



ATRP/12  
19/06/14

# International Civil Aviation Organization

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## AIR TRANSPORT REGULATION PANEL (ATRP)

### TWELFTH MEETING (ATRP/12)

Montréal, Canada, 26 to 30 May 2014

**REPORT**

(42 pages)



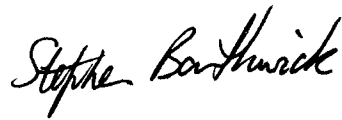
**REPORT OF THE TWELFTH MEETING OF THE  
AIR TRANSPORT REGULATION PANEL (ATRP/12)**

**LETTER OF TRANSMITTAL**

To: Chairperson, Air Transport Committee

From: Chairperson, Air Transport Regulation Panel

I have the honour to submit the report of the Twelfth Meeting of the Air Transport Regulation Panel (ATRP/12) which was held in Montréal, from 26 to 30 May 2014.



Stephen Borthwick  
Chairperson

Montréal, 30 May 2014



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**AIR TRANSPORT REGULATION PANEL (ATRP)****TWELFTH MEETING****Montréal, 26 to 30 May 2014****INTRODUCTION****1. DURATION**

1.1 The Twelfth Meeting of the Air Transport Regulation Panel (ATRP/12) was held at the Headquarters of the Organization in Montreal from 26 to 30 May 2014.

1.2 The meeting was opened by Mrs. Narjess Abdennebi, Chief, Economic Analysis and Policy Section, on behalf of Mr. Boubacar Djibo, Director, Air Transport Bureau, at 1000 hours on 26 May 2014. She delivered a welcoming speech to all participants and introduced the members of the Secretariat.

**2. TERMS OF REFERENCE**

2.1 The Terms of Reference of the ATRP as approved by the Air Transport Committee are:

The Air Transport Regulation Panel (ATRP) will undertake the following tasks to assist the Secretariat in the ATConf/6 follow-up work:

- 1) develop a long-term vision for international air transport liberalization;
- 2) examine and develop an international agreement for State use in the liberalization of market access;
- 3) develop a compendium of current, national and/or regional competition policies and practices;
- 4) develop an international agreement for State use in the liberalization of air carrier ownership and control;
- 5) develop a set of core principles on consumer protection;
- 6) develop an international agreement to facilitate further liberalization of air cargo services;
- 7) update ICAO's policy and guidance material on the regulation of international air transport, including that related to fair competition, with a view to ensuring that it is current and responsive to changes and to the needs of ICAO Member States;

- 8) develop further guidance, where required, to facilitate liberalization, including on important issues that may arise as the liberalization process progresses;
- 9) provide input to assist the monitoring of developments in international air transport regulation and liberalization, such as in areas of market access, competition, air carrier ownership and control, consumer protection, and safeguards;
- 10) assess the means by which to study the impact of the proliferation of taxes and levies;
- 11) explore the establishment of new mechanisms to ensure the sustainable funding of the oversight functions at the State and regional levels;
- 12) explore additional ways and means by which to enhance the status of ICAO policies for the sustainable economic development of the air transport system, including assessing the value of a possible new Annex and/or other acceptable solutions; and
- 13) other tasks as may be assigned by the Air Transport Committee.

The panel will take into account the interests of all stakeholders and the importance to States of effective and sustained participation in international air transport, as well as the ICAO Strategic Objectives for 2014-2016.

### 3. ATTENDANCE

3.1 The meeting was attended by Panel Members, Alternates or temporary replacements, accompanied in some cases by advisers, and Observers nominated by thirty six Contracting States and eight international organizations. A complete list of participants is given in Appendix A.

### 4. OFFICERS AND SECRETARIAT

4.1 The panel elected Mr. Stephen Borthwick, panel member from Australia, to serve as the Panel Chairperson, and Mr. Jaime Binder Rosas, panel member from Chile, as Vice Chairperson. Mr. Yuan-Zheng Wang, Air Transport Officer, Economic Analysis and Policy Section (EAP), was Secretary of the meeting. Mr. Frederic Malaud, Mr. Jerome Simon, Ms. Mara Keller, and other EAP officers provided support and assistance. Mr. John Byerly, served as adviser.

### 5. AGENDA OF THE MEETING

5.1 The agenda for the meeting, as approved by the Air Transport Committee, was comprised of the following:

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|----------------|--|
| Agenda Item 1: | Review of the new Terms of Reference and work programme of the ATRP        |
| Agenda Item 2: | Examination of new regulatory arrangements:                                |
| 2a)            | a long-term vision for international air transport liberalization;         |
| 2b)            | an international agreement for States to liberalize market access;         |
| 2c)            | regulatory approaches for fair competition in international air transport; |



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- 2d) an international agreement to liberalize air carrier ownership and control; and
  - 2e) a set of core principles on consumer protection
- Agenda Item 3: Review of other tasks under the ATRP Terms of Reference
- Agenda Item 4: Panel working groups
- Agenda Item 5: Any other business

## 6. **WORKING ARRANGEMENTS**

6.1 The panel met as a single body. Interpretation service was provided for the meeting in Arabic, Chinese, English, French, Russian and Spanish. A list of the documentation for the meeting appears in Appendix B.

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**Agenda Item 1: Review of the new Terms of Reference and work programme of the ATRP**

1.1 The panel considered this item on the basis of WP/1 *Administrative Arrangements* and WP/9 (paragraph 2), *Future Work of the Panel*. The panel noted its new Terms of Reference as well as the administrative arrangements for the current meeting presented in WP/1. It also adopted the agenda for the meeting.

1.2 The panel noted the important and substantive tasks to be undertaken, many of which involve complex issues that require careful and in-depth study and consideration as well as the need for well-designed and balanced solutions. It also noted the guidance given by the governing bodies in this respect and the many existing experiences that may add value, and be of assistance, to the work.

1.3 The panel agreed to work diligently and cooperatively in accordance with the Terms of Reference and the relevant guidance, including the work prioritization established by the Council and endorsed by the Assembly (as contained in A38-WP/56), with a view to accomplishing its assigned tasks within the timeframe presented in the action plan of the Council for implementation of the Recommendations of the Sixth Worldwide Air Transport Conference (ATConf/6).

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**Agenda Item 2: Examination of new regulatory arrangements**  
**2a) a long-term vision for international air transport liberalization**

**2.1.1 DOCUMENTATION**

2.1.1.1 In WP/4, the Secretariat presented proposals on the development of an ICAO long-term vision for international air transport liberalization. Based on the consideration that such a vision should be aspirational and not prescriptive in nature, should emphasize a commitment to liberalization, and should be forward-looking, representing a long-term view of the aviation community on the ultimate objective of liberalization. The Secretariat offered three options of draft text for consideration by the panel.

2.1.1.2 In WP/17, the member from the United Arab Emirates endorsed the recommendation of the Secretariat, reiterating that the vision should focus specifically on liberalization and avoid diluting this overarching goal through extensive references to other objectives. He recommended that the panel adopt Option 3 wording as the long-term vision.

2.1.1.3 In IP/4, the observer of the International Federation of Air Line Pilots' Associations (IFALPA) provided the views of IFALPA regarding the work of the Secretariat. With respect to the long-term vision, the paper called for a vision that supports further safety enhancements and benefits all stakeholders, and identified Option 1 proposed in WP/4, as the preferred text.

**2.1.2 DISCUSSION**

2.1.2.1 There was broad support for the need and value for ICAO to develop a long-term vision for international air transport liberalization to guide ICAO Member States in their pursuit of liberalization in order to achieve its ultimate goal in the long run. There was also consensus on the principles presented in paragraph 3.1 of WP/4 that would guide the development of the long-term vision.

2.1.2.2 Considerable discussion took place on the draft options proposed by the Secretariat. Many participants expressed support for Option 1, some with suggested amendments, holding the view that this option best captured the elements that ICAO Member States may want for such a vision.

2.1.2.3 Others indicated their preference for shorter text, expressing the view that such a vision should be clear, concise and focused on the ultimate objective of liberalization, and should avoid having too many other factors that could dilute the intended purpose of the vision.

2.1.2.4 The observer of the International Labour Organization (ILO) sought clarification regarding the term "stakeholders", and was advised by the Secretariat that the term used in the text was consistent with other ICAO documents, such as Assembly Resolutions, which included labour as stakeholders.

2.1.2.5 The panel noted the view that many States may prefer an incremental approach for liberalization. As a result, global liberalization may take many years.

2.1.2.6 The Chairperson took note of the various views and suggestions pertaining to the draft text, and offered three modified versions for consideration by the panel. While expressing appreciation for the effort by the Chairperson, the majority of panel members voiced preference for the longer version

of the text. The panel agreed to accept the modified long version proposed by the Chairperson as the proposed long-term vision for submission to the governing bodies for consideration.

2.1.2.7 The panel noted the information contained in IP/4.

### 2.1.3 CONCLUSION

2.1.3.1 Based on the discussion, the panel reached the following conclusions:

- a) while the process of global liberalization may take many years, adoption of an ICAO long term vision could serve as a reference point and an inspirational guide for its Member States, helping them to focus on the ultimate objective of liberalization as they negotiate new or amend air services agreements, whether on a bilateral, regional, plurilateral or multilateral basis;
- b) the development of the long-term vision for international air transport liberalization should be guided by the following principles:
  - i. the vision should be aspirational, not prescriptive, in nature and should aim to foster consensus on the fundamental value of liberalizing international air transport on a global scale;
  - ii. the vision should emphasize a commitment to liberalization, while not diminishing the importance of other factors, including economic indicators, that must be considered in fostering the development of international civil aviation; and
  - iii. the vision should be forward looking, representing a long-term view of the aviation community on the ultimate objective of liberalization.

### 2.1.4 RECOMMENDATION

2.1.4.1 The panel adopted the following recommendation:

#### **RECOMMENDATION ATRP/12-1**

#### **THE PANEL RECOMMENDS THAT**

The text below be presented for consideration by the ICAO governing bodies and Member States as the ICAO long-term vision for international air transport liberalization:

*We, the Member States of the International Civil Aviation Organization, resolve to actively pursue the continuous liberalization of international air transport to the benefit of all stakeholders and the economy at large. We will be guided by the need to ensure respect for the highest levels of safety and security and the principle of fair and equal opportunity for all States and their stakeholders.*

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**Agenda Item 2: Examination of new regulatory arrangements**  
**2b) an international agreement for States to liberalize market access;**

**2.2.1 DOCUMENTATION**

2.2.1.1 In WP/5, the Secretariat presented proposals relating to the development of an international agreement by which States could liberalize market access, pursuant to the recommendation of the Sixth Worldwide Air Transport Conference (ATConf/6), as endorsed by the Council and the 38th Session of the ICAO Assembly. Recognizing the complexity of the issues involved, the panel was invited, as a first step, to provide advice and recommendations on key questions with respect to the possible form and scope, core substantive provisions as well as application approaches for such an agreement, in order to establish a solid foundation for the subsequent development of the draft text of the agreement.

2.2.1.2 In WP/14, the observer of the European Union (EU), supported by the members and observers from the EU Member States and other Member States of the European Civil Aviation Conference (ECAC), presented views on the liberalization of market access, including key issues and barriers to be addressed and suggested strategies to promote liberalization. While supporting ICAO's work for developing multilateral agreements, the paper also emphasized the link between market access and fair competition, suggesting that the move towards liberalization on a global scale should take into consideration fair competition as an important general principle and the need for safeguards against emergence of damaging monopolies and other anti-competitive practices.

2.2.1.3 Through WP/18, the panel member from the United Arab Emirates addressed the Secretariat proposals contained in WP/5 relating to the development of an international agreement for market access liberalization. He was in favour of a supplemental agreement over a comprehensive one, covering all types of air transport services and both scheduled and non-scheduled services. He also considered it essential for the agreement to include unrestricted first to sixth freedom rights, double disapproval pricing provisions, and full operational flexibilities. Preference for universal application of the agreement was expressed.

2.2.1.4 In WP/20, the member from Chile presented proposals with respect to the development of an international agreement for States to liberalize market access. Regarding the essential elements, he expressed preference for a supplemental agreement, covering all types of services and including scheduled and non-scheduled services, granting first to sixth freedoms for combination services and up to seventh freedoms for all-cargo service, with no restriction on the number of designated airlines and a free pricing regime. A proposed draft multilateral agreement on liberalization of international air transport capturing the proposed elements was offered in the paper.

2.2.1.5 Through WP/22, the member from Argentina drew attention to the disparities existing between States in terms of local situations, stages of development, and competitive strength of their air carriers, and thus the need for analysis of the effects of liberalization. The paper called for the development of appropriate guidance material for States to cope with and benefit from liberalization, including more effective safeguards.

2.2.1.6 In IP/1, the Secretariat provided information of the results of a survey conducted in late 2012 on some proposals regarding liberalization of international air transport regulation, which could be a

useful reference for the panel in its consideration of similar proposals under relevant agenda items of ATRP/12, including item 2b).

2.2.1.7 In IP/4, the observer of International Federation of Air Line Pilots' Associations (IFALPA) provided the view of IFALPA regarding the work of the Secretariat with respect to the development of a market access agreement. IFALPA held the view that agreements should include provisions recognizing that labour standards are not to be reduced, as well as establishing a mechanism to hear and effectively address concerns raised by airline labour.

## 2.2.2 DISCUSSION

2.2.2.1 During the discussion of Agenda Item 2b), participants offered a range of perspectives on how the panel should approach the mandate contained in the Terms of Reference to "examine and develop an international agreement for States to liberalize market access." Several participants stressed the need for a gradual approach with safeguards, others suggested a regional liberalization approach as a first step, before a global multilateral agreement. The need to include consideration of safeguards was also proposed to help address concerns of some States over liberalization. Several participants also stressed the need for provisions on "fair competition," which they considered to be closely linked to market liberalization. Other participants emphasized the need for the panel to provide guidance on the key questions raised by the Secretariat in WP/5 in order to fulfil the requirements in the Terms of Reference in a timely manner.

2.2.2.2 With respect to questions on the form and the scope of the agreement, a number of participants voiced a preference for a comprehensive accord, while others favoured a supplemental agreement. Many favoured an agreement that would cover all-cargo as well as combination air services, and that would include both scheduled and non-scheduled services, although some expressed reservations on this latter point.

2.2.2.3 As for the core elements of the agreement, many speakers favoured the inclusion of unrestricted first through fourth freedoms, while many others supported liberalization of up to fifth and sixth freedoms, although some suggested that there should be full flexibility for States in this regard. Views differed on inclusion of seventh freedom, including a suggestion of a voluntary option to include seventh freedom all-cargo services. There were also varying opinions on the issue of application, with some participants supporting universal application while some favoured a more flexible approach (such as the "pick your partners" option).

2.2.2.4 Attention was drawn to the experience of very limited accession of additional States to the Multilateral Agreement on the Liberalization of International Air Transport (MALIAT), which indicated the challenges which ICAO faces in developing an international agreement that would attract a large numbers of adherents. With regards to the complexity of the issues and the diversity of views expressed, participants supported the formation of a working group to help the panel in carrying forward the mandate presented in the Terms of Reference. In this regard, the Chairperson emphasized that, while there should be no prejudgment of the outcome of the working group's work, it was important for the panel to give direction to the group for its work, given the complexity of the task and the limited time available to reach an outcome.

2.2.2.5 The panel noted the information contained in IP/1 and IP/4.



### 2.2.3 CONCLUSION

2.2.3.1 Based on the discussion, the panel decided to establish a working group, with the composition of its members to be determined in accordance with ICAO policies and practices and with clear Terms of Reference, in order to further the task of developing an international agreement for States to liberalize market access. The working group will be guided, but not constrained, by the perspectives expressed at the panel meeting. The proposed composition of the working group and the Terms of Reference would be considered under Agenda Item 4.

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**Agenda Item 2: Examination of new regulatory arrangements**  
**2c) regulatory approaches for fair competition in international air transport**

**2.3.1 DOCUMENTATION**

2.3.1.1 In WP/6, the Secretariat provided background information on the manner in which fair competition was addressed by the Sixth Worldwide Air Transport Conference (ATConf/6), and reported on ICAO's work to implement ATConf/6 recommendations as endorsed by the 38th Session of the ICAO Assembly (A38). The Secretariat described the development of tools to promote more compatible regulatory approaches toward competition in international air transport. Mentioned was the establishment of an enhanced version of the ICAO Air Services Negotiations event (ICAN), which includes a specific seminar organized for aviation and competition authorities to discuss competition issues. The paper also reported on the development by the Secretariat of a draft compendium of competition policies and practices in force nationally or regionally and included, in Appendix C, a proposal for the structure of the ICAO guidance on fair competition. As well, the paper suggested additional tools for cooperation, dialogue and the exchange of information such as the development of a dedicated ICAO website and of competition courses.

2.3.1.2 WP/12, presented by the observer of the European Union (EU) and supported by the members and observers from the Member States of the European Union and other Member States of the European Civil Aviation Conference (ECAC), recalled the importance of fair competition in international air transport and outlined recommendations for the development of guidance material on fair competition by ICAO. The paper also noted the production of the draft compendium and supported the possible establishment of a dedicated ICAO website on competition as well as the updating of Doc 9626 and Doc 9587 to incorporate more detailed guidance material on fair competition.

2.3.1.3 In WP/19, the member of the United Arab Emirates noted the progress made on the development of the compendium and the establishment of the competition exchange forum and supported the establishment of a dedicated ICAO secure website on competition.

2.3.1.4 In IP/2, the observer of the EU provided information on the views of the European Commission to foster compatibility of regulatory approaches for fair competition. In IP/3, the Member from Australia presented Australia's approach to fair competition. IP/4, presented by the observer of the International Federation of Air Line Pilots' Associations (IFALPA), provided views on several agenda items, including the view that fair competition concerns may warrant limitations on liberalized market access.

**2.3.2 DISCUSSION**

2.3.2.1 There was broad support for the work undertaken by the Secretariat pursuant to ATConf/6, as described in WP/6. In particular, the draft compendium was considered a useful tool for the exchange of information among interested authorities with a view to fostering more compatible approaches on fair competition in international air transport. There was general agreement for the further development and refinement of the compendium, as well as for its inclusion in ICAO guidance material. Suggestions were made on the structure of the guidance material proposed in Appendix C of WP/6. There was support for the inclusion in the compendium of references to the work undertaken on the General

Agreement on Trade in Services (GATS) and to dispute resolution mechanisms. In addition, there was support for the development by ICAO of studies and further guidance material on safeguards.

2.3.2.2 The panel also supported ICAO in utilizing the ICAN platform as a forum for the exchange of information on competition issues. Many participants felt that the issue of fair competition should not be treated in isolation of the international air transport liberalization agenda.

2.3.2.3 It was agreed that updating ICAO's guidance material on fair competition would be beneficial. Many participants endorsed the creation of a working group to this end. At the suggestion of the Chairperson, a small representative group from among the participants was invited to develop possible Terms of Reference for such a working group. As a result, a draft of the Terms of Reference was produced.

2.3.2.4 The panel noted the information provided in IP/2, IP/3 and IP/4.

### 2.3.3 CONCLUSIONS

2.3.3.1 Based on the discussion, the panel reached the following conclusions:

- a) considering the recognized need for tools to promote dialogue and the exchange of information with a view to fostering more compatible regulatory approaches on fair competition, ICAO should continue its work on the development of the compendium of competition policies and practices in force nationally or regionally;
- b) the competition seminar organized by ICAO, including at ICAN, serves as a useful forum for the enhancement of cooperation, dialogue and exchange of information on competition and should be continued by ICAO;
- c) the development of an ICAO secure website on competition and courses on competition could enhance cooperation, dialogue and exchange of information on competition; and
- d) ICAO guidance material on fair competition should be updated, and to this end, consideration should be given to the establishment of a working group subject to agreement on suitable terms of reference.

### 2.3.4 RECOMMENDATIONS

2.3.4.1 The panel adopted the following recommendation:

#### **RECOMMENDATION ATRP/12-2**

#### **THE PANEL RECOMMENDS THAT**

- a) ICAO should continue to develop the compendium of competition policies and practices in force nationally or regionally as suggested in WP/6, taking into account suggestions of the panel's participants;

- b) ICAO should continue to utilize ICAN as a forum for the enhancement of cooperation, dialogue and exchange of information on competition, and should develop a dedicated website for the exchange of information on competition as well as courses on competition in international air transport; and
- c) ICAO should update the existing policies and guidance on fair competition as necessary, and consideration should be given to the establishment of a working group on competition matters in international air transport. The proposed composition of the working group and the Terms of Reference would be considered under Agenda Item 4.

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**Agenda Item 2: Examination of new regulatory arrangements**  
**2d) an international agreement to liberalize air carrier ownership and control**

**2.4.1 DOCUMENTATION**

2.4.1.1 In WP/7, pursuant to the recommendation of the Sixth Worldwide Air Transport Conference (ATConf/6), as endorsed by the Council and the 38th Session of the ICAO Assembly, the Secretariat presented proposals relating to the development of an international agreement to liberalize air carrier ownership and control. Taking an approach similar to that on the development of an agreement on market access liberalization, the Secretariat sought the assistance of the panel in providing advice and recommendations on key issues such as the core provisions of the agreement, extent of application, and the handling of the reciprocity principle, with a view to establishing a solid foundation for the development of the draft agreement.

2.4.1.2 Through WP/21, the observer of the International Transport Workers' Federation (ITF) reviewed the major effects of aviation deregulation and liberalization with particular attention to civil aviation transportation workers. Considering that the proposals presented to the panel adequately examined the impact of liberalization on aviation workers, the observer called for a more balanced view of the social, safety and security aspects of liberalization, and for ICAO to work with the International Labour Organization (ILO) to study the effect on labour before moving forward with liberalization of air carrier ownership and control.

2.4.1.3 In WP/22, the panel member from Argentina, in the context of broad liberalization, highlighted the asymmetries among States and their airlines. Considering that existing safeguards are not always effective, he emphasized the need to study the effects of liberalization in order for States to better understand the implications so as to ensure appropriate policy decisions.

2.4.1.4 In IP/1, the Secretariat provided the results of a survey conducted in late 2012 regarding proposals on liberalization of international air transport regulation, as a useful reference for the panel in its consideration of similar proposals under Agenda Item 2d) of the meeting.

2.4.1.5 In IP/4, the observer of the International Federation of Air Line Pilots' Associations (IFALPA) provided the views of IFALPA concerning the development of an international agreement for liberalization of air carrier ownership and control and highlighted a number of concerns including the effects of possible "flag of convenience" opportunities. The need to thoroughly consider and satisfactorily address labour's concerns was also voiced.

**2.4.2 DISCUSSION**

2.4.2.1 Participants voiced strong support for the work of the Secretariat in WP/7, including the analysis of the key issues that must be addressed in order to draft an agreement to liberalize air carrier ownership and control. Many participants expressed a preference that the agreement include an alternative criterion to replace the traditional "nationality clause," although several others indicated that this was a preliminary view and that they were open to the possibility of a "waiver" approach. There was considerable support for basing an alternative criterion on the concept of "principal place of business and

effective regulatory control,” which was recommended by ICAO and implemented by many States. In this connection, some participants voiced a need for refining precisely what these concepts entail.

2.4.2.2 Only a small number of participants expressed views on the “universal” versus “selective” application question, with no apparent consensus. Likewise, comments on the question of reciprocity identified in WP/7 were not extensive.

2.4.2.3 Participants endorsed the creation of a working group to examine the relevant issues and develop the text of the agreement. Many participants supported the suggestion that consideration should be given to combining this working group with the working group established to examine the agreement on market access liberalization in view of the link between the two subject areas. However, it was noted that such a combined Working Group would be required under the Terms of Reference of the panel, to handle the development of two agreements, one on market access liberalization and one on liberalization of air carrier ownership and control.

2.4.2.4 The Secretariat noted the request in WP/21 to develop the analysis within the terms of reference of the panel that may be undertaken as resources permit, and with the assistance of the ILO.

2.4.2.5 The panel noted the information contained in IP/1 and IP/4.

### 2.4.3 CONCLUSION

2.4.3.1 The panel agreed to the establishment of a working group tasked with the development of an international agreement to liberalize air carrier ownership and control. It further agreed that the possibility of combining the two working groups and rationalizing the associated tasks be considered when determining the groups’ Terms of Reference and composition, which the panel would decide under Agenda Item 4: Panel working groups.

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**Agenda Item 2: Examination of new regulatory arrangements**  
**2e) a set of core principles on consumer protection**

### 2.5.1 DOCUMENTATION

2.5.1.1 In WP/8, the Secretariat described ICAO's activities in response to the current fragmentation of regulatory responses taken in the area of consumer protection. As recommended by the Sixth Air Transport Conference (ATConf/6) and as endorsed by the 38th Session of the ICAO Assembly (A38), the Secretariat presented a proposal for a set of high-level, non-binding, non-prescriptive core principles on consumer protection, for use as policy guidance.

2.5.1.2 In WP/11, the observer of the European Union (EU), supported by the members and observers from the EU Member States and other Member States of the European Civil Aviation Conference (ECAC), presented recommendations for the development of the core principles, taking into account the outcome of ATConf/6 and its endorsement by A38, and invited the panel to consider the needs identified in the paper for the development of the core principles.

2.5.1.3 In WP/15, the panel member from Australia presented information on its consumer protection framework based on general, non aviation-specific rules and invited the panel to take into account its experience in considering the development of the core principles.

2.5.1.4 In WP/16, the observer of Singapore presented an alternative set of core principles on consumer protection based on its experience which it invited the panel to consider.

2.5.1.5 WP/13, presented by the observer of the International Air Transport Association (IATA), made suggestions for consideration by the panel in the development of the core principles, drawing from industry work and various submissions made by ICAO Member States during the 38th Session of the ICAO Assembly.

### 2.5.2 DISCUSSION

2.5.2.1 With regard to the mandate and the Terms of Reference of the panel, there was broad support for the draft core principles presented by the Secretariat in WP/8.

2.5.2.2 Diverse contributions were made by panel members and observers for the development of the core principles. There was strong support for the view that consumer education is beneficial, in particular to assist consumers in making informed choices amongst a wide variety of products. Passenger information was considered important, particularly in cases of service disruptions, as was accurate price information. The panel supported the view that advanced planning of mechanisms by relevant stakeholders, for use in situations of massive disruptions, would be beneficial; recognized was the challenge that the development of a global definition for massive disruptions would present. There was support for the application of the principle of proportionality with respect to passenger entitlements.

2.5.2.3 The panel supported the principle of facilitating access to air transport services by passengers with disabilities noting the need to ensure that they receive appropriate assistance and bearing in mind the value of pre-notification. Some participants expressed the need to accommodate different

airline business models. The importance of efficient complaints handling mechanisms was highlighted by several members. The panel supported the inclusion of the core principles on consumer protection into ICAO guidance material on the regulation of international air transport. Several members emphasized the need for flexibility for Member States in the implementation of consumer protection measures.

2.5.2.4 At the suggestion of the Chairperson, a small representative group from among the participants was invited to develop an improved version of the principles, on the basis of the Secretariat proposal, taking into account the suggestions presented. As a result, a revised version of the principles was produced which was accepted by the panel as the recommended core principles.

2.5.2.5 There was broad consensus that it would not be appropriate to consider developing recommended practices on consumer protection in Annex 9 to the Chicago Convention. Hence the panel agreed that the core principles should not be included in Annex 9.

### 2.5.3 RECOMMENDATIONS

2.5.3.1 Based on the discussion, the panel adopted the following recommendation:

#### **RECOMMENDATION ATRP/12-3**

#### **THE PANEL RECOMMENDS THAT**

The text below be presented for consideration by the ICAO governing bodies and Member States as ICAO policy guidance on the core principles on consumer protection, and that it would not be appropriate to develop recommended practices on consumer protection in Annex 9 to the Chicago Convention.

### **ICAO CORE PRINCIPLES ON CONSUMER PROTECTION**

#### **1. Preamble**

1.1 Recognizing that passengers can benefit from a competitive air transport sector, which offers more choice in fare-service trade-offs and which may encourage carriers to improve their offerings, passengers, including those with disabilities, can also benefit from consumer protection regimes.

1.2 Government authorities should have the flexibility to develop consumer protection regimes which strike an appropriate balance between protection of consumers and industry competitiveness and which take into account States' different social, political, and economic characteristics, without prejudice to the security and safety of aviation. National and regional consumer protection regimes should i) reflect the principle of proportionality ii) allow for the consideration of the impact of massive disruptions, iii) be consistent with the international treaty regimes on air carrier liability established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Warsaw, 1929) and its amending instruments, and the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Montréal, 1999).

## 2. **Before the travel**

2.1 Recognizing the variety of air transport products in the market, passengers should have access to information on their rights and clear guidance on which legal or other protections apply in their specific situation, including the assistance expected, for example in case of service disruption. To help air passengers make informed choices among different price and service offerings, consumer education efforts could be considered to increase awareness of passengers consumer rights and the available avenues for recourse should disputes arise. Efforts should also be made to increase awareness by passengers of airline products available in the market, different airline policies and contractual rights.

2.2 Passengers should have clear, transparent access to all pertinent information regarding the characteristics of the air transport product that is being sought, prior to purchasing the ticket, including the following:

- a) total price, including the applicable air fare, taxes, charges, surcharges and fees;
- b) general conditions applying to the fare; and
- c) identity of the airline actually operating the flight, and advice on any change occurring after the purchase as soon as possible.

## 3. **During the travel**

3.1 Passengers should be kept regularly informed throughout their journey on any special circumstances affecting their flight, particularly in the event of a service disruption.

3.2 Passengers should receive due attention in cases of a service disruption, whether they result in the passenger not boarding the flight or in arriving at the destination significantly later than scheduled. This could include rerouting, refund, care and/or compensation where provided by relevant regulations or otherwise.

3.3 Considering that passengers may find themselves in a vulnerable position in situations of massive disruptions, mechanisms should be planned in advance by airlines, airport operators, and all concerned stakeholders, including government authorities to ensure that passengers receive adequate attention and assistance. Massive disruptions could include situations resulting from circumstances outside of the operator's control that are of a magnitude such that they result in multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport. Such circumstances could include, for example, events such as meteorological or natural phenomena of a large scale including hurricanes, volcanic eruptions, earthquakes, floods, political instability or similar events and result in large numbers of passengers being stranded away from their home.

3.4 Persons with disabilities should, without derogating from aviation safety, have access to air transport in a non-discriminatory manner and to appropriate assistance. To this end, they are encouraged to provide pre-notification of their needs.

4. **After the travel**

4.1 Passengers should be able to rely on efficient complaint handling procedures that are clearly communicated to them.

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**Agenda Item 3: Review of other tasks under the ATRP Terms of Reference**

3.1 The panel considered this item on the basis of WP/9, focusing on paragraphs 4 and 5 in which the Secretariat provided an overview of the remaining tasks to be undertaken by the panel under its Terms of Reference, and the follow up work to the Twelfth Meeting of the Air Transport Regulation Panel (ATRP/12). Also provided was the Secretariat's plan on future work to be undertaken following the current meeting, which was tabled in Appendix A of WP/9, with an indication of the corresponding timeframe for each task.

3.2 In reviewing the future work, a suggestion was made regarding the task of "updating ICAO's policy and guidance material on the regulation of international air transport", notably *Policy and Guidance Material on the Economic Regulation of International Air Transport* (Doc 9587) and *Manual on the Regulation of International Air Transport* (Doc 9626)), that the work on Doc 9626 be advanced from the second quarter of 2015 timeframe to that established for Doc 9587. Clarification was provided by the Secretariat that this task would be initiated in 2014 for completion by second half of 2015. The panel accepted a suggestion to delete the word "where necessary" at the end of paragraph 4.1. b) of WP/9 relating to the same task.

3.3 In relation to the task of "assessing the means by which to study the impact of the proliferation of taxes and levies", the observer of the International Air Transport Association (IATA) voiced support for this work. He indicated IATA's willingness to provide support to such a study, citing the example of resources such as various IATA economic analyses which could be of assistance to the Secretariat.

3.4 In concluding its consideration of this item, the panel noted the remaining tasks to be undertaken and endorsed the future work outlined in the plan presented by the Secretariat. The panel also agreed to work closely with the Secretariat and provide support and assistance as requested.

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**Agenda Item 4: Panel working groups**

**4.1 WORKING GROUP ON THE DEVELOPMENT OF INTERNATIONAL AGREEMENTS ON THE LIBERALIZATION OF MARKET ACCESS AND AIR CARRIER OWNERSHIP AND CONTROL**

4.1.1 Based on its discussions and conclusions pertaining to agenda items 2 b), and 2 d), the panel agreed to establish a joint working group on the development of international agreements on the liberalization of market access and air carrier ownership and control with the following membership composition and terms of reference:

<b>MEMBERSHIP</b>		
<b>State Members</b>	<b>State Observers</b>	<b>Observer Organizations</b>
Australia (Rapporteur)	Austria	European Commission (EC)
Brazil	New Zealand	International Air Transport Association (IATA)
Chile	Portugal	International Federation of Air Line Pilots' Associations (IFALPA)
China	Singapore	International Transport Workers' Federation (ITF)
Egypt		
France		
Germany		
Jamaica		
Kenya		
Nigeria		
Switzerland		
United Arab Emirates		
United States		

**TERMS OF REFERENCE**

In accordance with the Terms of Reference established for the panel, and drawing on all relevant material, including documentation from the Sixth Worldwide Air Transport Conference (ATConf/6), Assembly Resolution A38-14, and perspectives and suggestions presented at the Twelfth Meeting of the Air Transport Regulation Panel (ATRP/12), the working group will:

- a) examine and develop an international agreement for States to liberalize market access, including the preparation of texts for the core elements for either a supplemental or a comprehensive agreement, or, in the absence of consensus on the form of the agreement, for both;
- b) develop an international agreement, including preparation of a draft text, to liberalize air carrier ownership and control with a specific focus either on replacing the

“nationality clause” for airline designation in existing air services agreements with an alternative criterion or waiving the clause; and

- c) provide not later than February 2015 an initial report for circulation to panel members with a view to preparing a final report for consideration by the thirteenth meeting of the panel (ATRP/13).

**4.2 WORKING GROUP ON COMPETITION MATTERS IN INTERNATIONAL AIR TRANSPORT**

4.2.1 Based on its discussions pertaining to agenda items 2 c), the panel agreed to establish a working group on competition matters in international air transport with the following membership composition and terms of reference:

<b>MEMBERSHIP</b>	
<b>State Members</b>	<b>Observer Organizations</b>
Brazil	European Commission (EC)
Canada	International Air Transport Association (IATA)
China	International Transport Workers’ Federation (ITF)
Jamaica (Rapporteur)	WorldWide Airport Coordinators Group (WWACG)
Kenya	
Saudia Arabia	
The Netherlands	
United Arab Emirates	
United Kingdom	
United States	

**TERMS OF REFERENCE**

In accordance with the Terms of Reference established for the panel, and drawing on all relevant material, including documentation from the Sixth Worldwide Air Transport Conference (ATConf/6), Assembly Resolution A38-14, and perspectives and suggestions presented at the Twelfth Meeting of the Air Transport Regulation Panel (ATRP/12), the working group will:

- a) review the compendium of current national and/or regional competition policies and practices for international air transport and advise the Secretariat on areas where further development would be useful;
- b) suggest to the Secretariat mechanisms to:
  - i. encourage States to explore the adoption of fair competition policies and practices; and
  - ii. facilitate an exchange of information about such policies and practices;



- c) advise the Secretariat on recommended updates to ICAO policies and guidance in this area;
- d) advise the Secretariat on the proposed structure for updates on policy guidance material on competition matters, taking into consideration Appendix C to ATRP/12-WP/6; and
- e) provide not later than February 2015 an initial report for circulation to panel members with a view to preparing a final report for consideration by the thirteenth meeting of the panel (ATRP/13).

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**Agenda Item 5: Any other business**

5.1 The panel considered this item on the basis of WP/10 in which the Secretariat presented information on the work of the Organization in the areas of statistics and aviation data, particularly with respect to the implementation of relevant recommendations of the Sixth Worldwide Air Transport Conference (ATConf/6) endorsed by the Council. The Secretariat sought the views or recommendations of the Air Transport Regulation Panel (ATRP) concerning the work under the statistics and aviation data program endorsed by the recent Aviation Data and Analysis Panel (ADAP) that may support the work of ATRP when undertaking the tasks in its new Terms of Reference.

5.2 During the discussion, the Secretariat provided clarification on the tasks listed in WP/10 concerning the follow-up work in terms of aviation data and analysis. It was pointed out that accurate quantitative and qualitative analysis of air transport development, including economic analysis and indicators, are important as they help measure the benefit to States and the industry of any air transport regulation. Such work could also support or assist State implementation of ICAO policies and guidance related to air transport.

5.3 The panel noted the information provided by the Secretariat and agreed that ICAO should continue its work in the areas of aviation statistics and data, and ensure appropriate coordination between ATRP and ADAP in ATConf/6 follow-up work.

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**LIST OF ATRP/12 PARTICIPANTS**

<b>Panel members</b>	<b>Alternate/Advisers</b>	<b>Nominated By:</b>
Horacio Knobel	Agustin Rodriguez Grellet Norberto E. Luongo	Argentina
Stephen Borthwick	Gilon Smith	Australia
Ricardo Bisinotto Catanant	Roque Felizardo da Silva Neto Rogerio Teixeira Coimbra Jose Barreto de Andrade Neto	Brazil
Marc Rioux	Marcelo Garcia	Canada
Jaime Binder Rosas	Alvaro Lisboa Guillermo Novoa	Chile
Ding Chunyu*	Bai Wenli	China
Samir M. Desoki	Ashraf Ibrahim Khalil	Egypt
François Theoleyre	Olivier Caron Maxime Millefert	France
Ines Brinkmann	B. Langner T. Mildenberger	Germany
Marva Gordon	Michael Hepburn	Jamaica
Beth Ndinda Mwakio	Joan Chesoni Samuel Karanja Mwangi Mercy Awori Margaret Munene Idah Asin	Kenya
Jeroen Mauritz	Petra de Groene	Netherlands

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<b>Panel members</b>	<b>Alternate/Advisers</b>	<b>Nominated By:</b>
Peter Omoarebun Alawani	Oyetoun Foluwake Adegbesan	Nigeria
Pawel Zagrajek		Poland
Sergey Seskutov	Valery Pastukhov	Russian Federation
Essam Jamil Nadrah	Ahmed A. Bahri	Saudi Arabia
Vuwani Elon Ndwamato		South Africa
Philippe Clapasson	Laurence Fontana Jungo Ronald Abegglen	Switzerland
Habib Mekki		Tunisia
Khalid Humaid Hassan Abdullah Al Ali	Saood Abdulaziz A. Kankazar Ahmed Al Khamis Ismail Hassan Soleman Haleema Al Hosani Fathi Atti Saood Abdulaziz A. Kankazar David Broz Mariam Mubarak Bu Thani Mubarak Al Nakhi Rathnaweera Banara Nawinne Rashed Al Kaabi	United Arab Emirates
Mark Bosly		United Kingdom
Esta Rosenberg	Ronald Paul Abel Russell Bailey Keith Glatz	United States
Marcos Vicchionacci	Romelys Rivero	Venezuela

\* *Temporary replacement*

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**Observers from States**

<b>Observers</b>	<b>Nominated by:</b>
Christine Mucina-Bauer	Austria
César Bejarano	Colombia
Thorkild Saxe	Denmark
Primandini Ajeng Widhartika Mokhammad Khusnu Urip Rahayu Tenten Wardaya	Indonesia
Lim Yonq Heng	Malaysia
Angeline Simana	Namibia
Sonya van de Geer	New Zealand
Heléne Jansson Saxe	Norway
Helena Faleiro	Portugal
Margaret Tan Nicholas Ng Aik Lim	Singapore
Simon Posluk	Sweden
Bahri Kesici Güncihan Türker	Turkey
Jane Kanyunyuzi	Uganda

**Observer organizations****Observers**

Ilia Lioutov

Patricia Reverdy

Maté Gergely

Noura Rouissi

Christopher Ross

Chaitan Jain

Michael Comber

Don Wykoff

Martin Chalk

Julia Lear

Gabriel Mocho Rodriguez

Parat Vegard Einen

Stephen Purvinas

Eric Herbane

Munro Smith

**Nominated by:**

Airports Council International (ACI)

European Civil Aviation Conference (ECAC)

European Union (EU)

International Air Transport Association (IATA)

International Federation of Air Line Pilots' Associations (IFALPA)

International Labour Organisation (ILO)

International Transport Workers' Federation (ITF)

WorldWide Airport Coordinators Group (WWACG)

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**LIST OF WORKING PAPERS AND INFORMATION PAPERS**

<b>WP. No.</b>	<b>TITLE</b>	<b>PRESENTED BY</b>
1	Administrative Arrangements	Secretary
2	Terms of reference, agenda and work programme (content transferred to WP/9)	-
3	Examination of new regulatory arrangements (content transferred to WP/9)	-
4	A long term vision for international air transport liberalization	Secretary
5	Liberalization of market access, the way forward	Secretary
6	Regulatory approaches for fair competition in international air transport	Secretary
7	Liberalization of air carrier ownership and control	Secretary
8	Developing a set of core principles on consumer protection	Secretary
9	Future work of the panel	Secretary
10	ICAO activities in terms of aviation data and analysis under the Strategic Objective economic development of air transport	Secretary
11	Set of high-level, non-binding, non-prescriptive core principles on consumer protection	Observer of European Union
12	ICAO work on fair competition	Observer of European Union
13	Core principles on consumer protection: suggestions for a high-level, non-prescriptive approach	Observer of IATA
14	Liberalisation of market access	Observer of European Union
15	The Australian consumer protection framework	Member from Australia
16	Proposed set of high level, non-binding, non-prescriptive core principles on consumer protection	Observer of Singapore
17	Agreement on a long-term vision for international air transport liberalization	Member from United Arab Emirates
18	Liberalization of market access – the way forward	Member from United Arab Emirates
19	Regulatory approaches to fair competition	Member from United Arab Emirates
20	Draft proposal for a multilateral liberalization agreement	Member from Chile
21	The need for an effective and comprehensive strategy to address the negative consequences of continued liberalization of air carrier ownership and control	Observer of ITF
22	International air transport regulation and safeguards	Member from Argentina
<b>IP. No.</b>	<b>TITLE</b>	<b>PRESENTED BY</b>
1	Results of the 2012 survey on proposals regarding liberalization of international air transport regulation	Secretary
2	Fostering compatible regulatory approaches - views from the European Commission	Observer of European Union
3	Australia's approach to fair competition	Member from Australia

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<b>IP. No.</b>	<b>TITLE</b>	<b>PRESENTED BY</b>
4	Examination of new regulatory arrangements -views from the International Federation of Air Line Pilots' Associations	Observer of IFALPA

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