



European Commission

Liberalisation and the Changes in International Negotiations

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The EU Experience: Economic Liberalisation of Air Transport...

Liberalisation of Air Transport in the EU

1987:

- **Partial Liberalisation of Pricing**

1993:

- **Full Liberalisation of Pricing**
- **Liberalisation of intra-EU Market Access**

1997:

- **Cabotage**





... in a modern and coherent regulatory framework

Open Markets need coherent regulatory standards:

- **Common requirements for licensing**
- **Strict control of state aid**
- **High safety standards**
- **High security standards**
- **Common rules for slot allocation**
- **High standards on noise emissions**
- **Single European Sky**





The Single Market for air transport is a success story



- High number of new entrants
- Emergence of low-fare airlines
- Higher productivity of airlines
- Consumer-friendly pricing
- More point-to-point intra-EU routes
- High safety standards
- High security standards
- High standards for passenger protection





Liberalisation of air transport is incomplete

Intra-EU air services are completely liberalised but ...

... air services between EU and third countries are still subject to **nationality restrictions in bilateral air services agreements**

In most cases, EU airlines can only operate international flights from their home country.





The ECJ “Open Skies” Judgements of 5 Nov. 2002



The European Court of Justice found that the bilateral air services agreements between eight EU Member States and the USA were **not in conformity with EC law.**

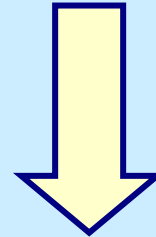
The nationality clauses in all agreements infringe the **right of establishment** (Art. 43 EC Treaty) as they are discriminating on grounds of nationality.

The agreements infringe the **exclusive external competence of the EU.** In areas where EC legislation affects third countries, only the EU can enter into international commitments.



The Wider Impact of the ECJ Judgements

Need to address the legal implications of ECJ judgements in order to avoid legal uncertainty for airlines and guarantee continuity of air services



External Aviation Package
of
EU Transport Council
June 2003



The New Framework for Air Services Negotiations



Regulation 847/2004 on air services negotiations between Member States and third countries

“**Horizontal Mandate**” to negotiate agreements with third countries

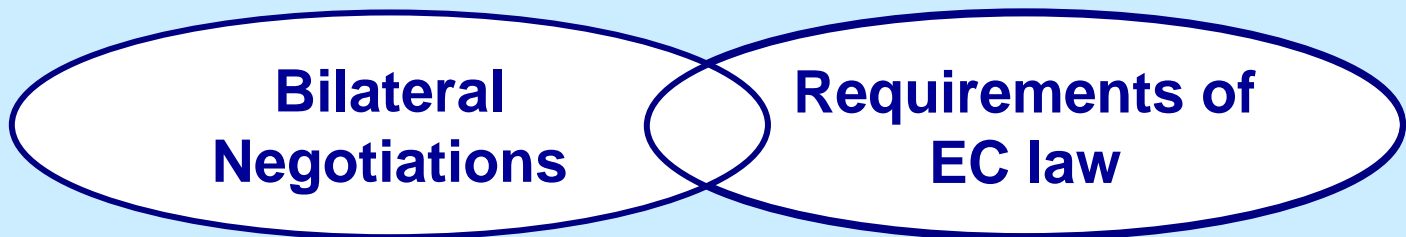
Mandates to negotiate **comprehensive aviation agreements** with third countries (e.g. US)





Regulation 847/2004

- **Bilateral negotiations between EU Member States and third countries**
- **Information of European Commission and other EU Member States**
- **Principle of non-discrimination between EU airlines**
- **EU Member States take into account EC law in bilateral agreements**





Standard Clauses in Bilateral Air Services Agreements

In bilateral negotiations, EU Member States are obliged to include EC standard clauses:

- **Community designation & revocation**
- **Pricing on intra-EU routes**
- **Ground-handling**
- **Fuel taxation (not compulsory)**





The Horizontal Mandate

Horizontal Agreement with third country on EC standard clauses

↳ **Third country acknowledges the existence of Single Market.**

↳ **EU airlines can operate international flights from any Member State where they are established**





Third Countries Start to Acknowledge EU Internal Market

- Horizontal Agreements with 19 countries
- 70 ASAs brought into conformity with EC law in bilateral negotiations
- EU Internal Market recognised already in > 340 bilateral ASAs

↪ **Possibilities for cross-border airline ownership**

↪ **Market opportunities for new entrants**





EU External Aviation Policy

Council Conclusions of June 2005

Three lines of action:

- **Continue bringing existing bilateral agreements into line with Community law through horizontal agreements.**
- **Creation of a common aviation area with neighbouring countries by 2010**
- **Opening of global negotiations with key partners**





EU Aviation Agreements: Ongoing Negotiations



- **Negotiations with the USA**
Building a EU-US Open Aviation Area

- **Neighbouring Countries**
 - European Common Aviation Area
(Bulgaria, Romania, W-Balkan)
 - Morocco



The Approach of an Open Aviation Area

The EU approach in negotiations with the US goes much beyond the “open skies” approach. Open markets need to be accompanied by regulatory co-operation.

Two inseparable objectives:

- **Market Opening**
- **Regulatory Convergence**





The Importance of Regulatory Co-operation in Open Markets

Objective: Establish a level playing field by increasing regulatory co-operation

- **Competition Policy**
- **State Aid**
- **Aviation Security**
- **Environmental Protection**
- **Aviation Safety**





The Approach of a European Common Aviation Area (ECAA)

- ECAA is a pre-accession tool, integrating European neighbouring countries in the European air transport market.





3 Pillars of Community Negotiations – Ex. Morocco

Community aviation agreements follow an innovative approach based on 3 pillars.

Liberalisation
of Market
Access &
Airline Owner-
ship

Regulatory
Convergence

Technical
and Industrial
Co-operation
in Aviation
(e.g. ATM)





Community Negotiations with selected countries would create substantial benefits for EU



- **Main aviation partners:**
China, India, Russia
- **Neighbouring countries:**
Ukraine
- **Countries with market-oriented transport policy and high regulatory standards:**
Australia, Chile, New Zealand





The Benefits of Community Negotiations

- **Combined negotiating power of 25 Member States**
- **Coherent framework for EU industry**
- **Combination of market opening with regulatory co-operation (security, competition rules etc.)**



- **New market opportunities for EU industry**
- **Better choice for consumers**
- **Level playing field with regulatory convergence**





Thank You



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