

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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COMMUNICATION FROM THE EUROPEAN COMMUNITIES

Draft Sectoral Annex on Air Transport

The attached communication is circulated at the request of the Permanent Delegation of the Commission of the European Communities. This annex should be read in relation to the draft agreement on trade in services proposed by the European Communities (MTN.GNS/W/105).

DRAFT SECTORAL ANNEX ON AIR TRANSPORT

Article 1: Scope

1.1 The objectives of this Annex are to ensure that

- a) the inclusion of air transport services in the Agreement will lead to improved trade opportunities to be guaranteed under conditions of fair competition and taking into account the specific characteristics of air transport including multilateral and bilateral commitments of the parties,
- b) the meaning and extent of application of certain provisions of the Agreement in relation to air transport services is clarified.

1.2 The provisions of this Annex shall apply to all measures referred to in Article I 1 of the Agreement related to the provision of air transport services of passengers, cargo and mail, as well as to the provision of ancillary services such as computerised reservation systems and other distribution facilities, ground handling at airports and aircraft repair and maintenance.

Article 2: Traffic rights

2.1 The provisions of Article II and IV of the Agreement shall not apply to transport measures<sup>1</sup> which relate, as regards scheduled or non scheduled air services, to the airports served, routes, capacity or fares, nor to the nationality and number of undertakings designated for the operation of transport from, to, within or over the territory of a party and to the trading conditions applied for non scheduled air services. The related provisions of bilateral and multilateral air transport services agreements entered into by parties shall not be affected.

2.2 The provisions of Article II of the Agreement shall apply to the designation of flight paths to be followed for overflights and to and from an airport within the territory of a contracting party, except for reasons of safety and public security.

Article 3: Establishment

3. No party shall frustrate the possibility of citizens or air transport service providers of other parties gaining effective access to its market through acquiring shares of air transport providers of that party including by, inter alia,

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<sup>1</sup> "measures", within the meaning of Article XXVIII.3 of the Agreement, would include measures such as authorisations, permits, regulations or conditions.

- a) limiting individual shareholdings in air carriers to a greater extent than necessary to ensure effective control and substantial ownership of the air carrier by citizens of the party, including by a simple majority of shareholding,
- b) permitting practices in respect of foreign shareholdings which discriminate against air transport services providers of other parties.

#### Article 4: Domestic Regulation

In the application of Article V of the Agreement, public policy considerations related to services falling within the scope of this Annex shall, without prejudice to Article XV, inter alia include the following:

- a) air safety and security,
- b) consumer protection including liability questions,
- c) environmental protection including aircraft noise,
- d) licensing requirements,
- e) rules on the use of computer reservation systems,
- f) rules on the allocation of slots,
- g) working conditions.

#### Article 5: Transparency

In respect of the rights set out in Article 2, paragraph 1 of this Annex parties shall be deemed to have complied with the provisions of Article VI, paragraphs 1 and 2 of the Agreement to the extent that they have fulfilled obligations on transparency resulting from the Chicago Convention, and its annexes.

#### Article 6: Subsidies

6.1 Notwithstanding Article VII of the Agreement a party may subsidise specific air transport services if adequate provision of these services is not otherwise possible.

6.2 The adequacy of the provision of air transport services shall be assessed having regard to:

- a) the public interest,
- b) the possibility of having recourse to other forms of transport and the ability of such forms to meet the transport needs under consideration,
- c) the air fares and conditions which can be quoted to users.

Article 7: Definitions

- a) computerised reservation system (CRS) shall mean a computerised system containing information about, inter alia, air carriers
- schedules
  - availability
  - fares, and
  - related services
- with or without facilities through which
- reservations can be made, or
  - tickets may be issued
- to the extent that some or all of these services are made available to subscribers;
- b) distribution facilities shall mean facilities provided by a system vendor to a subscriber or consumer for the information about air carriers schedules, availability, fares and related services and for making reservations and/or issuing tickets, and for any other related services;
- c) ground handling shall mean technical and operational handling of aircraft at airports, handling of passengers, mail, freight and baggage and services for the provision of in-flight catering;
- d) aircraft repair and maintenance shall mean activities required at a regular or ad hoc basis in order to guarantee the operational airworthiness of aircraft;
- e) air transport services provider of a party shall mean
- i) an air carrier of scheduled or non scheduled air transport services of passengers, and/or cargo, and/or mail, which has its central administration and principle place of business in the territory of that party, and the majority of whose shares are owned by nationals of the party, and which is effectively controlled by such persons
  - ii) a provider of ancillary services which has its central administration and principle place of business in the territory of that party;
- f) slot allocation means the granting by the competent authority to conduct a landing or take off at a specific time at a coordinated airport.