



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 December 2012

17558/12

**AVIATION 196
RELEX 1146**

REPORT

from: General Secretariat
to: Council

No. prev. doc.: 17246/12 AVIATION 188 RELEX 1112

No. Cion prop.: 14333/12 AVIATION 143 RELEX 876

Subject: Communication from the Commission on "EU's External Aviation Policy -
Addressing Future Challenges"
– Draft Council conclusions

Introduction

1. On 27 September 2012, the Council received a Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "The EU's External Aviation Policy - Addressing Future Challenges". The Communication aims at evaluating the progress achieved since the adoption of the Council Conclusions of 28 June 2005 on "Developing the agenda for the Community's external aviation policy", takes stock of current challenges and in light of those developments proposes to review the policy framework that governs the EU's external aviation relations.

2. The Communication emphasises the need to maintain a strong and competitive aviation industry and to react to the key challenges of the global aviation environment by strengthening the EU's efforts in advocating the principle of fair and open competition in the international arena, including aspects such as transparency, the use of model clauses and also greenhouse gas emissions from aviation. It also encourages the continuation of the roadmap outlined in the 2005 Council conclusions on enhancing relations with key partners, and to address the remaining external aviation agenda with a more concerted and coordinated European approach.

Work within Council

3. The Working Party on Aviation examined the above Communication and the draft Council conclusions presented by the Presidency at a number of meetings in October, November and December 2012.
4. The Committee of Permanent Representatives examined the draft conclusions at its meeting on 14 December 2012, settled the outstanding issues and agreed on the text of the draft conclusions, as it appears in the Annex to this Report. On this occasion, the Commission also expressed its positive views on the text and is able to fully associate itself with the draft Council conclusions.

The UK has a parliamentary reservation on the text.

Conclusion

5. The Council is hereby invited to examine and adopt the conclusions annexed to this report at its meeting on 20 December 2012.

Draft Council conclusions on

The EU's External Aviation Policy - Addressing Future Challenges

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Communication from the Commission on “The EU's external aviation policy – addressing future challenges” (COM (2012) 556 final),

Introduction

1. RECALLS the conclusions reached at the Transport, Telecommunications and Energy Council of 27 June 2005 on developing the agenda for the Community's external aviation policy;
2. WELCOMES the Commission's Communication which provides a timely and comprehensive overview of the progress achieved since 2005 in the EU's external aviation policy as well as thorough analysis of the challenges currently facing the EU's aviation sector in the world and how to address them;

The strategic importance of a competitive aviation sector for the European economy

3. WELCOMES the Commission's analysis of the competitiveness of the EU's aviation sector and AGREES with the analysis that aviation plays a vitally important role for the EU's economy, connectivity, growth and jobs, tourism, and that the EU aviation sector will therefore also be able to make a significant contribution to the recovery of the EU economy;

4. STRESSES the importance for the economy, competitiveness and cohesion of the EU of inter-connectivity with the rest of the world, including neighbourhood countries and emerging markets, while preserving the environment;
5. RECOGNISES that the EU aviation sector and EU airlines in particular are facing difficult challenges in a highly competitive global aviation market;
6. STRESSES that the strategic importance of maintaining a strong and competitive European aviation industry, including international network carriers connecting the EU with the world, must be better and more effectively reflected in both EU and national policies to allow for sustainable growth and preventing unnecessary burdens on the European aviation industry; and CONSIDERS that a reinforced and transformed EU external aviation policy can fully contribute to reaching this goal;
7. ACKNOWLEDGES that actions aimed at enhancing competitiveness and ensuring a level playing field need to be taken at both the EU and Member State levels and both in the EU's internal and external policies;

Progress achieved since 2005

8. WELCOMES the significant progress achieved in the EU's external aviation policy in relation to all three pillars developed in the 2005 Council conclusions;
9. WELCOMES the overwhelming recognition achieved from partner countries world-wide of the need and mutual interest in restoring a sound legal basis for aviation relations with the EU as a result of which 117 countries have recognised the principle of EU designation, 55 of which have done so through "Horizontal Agreements" with the EU;
10. REGRETS, however, that a few partner countries remain reluctant to recognise, or yet fully recognise, the principle of EU designation in bilateral air services agreements with EU Member States thereby leaving these agreements legally vulnerable;

11. CONSIDERS that continued engagement with and a coordinated and determined EU approach towards these few partner countries should be pursued with a view to resolving outstanding legal issues and therefore URGENTLY REQUESTS these countries to cooperate as a matter of priority in restoring a sound legal basis for the respective aviation relations by accepting EU designation and other relevant clauses necessary from the point of view of EU law;
12. WELCOMES the steady progress made in developing a wider Common Aviation Area through comprehensive air transport agreements reached between the EU and its Member States and a number of neighbouring countries, with agreements already signed with the Western Balkans, Morocco, Jordan, Georgia, the Republic of Moldova and Israel, which have already generated significant economic benefits as well as considerable progress in terms of regulatory convergence with EU aviation legislation;
13. UNDERLINES the importance that over time the Common Aviation Area evolves into a truly integrated area in which not only bilateral relations between the EU and neighbouring countries individually are integrated and opened up but where also relations between the neighbouring countries themselves become open and integrated;
14. UNDERLINES the importance of reaping the full benefits of the comprehensive air transport agreements signed with the United States and Canada and therefore the need to fully achieve the objectives set out in the agreements in terms of market opening, regulatory cooperation and convergence, ensuring a favourable "doing business" environment as well as the removal of restrictions on ownership and control of airlines all with a view to creating the conditions for open and fair competition;
15. REGRETS that a similar comprehensive air transport agreement already negotiated with Brazil has still not been signed by Brazil thereby delaying the benefits from the agreement to start flowing and URGENTLY REQUESTS Brazil to sign the agreement without any further delay;

16. UNDERLINES the importance of the swift ratification of the comprehensive agreements signed with partner countries and reiterates the commitment of the EU and of its Member States to this ongoing process and to ensuring the application of these agreements in the meantime, in accordance with national legislation, as appropriate;

Towards a more ambitious EU external aviation policy addressing future challenges

17. CONSIDERS that while important progress has been made since 2005, a more ambitious and robust EU external aviation policy should be pursued, based on the principles of reciprocity and open and fair competition in a level playing field. These principles as well as enhanced cooperation between the Commission and Member States are key to a strong EU aviation sector and a successful EU external aviation policy, strengthening the competitiveness of the entire value chain of the European aviation industry whilst supporting the interests of the European consumers and the European economy;
18. RECOGNISES that market access and commercial opportunities available to carriers may vary under the different bilateral aviation arrangements between individual EU Member States and partner countries and EMPHASISES that stronger coordination, unity and solidarity at EU level can contribute to achieving equality of treatment and improving the competitive position of the EU aviation sector;
19. UNDERLINES the need for the Commission, EU Member States and industry stakeholders to work together in an increasingly concerted manner, using all available means and inclusive processes, to promote and advance European interests and SUPPORTS the proposal made in the Commission's Communication to prepare an inventory of practical ways and means for how to develop such enhanced internal EU cooperation and coordination;

20. WELCOMES the intention of the Commission, before setting the objective of negotiations and in the framework of such negotiations with partner countries, to continue to ensure full information, consultation and an appropriate involvement of Member States and all relevant stakeholders, in particular the European airline industry, throughout the entire process;

A level playing field and open and fair competition

21. REITERATES that based on the European experience of developing the single aviation market as well as the implementation of EU-level agreements with partner countries, open and fair competition is the best basis for developing international aviation relations and therefore CONSIDERS that unfair practices, such as discrimination, inconsistent application of regulatory frameworks and lack of transparency in financial reporting of companies lead to market distortions which are incompatible with the aim of open and fair competition and that subsidies can also distort competition;

22. CONSIDERS that Regulation (EC) No 868/2004 concerning protection against subsidisation and unfair pricing practices causing injury to EU carriers in the supply of air services from non-EU countries has proven not to address adequately the specific characteristics of the aviation services sector and SUPPORTS the Commission's intention to analyse, in consultation with industry and Member States, possible options for a more effective instrument to safeguard open and fair competition and its intention, on that basis, to present a proposal for a revision or replacement of Regulation (EC) No 868/2004;

23. WELCOMES the Commission's intention to develop a template for a "fair competition clause" to be agreed at EU level as a basis for inclusion in air services agreements and CALLS on Member States, acting individually and collectively, as well as on the Commission, to seek agreement for such a clause from partner countries on a bilateral and multilateral basis;

24. ENCOURAGES the Commission and Member States to use their bilateral and multilateral relations to actively support the establishment of a level playing field favouring open and fair competition in international air transport;

Enhancing EU relations with partner countries

25. STRESSES the importance, when considering the granting of authorisations for EU-level negotiations, of the prospects of (i) achieving greater levels of regulatory convergence with a view to ensuring fair competition and a level playing field; (ii) obtaining new market opportunities, and where necessary, restoring fair and equal opportunities; and (iii) obtaining benefits for EU consumers and industry; and UNDERLINES the importance of analysing the particularities of the partner country in question with a view to demonstrating the added value and economic benefits of the proposed EU-level agreement;
26. SUPPORTS the call made in the Commission's Communication to intensify efforts to finalise on-going negotiations with neighbouring and other countries and encourages the Commission to open negotiations, following consultation with Member States and industry, with all remaining neighbouring countries on a country-by-country basis, with a view to reaching agreements with them by 2015;
27. ENCOURAGES the Commission to assess further, on a case-by-case basis, the countries and regional blocs of major importance identified in the Commission's Communication;
28. CONSIDERS that a tailored EU approach is now particularly appropriate in relation to Turkey, India, Russia, certain Gulf countries, ASEAN, and at the earliest opportunity to China, and therefore:
- WELCOMES the Commission's intention to present to the Council a request for authorisation to open negotiations on a comprehensive EU air transport agreement with Turkey as a regional player, according to the principle of regulatory harmonisation based on EU legislation;

- WELCOMES the Commission's intention to present to the Council in the near future a request for authorisation to open negotiations on a comprehensive EU air transport agreement with India;
- URGES the Russian Federation to respect its international commitments and the agreement that was concluded between the EU and Russia at the end of 2011 on the entry into force of the "Agreed Principles on the modernisation of the existing system of utilisation of the Trans-Siberian routes", this being a pre-requisite for further enhancing aviation cooperation with Russia; and WELCOMES the Commission's intention to prepare in the meantime a comprehensive road-map for enhancing EU-Russia aviation relations, an objective of which would be a comprehensive EU-Russia air transport agreement;
- Taking note of the market developments in recent years between individual EU Member States and the Gulf countries identified in the Commission's Communication, ACKNOWLEDGES the Commission's intention to engage in a dialogue with those countries, with a view to enhancing transparency and safeguarding fair competition;
- NOTES with interest the development within ASEAN of an open and integrated Single Aviation Market and WELCOMES the Commission's intention to organise jointly with ASEAN a first EU-ASEAN Aviation Summit in 2013 with the aim of enhancing EU-ASEAN aviation relations;

The key role of ICAO

29. INVITES ICAO to play a leading role in modernising the existing framework governing the global aviation market and to develop a more appropriate economic regulatory framework for the global aviation sector, for instance in the areas of liberalising ownership and control of airlines, including through a multi- or plurilateral instrument based on reciprocity, which ensures a world-wide level playing field and framework for fair competition and CONSIDERS the forthcoming ICAO Air Transport Conference in March 2013 to be an important opportunity for making tangible progress in this respect;
30. STRESSES the need to address global emissions from international aviation and RECALLS the importance of the European Union's Greenhouse Gas Emissions Trading System (EU-ETS), and the commitment of the EU to achieve a post-Kyoto agreement and to reduce the climate impact of aviation; WELCOMES ICAO's ongoing work on developing global market-based measures (MBMs) in a manner that ensures a level playing field and does not create market distortions or carbon leakage; and ENCOURAGES ICAO Member States to actively participate in the process leading to an agreement within ICAO on a global approach;

Conclusions for guidance

31. CONSIDERS that these Council conclusions shall serve as guidance for policy-making, action and external aviation relations both at EU and Member State level.