

# BUILDING A COMMON AVIATION AREA IN SOUTH AMERICA

This paper briefly discusses the conception of gradually establishing a *Common Aviation Area in South America (CASA)* based on a multilateral open skies approach, such as a much revised and modernized version of the Fortaleza Agreement. For this, not only analyzing the current aspects of the international air transport policy in South America, this paper will present some implications regarding the “cultural” aspects within the region, which in turn has continuously lead to a state of division, rather than a state of unity. In view of this, air transportation may play an important role in uniting politically and economically the South American continent.

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## 1 Introduction

Throughout today’s dynamic, multi-segmented and plurinational economy it is hard to imagine any kind of business without a direct or indirect dependence in the air transportation industry. Critical examples are supply/logistics and the tourism industries. Indeed, the dimensions of job creation, generation of taxes and multiple product availability of both industries are some of the main characteristics of a modern and steady economy. Moreover, the society itself, with all its infinite individual and collective needs and desires, would be directly benefited by the modernization and liberalization of the current international regulatory environment. In view of this, several nations are considering an integrated development of their air transportation markets while discussing minimizing their regulatory differences. The events occurred in Sept. 11 should encourage unity, and not stimulate differences. In this regard, we consider essential that governments

should be fostering true integrating and collaborative sets of policies within the air transport industry.

In the continent of the Americas, some tentative liberal agreements have already been signed. An example of this are the bilateral open skies agreements in place between the United States and several Latin American countries like Chile, Costa Rica and Peru. But basing an international integration policy on still-limited bilateral agreements may not lead to the envisioned broad integration involving multiple political, economic and cultural issues. Instead, this may be much more achieved by several multilateral agreements. In this regard, the Mercosur countries have already taken a tentative step: the Fortaleza Agreement, signed in 1996 in the Brazilian city that gave its name, is a true multilateral involving Brazil, Argentina, Uruguay, and Paraguay, with Chile and Bolivia as signing partners. Unfortunately, the existence of a great dose of protectionism from the signatories have



made this international effort null in effect to the much needed liberalization and envisioned integration.

## 2 Pursuing Changes in International Air Transport Regulation

Since the mid-70s, unimaginable events and achievements for the delegates attending the Chicago Convention have taken place: the infinite variety of technological tools and some remarkable management strategies that were and are continuously being put in place, mainly by airlines, all over the world has levered the air transportation industry into a totally different business. This, combined with the globalization of the production of goods and services, the booming of the tourism industry, the new scenarios being uncovered by today’s modern, dynamic, technology-influenced economy, the free-trade conceptions, the formation of economic-integrated plurinational blocs, plus the consolidation of the customer as the most important player in almost all economic activities, can be listed as the major factors pushing for a great revision of international air transport regulations.

### 2.1 Bilateralism

The bilaterals have been used as excellent instruments for protectionism; in general, they impose limits and conditions on how the designated actors of the air transport market will perform their roles between the signing countries.

Unfortunately, bilateralism in aviation is still heavily claimed as the most reasonable option for some South American (SA) countries because its protectionism is very often justified by

the “national defence” or the “sovereignty” arguments. Needless to say, the culture of protectionism is still very deeply ingrained in several air transport authorities in South America. Complementing, arguing totally in favour of the protectionist strategies are the home/flag carriers of the region’s States. Indeed, both government air transport officials and airlines work in tight partnership when claiming the “dangers of predatory competition” or “the danger we will lose our sovereignty” or the much more popular “in the interest of national defence” (in fact, this latter argument is very often used even by the U.S.).

## 2.2 Including Tourism, Businesses and Trade Opportunities in ASAs

When discussing air service agreements (ASAs), one could point out that there are vital almost-only-political issues at stake. This was very true during the 40s and during the Cold War Era. But nowadays, are modern and vital “nation-wide issues” being discussed in detail and then weighted during bilateral or even multilateral negotiations? Interviews and questionnaire surveys, conducted by one of the authors in 1998 and 2000 with several SA officials dealing directly with the countries’ aviation policies and with ASAs (Espirito Santo Jr., 2000), showed that true modern “nation-wide interests” were not really a primary issue. On the contrary, primary issues were the nation’s airline(s) problems, and, of course, those carefully chosen arguments of “national defence” and “sovereignty”. The officials interviewed stated that the bilateral ASAs negotiations were heavily, if not totally, dominated by discussions involving individual airline-affecting factors such as origin/destination cities, capacity, reciprocity and, of course, issues dealing with the fares that would be put in place. The great majority of the respondents acknowledged that tourism industry representatives, designated-cities or chamber of commerce officials or government officials specialized in international trade/commerce were often underrepresented in the countries’ delegations discussing ASAs. But, on the contrary, all of the interviewed positively confirmed that in all delegations, airline representatives were counted as “official members”. This clearly shows that modern “nation-wide interests” (job

creation, social welfare and economic generation, income distribution, tourism enhancement, trade multipliers, new business opportunities, etc.) still are not a primary factor when discussing ASAs between the countries of the region, while individual airline-related businesses certainly are.

Yet many non-aviation issues directly influence a country’s international tourism industry (such as local currency valuation, visa requirements and concession policies, hotel availability, urban violence, and domestic transportation infrastructure, to name just a few) the ever-growing tourism industry may be one of the most important economic multipliers a country can count on to lessen many of its social problems. Tourism generates jobs and promotes the distribution of income not only as a multiple-service industry, but also both directly and indirectly in the construction, transportation, telecommunication, supply/logistics, farming and agricultural businesses. Besides this, counting totally in its favour, tourism is neither a capital-intensive nor a high-education demanding industry. Therefore, if only tourism would be counted as the sole “nation-wide interest” to be considered, it alone would certainly generate much more jobs and overall economic benefits than all sets of airline-related issues under the protection of the majority of today’s restrictive ASAs.

Complementarily to tourism, the opportunity to enhance business and trade should be seriously considered when discussing ASAs in South America. In the case of trade, dedicated professionals and experts in commerce, monetary, financial and economic affairs from the governments involved in the agreements should be called to assist the air transportation officials in determining what set of issues would have relevant positive impacts for the “nation-wide interests” and what set of issues would not. The Argentinean crisis could be taken as a true example for this approach to be put in effect. Unfortunately, again, nothing has been done concretely.

## 2.3 Multilateralism

In 1996, in the Brazilian northeastern city of Fortaleza, a multilateral agreement was signed between Brazil, Argentina, Uruguay, Paraguay, Chile and Bolivia. Most recently, the Fortaleza Agreement countries have added Peru and conversations are on the way to

extend the treaty to Colombia and Venezuela.

Signed in December 1996, the Fortaleza Agreement has been marked by its complete failure and unsuccessfulness. But how can a multilateral open-skies treaty (yes, it is an open-skies agreement!) be a total failure? Simple: put as many restrictions as possible and do not cancel the bilaterals...

At the time of signing, the treaty members, with the exception of Chile, were all very protectionists regarding international aviation. In order to fulfil the protectionist demands of their major/flag carriers, the countries agreed to establish the Fortaleza multilateral and its liberal essence just on the routes that were not subjected to the bilaterals. Needless to say, all routes that are possible under the Fortaleza Agreement are routes linking cities that simply do not generate economically-viable traffic at all. While some aviation officials claim that customs regulation and airport infrastructure were not modernized to cope with the “advances” of the multilateral open-skies treaty, it should be pointed out that even if these constraints were overcome, there would be still no sufficient revenue traffic to guarantee an economically-sound operation.

The Fortaleza effort was a remarkable example of how South American countries can reach a consensus on very advanced future-oriented terms: in the case, multilateral open-skies. But was also clear evidence that the majority of the countries involved are still very much chained to the old protectionist culture of the past, as they have maintained all the restrictive bilaterals in place. In fact, even the most recent extension of the agreement involving Peru and possibly Colombia and Venezuela is still structured to maintain the bilaterals. Realizing that the Fortaleza Agreement will never take off while the bilaterals are kept in effect, Chile has opted to sign open-skies bilaterally with the U.S. and a multilateral with again the U.S. plus New Zealand, Singapore and Brunei. Central American and Caribbean nations, having a small or no domestic traffic at all, and taking advantage of having been (re)discovered as marvellous tourist destinations by Americans and Europeans, have had much modern views towards modernizing their international

aviation policies than the majority of South American countries.

### 3 A Gradual Implementation for the “Casa”

By favouring a broad multilateral encompassing the entirety of the South American continent (our so-called Common Aviation Area of South America, CASA), the authors also favour a gradual international deregulation for the continent. Following the general concepts announced in Havel (1997) and Fennes (2000), this gradual liberalization would comprise incremental phases extending throughout a decade. Within these gradually-implemented phases, governments, labour unions, customer-representative groups, tourism officials, plus banking and industrial leaders, just to mention a few of the relevant groups that should be then involved in the multilateral talks, would ultimately discuss the development of the CASA into a true open-skies, ultimately with cabotage and foreign ownership and control barriers totally lifted.

Of the two barriers listed, the particular case of foreign ownership and control may be one of the less difficult to overcome. Examples of other industries cited as belonging to the so-called sensitive “national security” group to be closely monitored by the government just like air transportation are: telecommunications, land and maritime transportation, steel plants, mining and oil industries, and power generation and distribution. As almost all of these had already their monopolies broken in the majority of South American governments, airlines may well follow the trend the mid-term period.

Within this future broad multilateral environment, we can imagine a hypothetical scenario where LAN Chile could be teaming up with TAM to establish a new carrier in Argentina. It is relevant to observe that Argentinean labour laws, as all other types of legislation, would be applied over the new airline, whose majority of employees would also very much possibly be Argentinean. We foresee that if the foreign ownership barrier is lifted throughout the region, a great new field of opportunities involving investments, trade, and new management cultures will be ready to be explored by the multiple parties involved, including the ever-contrary labour unions.

On the other hand, cabotage rights within a multilateral agreement are still a very sensitive issue. Probably more than any other aspect to be discussed in a broad multilateral, cabotage is the issue that will drive most of the attention back to the “national defence”, “sovereignty” and likely-based nationalistic arguments. Again it is essential to point out that granting cabotage rights bilaterally or multilaterally are not prohibited by the Chicago Convention text. Indeed, article 7 of the 1994 Convention clearly states that the signatories will not enter any arrangement that would grant cabotage on an exclusive basis. Therefore, bilateral and multilateral agreements may include cabotage rights in reciprocity and still be totally nested within the Chicago framework.

### 4 Conclusions

Lessons from the failure of the Fortaleza Agreement point towards commencing a true integration of the Americas through combined sets of social-economic true “national interests”. These must be directly linked to the new world economy multipliers like tourism, businesses and trade, simultaneously. Simply put, not a single of the three aforementioned “new economy national interests” can survive or prosper without air transportation.

For all of this, the process of implementing the CASA must be firmly grounded on a broad set of supranational policies guided by the essences of harmonisation and convergence between all the nations involved. This would be vital to minimize the risks of possible conflict of interests between any individual countries. It is our opinion that all the governments and parties involved in developing the CASA must comprehend that there is no perfect and no absolutely equal playing field. This is explained by the fact that, as there are hundreds of economic, legislative and cultural differences between the countries in the region, there sure will be differences in markets, supply/demand, management cultures, management efficiency, taxes, operating costs, and several other aspects that will ultimately contribute to differences in seat-mile costs, revenues, profits, etc. In view of this, even after the majority of air transport related regulations are streamlined and unified within the region, major differences will still exist between the carriers, and

that these differences will very much likely be responsible for the growth and/or survival of carriers A, G and K, and the bankruptcy and demise of carriers B, C and Y, for instance.

Moreover, when tourism, trade and businesses (and all of their infinite positive social-economic impacts) are to be put in the first place when discussing the CASA effort, “reciprocity” is one of the arguments that must be put aside. This, plus the application of common competition and antitrust law plus other regulatory aspects (such as safety and security, CRSs, code-sharing, slots, air traffic control, state aid, bankruptcy protection, leasing, safety, security, consumer protection, environmental protection, labour issues, etc.) would have to be deeply founded on the principles of promoting the social-economical integration and cooperation of the nations involved.

Nations as a whole, and not just individual airlines or labour unions or consumer groups, would be responsible for developing, implementing and making the CASA a success in all levels. This is one of the very main reasons why a proposed CASA effort could not be launched as a sole unifying action. The agenda to be put forward by the South American countries comprises economic issues, labour issues, trade issues, social issues, educational issues, and transportation issues.

Note: Prof. Espirito Santo delivered a lecture on the CASA concept in the III Wings of Change: High Level Air Transport Conference for the Americas, in Santiago de Chile, on March 31, 2004. The full speech and the presentation slides can be sent by contacting the author through the email [respicio@momentus.com.br](mailto:respicio@momentus.com.br).

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