

Brussels, 21 June 2006

European Union signs aviation agreement with New Zealand

Today the EU and New Zealand signed an aviation agreement which allows European airlines to fly between New Zealand and any EU Member State. The agreement removes nationality restrictions in the bilateral air services agreements between EU Member States and New Zealand and therefore allows any EU airline to operate flights between any EU Member State where it is established and New Zealand. It acknowledges the existence of the single market for air transport in the relations between the EU and New Zealand and demonstrates that there is an external dimension of the single market for air transport.

The agreement signed today is considered as an important step in the aviation relations between the EU and New Zealand. Air transport is crucial for the relations between the two regions, linking people, cultures and businesses. On 11 September 2005, the European Commission proposed to open broader aviation negotiations with New Zealand in the framework of the EU's external aviation policy¹. Such negotiations would aim at an innovative aviation agreement, based on two inseparable aims: opening the markets in order to increase market opportunities for the EU industry and ensure regulatory convergence and co-operation in fields such as aviation safety, aviation security, environmental protection and competition rules.

The so-called "horizontal" agreement signed today does not replace the bilateral agreements in place between the EU Member States and New Zealand but brings them in line with EU law, by removing the nationality restrictions contained in bilateral air services agreements. Such nationality restrictions have been found incompatible with EU law by the European Court of Justice in the "open skies" judgements of 5 November 2002.

Similar agreements have already been signed with Chile, Singapore, Ukraine, Georgia, and several Balkan countries. The European Commission has successfully negotiated similar agreements with 23 countries in total, including Australia, Malaysia, Morocco, and Lebanon. More such agreements with countries from all continents will follow in the coming months.

¹ see also [IP/05/1128](#)

Background

State of play of external aviation relations

Air transport plays a vital role in the European economy and for international trade. The creation of a single air transport market in the EU has created substantial benefits for consumers and improved the competitiveness of the EU air transport industry. The EU air transport industry generates €120 billion annual revenues, employs 3 million people and accounts for more than 30% of worldwide air transport. However, until recently, air transport relations with third countries did not appropriately reflect the achievements of the EU air transport market.

Following the European Commission's Communication on external aviation relations presented in March 2005², a comprehensive agenda was set by EU Transport Ministers in June 2005 for developing this important field of activity. This roadmap for the EU's external aviation policy is being implemented through close cooperation between the 25 Member States and the European Commission, with extensive consultation of stakeholders.

The three pillars of the external aviation agenda aim at:

- Ensuring legal certainty of existing bilateral air services agreements between EU Member States and third countries. This guarantees the necessary continuity of air services and creates a stable operating environment for the EU airline industry.
- Developing a Common Aviation Area with the EU's neighbouring countries by 2010;
- Negotiating comprehensive air transport agreements on EU level with certain third countries. Such agreements will go far beyond the scope of traditional air services agreements. The aim of such agreements is to create new economic opportunities for the European air transport industry and to ensure fair competition in a level playing field through a process of regulatory convergence.

I. Legal certainty of existing bilateral agreements

Traditionally, air services agreements have restricted the right to operate flights between two countries to the national airlines of both countries. Such nationality restrictions have been found incompatible with EC law. Since the establishment of a common aviation market in the EU, all EU airlines are entitled to have non-discriminatory market access. Therefore, it is necessary to remove the nationality restrictions in bilateral agreements in order to allow all EU airlines non-discriminatory market access to third countries.

During the past 18 months, the European Commission and EU Member States have brought more than 400 bilateral air services agreements into legal conformity with European Community law. A total of 62 countries in all continents have recognised the EU common market in their air services agreements, allowing European air carriers to operate flights between any EU Member State and these countries. They have done so either in bilateral negotiations with EU Member States – e.g. United Arab Emirates, Dominican Republic and Senegal – or in so-called horizontal negotiations with the European Commission. 23 countries, including Chile, Australia, New Zealand, Singapore, Malaysia, Morocco, Georgia, and Ukraine, have corrected all their bilateral agreements with EU Member States in a Horizontal Agreement with the European Community. More horizontal negotiations are currently under way with countries in different geographic regions.

² COM(2005)79 on Developing the agenda for the Community's external aviation policy

II. The wider European Common Aviation Area

The EU has made substantial progress in developing a wider Common Aviation Area by 2010.

1. European Common Aviation Area

In December 2004, the Council of Ministers authorised the European Commission to start negotiations with eight South-East European partners (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Romania, Serbia and Montenegro and the U.N. Mission in Kosovo) on a “European Common Aviation Area” (ECAA) agreement. The objective was to integrate the EU’s neighbours in South-East Europe in the EU’s internal aviation market, with open market access and full application of the EC aviation law.

The negotiations opened on 31 March 2005 with a multilateral high-level meeting, at which all negotiating parties expressed support for reaching an ECAA Agreement as quickly as possible. In order to give the ECAA partners time to prepare for the full application of EC aviation law, the EU developed a country-specific gradual approach: Once ECAA partners have fully implemented EC aviation law, ECAA airlines will have open access to the EU market. The transitional arrangements were negotiated in October and November 2005 with each ECAA partner individually. After only nine months of negotiations, the text of the ECAA agreement was agreed between all parties in December 2005.

The ECAA creates an integrated aviation market of 35 countries and more than 500 million people. The European airline industry has welcomed the new market opportunities created by the ECAA. The ECAA Agreement will extend the application of the complete EC aviation law to ECAA partners, including issues such as economic regulation, aviation security, airport security, air traffic management, environmental protection, passenger protection and competition rules. In consequence, the Agreement will lead to equally high standards in term of safety and security across Europe.

Since air transport is crucial for linking people, countries and economies, the ECAA Agreement provides an additional impetus to the economic and political integration of Europe. (For further information on the ECAA Agreement see Annex 1)

2. Morocco

The Council of Ministers authorised the European Commission in December 2004 to negotiate a Euro-Mediterranean Aviation Agreement with Morocco. After five rounds of negotiations, the Agreement was initialled at the Euromed Transport Minister Conference in Marrakech on 14 December 2005.

The aviation agreement with Morocco is an unprecedented example of what can be achieved in air transport negotiations between the EU and a third country. The agreement sets a benchmark for future agreements in the neighbouring region of the EU. The agreement provides for a very high degree of regulatory convergence. Morocco will implement most parts of EU aviation legislation. The EU’s internal air transport market will be gradually opened for Moroccan carriers in accordance with the degree of regulatory convergence.

The first phase starts on a provisional basis from the date of signature of the EU-Morocco Agreement. From the beginning, all EU airlines will have the right to operate without any restrictions between any point in Europe and any point in Morocco. Moroccan airlines will have the same rights, however, subject to a satisfactory evaluation of Moroccan regulatory standards, notably on aspects of aviation safety.

The second phase will start once Morocco has satisfactorily implemented the relevant EU aviation law. Moroccan carriers will have access to intra-EU routes. EU air carriers will have the right to continue cargo flights and – with some restrictions - passenger flights beyond Morocco.

Safeguard clauses in the agreement with Morocco ensure that appropriate measures can be taken in case Morocco should not comply with the relevant EU legislation. (For further information on the EU-Morocco Air Transport Agreement see Annex 2.)

3. Ukraine

Negotiations with Ukraine would be an excellent opportunity to extend the Common Aviation Area to the East. Therefore, the European Commission proposed in November 2005 to open aviation negotiations with Ukraine. Ukraine is, next to the Russian Federation, the largest neighbour of the enlarged EU and a clear priority in the context of the European Neighbourhood Policy. On the occasion of the signature of the horizontal air services agreement between the EU and Ukraine in December 2005, President Yushchenko confirmed that Ukraine is ready to conclude a full aviation agreement with the EU and to implement EU aviation rules and regulations.

As in the case of Morocco, the agreement would seek the maximum possible level of regulatory convergence, as well as appropriate safeguard measures. Since Ukrainian standards still have to improve significantly in several areas (such as safety, competition, economic regulation), Ukraine would need to comply with the relevant EU standards before opening the EU market to Ukrainian air carriers. The European Commission provides assistance to the Ukrainian aviation authorities in the form of aviation seminars etc. in order to promote the swift implementation of EU standards in Ukraine.

4. The Russian Federation

Against normal international practice, Russia obliges air carriers to pay high sums for the overflight of Russian territory. These overflight payments create a cost burden of around €300 million per year for EU airlines when flying between Europe and the Far East. Therefore, the European Commission has undertaken significant efforts to reduce these payments. A solution to the Siberian overflight problem is sought in the framework of Russia's accession to WTO. Following the political pressure, Russia finally agreed to put an end to the current system of overflight payments in 2014.

In order to improve the EU's negotiating position, the Council of Ministers formally authorised the European Commission in March 2006 to negotiate an agreement with Russia on Siberian overflight payments. The negotiations aim at adopting commonly agreed principles regarding the phasing out of the overflight payments during a transition period and the framework for overflights from 2014 on, including an increase in overflight rights for EU airlines which is vital for their commercial operations to the Far East.

III. Comprehensive air transport agreements

In comprehensive air transport agreements on a Community level, the EU can establish a coherent framework for air transport. Such agreements always follow a double agenda: A market opening creating new economic opportunities for the EU air transport industry and related industries (e.g. tourism), and a process of regulatory convergence aimed at establishing a level playing field and fair competition. Various economic studies have demonstrated that such agreements would create economic benefits for the EU in relations with certain key partner countries.

1. Negotiations with the United States

The European Commission was authorised in June 2003 to open ambitious air transport negotiations with the United States. An EU-US agreement will establish an open market with a level playing field for two thirds of the global air traffic. The objective is to create an Open Aviation Area with unlimited market access including the US domestic market, open investment opportunities and a high degree of regulatory convergence.

More than €8 billion economic benefits per year are estimated. Furthermore, the agreement will ensure a level playing field for EU and US airlines by introducing trans-Atlantic co-operation on issues such as aviation security and state aid.

The EU Transport Ministers expressed their unanimous support for the draft agreement in December 2005, and will assess the situation in light of changes in the US policy concerning foreign control of US airlines. The US Government has proposed a rulemaking that could improve the possibilities for foreign nationals to control US airlines. Once the US Government has decided on new rules, the EU will assess these rules and subsequently take a decision on the first phase agreement.

2. Other key partners for EU air transport negotiations

The European Commission has proposed in 2005 to open air transport negotiations with some other third countries. Such negotiations would always aim at creating new market opportunities and ensuring a level playing field. Agreements with these countries on a Community level would ensure a consistent framework with equal opportunities for the EU air transport industry.

a) **Australia, New Zealand and Chile** all share the EU's market-driven and consumer-oriented approach to aviation policy and are among the most advanced nations with regard to the regulatory framework for aviation and market liberalisation. They are key drivers of aviation liberalisation in their respective regions. This should allow for swift negotiations with positive results for the EU side. More importantly, negotiations with these countries could set benchmarks for air transport agreements worldwide. Agreements with these countries could go beyond the EU-US agreement in terms of open market access and regulatory convergence, including cooperation on competition issues and mutual recognition in a number of critical areas. This would facilitate air services between the EU and these countries and reduce the regulatory burden for EU air carriers. Furthermore, it would create equal opportunities for all EU airlines in relations with these countries.

b) **China's** aviation market is characterised by a very rapid growth in air traffic and a trend towards gradual market opening. In this strategically vital market for EU air carriers, EU negotiations would provide for an opportunity to ensure fair competition and a level playing field. Negotiations would aim in the first phase primarily at a process of regulatory convergence and solving "doing business" problems for EU airlines. The process of gradual market opening would be subject to a satisfactory degree of regulatory convergence.

c) **India** has agreed to launch a broad dialogue with the EU in the sector of civil aviation, including closer co-operation in air transport technology, regulation and infrastructure at the recent EU-India Summit. An EU-India Aviation Summit will take place in November 2006 in Delhi.