

## **EU-US "Open Skies": The EU and the US start talks on air services agreement to reshape global aviation**

*The European union and the United States kicked off today in Ljubljana talks on a second stage agreement which promises a new perspective on how aviation is structured in the future, potentially removing restrictions on the foreign ownership of airlines, exchanging access to domestic markets and introducing a more consensual approach to the regulation of the industry. The talks will build on the recent successful launch on 30 March 2008 of the "first stage" EU-US Air Transport Agreement. This earlier agreement has already opened up services between the EU and the United States, removing all caps on routes, prices, or the number of weekly flights between the two markets. The "second stage" of negotiations could lead to the removal of limits on services operated by carriers or investors within the other's market. The removal of such limits would normalise transatlantic aviation, bringing it into line with the changes that we have already seen in other sectors of the economy.*

The European side has long made clear its objective for the second stage negotiations: the completion of an Open Aviation Area encompassing the EU and the US. This would include the reciprocal removal of limits on the ownership of airlines by investors from the European Union and the United States. In addition, it would allow companies based on either side of the Atlantic to carry passengers on domestic air services in the territory of the other party.

For example, a European airline would be able to carry passengers from New York onto Los Angeles and an American-owned carrier would be able to sell London to Manchester tickets. Such freedoms to operate domestic services are currently only open to American and European carriers on their side of the Atlantic. A successful outcome to these negotiations would give equal opportunities to compete to carriers and investors from both sides. This would be a radical new approach for international aviation, further breaking down the long-held convention that assumes domestic markets should be reserved for carriers owned by that country.

An EU-US second stage agreement would encompass markets that combined total more than 1 billion airline passengers a year and more than 50 per cent of global aviation traffic. It would also further facilitate trade by encouraging cross-border investment. The European Union and the United States represent each other's largest trading partners and more than euros 1.7 billion of trade takes place every day.

Closer economic ties will necessitate closer cooperation on a regulatory framework. The first stage agreement already includes a commitment to cooperate more closely in a number of areas to tackle together the challenges faced by aviation. However, Europe is looking to go further to encourage closer joint working and, where possible, the mutual recognition of standards in areas such as safety, security, the environment and air traffic management.

Further background information:

1. Article 21 of the first stage agreement sets out the key priorities for the second stage:
  - (a) further liberalisation of traffic rights;
  - (b) additional foreign investment opportunities;

(c) effect of environmental measures and infrastructure constraints on the exercise of traffic rights;

(d) further access to Government-financed air transportation; and

(e) provision of aircraft with crew."

(Article 21(2))

2. The first stage EU-US Air Transport Agreement, signed on 30 April 2007, has been applied since 30 March 2008, the start of the 2008 summer traffic season.

Key commercial elements in the first stage agreement include:

- The **recognition of all European airlines** as "Community air carriers" by the US, allowing for the consolidation of the EU aviation sector and the compliance with the November 2002 Court cases in the so-called 'Open skies judgments'.

- The **possibility for any "Community air carrier" to fly between any point in the EU to any point in the US**, without any restrictions on pricing or capacity. This freedom did not exist before 30 March.

- The possibility to continue **flights beyond the United States towards third countries** ('5th Freedom').

- The possibility to operate **all-cargo flights between the United States and any third country**, without a requirement that the service starts or ends in the EU ('7th Freedom').

- So-called '**7th Freedom rights**' for passenger flights between the US and a number of non-EU European countries, i.e. direct flights between the US and Croatia or Norway.

- A number of access rights to the **US 'Fly America'** programme for the transport of passengers and cargo financed by the US Federal Government.

- More freedom to enter into **commercial arrangements** with other airlines (code-sharing, wet-leasing etc.).

- Rights in the area of **franchising and branding** of air services to enhance legal certainty in the commercial relations in between airlines.

- Possibility of **antitrust immunity** for the development of airline alliances.

- Rights for EU investors in the area of **ownership, investment and control** of US airlines; Rights in the area of inward foreign investment in EU airlines by non-EU European investors; Rights in the area of ownership, investment and control by EU investors of airlines in Africa and non-EU European countries.

Key regulatory elements in the first stage agreement include:

- Unprecedented mechanisms for regulatory convergence, notably in competition, state aid and security. The objective is to minimize incompatibilities between the rules and policy approaches on either side of the Atlantic.

- The provisions on security are key to developing a 'one-stop security' approach. The regulatory cooperation includes also provisions on EU-US technical cooperation in relation to climate change, on consumer protection and on the development of joint EU-US approaches in international organisations.

More information available at:

[http://ec.europa.eu/transport/air\\_portal/international/pillars/global\\_partners/us\\_en.htm](http://ec.europa.eu/transport/air_portal/international/pillars/global_partners/us_en.htm)

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