this working paper is to analyze the proposed amendment of the annex on air transport services presently being discussed within the framework of the WTO and its significance for the developing countries.

Action: The Assembly is invited to:

a) Rule on the matters raised in Paragraph 3.1 and 3.2 of this working paper and include the results of its deliberation in the final report.

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| <i>Strategic Objectives:</i> | This working paper relates to Strategic Objectives D. |
| <i>Financial implications:</i> | Not applicable. |
| <i>References:</i> | Doc 9848, <i>Assembly Resolutions in Force (as of 8 October 2004)</i> Doc 7300, <i>Convention on International Civil Aviation</i> , signed at Chicago on 7 December 1944 and amended by the ICAO Assembly General Agreement on Trade in Services (GATS) S/C/W/270 <i>Developments in the Air Transport Sector - WTO's Secretariat, Trade & Services Division</i> |

1. INTRODUCTION

1.1 The World Trade Organization (WTO) started its work in January 1995. As an institution, it replaced the General Agreement on Tariffs and Trade (GATT). It is the inter-governmental

¹ English and Spanish versions provided by Cuba.

organization responsible for the rules governing trade in goods and services and trade-related aspects of intellectual property.

1.2 An analysis of the principles enunciated by the WTO, as regards the Most Favoured Nation concept, reveals that the industrialized nations are those with the greatest number of exemptions from specific commitments within the GATS framework.

2. ANALYSIS

2.1 In the particular case of aviation, the WTO has added an annex on "Air Transport Services" to the GATS, which is applied to "measures affecting trade in air transport services, whether scheduled or non-scheduled, and ancillary services".

2.2 According to Paragraph 2 of this annex, the GATS "shall not apply to measures affecting traffic rights, however granted, or services directly related to the exercise of traffic rights". Under Paragraph 3, the Agreement "shall apply to measures affecting aircraft repair and maintenance services, the selling and marketing of air transport services [and] computer reservation system (CRS) services".

2.3 Given the growth of the air transport sector, the WTO has sought to define which services are directly related to traffic rights, with the aim of including these in the annex mentioned.

2.4 The second review of the Annex on Air Transport Services got underway formally in 2005 and officially in March 2007. Among the agenda items discussed is a proposal to amend the annex mentioned to include stopover services and Airport operation services.

2.5 At present, trade in air transport services is controlled by alliances between the biggest airlines. However, most countries try to regulate this marketing activity, by means of bilateral air agreements that enable the rights of the parties to be protected or monitored.

2.6 Let us remember that the world consists mostly of developing countries, while trade made subservient to the laws of the market does not reflect the peculiarities of the air sector; examples include recognition of the full and exclusive sovereignty of states over their territorial air space (Article 1 of the Chicago Convention). Neither does it take account of the economic and geographic limitations of these countries, or the condition of their aeronautical infrastructures.

2.7 To preserve the safeguards in conditions of constant and progressive deregulation of air transport worldwide, on a safe, protected and economically sustainable and comprehensive basis, the ICAO should continue to be the intergovernmental organization that regulates all matters concerned with air transport, to ensure protection of the interests of the less-developed nations.

3. CONCLUSIONS

3.1 In our opinion, rather than continuing to extend the annex on air transport services to include further specific commitments on other services, it is first necessary to remove the exemptions which are undermining this activity for the developing countries, and to preserve in the annex the proviso that it does not cover services directly related to traffic rights.

3.2 The ICAO is an international organization specializing in the control of the economic, technical and legal aspects of international civil aviation, which safeguards the status quo as regards the exchange of traffic rights and the services related to these. Accordingly, we confirm our view that the proposed extension of the GATS annex on air transport services is not in the interests of the member states.

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