Basic information

2005/2084(INI) INI - Own-initiative procedure	Procedure completed
Developing the agenda for the Community's external aviation policy **Subject** 3.20.01 Air transport and air freight	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	TRAN Transport and Tourism	EL KHADRAOUI Saïd (PSE)	11/05/2005
Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Transport, Telecommunications and Energy	2671	2005-06-27

Key events

Date	Event	Reference	Summary
11/03/2005	Non-legislative basic document published	COM(2005)0079	Summary
09/06/2005	Committee referral announced in Parliament		
27/06/2005	Resolution/conclusions adopted by Council		Summary
22/11/2005	Vote in committee		Summary
12/12/2005	Committee report tabled for plenary	A6-0403/2005	
17/01/2006	Decision by Parliament	T6-0006/2006	Summary
17/01/2006	Results of vote in Parliament		
17/01/2006	Debate in Parliament		
17/01/2006	End of procedure in Parliament		

Technical information

Procedure reference	2005/2084(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative

Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/27986

Developing the agenda for the Community's external aviation policy

2005/2084(INI) - 27/09/2012

This Communication evaluates the progress achieved since the Commission's 2005 Communication in developing an EU external aviation policy and discusses changing conditions in aviation and the need for a way forward. While the Communication considers that the policy established in 2005 goes in the right direction, it recognises that, seven years later, the world of aviation is a very different place. **European aviation urgently needs a stronger framework** where fair and open competition can thrive, and this can be ensured by a much more coordinated European approach to external aviation relations.

Achievements of EU policy since 2005: the paper states the achievements of the EU's external aviation policy over the past seven years, based on three key pillars have been considerable.

1. Restoring legal certainty: legal certainty has been restored to nearly 1000 bilateral air services agreements with 117 non-EU countries. Of these, 55 countries have agreed to amend all their bilateral agreements with EU Member States through Horizontal Agreements with the EU while the remaining countries have done so on a bilateral basis with individual EU Member States. There is, however, still work to be done with a few important aviation countries, to complete the implementation of EU designation. These include India, China and South Korea and also South Africa, Kenya, Nigeria and Kazakhstan.

2. The creation of a common aviation area with neighbouring countries: solid progress has been made, with agreements already signed with the Western Balkans, Morocco, Jordan, Georgia and Moldova and an agreement has been initialled with Israel. Negotiations are ongoing with Ukraine and Lebanon, and are expected to start soon with Tunisia and Azerbaijan, and at some stage also with Armenia. The economic benefits resulting from the first of these agreements (Western Balkans and Morocco) have been estimated at a total of €6 billion between 2006 and 2011. 2011 marked a turning point regarding Russia's recognition of EU law. In September 2011, Russia - for the first time - agreed to incorporate the principle of EU designation in its bilateral air services agreements with EU Member States, a process which is now being completed. At the end of 2011, the European Commission and the Russian Government exchanged letters to the effect that the 2006 negotiated, agreed and signed "Agreed Principles on the modernisation of the Siberian overflight system" should be fully implemented by 1 July 2012.

3. Comprehensive agreements with key partners: since 2005, the EU has also negotiated comprehensive air transport agreements with a number of key trading partners: the United States, Canada and Brazil. These comprehensive agreements aim at a combination of market opening, creating the conditions for fair and open competition through regulatory convergence, liberalisation of ownership and control of airlines and resolving "doing business" issues. A first stage agreement with the United States was signed in April 2007 and a second stage agreement in June 2010. The EU-US agreement has played a pivotal role in shifting international aviation agreements away from mere market access negotiations. For the first time, **a major international agreement acknowledged that conditions for competition also needed to be addressed** and harmonised to ensure fair competition. The EU and the US have developed a new template agreement that facilitates the role of aviation.

Need for further action: reviewing and upgrading the EU external aviation policy is **urgent**.

- The **pace of un-coordinated market liberalisation**, at EU Member State level with certain non-EU countries is such that action is not taken now, then in a few years' time it may be too late. And in this, Member States' apparent intent to continue to grant bilateral air traffic rights to third countries without commensurate return, or account taken of the EU-level implications, could be a contributing factor.

- Sufficient headway has not been made in **tackling ownership and control restrictions**. These threaten to ossify the development of a global industry and deny EU carriers important new sources of capital. It is urgent to extend the scope of EU-level negotiations to a number of key and increasingly important aviation partners.

Trends: despite the current economic crisis, global air transport over the long-term is expected to grow by around 5% annually until 2030. Demand for air transport is primarily driven by economic growth and prosperity. With an expected average annual GDP growth rate for Europe of 1.9% between 2011 and 2030 compared, for example, with growth rates for India and China of 7.5% and 7.2% respectively, aviation growth will see a **relative shift to areas outside the EU with Asia and the Middle East** expected to become the focus of international air traffic flows. Half of the world's new traffic added during the next 20 years will be **to, from, or within the Asia-Pacific region**, which will overtake the US as leader in world traffic by 2030 reaching a market share of 38%. Due to below-average growth rates, **EU carriers will be losing market shares to non-EU airlines in most regions**. In 2003, EU carriers had a market share of 29% of all inter-regional capacity in the world. By 2025, this share is expected to have fallen to 20%. This trend means that, if nothing is done, European airlines will be less able to generate growth for the European economy. At the same time, non-EU carriers have reinforced their global position. For example, the fastest regional traffic growth in the world is expected to be in the Middle East, where by 2030 the region's airlines will represent 11% of world traffic, up from 7% in 2010.

Main objectives of a new aviation policy: the paper discusses the principal points of a new aviation policy, stressing the need to ensure fair competition and liberalise airline ownership.

- Regulation No (EC) 868/2004 was intended to protect against subsidisation and unfair pricing practices causing injury to EU carriers in the supply of air services from non-EU countries. However, strong calls have been made for developing **more effective EU instruments in the aviation sector** to protect European interests. The Regulation has never been used and the industry argues that it is not practicable as it has been modelled on tools used in anti-dumping and anti-subsidy for goods and is not properly adapted to the specificities of the aviation services sector. A more appropriate and effective instrument would need to be developed to safeguard fair and open competition in the EU's external aviation relations.

- In addition, the Commission proposes the development – most appropriately at EU- level – of standard **"fair competition clauses"** to be agreed and included in the respective bilateral air services agreements with EU Member States.

- Governments have still not reformed the archaic ownership and control rule. The logical starting point is the trans-Atlantic market. Since between them, the EU and US account for nearly half of global aviation, they represent a powerful bloc and the emergence of genuinely trans-Atlantic carriers would create important momentum. The time is now ripe to **liberalise airline ownership and control** in order to enable airlines to **attract investment irrespective of the nationality of the investor**. However, this important policy objective of allowing foreign investment in airlines should also be pursued more widely - both bilaterally between the EU and other key partners, and at a global multilateral level notably through ICAO. The EU should take a stronger lead in assessing how the concerns related to the current ownership and control clauses can be catered for, particularly with like- minded countries, whilst also addressing the need for airlines to access capital funding and enhancing the attractiveness of airlines in the financial markets.

Lastly, it is estimated that there would be **very significant economic benefits, more than EUR 12 billion per year, from further EU-level comprehensive air transport agreements** with neighbouring countries and key partners particularly in fast-growing and/or restricted markets. These include, notably, Turkey, China, Russia , Gulf States, Japan, Egypt and India. It is also important to finalise negotiations with Australia and to allow the benefits to start flowing from the EU-Brazil agreement, the signature of which has unfortunately been delayed.

Developing the agenda for the Community's external aviation policy

2005/2084(INI) - 27/06/2005

The Council adopted conclusions in response to the Commission communication on ‘Developing the agenda for the Community’s external aviation policy’.

The Council recognizes:

- that air transport plays a vital role in the European economy and for international trade and cooperation and that the aviation sector has a major contribution to offer in improving the competitiveness of the European economy as set out in the Lisbon Agenda;

- that the achievements of the Community's internal aviation market for both EU industry and users have created significant benefits for consumers and significant opportunities for operators;

- that the negotiation of new or amended aviation agreements with third countries must be conducted in a spirit which seeks to deliver mutually beneficial outcomes;

- that differences in the stages of development of Member States' bilateral aviation arrangements with third countries can, in practice, lead to inequalities in the opportunities available to Community carriers in some international markets;

- the important role of industry and consumer stakeholders, in particular the European airline industry, in the development of the Community's external aviation policy.

It welcomes the Commission’s communication, which provides a clear and coherent overview of the Commission's vision of the future development of the Community's external aviation policy and priorities.

With regard to bilateral agreements between Member States and third countries, the Council underlines that the bilateral system of agreements between Member States and third countries will remain, for the time being at least, the principal basis for international relations in the aviation sector. These agreements play a vital role in ensuring the continuity of services for users and a stable operating environment for industry, to the benefit of the wider economy.

It recognizes that the so-called "open skies" judgments of the European Court of Justice of 5 November 2002 have clarified the respective competences of Member States and the Community in external aviation relations and it consequently stresses the importance that Member States and the Commission strengthen further their cooperation and coordination and provide full mutual support in pursuit of the shared aim of bringing all such bilateral air service agreements into conformity with Community law as soon as possible, thereby restoring the legal certainty for Community as well as third-country air carriers on international routes. It underlines in this context, the need for the Commission and the Member States to work together in a concerted manner, using all available means, to avoid interruptions in bilateral agreements between Member States and third countries.

It welcomes the significant progress made in the context of "horizontal" negotiations conducted by the Commission that has led to the initialling of a growing number of "horizontal" agreements with third countries; the significant results obtained by Member States in the context of their bilateral relations to bring their bilateral agreements into line with Community law; and the agreement reached on the Community standard clauses to be incorporated in bilateral air service agreements as envisaged by Regulation 847/2004/EC.

However, it recognises that, although good progress has been made, the adaptation of the large number of existing bilateral agreements to Community law will still take time and that Community carriers must be able to operate and develop their international businesses during this time so as not to jeopardise their commercial position with regard to competitors.

It consequently stresses the necessity for Member States and the Commission to apply Regulation 847/2004/EC in a manner that preserves the continuity and permits the development of air services; in this context it is necessary to give equivalent consideration to agreements and understandings concluded by Member States with third countries after 5 November 2002 but before the adoption of Regulation 847/2004/EC;

The Council welcomes the general principles underpinning the Commission's communication with regard to comprehensive agreements, i.e. that the inseparable twin aims of comprehensive open aviation area agreements should be, on the one hand, market opening creating new economic opportunities and investment possibilities, and, on the other hand, a process of regulatory convergence that ensures a satisfactory level playing-field with fair and equitable competition conditions.

It stresses the importance for EU businesses and consumers of allowing Member States to continue negotiating traffic rights and related commercial matters with third countries in parallel with Community-level negotiations during the transition towards conclusion of open aviation area agreements or other agreements, and in this context stresses the need for the Commission, in accordance with Community law, to apply Articles 1 and 4 of Regulation 847/2004/EC taking into consideration the need of Member States to negotiate additional traffic rights and related commercial matters.

It invites the Commission in relation to negotiations with third countries to ensure full information and consultation of all relevant stakeholders including notably the European airline industry throughout the negotiations.

The Council urges the Commission to bring the current negotiations with the United States to a successful and mutually satisfactory conclusion as early as possible and welcomes the encouraging early progress being made in developing a wider European Common Aviation Area by 2010 incorporating EU neighbouring countries.

The Council stresses that, before granting mandates for the negotiation of any further comprehensive agreements with third countries, the added value of any resulting Community-level agreement should be clearly demonstrated in each case, notably with regard to the prospects of obtaining significant new opportunities for EU industry and users and achieving greater levels of regulatory convergence with a view to ensuring a competitive level playing-field;

It stresses as a priority the importance of ensuring within the framework of the accession of the Russian Federation to the World Trade Organisation a satisfactory solution to the phase out of trans-Siberian over-flight payments by 31 December 2013.

Developing the agenda for the Community's external aviation policy

2005/2084(INI) - 17/01/2006 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Saïd **EL KHADRAOUI** (PES, BE) in response to the Commission communication on developing the agenda for the Community's external aviation policy. (Please see the summary of 22/11/2005.) Parliament recognised the global nature, economic importance and continuing growth of the aviation sector, as well as the need to manage the effects of this growth on air traffic management, safety and the environment, and therefore the need to develop a common external aviation policy. It considered agreements with the USA, Russia and China respectively as prerequisites. Parliament recognized the need to bring existing bilateral agreements into line with Community law, on the basis of the ruling of the Court of Justice. Bilateral agreements should be adapted as soon as possible in order to avoid legal uncertainty. The commencement of negotiations on Community agreements, which, by nature, take more time than horizontal negotiations, can only be supported if a clear, coherent negotiation strategy exists. This approach could be complemented by a more fundamental change in external aviation policy, which would provide benefits to European consumers and the EU industry through the adoption of new and ambitious agreements between the Community and third countries.

Parliament felt that in the event of long, drawn-out negotiations, with partner countries showing a protectionist attitude, bilateral coordination of traffic rights would be a possibility. It fully supported the principle of a double and indivisible agenda for such negotiations, linking the opening-up of markets to regulatory convergence.

Market opening: Parliament stressed that new agreements should be balanced in terms of market access, and might include issues such as cabotage, rights of establishment, ownership and control, competition rules and state aid, but only on a basis of strict reciprocity. It recognised that, although open skies agreements are desirable, they may not always be possible. Where an open skies agreement is not possible, the continuation of the existing bilateral regimes should be preferred, albeit as a temporary solution. The Commission should develop fair and transparent mechanisms for the distribution of traffic rights among Member States in such cases.

Parliament called for a realistic agenda for negotiations, with the selection of the countries to negotiate with being based on clear and sound criteria and an analysis of their economic and regulatory situation. These criteria could include economic aspects, with priority being given to countries of substantial importance for the European market, such as the USA, Russia and China , and also geographical aspects, with priority being given to countries in the vicinity of Europe so as to extend the European Common Aviation Area or implement the new neighbourhood policy.

Regulatory convergence: Parliament emphasised that the opening-up of markets should always follow regulatory convergence, and that the degree of liberalisation should be linked to the degree to which a level playing field is achieved.

Safety and security: The standards of third countries may not always be equal to those in the European Union. The EU could play a pioneering role in applying and upholding internationally recognised standards on a global scale. Parliament suggested, therefore, that references to the International Civil Aviation Organization ('ICAO') and EU safety regulations be made in agreements with third countries and that Member States increase their

efforts, through bilateral cooperation and the European Aviation Safety Agency ('EASA'), to help third countries which lack a sufficient safety level to attain such a level. The Commission is asked to propose, by no later than the end of 2006, better procedures under Directive 2004/36/EC ('the SAFA Directive') for monitoring the safety of the aircraft of third-country carriers, and also to propose the extension of the competence of EASA in this field. Parliament underlined the importance of the development of an EU security policy for transport, which should be included in the negotiating agendas for aviation agreements.

Environment: Parliament recognised that the aviation sector has several negative environmental effects, in particular as a source of noise and as a significant contributor to climate change, but airports and air carriers have already made, and will continue to make, significant efforts to reduce and avoid noise and emission pollution. In this respect, Parliament welcomed the communication from the Commission on possible measures reducing the climate change impact of the aviation sector (COM (2005)0459), and looked forward to the adoption of clear policies for better air traffic management and for the operational procedures and infrastructural circumstances of airports. It also looked forward to other measures, such as the integration of aviation into the European emissions trading system with equal treatment of EU and non-EU air carriers.

Social policy: Parliament urged the Commission to insist on the introduction of references in new agreements to relevant international legislation relating to social rights, in particular the labour standards embodied in the fundamental conventions of the International Labour Organisation (ILO 1930-1999), the OECD guidelines for Multinational Enterprises (1976, revised 2000) and the Rome Convention on the Law Applicable to Contractual Obligations (1980). Community social legislation must be applied to employees recruited and/or employed in EU Member States.

Conduct of negotiations: Negotiations should be carried out in close cooperation with the Member States, which have the necessary expertise and experience to carry out such negotiations. The Commission is asked to ensure that the European Parliament and all relevant stakeholders are fully informed and consulted before and throughout the negotiations, by means of an agreed consultation road-map.

Developing the agenda for the Community's external aviation policy

2005/2084(INI) - 11/03/2005 - Non-legislative basic document

PURPOSE : to develop the agenda for the Community’s external aviation policy.

CONTENT : 2 years after the “Open Skies” judgements affirming EU competence in certain aspects of international aviation agreements, the Commission presents a strategic approach to develop the external approach of the internal aviation market. Apart from aligning the existing bilateral agreements through the promotion of more effective complementarity between the tools available and active coordination

between Member States and the Commission, the roadmap for implementing the EC external aviation policy incorporates two complementary objectives:

- Creation by 2010 of a Common Aviation Area comprising the EC and all its partners located along its southern and eastern borders, with a view to achieving a high degree of economic and regulatory integration of aviation markets in this area. The various parties would share the same market operation rules, not only from an economic point of view but also with regard to air traffic, security or air safety.

Its creation is also a sectoral contribution to the Union’s neighbourhood policy. Agreements are being negociated with Morocco and the Western Balkans.

- Launching in the short term of targeted negotiations seeking to achieve global agreements in the major regions of the world, with the aim of strengthening the prospects for promoting European industry and ensuring fair competition in the most dynamic world markets, while at the same time helping to reform international civil aviation.

This agenda will involve the following short-term stages:

- negotiation, at a sustained pace, of horizontal agreements finalising and accelerating the alignment of existing agreements with Community law, as secured by the Member States in their bilateral relations;

- opening of new negotiations aimed at achieving global agreements, starting with negotiations involving China and Russia;

- successful conclusion of the agreements currently being negotiated and, in particular, those involving the United States.

Furthermore, this agenda will need to evolve in total synergy with the promotion of sustainable development in the aviation sector. By acting with a single voice, the Community will be best placed to counter the negative effects on the environment of the growth of the aviation sector, notably in terms of climate change.