New tasks for the European Aviation Safety Agency

Firstly, it is proposed that EASA will be entrusted with qualifications and licences for pilots. The existing essential requirements would be further developed by EASA and be adopted by the Commission at a later point. The national authorities would remain responsible for issuing licences and for conducting inspections and audits of training organisations and medical centres.

Secondly, on the basis of the intergovernmental rules of the Joint Aviation Authorities, EASA would work on detailed rules for aircraft operations in the EU, whether they concern EU or third country aircraft. These rules would be adopted as a Commission Regulation. Under the control of EASA, the national authorities would continue to issue certificates for EU carriers.

Thirdly, similar to the Federal Aviation Administration (FAA) in the United States, EASA would become responsible for certifying compliance of third country operators with the essential requirements for operating aircraft in the EU.

The Commission wants to make EASA competent for safety and interoperability of air navigation services and airports. By 2010, EASA would be in charge of the whole field of aviation safety.

Set up in 2003, EASA is currently principally in charge of airworthiness and environmental certification of aircraft and equipment and of the certification of design, production and maintenance organisations.

The present initiative is in accordance with the proposed Regulation (COM(2005)48) on the information of air transport passengers on the identity of the operating carrier and on communication of safety information by Member States (cf. Brussels Air News Issue 5). This Regulation was approved by the European Parliament on 15 November 2005 and is expected to be adopted at the Transport Council on 5 December 2005.

Review of the 2001 White Paper on Transport Policy

The main objectives are: the rebalancing of the modes of transport; the assurance of the fact that transport reflects external costs (e.g. environment, congestion, ...) and the tightening of safety and quality requirements.
For the air transport sector the creation of:

- the “Single European Sky”
- the opening of “open skies” negotiations with the United States
- the introduction of the SESAME technology for the optimisation of the air traffic management
- the launch of the Galileo programme
- the creation of the European Air Safety Agency (EASA) and the strengthening of air passenger’s rights
- are mentioned as the most important measures.

The review would take into account the developments in the transport sector since 2001, including the EU enlargement, weak economic growth, high fuel prices and safety.

Last June, the Commissioner in charge of transport said that the solution to the problems linked to the growth of transport in Europe is not the reduction of the mobility. For the Commission, “mobility has become an essential factor for competitiveness, one should not restrain it when our growth levels are low” (speech/05/339 of 9 June 2005). This statement indicates an evolution in the Commission’s policy since the 2001 White Paper aimed at decoupling transport growth from economic growth to limit the negative effects of transport.

The consultation, which runs until 31 December 2005, is available at: http://www.europa.eu.int/comm/energy_transport/white_paper_transport_revision/lb_consultation_en.html

**Commission committed to secure air passengers’ right**

At the European Parliament’s plenary session in Strasbourg on 25 October 2005, the Commissioner in charge of transport reiterated the Commission’s determination to ensure that the new passengers’ rights are respected.

Members of the European Parliament stressed the practical difficulties which can prevent airline passengers from exercising their rights under Regulation 261/2004, which entered into force on 17 February 2005. They asked the Commission to review the role of the designated national enforcement bodies which, according to Article 16, the Regulation is responsible for ensuring passengers’ rights are upheld and for dealing with passengers’ complaints.

The Commissioner explained that the Commission monitors the implementation of the Regulation by the Member States and the airlines. He recalled that the Commission launched infringement proceedings against twelve Member States which failed to lay down effective, proportionate and dissuasive sanctions on airlines in case the latter infringe the Regulation’s provisions.

The Commission has contacts with the national enforcement bodies in order to define a harmonised interpretation of the role of those bodies when controlling and dealing with complaints. Even though it should not affect the rights of passengers and air carriers to seek legal redress from courts under existing procedures of national law, the objective of the Regulation is to favour alternative transparent and simple proceedings: the Commission insists that this must be implemented by the Member States.

The Commissioner in charge of transport undertook to schedule, before the end of year, a meeting with the national bodies where they will be invited to explain the application, or lack of application, of the Regulation.

**Second round of talks on the EU-US open skies agreement**

On 14 November 2005, in Washington, the negotiations with the aim to conclude a transatlantic air services agreement started again for one week. The discussions would focus on traffic rights and recognition of the concept of Community carrier.

At the end of the first session of discussions held in Brussels last October, the parties agreed to strengthen their cooperation on competition matters and State aids by setting mechanisms and joint methods that would allow compatible decisions concerning amongst other mergers between airlines. Conflicts on safety and security issues would be avoided and the dialogue on environment would be pursued, especially on aircraft noise legislation. A joint committee should be set up in order to control the correct application of the joint agreement and to answer questions of interpretation.

The Commission’s objective is to reach a first agreement based mainly on regulatory convergence by the end of the year and to leave the matter on current limits on the foreign ownership and control of airlines to a second stage.
On 2 November 2005, the US Department of Transport made a proposal to ease the interpretation of “actual control” in order to encourage investments in US airlines. The proposed rule allows international investors more say in some aspects of the day-to-day airline operations, such as marketing, routing and fleet structures. However, the proposal does not change the requirements of 75% of voting control with US citizens of a US carrier and of obligatory US management consisting of the president and two-thirds of the managing officers and directors. These restrictions can only be modified though an Act of Congress.

External relations developments
On 8 November 2005, the Council approved the signature and provisional application of air services agreements between the EU and Azerbaijan, Bulgaria, Croatia, Georgia and the Lebanon.

The five agreements are the results of negotiations under the “horizontal” mandate of the Council of 5 June 2003 which allows the Commission to negotiate with third countries on behalf of the EU in order to bring existing Member States’ bilateral air services agreements in line with Community law. The revision particularly concerns the nationality clause, the ownership and control of airline companies and all matters coming under the exclusive external competence of the Community (amongst others slots and fares).

During the past week, the United States also signed two open skies agreements with Canada and Ireland.

The new US-Canada agreement allows unrestricted service to, from and beyond the other’s territory, without restrictions on the frequency, on the types of aircraft used and on the prices charged. It will amend the 1995 agreement, which removed a number of restrictions but which provided virtually no rights for airlines to fly beyond the other country and severely limited express cargo services.

The agreement with Ireland should only be a full open skies agreement by April 2008, subject to the ongoing EU-US negotiations on a transatlantic open skies agreement. In the meantime, Irish carriers will be allowed to fly to eight US airports; flights from the US to Ireland will be required to stop at Shannon.

Proposal to revise the Block Exemption for IATA passenger tariff conferences
On 16 November 2005, the Commission presented its proposal to revise the block exemption granted to IATA for passenger tariff conferences.

These forums of discussions on tariffs for services between IATA carriers have been exempted from the application of EU competition rules by a block exemption since 1993 (Regulation (EEC) No 1617/93). The Commission considered that economic and consumer benefits fairly compensated the possible restrictions of competition. For example, interlining allows a passenger to use a single ticket, with a single transaction, for travel involving multiple airlines, thus offering the passenger a high degree of flexibility as to timing, routing and carrier.

While the Commission continues to acknowledge the benefits of interlining for the passengers, it nevertheless launched two consultations in June 2004 and in March 2005, asking whether the IATA interlining system is still necessary in its present form or whether a less restrictive means than price fixing could also achieve the benefits of interlining.

On the basis of the comments received, the Commission believes that given the development of airline alliances and code-share agreements, which offer alternative forms of interlining, the benefits to consumers of the IATA system do not necessarily still outweigh the risks to competition. Alternative forms of interlining would be less expensive than prices for IATA interlined tickets.

The Commission distinguishes the tariff conferences in relation to EU routes from those in relation to the routes between the EU and third countries. The benefits of the tariff conferences for consumers would at present be minor within the EU, whereas for routes to third countries, the tariff conferences would still be beneficial to the consumers.

Therefore, the Commission proposes to phase-out the existing block exemption regime as of 1 January 2007 for EU routes, with a transitional period until 31 December 2006 to allow IATA to work on alternative arrangements, and for the routes to third countries, the proposed regulation provides for an exemption until 30 June 2008.

Nevertheless, the Commission made it clear that the possible discontinuation of the block exemption does not mean that interlining would be made impossible. It would only constitute the withdrawal of the legal assurance that the tariff conferences are compatible with the competition rules. In future, the air transport industry, like any other industry, would then have to ensure that the agreements and concerted practices do not restrict or distort competition. An exemption can still apply, under article 81(3) of the EC Treaty, but the airlines will themselves have to assess whether this is the case or not.
Concerning IATA slots and scheduling conferences, the Commission believes that they do not require any longer the legal assurance given by a block exemption. Indeed, the results of the consultations show that both conferences are compatible with the competition rules. Consequently, the existing block exemption regulation for IATA slots and scheduling conferences would not be further prolonged.

The Commission will now consult Member States and give interested parties a further opportunity to make their views known.

Launch of the SESAME project to modernise air traffic control...or is it SESAR?

On 17 November 2005, the Commission and Eurocontrol officially launched the industrial project SESAME, which aims to improve safety and environmental performance of civil aviation by developing and putting in place the latest technologies for air traffic control in Europe.

SESAME is the technological part of the Single European Sky project. It was launched in 2004 and is there to reform air traffic management in order to safely and efficiently meet the needs of the growth of air traffic. SESAME is a European partnership bringing together the Commission, Eurocontrol and the industry. Thirty major companies, including airspace users, airports, air navigation service providers and industry associations, form the “Sesame Consortium” represent the industry.

The programme is organised in two phases:

- a definition phase (2005-2007) under the responsibility of Eurocontrol, to establish the Air Traffic Management Master Plan
- an implementation phase (2007-2020) dedicated to research work, industrial development and operational deployment, which will cost €300 million per year and be co-financed by the Commission, Eurocontrol and the industry

Like Galileo, a joint-undertaking should also be created during the implementation phase.

We learned yesterday that the Commission would re-name SESAME to SESAR.

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