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COMMUNICATION FROM THE COMMISSION

Common Aviation Area with the Neighbouring Countries by 2010 - Progress Report

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1. WHY A COMMON AVIATION AREA WITH THE NEIGHBOURING COUNTRIES BY 2010?

1. In its “Conclusions on developing the agenda for the Community’s external aviation policy” of 27 June 2005, the Council welcomed the progress in developing a wider Common Aviation Area (CAA) with the EU neighbouring countries by 2010.
2. The CAA fits into the wider objectives of the Community's air transport policy and, together with comprehensive air transport agreements with key global partners of the EU and so called "horizontal agreements", constitutes a key pillar of this policy. The CAA also complements the broader objectives of the European Neighbourhood Policy (ENP), through which the Community promotes stability and sustainable development along its eastern and southern borders.
3. Efficient transport in general, and efficient air transport in particular can significantly contribute to economic development, technical cooperation and people-to-people contacts between the EU and neighbouring countries. In addition, CAA agreements, by allowing full participation in one of the key areas of the single market, provide an example and an incentive for further economic integration of the partner country with the EU.
4. In the context of the enhanced Union for the Mediterranean¹, and ever closer links between the EU and its eastern neighbours, the CAA becomes even more relevant. Its ultimate objective should be the establishment of a single pan-European air transport market, based on a common set of rules and encompassing up to 60 countries with approximately one billion inhabitants. In 2007 alone, over 120 million passengers travelled between the EU and its neighbouring countries in Europe, East-Europe, Central Asia, the Mediterranean and Middle East², which represents an increase of over 20% compared to 2004. This volume of traffic constitutes over 45% of the air traffic between the EU and third countries³.
5. The European aviation is changing rapidly, with the EU becoming its main institutional and regulatory driver. This places additional responsibilities on the Community, which should ensure proper involvement of the neighbouring states. In

¹ The Barcelona Process: Union for the Mediterranean was launched in Paris on July 13th, 2008. It aims to infuse new vitality into the partnership, offering more balanced governance and increased visibility (Communication from the Commission - Barcelona Process: Union for the Mediterranean, COM (2008) 319 (Final)).

² Albania, Algeria, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Egypt, Georgia, Iceland, Israel, Jordan, Kazakhstan, Kyrgyzstan, Lebanon, Libya, Republic of Moldova, Montenegro, Morocco, Norway, Palestine, Russia, Switzerland, Syria, Tajikistan, Tunisia, Turkey, Turkmenistan, Ukraine, Uzbekistan, Former Yugoslav Republic of Macedonia and Serbia, as well as Kosovo under UNSC Resolution 1244/99.

³ The total number of passengers transported by air between airports inside the EU and airports outside the EU reached 250 million already in 2006 (Eurostat, Statistics in Focus - Transport, 52/2008).

addition, key challenges such as maintaining a high level of aviation safety and security, optimisation of Air Traffic Management (ATM) or combating climate change are not constrained by the borders of the Community, and the neighbouring countries should be invited to participate in the projects deployed by the EU to address these challenges.

6. A target date of 2010 has been set by the Community for the development of the CAA and through this Communication the Commission is taking stock of the progress made so far. A number of lessons have been learned since the CAA was launched. These experiences should be used to enhance the efficiency of the project and lend it additional impetus.

2. WHAT HAS BEEN ACHIEVED SO FAR?

2.1. Flexible project based on the country-specific approach

7. The CAA covers countries of differing nature. Although the EU's offer of establishing deeper relations is the same for all partners, the country-specific approach – like the ENP - does provide for flexibility and differentiation. There are as many possible responses as there are partner countries, according to each partner's political situation, its level of ambition with regard to the relationship with the EU, its reform agenda and achievements.
8. The beginning of the CAA can be traced back to 1993, when the most advanced integration of third countries with the EU's air transportation policy has been achieved within the framework of European Economic Area agreement⁴. As a result Norway, Iceland and Liechtenstein participate in the single aviation market at the equal footing with the EU Member States. Similarly, a very high degree of integration through a specific air transport agreement has been achieved in relation to Switzerland and is operational since 2002⁵. Since that, a number of other countries have been invited to participate in the project. Currently, there are two main concepts on the basis of which the EU is pursuing the development of the CAA – the Single Aviation Market concept and the Euro-Mediterranean Aviation Agreement concept.
9. The Single Aviation Market concept has been used with the countries already engaged in the Pan-European aviation institutional framework, such as the Western Balkans, and which started regulatory approximation with the EU through their participation in organisations such as Eurocontrol or the Joint Aviation Authorities (JAA). Arrangements based on this concept provide for full integration of a partner country into the single aviation market, often in anticipation of its future accession to the EU. The Commission has also started, on the basis of the single aviation market concept, comprehensive air transport negotiations with Ukraine.
10. A Euro-Mediterranean air transport agreement, providing for a high level of regulatory harmonisation, gradual market opening and increased investment possibilities, was concluded with Morocco and sets a benchmark for future aviation

⁴ Agreement on the European Economic Area, OJ L 1/1994, 3.1.1994, p. 3

⁵ Agreement between the European Community and the Swiss confederation on Air Transport, OJ L 114/2002 30.4.2002 p. 73

agreements with the EU partners in the Mediterranean region. Already mandated by the Council, the Commission will be pursuing on the basis of this model comprehensive air transport negotiations with Israel and Jordan. The Commission is supporting the development of the CAA in the Mediterranean region through an ambitious "Euromed Aviation Project" - developed in the framework of the Euro-Mediterranean Transport Forum⁶ and aiming at approximation of the regulations of the MEDA countries with EU aviation regulations, improvement of air safety and security in the region, and fostering co-operation on ATM matters.

11. Cooperation around the Black Sea and in Central Asia has focused on technical assistance and exchanges at expert level, familiarising the partner countries with EU aviation legislation and enhancing current levels of safety in the region. In 2009 the Commission will start providing additional targeted assistance to the countries in this region within the framework of the Civil Aviation Safety and Security project, with a budget of €5 million.
12. The Commission is carefully monitoring developments in the neighbouring area, where a number of countries could be considered as further potential candidates for participation in the CAA. In the Mediterranean region, the next natural candidates are Tunisia and Algeria, owing to the considerable potential of their markets, as well as their strong economic, cultural and historical links with the Community. Amongst the EU's eastern neighbours, the Commission sees Georgia and the Republic of Moldova as possible next candidates - both countries already participate in pan-European aviation organisations and are strongly involved with the EU through ENP Action Plans and other dedicated initiatives.

2.2. The specific case of Russia and Turkey

13. With 23 and 10 million passengers respectively travelling by air in 2007, Turkey and Russia are among the most important aviation markets for the EU and are experiencing dynamic growth. However, up to now there is still no comprehensive and legally sound framework for aviation relations with these key partners.
14. In the light of its status as an accession country and its importance as an aviation partner, Turkey should be fully involved in the CAA. However, up to now progress has been slowed down by Turkey's failure to acknowledge the integrated character of the single aviation market, as well as by ongoing safety issues in the ATM area. The Commission expects that the situation should evolve in a positive direction, and it will continue engaging with Turkey in a constructive dialogue. Such progress would be equally vital in the framework of the negotiations on the transport chapter as part of the accession negotiations with Turkey. As a first step, bilateral air transport agreements between the Member States and Turkey should be brought into line with Community law.
15. Russia is a key neighbour of the enlarged EU and an important aviation market with a long tradition in aeronautics. This close relationship calls for the establishment of a proper framework for cooperation in aviation matters. However, a prerequisite for this must be the implementation by the Russian Federation of the agreement on Siberian overflight payments, which Russia is charging contrary to normal

⁶ <http://www.euromedtransport.org/355.0.html>

international practice. This agreement was reached during the EU-Russia Summit in November 2006 and approved by the Russian government in November 2007 but has not yet been signed. Similarly, bilateral air transport agreements between the Russia and Member States need to be brought into line with Community law.

2.3. Significant progress in ensuring legal certainty for commercial operators

16. Significant progress has been made in bringing bilateral air transport agreements between the Member States and neighbouring countries into line with Community law. This increases the legal certainty of operations for airlines of both sides, without affecting the balance of traffic rights between the Member States and partner countries.
17. Horizontal agreements were agreed with Albania, Armenia, Azerbaijan, Bosnia-Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Georgia, Israel, Jordan, Kazakhstan, Kyrgyzstan, Lebanon, Republic of Moldova, Montenegro, Morocco, Ukraine and Serbia. In addition, bilateral agreements of Algeria, Belarus, Egypt, Syria, Tajikistan, Turkmenistan, and Uzbekistan with at least one Member State, allow for Community designation.

3. IMPLEMENTATION OF THE CAA AGREEMENTS – LESSONS LEARNED

3.1. A proven, successful formula

18. More than two years after the signature of the European Common Aviation Area agreement with the Western Balkans (ECAA)⁷ and the first Euro-Mediterranean air transport agreement with Morocco⁸, the Commission's findings regarding implementation of CAA are generally positive. The agreements have contributed to rapid changes in the air transport sector of the partner countries, and to the increase in the number of passengers and airlines flying on new routes.
19. Particularly strong traffic growth has been observed between the EU and Morocco. In 2007, over 7.8 million passengers travelled under the first Euro-Mediterranean air transport agreement; this represents an 18% growth compared to 2006. The growth under the ECAA agreement was more modest, with over 6.6 million passengers travelling between the EU and the Western Balkans in 2007 (a 5% increase over the 2006 figures).
20. The progress of implementation is regularly monitored by the respective Joint Committees, which have proved to be very useful for periodic reviews of the agreements, and in facilitating operations by addressing the practical difficulties that arise from time to time for commercial operators. A number of Western Balkans partners plus Morocco should be able to complete the first transitional phase under their respective agreements in 2009.

⁷ OJ L285/2006 p.3, 16/10/2006

⁸ OJ L386/2006 p.57, 29/12/2006

3.2. Two-pillar agenda: opening up of the market and regulatory harmonisation

21. The Community aviation policy vis-à-vis partner countries is built on a two-pillar agenda of creating new market opportunities and ensuring a harmonised regulatory environment. As already highlighted by the Commission⁹, this two-pillar agenda is not just a theoretical model but a practical construction allowing to tailor air transport agreements to the specificities of a particular case. Clearly, when dealing with partners with mature markets and robust regulatory frameworks, the approach of the Community needs to be different from that deployed when approaching a country which has great potential, but is still in transition and with immature regulatory and business environments.
22. CAA partners have a great potential for development and air transport can be an important catalyst in releasing that potential. However, this has to be done on a case-by-case basis, and after careful assessment of a number of factors such as maturity of the market, the level of ambitions of the country concerned, the level of harmonisation with EU regulations and standards, as well as the specific interests of the Community and its Member States. In this respect, the phased approach with clearly designed transitional arrangements will in many cases be the most logical approach.
23. Efficient and prompt implementation of the aviation *acquis* and its harmonious enforcement across the CAA still remains the main challenge for majority of partner countries and the Community. This derives in particular from the fact that the EU aviation legislation needs to be implemented into the partner countries' internal legal systems, whereby for the EU Member States the major part of this body of legislation is directly applicable and enforceable. This calls not only for technical assistance to support partner countries in implementing legislation but also for efficient and innovative mechanisms in the CAA agreements, supporting the implementation process, allowing for monitoring of the progress made and taking enforcement actions in case of non-compliance when necessary.

3.3. Towards a sub-regional integration in the longer term

24. It would not be desirable for the Community's ambition to be limited to developing a web of different relations with the neighbouring countries, as the amalgamation of such multilateral and bilateral arrangements could eventually result in different rights and obligations across the CAA and, most importantly, between the partner countries themselves, thus limiting their chances of closer sub-regional integration.
25. It is therefore advisable that, while acknowledging the specificities and sensitivities of each particular case, the negotiations with neighbouring countries should lead to a measure of coherence. In the longer term and especially when the critical mass of the countries of the same region has fully completed the process of regulatory harmonisation, the individual agreements between those countries and the Community could be merged. This would help to limit fragmentation of the CAA and differentiation of rights, obligations and market opportunities between the parties involved. To this end the Community should consistently propose to the partner

⁹ Developing the agenda for the Community's external aviation policy, COM(2005) 79 final

countries specific clauses providing for the possibility of such extension, as was the case with the agreements with the Western Balkans and Morocco.

3.4. Closer involvement of neighbouring countries in the EU institutional and operational framework

26. The pan-European aviation landscape and the role of aviation organisations in Europe is changing. The High Level Group on the future aviation regulatory framework calls for the EU to position itself as the main vehicle to set the regulatory agenda for European aviation and to strengthen the relationship with the non-EU European states¹⁰.
27. The CAA and the Joint Committees administering the agreements have proved to be highly instrumental in increasing the proactive communication between the EU and partner countries. However, to ensure a true pan-European "ownership" of the CAA in this rapidly changing environment, the Community should provide for better involvement of the partner countries in its institutional and/or operational framework.
28. Fully aware of the legal and institutional constraints deriving from the EC treaty and relevant Community legislation, the Commission believes that the EU should develop a consistent approach to the issue of participation of partner countries in the EU's aviation institutional framework with observer status or their closer involvement in the Community aviation programmes and/or operational initiatives when the necessary pre-requisites are met. Two areas that deserve particular attention in this regard are aviation safety and ATM.

3.4.1. Ensuring the pan-European dimension of aviation safety

29. Aviation safety remains a key priority in relations with a number of neighbouring countries and the strengthening of the national oversight functions must continue to receive adequate priority. It is evident that all the partners engaged with the EU in the CAA need to demonstrate their ability to meet at least the ICAO standards and on this basis gradually implement more stringent requirements, as envisaged under the respective CAA agreements.
30. The extension of EASA competences and the decision of European Civil Aviation Conference to close JAA in mid-2009, calls for appropriate solutions to be found in order to maintain the pan-European dimension of aviation safety. The CAA offers the most comprehensive answer to this issue by making it possible for non-EU European countries to cooperate with EASA and be closer associated with the EU safety system. However, the nature of this cooperation is different than in JAA, as EASA is not an association of regulators but a specialised EU agency supporting the Community regulator and executing a number of safety oversight tasks.
31. Non-EU European countries signatories to the Chicago Convention which have entered into agreements with the Community whereby they adopt and apply the basic EASA regulation and its implementing rules, can participate in the work of EASA, which includes membership of its Management Board without voting rights. Partner

¹⁰ High Level Group for the Future Aviation Regulatory Framework, 2007: "A framework for driving performance improvement".

countries can also cooperate with the Community through working arrangements signed with EASA, or conclude mutual recognition agreements with the Community.

3.4.2. *Building the Single European Sky (SES) beyond the EU borders*

32. The creation of the single aviation market in the 1990s and the resulting steep increase in traffic volume in Europe was not accompanied by the modernisation of ATM facilities. Moreover, ATM in Europe is still characterised by a high degree of fragmentation, which adds unnecessary flight length resulting in additional cost for airspace users and negative impact on the environment. To address these inefficiencies, the Commission has now presented a second package of legislative measures to accelerate the completion of the SES and the development of the new generation ATM system under SESAR¹¹.
33. A smoothly functioning ATM system should not be constrained by the borders of the Community. To avoid bottlenecks, promote interoperability, and enhance safety and environmental efficiency, the neighbouring states should also be appropriately associated. Currently, through the CAA, 38 countries are already involved in building the SES and participating in the EU ATM operational initiatives, including the creation of Functional Airspace Blocks. All the ECAA partners as well as Switzerland also participate in the works of the Single Sky Committee with the observer status. In April 2008 an ISIS program has been launched to support the implementation of the SES legislation in South Eastern Europe as envisaged in the ECAA agreement¹². It is in the interest of the Community to further extend the SES to neighbouring countries, and the CAA seems to be a logical vehicle to that end. To ensure adequate involvement of the partner countries in this project, they should be also properly associated with its institutional and/or operational framework.
34. Similarly, to ensure that the neighbouring countries benefit from the modernisation of ATM, they should be allowed to participate in SESAR. In the longer term, this would mean that the state of the art ATM technologies and operational concepts could be implemented in the partner countries, thus ensuring a seamless ATM system beyond the EU's borders. Undertakings from third countries which have signed at least one aviation agreement with the EU are already eligible now to apply for membership in the SESAR Joint Undertaking.

3.5. **Sustainable development of the Common Aviation Area**

35. Aviation has an impact on the environment both at a global and a local level, including cross-border impacts. At local level aircraft operations contribute to noise and air pollution and at a global level aviation emissions contribute to climate change. Although aviation currently only accounts for a few percent of greenhouse gas emissions, the quantity of these emissions is growing rapidly in many countries and is projected to continue to grow in the future. If no action is taken this growth will undermine efforts being made by other sectors to reduce emissions.

¹¹ Communication from the Commission: Single European Sky II: towards more sustainable and better performing aviation, COM(2008) 389 final.

¹² Implementation of the Single European Sky In South East Europe emerges from the previous SEE FABA initiative that has been stopped accordingly.

36. The EU has proposed a comprehensive approach to addressing aviation's impact on the climate which includes continuing to make improvements in ATM and more investment in research into greener technologies. However these measures alone will not be sufficient to offset the growth in air traffic emissions. Therefore aviation will be included in the EU Emissions Trading Scheme (ETS). A political agreement on the legislation was recently reached by the Council and the European Parliament.
37. It is important to work with third countries in order to facilitate the sustainable development of the aviation sector and to ensure that effective measures are taken to address aviation's impact on the environment. CAA agreements should include appropriate provisions to achieve this and should encourage partner countries to adopt effective measures to address the environmental impacts of aviation such as the introduction of an ETS or equivalent measures.

3.6. Need for support and clear priority setting in technical assistance

38. Harmonisation with the EU standards may not be an easy task. It may entail a comprehensive review of the primary legislation and specific operating regulations, the development of new safety oversight tools, training of personnel or even organisational changes, such as the separation of service provision from safety oversight or the establishment of an independent accident investigation body.
39. Reforms require an appropriate level of expertise and capacity from partner countries. One of the common obstacles in this respect may be the lack of an adequate safety oversight organisation or shortcomings in skilled technical personnel. These deficiencies, in the majority of cases, are the result of insufficient allocation of resources to the national civil aviation bodies.
40. Beyond the provision of expertise and technical assistance, the issue of insufficient administrative capacity and lack of resources can be addressed through closer cooperation and pooling of resources. This does not necessarily mean that a separate organisation would need to be established or national sovereignty relinquished. Pooling of experts or joint oversight activities could contribute significantly to eliminating duplication of efforts and achieving economies of scale. In the ATM area for example, such cooperation would be most efficiently pursued through the concept of Functional Airspace Blocks. Aviation accident investigation is another area where cooperation between authorities could bring significant benefits.
41. The Commission is providing technical assistance to all the countries participating in the CAA. A dedicated aviation safety twinning project of € 1 million is being provided to Ukraine. The aforementioned "Euromed Aviation Project", with a budget of € 5 million, was launched to provide targeted technical assistance for the Mediterranean partners until 2011. The ISIS Programme is providing support for the Western Balkans countries in implementing SES legislation under the ECAA agreement. An EASA – CARDS project with a budget of €0.5 million, implemented in 2008, established convergence plans for the implementation of EU safety legislation in the Western Balkans, and further assistance is envisaged for the region. The Commission is also helping the neighbouring countries to draft aviation legislation and organise experts meetings and study visits.

42. The Commission will continue to provide technical assistance to the partner countries and encourage pooling of resources to ensure that they are optimally utilised. Dedicated provisions can be developed under the CAA agreements, dealing with technical assistance priorities and making reference to available funds or instruments. Twinning, as a highly effective tool in capacity building involving aviation experts from Member States, should be considered as a key instrument in providing support to the aviation administrations of the neighbouring countries that have to implement EU legislation.
43. Closer exchange of information between the Commission, Member States and donor institutions are also necessary to ensure better coordination of technical assistance provided to the neighbouring countries in support of the CAA.

3.7. Prompt implementation of the CAA agreements

44. The ECAA agreement with the Western Balkans was signed in June 2006. While all except one of the Balkan partners have completed their ratification procedures, more than two years after its signature the ECAA Agreement has been ratified by only 14 Member States. Similarly, the Euro-Mediterranean agreement with Morocco, although signed in December 2006 and applied provisionally since then, has so far been ratified by only 13 Member States.
45. It is important now to step up the process of ratification of the agreements by Member States in order to demonstrate the Community's political commitment to the CAA project. In the future, the issue of prompt implementation of the CAA agreements could be resolved by concluding them as Community agreements on the basis of Article 80 of the EC Treaty, rather than as "mixed" agreements. Alternatively, provisional application as of a fixed date should be proposed to the partner countries, in order to guarantee prompt implementation of the agreements.

4. CONCLUSIONS

46. Significant progress has been made in pursuing the objective of the wider CAA. Although the goal is challenging, and it will be probably not possible to complete the task by 2010 as expected by the Council, negotiations with the majority of the Eastern and Mediterranean partners are due to be either opened or concluded by the end of the decade. Stronger efforts are however necessary to ensure effective implementation of the EU aviation *acquis* by the partner countries and harmonious enforcement of these provisions across the CAA.
47. The Commission will continue the development of the CAA, both by closely monitoring the implementation of existing agreements, as presented in this Communication, and by identifying the next potential partners for participation in the project. In this context, the Commission proposes to the Member States, in the accompanying Communication, to launch comprehensive air transport negotiations with Tunisia, and will closely assess the added value of launching negotiations with Algeria, Georgia and the Republic of Moldova, with a view to proposals being presented to the Council in the months ahead.

Traffic between the EU and CAA neighbouring regions (million passengers carried by air)¹³

	2007	2006	2005	2004	2003	2002	2001	2000
Western Balkans	6.6	6.3	5.5	4.6	3.8	3.2	3.1	2.4
Northern Africa	30	28	26	24	19	18	21	19
Near and Middle East	7.3	7	7.2	6.9	5.8	5.2	6.6	6.9
CIS European Republics	3.9	3.5	3.3	2.7	1.9	1.5	1.4	1.1
CIS Central Asia Republics	0.7	0.7	0.7	0.7	0.6	0.5	0.5	0.5
EEA/EFTA	39	38	34	31	27	25	28	26
Turkey	23	21	24	21	17	18	17	14
Russia	9.8	9.1	8.2	7.5	6.4	5.2	5.4	4
TOTAL EU – CAA	120.3	113.6	108.9	98.4	81.5	76.6	83	73.9

¹³ Geo-nomenclature used only for the purpose of this statistical analysis.