



# EU/US First-Stage Air Transport Agreement





# The US Mandate: Towards an Open Aviation Area



- 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
  - Staged approach with mechanism to ensure progression to second-stage





# Economic Benefits of the EU-US Air Transport Agreement



**Over the first 5 years:**

- **More than 25 million additional passengers between EU and US**
- **Up to 12 billion EUR consumer benefits**
- **Creation of 80,000 new jobs on both sides of the Atlantic**





# First-stage EU-US Air Transport Agreement



## MARKET ACCESS

- US accepts **Community air carrier** concept
- **Unlimited 3<sup>rd</sup>/4<sup>th</sup> and 5<sup>th</sup> freedom rights**
- **7<sup>th</sup> freedom rights:** Unlimited **all-cargo** rights for EU airlines, but no additional rights for US airlines; limited **passenger** rights for EU airlines, no rights for US airlines
- **Free pricing**, except US carriers cannot price-lead on intra-EU routes
- **Unlimited code sharing**
- **Franchising and branding** opportunities
- New opportunities for EU airlines to provide aircraft with crew (**wet-lease**) to US airlines on international routes
- Access for EU airlines to certain **Fly America** traffic
- EU airlines qualify for **antitrust immunity**





# First-stage EU-US Air Transport Agreement



## OWNERSHIP AND CONTROL

- **US airlines**: Guarantees concerning permissible percentage ownership by EU nationals, including possibility to exceed 50% of total equity
- Guarantee of **fair and expeditious consideration** of transactions involving EU investment in US airlines
- **EU airlines**: Right to limit US investments in EU airlines reciprocally to 25% voting equity
- Acceptance by US of any EU airline owned or controlled by EU or ECAA citizens
- **3<sup>rd</sup> country airlines**: Unilateral acceptance by US of EU ownership + control of any airline in the EEA, ECAA, and 18 African countries
- **Joint Committee** role in matters concerning ownership and control





# First-stage EU-US Air Transport Agreement



## REGULATORY CO-OPERATION

- **Security**
- **Safety**
- **Competition**
- **Government subsidies**
- **Environment**





# Security

- Commitment to work towards compatible practices and minimizing regulatory divergence
- US will take account of security measures already applied in EU when adopting security measures for entry into US territory
- Information in case of emergency measures
- Cooperation in assessing whether particular security measures of one Party meet the requirements of the other Party
- Development of « one stop security » in case of equivalent US measures, i.e. possibility to exempt from re-screening transfer passengers, transfer baggage and/or transfer cargo in the EU





# Safety

- Improved consultation and cooperation in the event of safety concerns
- Recognition of the development of safety responsibilities in the EU





# Competition

- Commitment to cooperate in the application of competition regimes to agreements which have an impact on the transatlantic market
- Commitment to promote compatible regulatory approaches to agreements
- Cooperation shall be implemented by the Department of Transportation in the US and DG COMP of the European Commission





# Government Subsidies

- Recognition that government subsidies and support may affect fair and equal opportunity of airlines to compete
- Parties may raise concerns about subsidies or government support that would affect competition in Joint Committee
- Indication of possible issues covered, e.g. capital injections, cross-subsidisation, grants, guarantees, ownership, relief or tax exemption
- Joint Committee to maintain inventory of issues raised





# Environment

- Recognition of possibility to introduce fuel taxation on intra-EU flights
- Recognition of the importance of protecting the environment in the development of international aviation policy
- Enhance technical cooperation to reduce air transport emissions and fuel efficiency





# Institutional provisions



- **Joint Committee**
- **Arbitration Procedures**
- **2<sup>nd</sup> Stage Negotiations**





# Joint Committee / Arbitration

- **Joint Committee resolves questions relating to the interpretation and application of the Agreement**
- **Disputes can be referred to arbitration tribunal if they can not be resolved in Joint Committee**
- **Joint Committee reviews the implementation of the Agreement**
- **Joint Committee facilitates cooperation in different fields of air transport policy**
- **Joint Committee meetings at least once a year**
- **Preliminary meeting 60 days after signature**





# Second Stage Negotiations

- **Commitment to open second-stage negotiations within 60 days of provisional application**
- **Priority items for second-stage:**
  - **Facilitating foreign investment**
  - **Further liberalisation**
  - **Environmental and infrastructure constraints**
  - **Further access to Fly America**
  - **Wet-leasing**





# Timescale for Second Stage Negotiations

- **Mechanism to ensure progress to second-stage agreement within defined timescale**
  - **Negotiations start 60 days after provisional application (May 2008)**
  - **Review after 18 months (end of 2009)**
  - **If no progress within 12 months (end of 2010), suspension of certain rights**
  - **EU-internal decision on internal mechanism for suspension of rights**





## Next Steps



- **Transport Council approved the agreement on 22 March 2007**
- **Signature at EU-US Summit 30 April 2007**
- **Agreement will be applied provisionally from Summer season 2008 (commencing 30 March 2008)**

