The Single EU Aviation Market and Its External Dimension

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Presentation Outline

- Introduction
- The Single EU Aviation Market
  - From National Markets to Regional Integration
  - What have we Achieved so far?
  - Integration well Beyond Economic Regulation
  - Time to Consolidate
- The External Dimension of the Internal Market
The Enlarging EU

- 25 Member States
- 450 Million Inhabitants
- One Single Market
The Single EU Aviation Market
The EU Single Market

- 25 Member States
- 450 Million Inhabitants (and consumers)
- One Single Market (in fact wider than EU25)
  - Freedom of establishment & provision of services
  - The “Four Basic Freedoms”: Freedom of movement of goods, services, capital and persons
  - No barriers to trade (technical harmonisation and common standards)
- EU law has primacy over national law
The EU Single Aviation Market

- Unprecedented example of regional integration
  - Based on a comprehensive body of common legislation
  - Regional organisation/integration encouraged by ICAO
- Consequences:
  - Benefits to the EU
  - But also benefits to non-EU countries
    - Same rules applied across the EU
    - Market opening
  - Adaptation of external bilateral relations becomes inevitable
    - A common regulatory regime has unavoidable implications in relation to traditional bilateral relations
    - Confirmed by the European Court of Justice
From National Markets to a Common Market (I)

- **Pre-1987**: protected and fragmented national markets
  - To fly between two major cities: little alternative but to fly with one of the two national “flag carriers” (duopoly);

- Three successive packages of liberalisation measures adopted 1987-1992 have gradually completely transformed this landscape;

- Most extensive example in the world of regional liberalisation, by far. Widely regarded as successful;

- **Post-1992**: Liberalisation and market integration based on three main Regulations (“Third package”):
  - Air carrier licensing (Regulation 2407/92)
  - Market access (Regulation 2408/92)
  - Fares (Regulation 2409/92).
From National Markets to a Single EU Aviation Market (II)

- **Implications of “Third package”:**
  - Non-discriminatory air carrier licensing across Europe (from national to Community carriers with equal rights)
  - Market access: no capacity restrictions – cargo came first
  - Full cabotage since 1 April 1997
  - Free air fare setting
  - Any Community carrier can now operate on any route within the EU – and they do!
  - Comprehensive body of Community legislation in relation to all key aspects of aviation
Liberalisation within a Modern Regulatory Framework

Open Markets need coherent regulatory standards:

- Common requirements for licensing
- Strict competition and state aid rules
- High safety and security standards
- Consumer protection – “Air Passenger Rights”
- Ground handling and slot allocation
- Single European Sky and SESAR
Integration Goes Well Beyond Economic Regulation

- Single European Sky
- EASA taking up increasing responsibilities
- EU-wide black-list of unsafe air carriers
- Airport policy initiatives (expected early 2007)
  - Communication on airport capacity defining the EU’s added value
  - Directive on airport charges
  - Revision of ground handling Directive
  - Revision of slots regulation (2007)
- The possible inclusion of aviation in the EU’s emissions trading system is being discussed
- Security
- Passenger’s rights – consumer protection
What Have We Achieved?

- 25% more airlines than in 1990
- Emergence of low-cost carriers
  - 1% of capacity in 1996. 26% in 2005
- More competition between air carriers
  - Lower fares – price response of traditional carriers to LCC
  - Massive productivity gains
  - More routes with more than two competitors (+300% 1992-2005)
  - Since 1998 more intra-Community traffic than domestic
Now Time To Consolidate

- 10 years after the full entry into force of the “third package” – time to up-date.
- Simplify, clarify and consolidate legislation.
- Ensure homogeneous application of Community legislation, especially with regard to the monitoring of the operating licence.
- Ensure consistency between the internal aviation market and its external dimension.
- Proposal presented in July 2006.
Simplification of Existing Legislation

“Three in one”

Regulation 2407/92 on operating licences

Regulation 2408/92 on market access

Regulation 2409/92 on air fares

One single Regulation for the internal aviation market
The External Dimension of the Single EU Aviation Market
The External Dimension of the Single EU Aviation Market

- Regulation has external consequences
- Confirmed by the European Court of Justice:
  - Freedom of establishment
  - Community exclusive competences (e.g. airport slots, CRS, intra-Community fares and rates)
  - The ”acquis” has expanded
  - Evolutionary process
  - Regulation 847/2004 lays down framework for negotiations with third countries.
June 2003 Council agreement on:
- US negotiating mandate to the EC
- “Horizontal” mandate to the EC
- Regulation on the negotiation and implementation of air service agreements between EC Member States and third countries (formally adopted as Regulation 847 in April 2004)

June 2005 Council agreement on:
- Road-map on external aviation policy
Three Key Pillars of EU External Aviation Policy

I. Bringing existing bilateral agreements into line with Community law

II. The creation of a “common aviation area” with neighbouring countries

III. Conclusion of ambitious global agreements with key partners (US, China, Russia, India, Australia, New Zealand, Chile).
Pillar I: Correcting the Legal Problems

The Council authorised the European Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a “Horizontal” Community agreement.

Replace nationality restrictions in designation articles with a **Community designation clause**.

Ensure that provisions on safety, pricing on fifth freedom intra-EC flights, aviation fuel taxation and competition are in conformity with EC law.
Progress on the Legal Issue

- 63 non-EU states have accepted Community designation
- 426 Bilateral ASAs have been brought into conformity with Community law
- 23 Horizontal Agreements covering 342 Bilateral ASAs (since September 2004)
- Negotiations/talks on-going with many countries
Pillar II: Common Aviation Area by 2010

- Southern and Eastern neighbouring countries
  - Morocco (Euro-Mediterranean agreement)
    - EU-Morocco Agreement expected to be signed end-September 2006
  - Pre-accession context: Bulgaria, Romania, Western Balkans (ECAA)
    - ECAA Agreement signed in June 2006
  - Next: Ukraine, Jordan and Lebanon
  - Particular case of Russia (Siberian overflight)
- Why a common aviation area?
  - Economic and aviation policy reasons
Pillar III: Comprehensive Mandates

- EU-US Agreement
- Further requested mandates:
  - China
  - India
  - Australia
  - New Zealand
  - Chile
Key Principles

- Principles of the road-map on external aviation policy agreed by June 2005 Transport Council:
  - Added-value (case-by-case)
  - Market access
  - Regulatory convergence ✅ Mutual recognition
  - ≠ “Open skies” (“Common skies”)
  - Level playing field for air carriers
  - Technical co-operation

Inseparable
Objective of the Council’s mandate of 5 June 2003: To create an open market for aviation between and within the EU and the US
- Remove all market access restrictions
- Open foreign investment on a reciprocal basis
- Ensure effective competition
- Guarantee high standards of safety, security, environmental protection and passenger protection
- Bring bilateral agreements into conformity with EC law
Draft EU-US Air Transport Agreement – The Process

- Negotiations launched in June 2003
- 8 rounds of negotiations since June 2003
- On 18 November 2005 the text of a draft agreement was finalised
- Comprehensive first-stage agreement
- Commitment by both sides to begin negotiations on a second stage within a defined time-table
- Subject to approval by Council
State of Play and Next Steps

- Ownership and Control not covered in the draft Agreement
- US DOT NPRM and SNPRM Processes
- No final US rule before October 2006 Transport Council
- Final rule will be examined
- A successful conclusion of the negotiations with the US will be dependent on a clear, meaningful and robust rule on actual control of US carriers by foreign investors.
Possible Wider Implications

- Combined share of the US and EU markets close to 60% of world air traffic
- Major new opportunities and economic benefits of an open aviation area
- Would provide more freedom to the airline industry
- More than “open skies”: regulatory convergence component important
- The EU wishes to deepen aviation relations and create “common skies” with other key partners
EU-India Aviation Summit
22-24 November 2006, Delhi
(www.euindiaaviationsummit.com)

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Conclusions

- Successful EU-wide market integration
  - EU regional integration an example of what ICAO is calling for
  - Market access restrictions being lifted
  - Based on more stringent rules
- The EU’s emerging external aviation policy is a logical consequence of the internal market
- The EU invites other states for co-operation and gradual alignment through regulatory convergence
- Regulatory convergence is being supported by the EU by technical co-operation and assistance
Thank You For Your Attention!
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