

***PANEL DISCUSSION ON THE EC NEGOTIATING CHALLENGE, BLOC  
NEGOTIATIONS AND THEIR INDUSTRY IMPLICATIONS***

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I would like to preface my remarks today by firstly saying that I never imagined there would be a day when I would be invited to speak at a government-industry dialogue on liberalisation in Shanghai. This event is indeed a fitting testimony to the leadership role of CAAC in the liberalization of air transport in our region.

Liberalisation is actively practiced in Singapore (a little red dot on the map), Sri Lanka (a developing island), Thailand (a mecca for tourists), Brunei (an oil rich sultanate), New Zealand (an OECD member), China (an emerging superpower) and Macau (a SAR of China). Given the diversity of these economies, I believe it is fair to conclude that liberalization knows no barriers.

Coming to the subject of this panel, I would like to present a third view on the EU's external aviation policy. It is also useful to talk about failed bloc negotiations between the EU and Singapore, Australia and New Zealand (SANZ), as we can learn from both our successes and failures.

The result in the case of EC – SANZ was a long, drawn out affair that from Singapore's perspective ultimately achieved very little. Between the time that negotiations commenced, in 2003, and the final agreement in 2005, the EC issued two Communications on aviation policy towards neighbours. The first of these, in early 2004, was upbeat and placed the obtaining of a negotiating mandate for SANZ as a high priority. At that time, discussions between EC – SANZ were focusing on how to tie the horizontal agreement into a more comprehensive arrangement between the two blocs.

Disappointingly, the second Communication, in March 2005, indicated that the EC has listened to calls from the AEA for protection. The Communication merely noted that requests for more liberal access by SANZ should be carefully considered. This is despite SANZ being ready and willing to sign a much more liberal agreement. As a result, individual horizontal agreements only were signed between the EC and each of Singapore, Australia and New Zealand. The opportunity for a tangible achievement by the EC in air transport liberalisation has been lost.

For those States considering entering into negotiations with the EC on the horizontal agreement, there is nothing particularly innovative about the result and so nothing to be overly concerned about. The Community carrier clause is not what it is made out to be. Substantial ownership and effective control remain the standard for EU designation. The only difference is that ownership and control are to be by nationals of any EU Member States, rather than by nationals of a particular Member State.

The designation clause that applies to Singaporean carriers is more of a change than is the Community clause. Singapore carriers may now be designated on the basis of principal place of business and effective regulatory control – the position advocated by IATA at the ICAO Worldwide Air Transport Conference.

On the issue of safeguards for third countries contemplating signing the horizontal agreement, the EC has shown itself to be flexible. The Singapore agreement permits refusal of designation where EU carriers circumvent existing bilateral restrictions or where there is no bilateral in place. The language agreed between the EC and Chile appears to permit Chile to limit the operations of any EU carrier where that carrier is already operating under another bilateral. So there is scope for movement on this issue.

The EC is not really as liberal as it makes itself out to be. This is because there is no consensus amongst the Member States on where they want the process to lead. The AEA has effectively lobbied Member States and the EC to maintain a protectionist environment. The Preamble to the horizontal Agreement even notes that it is not the intention of the EC to increase the total volume of air traffic between the EC and Singapore or Australia or alter the existing balance of traffic rights.

Singapore would like to see the EC gain a mandate for talks on a comprehensive agreement. It is ready to move in this direction now and it seems odd that the EC brushes aside Singapore and other like-minded States, in order to focus on countries which have no interest in consultations with the EC.

As an alternative, Singapore advocates that discussions, in any agreement, between the US and the EC include the possibility of accession by third parties to any open arrangement that is concluded. This was an element of the TCAA (Transatlantic Common Aviation Area) when it was mooted. Unfortunately, I understand that the EU/US negotiations have not focused on it. If third parties are able to accede to such an agreement, this could offer the very real prospect of quickly achieving a new global standard to replace the worn-out model of the bilateral agreement.

Recent experience has shown that like-minded countries in regional blocs have been able to advance the cause of liberalisation. The best example is the *Multilateral Agreement on the Liberalisation of Air Transport*, concluded in 2001 between a group of APEC Member Economies. The Agreement grants unlimited third, fourth and fifth freedom rights, as well as seventh freedom rights for all-cargo services. Cabotage and seventh freedom for passenger services are available under additional Protocols.

Cambodia, Laos, Myanmar and Vietnam signed a Multilateral Agreement on Air Services in 2003, to replace the bilaterals between their respective countries. This agreement recognized that an ASEAN-wide approach is not yet suitable for all and that a sub-regional approach will best help their airlines to engage in the international air transport market. The Agreement provides open third, fourth and fifth rights.

The MALIAT was used as a basis for a cargo-only agreement between Singapore, Thailand and Brunei. Cambodia has recently acceded to this agreement and it is to be hoped that other ASEAN States will accept that cargo liberalisation is a viable approach to adopt as a starting point towards full-scale open arrangements in the future.

These are admittedly small steps which pale in comparison to the European Single Market. However, as economic integration gathers pace in the Asia/Pacific and as countries like China take their place among First World nations, I look forward to the day when the Asia/Pacific plays a role in the development of aviation policy and practice to rival the EU and the US.

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