



International
Civil Aviation
Organization

Organisation
de l'aviation civile
internationale

Organización
de Aviación Civil
Internacional

Международная
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Ref.: EC2/16.8 - 25/10

4 de marzo de 2025

Asunto: Encuesta sobre barreras de acceso a los mercados y a la inversión extranjera en líneas aéreas

Tramitación: Completar la encuesta en línea para el 21 de marzo de 2025

Señora/Señor:

Tengo el honor de hacer referencia al apéndice A, sección I, artículo 13 de la resolución A41-27 de la Asamblea, en que se pide al Consejo que siga trabajando para lograr una mejor comprensión de los beneficios y dificultades de la liberalización y las barreras a la apertura del acceso a los mercados, a fin de considerar más a fondo la formulación de un enfoque multilateral en el momento adecuado.

Asimismo, me refiero también a la resolución A41-27 de la Asamblea, que en el artículo 6 de su apéndice A, sección II, pide al Consejo que trate las cuestiones de interés restantes para permitir el avance hacia la elaboración de un convenio sobre inversión extranjera en las líneas aéreas con el que se busca liberalizar por la vía multilateral la propiedad y el control de los transportistas aéreos, de conformidad con la [Visión de largo plazo de la OACI para la liberalización del transporte aéreo internacional](#).

Con el fin de recibir comentarios de los Estados sobre las diversas iniciativas y tareas que está llevando a cabo la Organización de Aviación Civil Internacional (OACI) a través del Grupo Experto en Reglamentación del Transporte Aéreo (ATRP) sobre la ejecución de estas resoluciones de la Asamblea, así como de facilitar la labor del Grupo Reducido sobre el Liderazgo de la OACI en el Desarrollo Económico del Transporte Aéreo, se ha publicado una encuesta en línea en la siguiente dirección <https://forms.office.com/r/pL7dhHGW6H>, que estará disponible hasta el 21 de marzo de 2025.

El ATRP es uno de los grupos expertos del Comité de Transporte Aéreo (ATC) del Consejo. El grupo experto asesora al ATC sobre las cuestiones de reglamentación económica que se le asignan, mientras que el Grupo Reducido sobre el Liderazgo de la OACI en el Desarrollo Económico del Transporte Aéreo fue creado por el Consejo para analizar y evaluar si existen lagunas en el liderazgo de la OACI en la implementación del objetivo estratégico de *Desarrollo económico del transporte aéreo*.

Los resultados de la encuesta permitirán al ATRP comprender mejor las opiniones de los Estados sobre los efectos y los factores que obstaculizan la liberalización del acceso a los mercados, determinar cuál es la legislación vigente en los Estados sobre inversión en líneas aéreas, conocer el “interés” de los Estados en un convenio sobre inversión extranjera en líneas aéreas, evaluar las medidas de “salvaguardia” que podrían exigir los Estados para dar su acuerdo a un convenio tal, y orientar la labor futura del grupo experto sobre el proyecto de convenio sobre inversión extranjera en líneas aéreas. El resultado también ayudaría al Grupo Reducido sobre el Liderazgo de la OACI en el Desarrollo Económico del Transporte Aéreo en el trabajo de análisis y evaluación que está llevando a cabo para determinar si existen lagunas en el liderazgo de la OACI en la implementación del objetivo estratégico de Desarrollo económico del transporte aéreo.

Solicitamos a su administración que cumplimente la encuesta en línea para el 21 de marzo de 2025.

Le ruego acepte el testimonio de mi mayor consideración y aprecio.

for Juan Carlos Salazar
Secretario General

Adjunto: Encuesta sobre barreras de acceso a los
mercados y a la inversión extranjera en líneas
aéreas (*en inglés únicamente*)

ATTACHMENT to State letter EC2/16.8 – 25/xx

SURVEY OF BARRIERS TO MARKET ACCESS AND FOREIGN INVESTMENT IN AIRLINES

In 2015, the Council adopted the ICAO Long-Term Vision for International Air Transport Liberalization. It reads as follows *"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."*

Since then, approaches on a multilateral level have been undertaken, e. g. the development of a draft Convention on Foreign Investment in Airlines and a survey on the liberalization of international air transport by the ICAO Secretariat in 2018/2019. At the Seventeenth Meeting of the Air Transport Regulation Panel (ATRP/17) in April 2024, the topic of a draft Convention on Foreign Investment in Airlines was further discussed. At that meeting it was concluded that the work on the development of a draft convention in its current form was not feasible at this time and that the panel should elaborate the aspects being covered in the ICAO Template Air Services Agreement (TASA). In that context, a further survey should be conducted to identify States' existing domestic laws relating to investment in airlines, and whether there is an appetite for such a Convention and the "safeguard" measures they might require in order to be comfortable with such a Convention (Recommendation ATRP/17-1 refers).

The aviation industry is heavily regulated when it comes to safety and security, States have a common goal with standards and recommended practices set on the Convention on International Civil Aviation (Chicago Convention) Annexes.

With regard to economic issues, the Chicago Convention adopts a relatively light-touch approach which has allowed States to establish the basis for international airline operations via Air Service Agreements (ASAs).

This survey is intended to gather data and information from ICAO's Member States regarding the following:

- i. views on liberalization and the possible effects and impacts of market access liberalization;
- ii. possible factors hindering market access liberalization;
- iii. views on foreign investment in airlines; and
- iv. expected role of ICAO on the liberalization of international air transport.

SECTION 1

VIEWS ON LIBERALIZATION AND THE POSSIBLE EFFECTS AND IMPACTS OF MARKET ACCESS LIBERALIZATION

Typically, ASAs have provisions to deal with five (5) main aspects of liberalization of market access: routes, capacity, traffic rights, prices and airline designation, where each Country sets the appropriate balance to achieve its goals.

To better understand the State's views about how the liberalization would affect its aviation markets, we elected to survey how States see the impact of liberalization of the main provisions on 5 attributes: investment in airlines, consumer welfare, market contestability, connectivity and market distortions.

When responding to this survey, please consider the following definitions:

- Airline Designation: requirements or limitations to the right of one party to designate an airline to provide international air services under the air services agreement.
- Capacity: is the amount(s) of services provided under the agreement, usually measured in the number of flights (frequencies) or seats or tons of cargo offered in a market (city pair, or country-to-country) or on a route during a specific period, such as daily, weekly, seasonally or annually, or a combination of these.
- Connectivity: refers to the extent and efficiency of a State's air transport network in facilitating the movement of passengers and freight between points by air.
- Consumer welfare: conditions for providing services to consumers, such as differentiation of services, prices and quality.
- Investment in airlines: ability of an airline, established in the State responding to the survey, to attract investment, both national and foreign, to expand its activities.
- Market distortions: situations that affect prices or market behavior and hinder or limit competition. For the purpose of questions 1.1 – 1.5, please consider that “positive” means less market distortion whereas “negative” means more market distortion.
- Opportunities for new entrants: how easy is it to enter and compete in the market?
- Prices: means any fare, rate or charge for the carriage of passengers, baggage and/or cargo (excluding mail) in air transportation (including any other mode of transportation in connection therewith) charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge.
- Routes: list of international airports from one party to which designated airlines can provide air transportation, respecting any rules on access to scarce airport infrastructure.
- Traffic rights: rights for airlines to carry passengers, cargo and/or mail for remuneration or hire from, to, within, or over the territory of a Party.

Question 1.1 – What impacts might the further liberalization of **routes** have for your country?

Attribute	Positive	Neutral	Negative	Not applicable/ I don't know
Investment in airlines				
Opportunities for new entrants				
Market distortions				
Connectivity				
Consumer welfare				

COMMENTS: _____

Question 1.2 – How do you see the result of the liberalization of **capacity** in the following attributes for your country?

Attribute	Positive	Neutral	Negative	Not applicable/ I don't know
Investment in airlines				
Opportunities for new entrants				
Market distortions				
Connectivity				
Consumer welfare				

COMMENTS: _____

Question 1.3 – How do you see the result of the liberalization of **traffic rights** in the following attributes for your country?

Attribute	Positive	Neutral	Negative	Not applicable/ I don't know
Investment in airlines				
Opportunities for new entrants				
Market distortions				
Connectivity				
Consumer welfare				

COMMENTS: _____

Question 1.4 – How do you see the result of the liberalization of **prices** in the following attributes for your country?

Attribute	Positive	Neutral	Negative	Not applicable/ I don't know
Investment in airlines				
Opportunities for new entrants				
Market distortions				
Connectivity				
Consumer welfare				

COMMENTS: _____

Question 1.5 – How do you see the result of the liberalization of **airline designation** in the following attributes for your country?

Attribute	Positive	Neutral	Negative	Not applicable/ I don't know
Investment in airlines				
Opportunities for new entrants				
Market distortions				
Connectivity				
Consumer welfare				

COMMENTS:

Question 1.6 – What, to your point of view, are the benefits and drawbacks or risks of market access liberalization?

COMMENTS:

Question 1.7 – How likely would it be that your State will (further) liberalize market access in this decade and what factors could be the most decisive (e. g. economic, (geo-) political and strategic considerations, etc.)?

COMMENTS:

SECTION 2

POSSIBLE FACTORS HINDERING MARKET ACCESS LIBERALIZATION

Question 2.1 – When developing mechanisms for liberalizing market access, what are the risks to be considered? Please specify below and indicate the level of importance of those risks:

Risk for	Not important	Slightly important	Important	Moderately important	Very important
Airline competition					
Consumer welfare					
Sustainability of national carriers					
Environment					
Safety and security considerations					
Labour standards					
Other(s) (please specify)					

COMMENTS: _____

Question 2.2 – Considering the risks identified, what mitigating measures could be included in an agreement to liberalize market access?

COMMENTS:

Question 2.3 – Many States had introduced in their model ASAs clauses dealing with fair competition. Such clauses typically seek to provide fair and equal opportunity to airlines from Contracting Parties to compete in providing international air transportation and establish mechanisms to deal with possible market distortions that could arise from different policies between Parties.

In this sense, how do you see the contribution of **Fair Competition** clauses in the liberalization of the following provisions?

Provisions	Positive	Neutral	Negative	Not applicable/ I don't know

Routes				
Capacity				
Traffic rights				
Prices				
Airline designation				

COMMENTS: _____

Question 2.4 – Please weigh the significance of the following possible hindering factors for market access liberalization in your State (from 1 to 5, with 5 being very significant):

- () Economic Factors, including but not limited to impacts on national air transport industry, commercial viability of local airlines and wider economy at large.
- () Employment issues.
- () Socio-Political factors – factors that could affect your State's decision-making process regarding air transport market access liberalization, including national security and sovereignty issues as well as social acceptance.
- () Stakeholder influence – possible reactions from stakeholders that could pre-empt air transport liberalization.
- () Regulatory barriers – specific aviation regulations or State economic regulations that have been introduced for other reasons, that could prevent liberalization of air transport market access.
- () Infrastructure readiness – capacity of the existing infrastructure in your State do handle increased air traffic that might result from market access liberalization.
- () Fair competition – concerns about how to ensure a level playing field on a liberalized air transport market.
- () Other (please specify):

SECTION 3

VIEWS ON FOREIGN INVESTMENT IN AIRLINES

The ownership and control of airline is often a key factor in determining whether it can be designated to access traffic rights associated with an ASA.

Within the objective of this survey to test the appetite of States for a multilateral convention, the following questions will explore States' practice on ASAs.

Question 3.1 – With how many States does your State have ASAs or other equivalent arrangements? _____

Question 3.2 – How many of these do you estimate are open skies? (for the purpose of this survey consider an open sky agreement an ASA without route and capacity restrictions, and up to 5th freedom rights)? _____

Question 3.3 – How many ASAs without requirements for “substantial” or “majority” ownership and/or control of nationals from the designating Party do you estimate that your State has? _____

Question 3.4 – If your State has ASAs without requirements of “substantial” or “majority” ownership and/or control of nationals from the designating Party, what is the rationale for the liberalization of such requirements? _____

Question 3.5 – Would you consider the link between traffic rights and ownership and/or control requirements as an obstacle to (further) liberalize in your State?

- a. Yes
- b. No)

Question 3.6 – With how many States does your State estimate to have ASAs and/or other instruments with 7th freedom for cargo-only? _____

Question 3.7 – Does your State have different approaches/policies to Global/Regional negotiations?

- a. Yes
- b. No

Question 3.8 – Considering the Latin American Civil Aviation Commission's (LACAC) recent experience during the COVID-19 pandemic, where States signed a multilateral Memorandum of Understandings liberalizing 7th freedom rights for all-cargo services for a limited time, would your

State consider entering into a time-limited ASA and/or arrangement lifting all or some of the mentioned restrictions on market access?

- a. Yes
- b. No

ADDITIONAL COMMENTS ON QUESTIONS 3.1 TO 3.8:

Sub-section 1 – Questions pertaining to foreign investment in national airlines

Question 3.9 – Aside from any provisions in your ASAs, does your State have any laws/regulations/policies regarding ownership and/or control of air carriers of your State?

- a. Yes
- b. No

Question 3.10 – If your State has current laws/regulations/policies regarding ownership and/or control of air carriers of your State, which do they regulate?

- a. Both ownership and control
- b. Ownership only
- c. Control only
- d. Not applicable

Question 3.11 – What is the purpose of your State's laws/regulations/policies regarding ownership and/or control of air carriers of your State? Check all that apply.

- a. Ensuring sustainability of national carriers
- b. National security
- c. Impacts on labour
- d. Preventing market distortion
- e. Other (please explain):

Question 3.12 a) – Under the laws/regulations/policies of your State, what percentage (%) of an airline of your State must be owned by nationals of your State and/or by nationals of a State(s) with which an agreement has been entered into this regard? Indicate NA if not applicable. _____

Question 3.12 b) – Under the laws/regulations/policies of your State, what percentage (%) of an airline of your State must be controlled by nationals of your State and/or by nationals of a State(s) with which an agreement has been entered into this regard? Indicate NA if not applicable. _____

Question 3.12 c) – Under the laws/regulations/policies of your State, what percentage (%) of an airline of your State must be owned and/or controlled by nationals of your State and/or by nationals of a State(s) with which an agreement has been entered into this regard? Other (please specify). _____

Question 3.13 – Beyond ownership and control requirements, are there other laws/regulations/policies that could prevent foreign investment in airlines in your State?

Question 3.14 – Is there any other obstacle to (further) liberalize foreign investment in airlines in your State?

Sub-section 2 – Questions pertaining to foreign investment in foreign airlines

Question 3.15 – Does your State have any laws/regulations/policies that mandate you to put specific provisions in ASAs regarding ownership and/or control of foreign air carriers operating to/from your State?

- a. Yes
- b. No

Question 3.16 – If you have answered “yes” to question 3.15 (if your State has any laws/regulations/policies that mandate you to put specific provisions in ASAs regarding ownership and/or control of foreign air carriers operating to/from your State), which do they address?

- a. Both ownership and control
- b. Ownership only
- c. Control only
- d. Not applicable

Question 3.17 – What is the purpose of any laws/regulations/policies in your State regarding ownership and/or control of foreign air carriers operating to/from your State? Check all that apply.

- a. Ensuring sustainability of national carriers

- b. National security
- c. Impacts on labour
- d. Preventing market distortion
- e. Other (please explain)

Question 3.18 a) – Under any laws/regulations/policies of your State, what percentage (%) of a foreign airline operating to/from your State must be owned by nationals of the foreign airline's State? Indicate NA if not applicable. _____

Question 3.18 b) – Under any laws/regulations/policies of your State, what percentage (%) of a foreign airline operating to/from your State must be controlled by nationals of the foreign airline's State? Indicate NA if not applicable. _____

Question 3.18 c) – Under any laws/regulations/policies of your State, what percentage (%) of a foreign airline operating to/from your State must be owned, controlled or owned and controlled by nationals of the foreign airline's State? Other (please specify): _____

Question 3.19 – Do your policies/regulations provide for any type of discretion or flexibility in applying such standards to foreign airlines?

- a. Yes
- b. No
- c. Not applicable

ICAO's Assembly Resolution A41-27 requested the Council to address the remaining issues of concern to make progress towards a Convention on Foreign Investment in Airlines, which aims to liberalize air carrier ownership and control on a multilateral basis in line with the *ICAO Long-term Vision for International Air Transport Liberalization*.

Question 3.20 – In order to identify the appetite from States, when/if ICAO finalizes a Convention on Investment in Airlines, how likely would your State sign it?

Likely	Neutral	Unlikely	Difficult to speculate

Question 3.21 – If your State signs the Convention on Foreign Investment in Airlines, how likely would it ratify it?

Likely	Neutral	Unlikely	Difficult to speculate

Question 3.22 – If your State has limits on foreign investment in airlines, how likely would it review those limits when/if ICAO finalizes a Convention on Foreign Investment in Airlines?

Likely	Neutral	Unlikely	My State does not have such limitations	Difficult to speculate

Question 3.23 a) – If ICAO were to develop a Convention on Foreign Investment in Airlines, which approach should the Convention take? Should the Convention be drafted narrowly to waive ownership and control provisions in the relevant international air transportation agreements, or would it need to address other regulatory issues as well?

Question 3.23 b) - If ICAO were to develop a Convention on Foreign Investment in Airlines, and if it would need to address other regulatory issues (as referred to in question 3.23 a)), what provisions would be required for your State to be comfortable signing it?

ADDITIONAL COMMENTS ON QUESTIONS 3.20 TO 3.23: _____

SECTION 4

EXPECTED ROLE OF ICAO ON THE LIBERALIZATION OF INTERNATIONAL AIR TRANSPORT

Question 4.1 – What should be ICAO's priorities for promoting air transport liberalization? Please indicate the order of priority from 1 (highest) to 5 (lowest).

- () Capacity building.
- () Continue developing guidance material in the field of air transport.
- () Strengthen provisions on ICAO TASA to support States in their liberalization process.
- () Develop multilateral instruments liberalizing air transport (Conventions, Multilateral Agreements, MoUs, etc.).
- () Other (please specify):

Question 4.2 – In promoting market liberalization, what would be the main contribution that ICAO (including the ICAO Regional Offices) and other Regional Organizations (ACAC, AFCAC, ECAC and LACAC) could offer to States?

Question 4.3 – Are there specific areas under the Strategic Objective of Economic Development of Air Transport, where your State requires more of ICAO's support?

- a. Yes
- b. No

If yes, kindly list them in order of priority:

- i. _____
- ii. _____
- iii. _____
- iv. _____

— END —