



LIBERALISATION BEST PRACTICES EUROPEAN COMMISSION

Introduction

The main characteristic of European Union (EU) aviation agreements is the combination of economic liberalisation and strong elements of regulatory co-operation. This is based on the experience that liberalised markets need an effective modern regulatory framework. The preferred outcome is a fully open market with all freedoms of the air, no restrictions on capacity or frequency, liberal arrangements on commercial practices, and a full liberalisation on investment.

The EU has fully opened market access for air services with Morocco and the Western Balkan countries. Negotiations with similar objectives (gradual integration of neighbouring countries into the EU air transport market) are ongoing with Israel, Jordan, and Ukraine.

The EU has incorporated far-reaching provisions into its aviation agreements with the United States and Canada, and has proposed similar provisions in its negotiations with Australia and New Zealand.

Best Practices

Investment

Each Party shall permit full ownership of its airlines by nationals of either Party.

Neither Party shall exercise any available rights under air services arrangements with a third country to refuse, revoke, suspend or limit authorisations or permissions for any airlines of that third country on the grounds that substantial ownership and control of that airline is vested in nationals of the other Party, provided that the concerned third country offers reciprocal treatment to the first Party and its nationals.

Frequency and Capacity

Each Party shall allow any airline of the other Party to determine the frequency and capacity of the air services it offers under this Agreement based upon the airline's commercial considerations in the marketplace. No Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the airlines of the other Party, nor shall it require the filing of schedules, programmes for charter flights, or operations plans by airlines of the other Party, except as may be required for technical, operational or environmental (local air quality and noise) reasons under uniform conditions consistent with Article 15 of the Convention.

Pricing

The Parties shall permit prices to be freely established by the airlines on the basis of free and fair competition.

The Parties shall not require prices to be filed with aeronautical authorities.



Franchising and Branding

The airlines of any Party may provide air services under this Agreement, pursuant to a franchising or branding arrangement with companies, including airlines, provided that the airline providing the air services holds the appropriate route authority, the conditions prescribed under domestic laws and regulations are met, and subject to the approval of aeronautical authorities.

Wet-leasing

For the purposes of providing the air services under this Agreement, provided that the airline providing the air services and the operator of the aircraft in such arrangements hold the appropriate authorities, airlines of the Parties may provide air services under this Agreement using aircraft and flight crew provided by other airlines, including from other countries, subject to the approval of aeronautical authorities. For the purposes of this paragraph, airlines operating the aircraft shall not be required to have underlying route authority.

Authorisation / Designation

On receipt of applications from an airline of one Party, in the form and manner prescribed for operating authorisations and technical permissions, the other Party shall grant appropriate authorisations and permissions with minimum procedural delay, provided:

- a) for an [...] airline, majority ownership and effective control of that airline is vested in either Party or its nationals or both and the airline is licensed by [...] and has its principal place of business in [...];
- b) for a Community airline, majority ownership and effective control of that airline is vested in either Party or its nationals or both and the airline is licensed as a Community airline and has its principal place of business in a Member State;
- c) the airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of air transportation by the Party considering the application or applications; and
- d) the provisions set forth in Articles X (safety) and Y (security) are being maintained and respected.

Code-sharing

In operating or holding out services under the Agreement, any airline of a Party may enter into cooperative marketing arrangements, such as blocked-space or code-sharing arrangements, with:

- (a) any airline or airlines of the Parties;
- (b) any airline or airlines of a third country; and
- (c) a surface (land or maritime) transportation provider of any country;

provided that (i) all participants in such arrangements hold the appropriate route authority and (ii) the arrangements meet the conditions prescribed under the laws and regulations normally applied by the Parties to the operation or holding out of international air transportation.



Intermodality

Notwithstanding any other provision of this Agreement, airlines and indirect providers of cargo transportation of the Parties shall be permitted, without restriction, to employ in connection with international air transportation any land or maritime transportation for cargo to or from any points in the territories of the Parties, or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Airlines may elect to perform their own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo air transportation. Such inter-modal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that passengers and shippers are not misled as to the facts concerning such transportation.

Competitive Environment

1. Each Party shall allow a fair and equal opportunity for the airlines of both Parties to compete in providing the air transportation governed by this Agreement.
2. The Parties affirm that free and undistorted competition is important to promote the objectives of this Agreement and note that the sound and effective enforcement of their competition laws contributes to the efficient functioning of the provision of air transport services between the Parties. The Parties recognise that cooperation and coordination between the competition authorities of the parties serves to promote competition and effective resolution of competition concerns and serves to lessen the possibility or impact of differences in the application of their competition laws.
3. Each Party shall ensure that airports, airways, air traffic control and air navigation services, aviation security, and other related facilities and services that are provided in its territory shall be available for use by the airlines of the other Party on a non-discriminatory basis.
4. The Parties recognise that government subsidies and support may adversely affect the fair and equal opportunity of airlines to compete in providing the international air transportation governed by this Agreement. Government subsidy or support means the provision of support on a discriminatory basis to an airline or airlines of a Party, directly or indirectly, by the state or by a Government entity. Without limitation, it may include capital injections, cross subsidisation, grants, guarantees, relief or tax exemption, protection against bankruptcy, or insurance, by any government entities.

N.B. This information has been compiled by IATA based on information received from the European Commission.