13 May 2016

Comments on Commission Aviation Strategy for Europe

Context

On 7 December 2015, the European Commission (DG MOVE in the lead) presented an “Aviation Strategy for Europe”. With this Communication, the Commission aims to set out its plans to ensure that the European aviation sector remains competitive and reaps the benefits of a fast-changing and developing global economy.

As a response to the public consultation that was launched ahead of this strategy before summer 2015, BUSINESSEUROPE published the position paper “Improving the competitiveness of the EU aviation sector” in June 2015.

The Commission’s strategy is an action plan announcing a number of proposals and measures to be taken until 2019. This position paper comments on the specific actions announced and outlines BUSINESSEUROPE’s views on the direction that Europe needs to go to truly address the challenges faced by the EU aviation sector and what European businesses need in order to grow and create jobs.

General remarks

1. BUSINESSEUROPE welcomed the Aviation Strategy for Europe, which rightly focuses on investment, market access, reducing costs and increasing efficiency. In the past decades, the EU aviation sector has been an example - also for other industries - of how liberalisation can drive efficiency, innovation and offer to the benefit of European citizens and businesses. Air transport users enjoy an unprecedented choice of air travel opportunities at competitive prices. The number and frequency of intra-EU as well as international routes flown, and the number of passengers have increased substantially. Today there are more than 3500 routes between EU Member States and more than 2500 extra-EU routes.

2. The strategy is timely as the EU aviation sector is facing a number of great challenges linked to relatively high operating costs, looming capacity constraints, heavy regulatory and administrative burden and loss of efficiency due to the remaining fragmentation of the Single European Sky, while at the same time facing increased pressure from new competitors and emerging markets.

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1 BUSINESSEUROPE Press Release of 7 December 2015, available here.
3. The EU aviation sector is crucial for Europe. Not only does it directly supports more than 5 million jobs and contributes about 2.5% to EU GDP (about €110 billion), its overall impact, including for instance tourism, is as large as €510 billion through the multiplier effect. Aviation also plays a vital role in connecting Europe and offering mobility and opportunities to citizens and businesses. European aviation is a frontrunner in setting high global standards, leading on aviation safety and security and developing balanced passenger rights, while taking responsibility to make aviation more sustainable.

4. As a result of increasing demand, global air transport over the long term is expected to grow around 5% annually until 2030. However, this growth is foreseen in particular for other parts of the world, such as Asia or the Middle East. It coincides with a general shift in the global economy towards Asia and other emerging countries where Europe is becoming more dependent on external trade. In this context, connectivity is crucial and aviation both within and beyond Europe is of an increasingly strategic relevance for the European economy. It has been estimated that a 10% increase of connectivity/seat capacity stimulates the GDP (per capita) by an additional 0.5%, the GDP growth rate by 1% and leads to an overall increase of labour productivity.

5. BUSINESSEUROPE welcomes the Commission’s focus on the external dimension of EU aviation policy. There is a need for a global level-playing field. Progress towards this objective should be achieved through EU negotiated aviation agreements with the clear objective of improving air connectivity, focusing on market needs. At the same time it is important to create a more attractive investment climate to support European airlines and airports.

6. While we appreciate the strong focus of the Aviation Strategy on the external dimension of EU aviation, the Commission should ensure sufficient attention on assessing burdens and regulations at EU and Member State level to strengthen the competitiveness of European air transport, and where appropriate, take action or provide recommendations for improvement.

7. We welcomed the European Aviation Summit jointly organised by the Dutch EU Presidency and the Commission on 20-21 January in Amsterdam (Schiphol) to discuss the Aviation Strategy for Europe and reflect upon solutions that the European aviation sector and its users, European businesses and citizens are facing.
Comments on the announced actions

8. BUSINESSEUROPE welcomes the call to issue authorisations for the Commission to negotiate EU-level air transport agreements with China, the Association of Southeast Asian Nations (ASEAN), Turkey, Saudi Arabia, the United Arab Emirates (UAE), Kuwait, Qatar, Bahrain, Oman, Mexico and Armenia. The aim should be to allow all parties an equal opportunity to compete and thereby ensuring a level-playing field, including balanced provisions on fair competition, which can be applied and enforced in practice. Since granting EU-level mandates will postpone bilateral negotiations and might therefore freeze growth of European carriers, it is crucial to have an expression of interest from the third country before the mandate is granted and to conclude negotiations as quickly as possible. The mandate for a comprehensive air transport agreement between the EU and the UAE, Qatar, Turkey and the ASEAN countries should be given priority. Market access and fair competition is essential for European airlines. It should be based on a regulatory framework which promotes EU values and standards. This also entails that the Commission needs to revise Regulation 868/2004 to provide a more workable instrument to effectively address unfair practices in international air transport, including on the basis of reciprocity. Any negotiation of further market opening must be accompanied by efforts to include fair competition provisions in EU-level comprehensive air transport agreements. Achieving more financial transparency, better enforcement of agreed rules and independency are fundamental in this respect. Mechanisms for proper enforcement and dispute settlement should be put in place. Following the issuing of EU negotiation mandates, if no EU-level agreement is reached within an agreed timeframe, Member States must have the possibility to take up bilateral negotiations. Free and fair competition is an integral and necessary part of an open and liberalised global market for aviation.

9. In terms of aviation safety, BUSINESSEUROPE welcomes the authorisation of the Commission by the Council on 7 March 2016 to open negotiations with China and Japan in view of concluding Bilateral Air Safety Agreements (BASA). Such agreements can enhance air safety worldwide and contribute to the global competitiveness of the European aviation industry through cutting red tape and facilitating exports. It includes cooperation on certification, resting and maintenance of aeronautical components, air operations, flight crew licensing, air traffic management and airports. The aim is to remove duplications of oversight activities, support mutual safety recognition and thereby reducing transaction cost of exporting aircraft, while ensuring high levels of safety in partner counties and moving towards worldwide standards.

10. BUSINESSEUROPE also welcomes the proposal to launch new aviation dialogues with other strategic aviation partners such as India.

11. Ownership and control rules (Regulation 1008/2008) are important as investors have an influence on the direction or priorities of European airlines. For this reason it is important that these rules exist and more clarity through targeted interpretative guidance would be welcome, but only if it truly provides more clarity. In particular,
the key notion of “effective control” must be specified. As regards direct or indirect investment in Europe, EU state aid rules should be respected. Currently, foreign investors can hold up to 49% of shares in a European airline. For comparison, in the United States, foreign ownership of airlines is restricted to 25%. As a first priority, current ownership and control rules should be strictly enforced and not amended as long as no reciprocity exists. When assessing the compliance of foreign investment with EU law, in each individual case the relevant factors are to be examined, in particular corporate governance, shareholders rights and the financial and commercial links between the airline and its shareholders.

12. BUSINESSEUROPE urges the Council and the European Parliament to swiftly adopt the revised Slot Regulation (545/2009) to provide certainty and stability and enable more optimal use of airports. More strategic airport planning on an EU-wide level will remove operational restrictions of existing airport capacity. Night-time restrictions are non-existing in third countries which is a major reason for their competitive advantage vis-à-vis Europe. Europe needs to reinforce its leadership position to fully reap the benefits of global connectivity and globally compete in the aviation sector. In this context, the EU should look more carefully at best practices from other countries, both in terms of high level security and safety as well as airport capacity and air space management.

13. Effective coordination and management of European airspace is key to ensure the safe and cost-efficient flow of air traffic, thereby minimising fuel usage and costs, carbon emissions and flying times. Yet, despite previous Single European Sky (SES) packages, European airspace remains highly fragmented in practice. Current inefficiencies bring extra costs of close to €7.5 billion a year and up to 50 million tonnes of CO₂ emissions. It adds 42 km to the distance of an average flight forcing aircrafts to burn more fuel, generate more emissions, pay more in costly user charges and suffer greater delays. For comparison, the United States controls the same amount of airspace, with more traffic, at almost half the cost.

14. Therefore, it is so essential to make sure a genuine Single European Sky becomes a reality. An important first step is reaching final agreement on the Single European Sky 2+ Package (SES2+). It is disappointing to see that the Gibraltar case between Spain and the United Kingdom is blocking progress in the implementation of the Single European Sky. BUSINESSEUROPE supports the package in general as it can further reform Europe’s air traffic control system to make it more efficient and future-proof. This is not only important for airports and airlines, but also for the wider economy and European citizens and companies as users of air transport services. In particular, the package should improve the Air Traffic Management System, ensure better safety and oversight, improve management through performance schemes and transparency and avoid a duplication of tasks between the European Aviation Safety Agency (EASA), Eurocontrol and the European Commission. More competition in support services such as meteorology, aeronautical information, communications, navigation or surveillance services is also essential to drive efficiency and cost-effectiveness. Such support services should be separated from the core tasks of the air traffic control organisations and put out to tender under normal procurement rules to
ensure both high quality and cost-effectiveness. The Commission has estimated that this could lead to 20% savings on such services.²

15. Swift agreement, further optimisation and sound implementation of the previous Single Sky Packages and the Single European Sky 2+ Package is fundamental to strengthen European coordination of airspace management in order to maximise the airspace available whilst optimising its use and safety and to make the European economy more competitive in the global market context, also to the benefit of the environment. To establish a Single European Sky, the Commission must be able to ensure that Member States comply with agreed European rules and regulations. At its basis is good legislation that is clear and straightforward to enforce and does not need to be regularly revised.

16. Improving efficiencies and capacity in the sky, however, will only succeed if the SES is developed along with airport capacity. More airport capacity will be fundamental to support the EU’s air connectivity in the coming years. Thus, it is essential that the implementation of the Single European Sky packages is accompanied with enhanced airport capacity and connectivity. The European air industry is expected to grow with 14.4 million flights by 2035, which is a 50% increase compared to 2012. However, the looming capacity crunch of airports hampers this. With the current infrastructural facilities, it is estimated that European airports will not be able to accommodate 12% of this demand. This will cause more congestion, delays and flight cancellations and hence, negatively impact the European economy. EU airport capacity objectives should be fully aligned with the airspace capacity objectives of the Single European Sky.

17. It is essential to focus on connectivity and in this context BUSINESSEUROPE welcomes the proposed annual connectivity index to better assess where Europe is well-connected and further improvements are needed. This is linked to national differences and it is important to carefully assess national or local aviation taxes and levies as these clearly impede the connectivity and competitiveness of European airlines. The connectivity of European airports has a huge impact on businesses. It is also a major determinant in the location choices of businesses headquarters fit for their business model in the digital age, and has therefore also an impact on jobs and growth in the EU. With every 10% increase in the availability of direct intercontinental flights, there will be a 4% increase in the number of headquarters of large companies. A 10% increase of departing passengers in a metropolitan region increases the employment in the services sector of that metropolitan region by 1%. In this regard special consideration should be given to the importance of European hubs and spoke systems which provide European businesses a unique dense network of direct intercontinental connections generating competitive advantages. Depreciation in the importance of European hubs could have irreversible and detrimental consequences for the number of available direct intercontinental connections and consequently have a spill-over effect on the general economic growth in Europe.

18. It is essential that airports are fully considered and included towards completing a comprehensive EU transport network, making sure that airports are well-connected to other modes of transport. Intermodality is key.

19. BUSINESSEUROPE welcomes a thorough review of the **Airport Charges Directive** (2009/12/EC) and careful analysis of the level of charges imposed at various airports. It is important to strike the right balance between safeguarding adequate investment in airport infrastructure, while at the same time ensuring that the passengers and the European airlines benefit from well-connected, well-functioning and cost-effective airports, which are at the basis of a more competitive EU aviation sector. It has to be carefully considered which airports (hubs and local airports) are subject to competitive pressures and which airports are in a position of substantial market power. The use of market power assessments (MPA) is one of the ways forward in this regard. Where airports have substantial market power, some form of economic regulation is needed. Where they do not, airline-airport relations should be on a commercial and not a political level.

20. A transparent and proportionate policy framework on **security** (charges) is needed for a fair share in terms of contributions of all parties involved. Key to this will be public financing of security costs – particularly in cases where national level measures go beyond EU requirements. A smarter approach will be necessary to ensure the efficient provision of security, which will involve more proactive use of information to focus on actual threats, based on intelligence and data-sharing between Member States and relevant stakeholders.

21. BUSINESSEUROPE supports a thorough assessment of the functioning of the **Ground Handling Services Directive** (Council Directive 96/67/EC) dealing with fuelling, passenger handling and de-icing of the aircraft with the aim to ensure better implementation which should result in optimal use of congested airport capacity, higher efficiency, higher quality and better outcomes for the travelling public.

22. BUSINESSEUROPE welcomes the announced **interpretative guidelines** on the rules governing **Public Service Obligations** to provide clarity on minimum service obligations.

23. Safety is essential for aviation. The highest standards should be implemented including efficient safety oversight on the basis of new methods for a more risk-based proportionate and performance-based policy-making. For the proposed revision of the **Basic Regulation for common rules in the field of civil aviation safety**, replacing the current Regulation 216/2008, it is important to take into account the interdependencies between aviation safety and other technical domains of regulation linked to it, such as aviation security and REACH. New technology and digital solutions should alleviate the burden of security checks on passengers, applying a risk-based approach. A stronger focus on cargo security with the use of the latest screening technologies is essential, also in view of implementing risk-based programmes in an international context. We welcome that the EU will pursue the mutual recognition and One-Stop Security approach with key trading partners to reduce the cost of security resulting from duplication and
incompatibility of security regimes. The seamless flow of air cargo is crucial for European industry and should benefit from new digital tools and ICT solutions to improve logistics, efficiency and streamline national security measures.

24. It is positive that the Commission will propose a basic legal framework for the safe development of drone operations in the EU, as part of the new basic aviation safety Regulation, replacing Regulation 216/2008. It is important to embrace new opportunities and business models, but at the same time to regulate potential dangers of drone use for aviation safety. In this context, industry representatives should be welcome to provide the legislators directly with industry input, aiming to create more regulatory flexibility whilst achieving an overall high level of safety. This should be done through creating a risk-based framework to ensure their safe use in civil airspace, while at the same time guaranteeing legal certainty for businesses.

25. BUSINESSEUROPE welcomes the Commission’s intention to work more closely with social partners on employment and social aspects of broader policy issues and to consult the relevant EU social partners where rules could have important social implications. It is then for the relevant social partners to decide whether and how they want to engage in discussions on social aspects related to aviation, including looking at current and new employment models and application of labour law in the aviation sector. The situation of highly mobile workers who have their operational base (‘home base’) located outside the territory where the airline is licensed deserves specific attention. Furthermore, efforts to clarify the definition of home-base in terms of EU coordination on social security may be useful.

26. The European Aviation Safety Agency (EASA) has played an important role over the last years and has functioned well in terms of maintaining high EU safety standards. The Commission rightly states that EASA must adapt to new developments and challenges ahead linked to new business models and emerging technologies such as modern engines and drones. At the same time, current procedures need to be reviewed and streamlined to ensure burden reduction and avoid stifling innovation and entrepreneurship. BUSINESSEUROPE welcomes the Commission initiative to pool and delegate more powers to the EASA as a means to achieve efficiency and safety gains. We believe that this can be achieved through allocating more resources in order to fully realise the objectives, therefore not harming matters of certification for the European aviation industry. A revision of the EU Aviation Safety Regulation should equip EASA with the right tools for future challenges. Another approach is to enable the sharing of technical resources between the national safety authorities and the EASA. In terms of cyber security, EASA should only deal with airworthiness issues. In general, EASA should focus on its core tasks while taking a more visible and active role in security matters. It should not expand to wider areas such as ground handling safety.

27. BUSINESSEUROPE wishes to see swift final agreement in Council on the revision of the Regulation 261/2004 on passenger rights and supports the establishment of a clear, proportionate and stable legal framework on air passenger rights. It is disappointing to see that the Gibraltar case between Spain and the United Kingdom is blocking progress of the revision. This framework has to make the obligations imposed today on European airlines more reasonable provided that this will not
lead to a further distortion of competition already existing with non-European carriers. A thorough risk analysis of any potential safety aspects from the economic burden of the Regulation must be assessed. More clarity for airlines and citizens is welcome and therefore BUSINESSEUROPE supports the Commission in adopting interpretative guidelines on the current rules, relevant until the adopted amendments become applicable. Uniform enforcement and interpretation is essential to create the predictability that European aviation needs.

28. **ICT and digital solutions** can help to make the EU aviation sector more efficient and also in terms of logistics and promoting co-modality. This should be taken into account for the discussions in the Commission’s Digital Transport and Logistics Forum that has been set up to share and develop ideas and solutions with relevant stakeholders. Moreover, industry welcomes the focus on assessing how EU rules should apply to new technologies, such as drones.

29. The aeronautical industry is recognised as one of the top five advanced technology sectors in Europe. Aircraft manufacturers and their supply chain undertake huge efforts to improve the environmental footprint of aviation, increase the safety of air traffic, reduce operational costs and cope with the increasing demand for new aircraft. **Effective solutions for climate protection in air transport** can only be brought about globally. BUSINESSEUROPE believes that an EU Emissions Trading System (ETS) should not put European airlines at a competitive disadvantage and hamper the progress at the International Civil Aviation Organisation (ICAO) towards a global agreement on reducing emissions from international aviation. Therefore, the only way to ensure the competitiveness of the European air transport industry is an ICAO-led solution with Global Market Based Measures. Only in this regard an international level-playing field for aviation can be established. This is where the EU must provide the momentum. As agreed in autumn 2013, Europe should at the ICAO Assembly in September 2016 reach out to other regions and agree on global market-based measures for lower CO₂ emissions in aviation which will then enter into force from 2020 onwards. Pressing ahead with solutions in the ICAO is the right approach for climate and competition policy. In this context, BUSINESSEUROPE calls on the Commission to take a realistic and workable approach, in coordination with the Member States, to ensure that the 2016 ICAO Assembly will deliver a global market-based measure for international aviation. When re-assessing the aviation ETS, the Commission and other EU institutions need to take into account the competitiveness of European airlines.

30. Concluding six years of negotiations, BUSINESSEUROPE welcomes the agreement reached on 8 February 2016 in Montreal within ICAO on the first ever **global standard to cap CO₂ emissions from aircraft** to be endorsed by the ICAO Assembly in September 2016 and formally adopted in the ICAO Council in early 2017. This agreement will guide the certification of aircraft towards greater fuel-efficiency. The stringency and the applicability dates for the new standard depend on the weight of the aircraft and whether it concerns a "new type" aircraft or an "in-production" aircraft. For large new aircraft types the standard will apply as of 2020. By 2028, existing aircraft types will also have to apply the new standard. It has
been estimated that over the period until 2040, the CO₂ standard could help save up to 650 million tonnes of CO₂.

31. In line with the Energy Union agenda, an important contribution to the reduction of aviation's environmental impacts will come from current research and development actions for innovative “green” technologies, including the development and market deployment of advanced biofuels. Moreover, completing the Single European Sky project could contribute to fuel savings and a potential reduction of 50 million tonnes of CO₂ emissions. A new EU Regulation on managing noise-related operating restrictions will ensure that best practices and evidence-based decision making on operating restrictions will be applied throughout Europe from June 2016.

32. The EU has decided to invest €430 million each year, until 2020, in the Single European Sky project. Furthermore, the Commission supports research and innovation in the aviation sector through public-private-partnerships, the Horizon 2020 Framework Programme, European Structural and Investment Funds and the European Fund for Strategic Investments, while ensuring that actions are in line with the EU's safety policy. Research and innovation efforts in aeronautics and advanced fuels are also essential, as highlighted in “Flightpath 2050”, a report prepared by the High Level group on Aviation Research. Aeronautics standards should be developed with an international perspective to support EU industry.

33. Regarding investment, the development of strategic infrastructures and sustainable transport are key objectives of the European Investment Bank (EIB) Transport Lending Policy. The EIB should consider assisting Europe’s regional airline industry by delivering or underwriting financing to enable fleet financing for structured, sustainable growth and regional connectivity. In the overall picture of the Juncker Plan and the European Fund for Strategic Investments (EFSI) in particular, the strategic importance of EU aviation needs to be carefully taken into account.
Concluding remarks

The success of the Aviation Strategy for Europe depends on collective effort of the EU and its Member States to make swift progress on the proposed actions and conclude ambitious agreements on the proposals that will follow in the next months.

High quality implementation, correct application and strong enforcement of agreed rules is fundamental in this respect. Results on the ground and in the air, is what counts. For example, more strategic planning at national level including by involving relevant stakeholders will help to address the looming airport capacity crunch in view of more demand. These local compromises should therefore not be thwarted by rigid uniform EU norms. Cooperation and coordination between Member States is essential.

Moreover, Member States need to realise that the application of different regulative and fiscal national policies on the aviation sector does have a detrimental effect on the single market and on the competitiveness of EU-based aviation companies. Member States need to consider adjusting or repealing unilateral national provisions that distort competition. Furthermore, Member States must understand the impact of disproportionate national aviation taxes and re-consider their application.

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