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# *Opening the Skies*

The recent open-skies agreement between Europe and the United States will give carriers more trans-Atlantic flying freedom and travelers more choices at better fares.

■ By Lynne Clark | *Ascend Staff*





“The freedom to travel is often underestimated, but it is a value that lies at the core of democracy. ... one which we should always protect, promote and preserve.”

— U.S. Transportation Secretary Mary Peters

After negotiating for 11 years, European Union and United States transportation officials gathered in Washington, D.C., on April 30 to sign a comprehensive, first-stage U.S.-E.U. transportation agreement. The open-skies agreement was a decisive step toward an open and completely liberalized trans-Atlantic aviation market. With this agreement, said U.S. Transportation Secretary Mary Peters, “the honeymoon in Paris, [France], the business trip to Dublin, [Ireland], or the family reunion in Naples, [Italy], will be cheaper, easier and within the reach of more Americans and Europeans than ever before. And people from every E.U. country will enjoy these same benefits when they buy that trip to Disneyland or Washington, D.C.”

Put simply, open-skies agreements remove regulatory limits on the number of carriers a country may designate, the number of flights, the routes flown and the type of aircraft an airline may use. Open routing provisions that permit unlimited flights between the parties also allow carriers to continue flights on to third-country markets. While removing barriers to market entry and service, the agreements affirm the critical operations of civil aviation, such as safety and security. The arrangement covers operations by scheduled and charter operators, for passenger and all-cargo services.

### The Agreement

The new agreement, which will be provisionally applied beginning March 30, 2008, dismantles the patchwork of agreements that has limited trans-Atlantic air service since World War II. It extends open-skies principles to 11 E.U. countries, including Greece, Ireland, Spain and the United Kingdom, where the United States has had restrictive

agreements or none at all. The United States and the European Union have agreed to begin second-stage negotiations on further liberalization within 60 days of application of the agreement.

According to a May report published by the U.S. Department of Commerce, International Trade Administration, the new agreement contains several major provisions:

- Open skies between the United States and the European Union and all its 27 member states;
- Broader entry into cooperative marketing arrangements for codesharing, franchising and leasing;

- Creation of a cooperative joint committee to further airline deregulation;
- Guarantees for U.S. investors to participate as minority shareholders in any majority-E.U.-owned airline (effectively including minority shares of state-owned firms);
- Investment in U.S. airlines: Restatement of U.S. policy (25 percent legislated cap on voting equity, 25 percent-minus-one-share regulatory cap on non-voting equity); the United States will consider foreign requests to hold larger shares of non-voting equity, including combinations in which the



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Unlimited entrance to the United Kingdom, specifically London Heathrow Airport, the busiest point in the European Union and currently limited to two U.S. carriers, is one of several benefits of the new open-skies agreement between the European Union and the United States.

total of voting and non-voting equity exceeds 50 percent;

- The ability for E.U. carriers to route flights between any E.U. member state and the United States without touching the home country's "community carriers" (for example, a Lufthansa German Airlines flight can go from Paris to the

United States without having to pass through Germany);

- U.S. agreement that purchase by an E.U. carrier or investor of a controlling share in a carrier (passenger or cargo) from third countries that have open-skies agreements with the United States — such as Switzerland, Liechtenstein,

members of the European Common Aviation Area, Kenya or African countries — would not jeopardize the acquired airlines' rights to operate in the United States;

- Authorization for E.U. carriers (scheduled and charter, passenger and cargo) to carry certain "Fly America" traffic, except for the U.S. Department of Defense;
- For E.U. cargo carriers, the ability to route flights between third-party states and the United States without touching the home country and between the United States and members of the European Common Aviation Area.

The ITA report also outlines specific benefits that accrue to the air services sector under the new agreement:

- A unified set of rules governing air services arrangements across the E.U., replacing multiple national-level air services agreements for passenger and air cargo routes served by U.S. operators;
- Potential simplification of the existing passenger and cargo operating relationships, including competition-law issues, in the non-open-skies E.U. countries, helping to rationalize the industry further (for example, more choices in partnership or co-branding relationships, broader selection of passenger and cargo hubs) and improve operational efficiency;
- Unrestricted access to the United Kingdom and especially London Heathrow Airport, the busiest point in the European Union and currently limited to American Airlines and United Airlines among U.S. carriers.

## Carriers Jockey for Position

For airlines, stakes in the coming rules change are high. Trans-Atlantic air traffic between Europe and the United States is expected to increase by 55 percent during the next five years. Washington, D.C.-based aviation consultant Jon Ash told *USA Today* recently that Heathrow is the "cash cow" carriers are hoping to milk. That's because in the 12 months ended in February, the average fare from the United States to London Heathrow Airport was 29 percent higher than that from the United States to London Gatwick Airport. Clearly, stakes are high for carriers that are making major investments to take full advantage of deregulation. Already, there have been numerous reports relating to the new open-skies agreement:

- Delta Air Lines is scrambling for operating rights at London Heathrow Airport so it can launch service from



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The new open-skies agreement between the European Union and the United States will allow airlines in those regions to serve some of the world's most traveled airports, such as London Gatwick Airport and John F. Kennedy International Airport, that were previously off limits.



HIGHlight

“If history is an accurate barometer, investments made by carriers hoping to profit from open skies agreements are a good bet.”

its Atlanta, Georgia, base as soon as the treaty takes effect.

- Virgin Atlantic Airways is studying new flights from six European cities. If launched, the carrier would start the routes out of the John F. Kennedy International Airport and Newark International Airport, where it now flies. Possibilities include Madrid, Zurich and Milan, Italy.
- Continental Airlines hopes to launch Heathrow service from its Houston, Texas, base before summer 2008.
- Immediately after the open-skies agreement in March, Aer Lingus announced plans to launch service this year to three new U.S. cities: San Francisco, California; Orlando, Florida; and Washington, D.C. The Irish carrier had the authority for the service but

didn't use it until deregulation was on the horizon.

- United Airlines and British carrier bmi are seeking final approval from U.S. regulators to expand their codesharing partnership. Passengers would be able to visit United's Web site and buy one ticket to get to their final European destination.

**History Confirms Open Skies are Profitable**

If history is an accurate barometer, investments made by carriers hoping to profit from open skies agreements are a good bet. After the 1995 adoption of the U.S.-Canada trans-border air services agreement, one-year traffic jumped 146.4 percent between Vancouver, Canada, and Phoenix, Arizona, according

to figures gathered by the IATA. Similarly, travel between Toronto, Canada, and Minneapolis, Minnesota, jumped 55.3 percent in the first year after the U.S.-Canada agreement.

The joint commitments on the part of the United States and the European Union to launch second-stage negotiations in 2008 holds open the possibilities for even greater commercial opportunities in the future. Further liberalization of traffic rights and additional possibilities of investments abroad is a next step.

“This agreement will bring many concrete benefits, and it will bring change,” said European Transport Commissioner Jacques Barrot in remarks during the signing ceremony. “Even before the signature, different players in the European industry have been staking out their position in preparation for a new era. Partners on different sides of the Atlantic are considering how to develop further their cooperation.

“Financial institutions, in particular, are looking for progress that ensures aviation has the same investment and trading opportunities as other industries.”

Looking ahead, he said the United States and European Union must address air transport emissions and the cost of “green technologies” as well as better air traffic control.

“We must also now work together more closely than ever on safety and security,” Barrot said. “We need to protect our citizens when they fly, but we must not make their journey unbearable with uncoordinated security measures. So there is a lot of work to do, but with this deal, we are giving ourselves an excellent basis for future work. Aviation is essential to trans-Atlantic trade, and with this agreement, aviation takes its place as an example of what the European Union and the United States can achieve together. Now we must press on with our work to ensure that aviation continues to lead the way.”

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Virgin Atlantic Airways is considering operating new flights from six European cities as a result of the recent open-skies agreements between the United States and Europe. If it moves forward with these plans, it will begin the routes out of the Newark International Airport and the John F. Kennedy International Airport.

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