



Committee on Economic Development of Air Transport – Topic 1

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¹ This paper reflects the author's personal views and cannot be considered as the views of ICAO or the European Commission.

A MULTILATERAL TREATY ON AIR TRANSPORT LIBERALISATION

1. Introduction

The liberalisation of international air transport has been on the agenda of ICAO for a long time as summarised by the ICAO *Long-Term Vision for International Air Transport Liberalisation* adopted in 2013. In particular, the development of multilateral treaties to liberalise international air transport has featured as a key ICAO objective in this work. However, despite efforts by ICAO to deliver on those treaties through many years, no tangible result has been achieved so far.

This year's Seventh Worldwide Air Transport Conference (ATConf/7) in November 2026 will provide a new opportunity for the global aviation community to relaunch ICAO work on air transport liberalisation.

2. ICAO's work on multilateral treaties to liberalise international air transport

The competence of ICAO in the economic regulation of international air transport, compared to the other areas such as safety, security and air traffic management, is more limited under the Chicago Convention. Nevertheless, for decades ICAO has been active in pursuing the liberalisation of international air transport.

High level policy discussions on economic regulation have taken place at Worldwide Air Transport Conferences organised by ICAO; the last one so far took place in 2013 (ATConf/6), where States and industry discussed various topics key to the economic regulation of international air transport: market access; air carrier ownership and control; consumer protection; fair competition; safeguard measures; taxation of and other levies on international air transport; economics of airports and air navigation services; and implementation of ICAO policies and guidance. Following ATConf/6, ICAO received a mandate to draft multilateral treaties to liberalise market access (traffic rights) in passenger and cargo transport as well as airline ownership and control. ICAO had entrusted its Air Transport Regulation Panel (ATRP), a group of subject matter experts appointed by States from all around the world, to deliver. However, ATRP was not able to arrive at a consensus among its members to achieve this objective.

In December 2025, ICAO convened ATConf/7 planned to take place in November 2026. In the State Letter sent by ICAO to its Member States, there is notably no reference to multilateral *treaties* on air transport liberalisation as such. Instead, "Rethinking Market access and Ownership and control to address innovation, sustainability and new modes of transport cross-border operations" and similar references leave ample room for interpretation. There is no reference to multilateral treaties in ICAO's recently adopted Strategic Plan 2026-2050 either. At the same time, ICAO's Consolidated Statement of continuing ICAO policies in the air transport field adopted at the latest

ICAO Assembly in 2025 still writes that “*multilateralism to liberalize international air transport, especially the exchange of commercial rights, including traffic rights, on a multilateral basis to the greatest possible extent continues to be an objective of the Organization*”.

The above ambiguity about the way forward begs the question to States if they should give up long-stranding efforts to establish a global liberalisation framework? Would this be in line with ICAO’s *Long-Term Vision* and the Consolidated Statement?

Concerned about the limited progress on the treaties and keen on continuing efforts for establishing a global framework, several States have joined force and managed to convince the ICAO Council to task the Committee on Economic Development of Air Transport (“Committee”) to re-examine how a multilateral legal instrument for air transport liberalisation (“Treaty”) could be developed to support an open, sustainable and equitable global air transport market in the 21st century.

If the Committee manage to deliver on a draft Treaty, there may be time to bring it forward to ATConf/7 and provide a clear focus for the Conference in relation to liberalisation. If the new initiative receives sufficient support at ATConf/7, the next step would be for ICAO to finalise the draft Treaty and then convene an international conference for its signature.

3. Work of the Committee

One of the reasons for the ICAO Council to mandate the Committee was that the Committee brings together State delegates with the necessary diplomatic skills to successfully manage the challenging task of multilateral negotiations. Given the technical components of the envisaged Treaty, delegates should also obtain the required technical understanding of air transport regulation, liberalisation and, in particular, air services/air transport agreements.

To deliver on its task, the Committee should agree on an appropriate approach/working methodology for effective negotiation and actual drafting, all within the limited timeframe available. For example, the Committee may decide to work on the basis of an agreed timetable or establish working groups to address the various procedural and substantive issues.

Taking into account the differing attitudes among States towards air transport liberalisation, delegates on the Committee, in addition to preparing a draft Treaty, should make all efforts to follow an inclusive approach and convince all States as much as possible about the benefits of the Treaty. However, progress by the willing should not be made conditional upon consensus by all. Furthermore, given the diverging views of States in relation to questions on both procedures and substance, alternative proposals may be put forward by the Committee for decision by the Council provided that they do not compromise the general objective of drafting a multilateral treaty on air transport liberalisation.

In accordance with the instructions of the Council (see below), the Committee will need to study various questions of procedure and substance (policy) to identify “building blocks” to be made part of the draft Treaty and, on that basis, come up with draft texts of such building blocks (even if alternative versions) that, taken together, can produce a “skeleton” of a draft Treaty.

Basic policy questions to be studied by the Committee should include:

- Whether gradual liberalisation would make the Treaty more attractive for States taking a more cautious approach towards liberalisation?
- If market access (traffic rights) and airline ownership and control would be preferable to be covered by the same Treaty or by separate treaties or something in between (separate parts of the same Treaty that may be adhered to)?
- If the transport of passengers and cargo are preferable to be treated separately because many States tend to be more liberal with regard to the liberalisation of air cargo services?
- If incentives for small/island/developing States should also be considered?
- Safeguards for the potential negative effects of liberalisation, especially on States with more fragile air transport industries, should also be discussed so that all future signatory States will benefit from the Treaty, in line with ICAO's principles of *No Country Left Behind* and equitable access to the benefits of air transport.

Specific procedural aspects of the Treaty are also important, for example:

- How to make sure that any State unwilling to liberalize air transport vis-a-vis a specific other State or States would still be ready to sign the Treaty?
- How could the Treaty become provisionally applicable among the signatories before entering into force, which will probably take years?
- What would be the minimum number of signatory States for the Treaty to enter into force?

To support the challenging work of the Committee, the Council has provided a few specific instructions and comments, based on the experience with previous ICAO efforts:

1. As mentioned above, the Committee is expected to find common ground with regard to the key building blocks of the Treaty and prepare a "skeleton" of the Treaty through describing the substance of each building block (with alternative wordings where necessary) and indicate any open issue to be decided by the Council.
2. Building blocks should address specific procedural matters (see examples above) as well as the usual provisions to be included in any international treaty.
3. Building blocks should also cover substantive matters. The following should be included in the Treaty as a minimum:
 - a. Route rights
 - b. Traffic rights
 - c. Capacity
 - d. Tariff (Pricing)

- e. Designation and authorisation
 - f. Airline ownership and control
 - g. Fair competition
 - h. Safeguards/Transitional measures (in the context of *No Country Left Behind* and equitable access)²
 - i. Regulatory provisions (including references to relevant ICAO SARPs³)
 - j. Any other matter, including provisions in the ICAO template agreement,⁴ found appropriate to be added by the Committee
4. To support discussions and drafting, the Committee is encouraged to examine the outcome of the Sixth Worldwide Air Transport Conference (ATConf/6) as well as key features of international agreements on air transport liberalisation (for instance, the MALIAT and the EU-ASEAN Air Transport Agreement). The Committee may also wish to consider if any emerging areas, for example, new technologies, digitalisation or unmanned aircraft systems (UAS) would require its attention to the extent they are relevant for the work on the draft Treaty.

The Council has high expectations of the Committee as the objective of proposing a draft Treaty for consideration by ATConf/7 may have the potential to become a decisive step towards ICAO's goal to achieve its *Long-Term Vision on Liberalisation*. It is time to deliver.

² To be distinguished from “safeguards” in the context of fair competition.

³ Standards and Recommended Practices laid down by ICAO in the Annexes to the Chicago Convention.

⁴ See Appendix 1 to ICAO Doc 9587, esp. the template for a Regional or Plurilateral Template Air Services Agreement, pp. A1-64 – A1-118

Non-exhaustive list of potential questions to be addressed by the delegates

1. What is your State's policy with regard to the liberalisation of international air transport?
2. How do you see this new initiative to work on a global Treaty on air transport liberalisation?
3. What are the challenges and the opportunities in an envisaged global Treaty from your State's perspective?
4. What is your State's strategy to move beyond the limiting factors that have so far prevented ICAO from delivering on a Treaty?

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