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**EVOLUTION OF THE LIBERALIZATION OF THE SERVICES OF AIR TRANSPORT IN THE
STATE MEMBERS OF THE LATIN AMERICAN CIVIL AVIATION COMMISSION -
LACAC**

(Presented by the Latin American Civil Aviation Commission²)

EXECUTIVE SUMMARY

This working paper informs to the international aeronautical community about the progress of air transport liberalization processes in the Latin-American region, in compliance with the Declaration and results of the Fifth Worldwide Air Transport Conference, the ICAO's strategic objectives and the work that has been made by LACAC.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives D.
<i>Financial implications:</i>	Not applicable.
<i>References:</i>	World-wide Air Transport Conference (Atconf/5) - Challenges and Opportunities of Liberalization (Montreal, 24 - 29th March 2003) Doc 9587, <i>Policy And Guidance Material On The Economic Regulation Of International Air Transport</i> Doc 9626, <i>Manual on the Regulation of International Air Transport</i> Doc 9847, <i>Report of the Economic Commission of the 35th Session of the Assembly</i> Doc 9848, <i>Assembly Resolutions in Force (as of 8 October 2004)</i> Strategic objectives of ICAO for 2005-2010 - consolidated vision and mission. (A35-18)

¹ English and Spanish versions provided by LACAC.

² Presented by 20 Contracting States (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela).

1. INTRODUCTION

1.1 Over the last years, there has been a considerable progress in the liberalization concerning the access to the markets, in particular in the regional and sub-regional scale. Most important it is a fact that, in general, States have become more opened and receptive regarding liberalization, adjusting many of their policies and practices to respond to the world-wide challenges that the air industry experiences.

1.2 The experience during the last decade has confirmed that bilateral, regional and multilateral regimes based on principles of the Chicago Convention can coexist, and in fact they achieve it in the same way that they can adapt to different approaches with respect to air transport regulation. These regimes continue providing a viable and flexible platform for States to pursue liberalization in accordance with their necessities, objectives and circumstances.

1.3 An outstanding fact of the liberalization trend is the considerable increase in bilateral agreements that include clauses about access to the markets without restrictions. Within an international framework, by May 2007, (Working paper A36-WP/16), they had arrived to 127 open sky bilateral agreements with the participation of ninety States. On those agreements, in addition to developed countries, an increasing number of developing countries have joined. Concerning the access to markets, those agreements generally take into account rights of route and operation without restrictions, as well as the rights of the third to fifth and sixth air freedom. Many of them also grant rights of the seventh freedom exclusively to the freight services. Some of them anticipate a progressive introduction or by stages. Although every day there is more recognition, the interchange of rights between States to enhance access to markets, or open them, stills depends mostly on each country. This has been reflected in the fact that most States, that have reached open sky bilateral agreements, as a general policy, they did not subscribed them or they did not even considered to sign them with all their aeronautical partners, instead their agreements have been developed and achieve their agreements case by case.

2. EVOLUTION OF THE REGULATION IN THE LATIN-AMERICAN REGION

2.1 During the last years, it was continued consolidating a movement for the integration between countries which belong to sub-regions in Latin-America, through the signature of more liberal agreements, considering that air transport constitutes a basic tool to achieve the goals of integration. For that reason, the subscription of air transport multilateral agreements in the region contributes to regional integration, which has been declared a common objective.

2.2 In the matter of air transport, initiatives of integration and opening traffic continue advancing stimulated by aviation authorities and commerce, as it is the case of the “Acuerdo de Fortaleza”, the decisions of the Andean Community of Nations CAN, and the work completed by the Association of States of the Caribbean (ACS). All of them with the objective to harmonize policies to make more flexible the granting of traffic rights, the access to markets and facilitate the smoothness of air transport.

2.3 As follows, it is explained briefly the advances in the process of integration inside different regional forums:

2.3.1 Andean Community of Nations (CAN): It is necessary to remember that within the framework of the Andean Community, in May of 1991, Bolivia, Colombia, Ecuador, Peru and Venezuela adopted, through Decision 297, a regime of air transport market liberalization. As complement, in 1992 with Decisions 320 and 360, and in 1994 with Decision 361, some concepts have been well defined (multiple designation, regular and non-regular flights, among others), it was determined the terms and requirements for granting authorizations of operation. Later, in May of 2004, the Commission of Andean Community of Nations, CAN, issued Decision 582, which unifies the norms that rule air transport between the countries that are members, anticipating an Andean open sky scheme.

2.3.2 The decision 582 of the Andean Community Nations is considered very important for the process of economic integration, since it consolidates in a single rule different sub regional regulations on air transport policy, updating them in relation to socioeconomic, technological and the employer organization challenges that have happened in the last years. In fact, a few years ago the Andean community has liberalized its intraregional air transport.

2.3.3 The sub regional air service agreement that is called as “Acuerdo de Fortaleza” is one of the multilateral instance in the region to pursue the development of new air services in different routes to the region which have been operated by agreements and bilateral trades, in order to promote and to develop new markets and to respond the demands of users in the south cone. The core of this agreement liberalize the access to routes non served between the territories of the signatory countries to stimulate a decentralization of air transport services, excluding from the liberalization frame the access to routes already served.

2.3.4 In the context of the Caribbean States Association (CSA), it was subscribed the Air Transport Agreement among its Member and Associated States. This Multilateral Agreement is a basic instrument to liberalize the Air Services among its Members States. The aim is to encourage to regional airlines to serve intra-regional destinations with a lower cost and to stimulate trips around the region due to commerce, investment and tourism.

2.3.5 In the Seventeenth Ordinary Assembly (City of Panama, from November 6 to 9 of 2006) the Latin American Civil Aviation Commission approved a new strategic plan of activities, transforming the traditional structure of working to enhance efficiency into the organism with the aim that each Member State of the Executive Committee (President and Vice-Presidents) leads one of the subjects outlined with the support of the Group of the Experts and Secretariat; In this way, was defined the subject Transport and Air Policy, in which one of the activities is to update of the Resolution on “Criteria and Guidelines on Air Transport Policies” (Res A16-15), in the process of intraregional liberalization.

2.4 In a bilateral level, many States stimulated by the world-wide tendencies on Air Transport, have initiated processes of deregulation on subjects that previously had rigid approaches, like the supply of air services and tariffs, those that have moved to depend on market forces. This process has had diverse rates in countries of the region. For some aviation authorities, liberalization of Air Transport markets still means risk of competition and prefers the traditional system of regulating the supply and going on liberalize in a gradual way. Others, however, believe that regulations and restrictions restrain the growth, whereas the free competition stimulates the transporters to improve the services and to create new markets.

2.5 In general, the liberalization of the Latin American Air Transport is coming gradually; also, the region is facing a tendency to integration on commerce and is oriented to a wide market and economically more flexible. It is expected that Air Transport as an important tool of commercial

integration and political, social and economic development, keep going on gradual flexibilization in medium term, adapting to the new scenarios of more liberalization.

3. **FUTURE WORK**

3.1 Although it is perceived a tendency to liberalization of Air Transport market, we can affirm that some States still will continue structuring their air transport policy on traffic rights, under the principle of reciprocity and equality of opportunity and the principles of the Chicago Convention.

3.2 Other countries, that recognize the tendencies of developing liberalization, are inclined by processes more gradual, and always based on the recognition of sovereignty and the principle of reciprocity.

3.3 A lot of States have recognized the importance of Air Transport for integration and economic development, especially in the Latin American region; reason to keep working toward processes of more regional liberalization that stimulate and strengthen the air transport services. Consequently, it can be needed to adequate rules and civil aviation policies in each country to harmonize them within the new tendencies, assuring that there is a balance between interests of all stakeholders involved.

3.4 It is recognized the necessity, convenience and utility that the Latin-American Region counts on air transport matter with a set of common criteria of air commercial policy that it allows respond to this new environment of flexibilization and markets opening into a safe, efficient and economic way.

3.5 The future work of the aviation industry in Latin-America will have to consider, within the predisposition to facilitate the liberalization, aspects such as: air carries' property and control, taxes, customer interests, competition, air services negotiations, connectivity among others. Other factors to be considered are air carries privatization and tendencies towards global alliances in the aviation sector; and, as return to the air carrier interest, hosting countries will be expecting to see generation of employ, payment of taxes and connectivity.

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