Dinner with Airlines for America (A4A)

09/01/2024
Ristorante Tosca
Washington D.C.
Scene setter
You will have a dinner meeting with Airlines for America (A4A) with whom you met in October in Brussels.

The dinner is an opportunity to express our disappointment that A4A called for collective punishment of all EU new market entrants in reaction to the Dutch measures at Amsterdam (AMS) Schiphol Airport (NB: A4A Docket submission of 2 November 2023 in reaction to USG GmbH’s request for a foreign carrier permit).

It would be good to raise crew visa reciprocity as a priority.

You may also wish to get the latest insights on the longstanding “flags of convenience” irritant and underline our concerns about the unacceptable delay for allowing EASA AOC holders to enter the EU-US market.

Objectives
- Underline the mutual importance of the transatlantic market based on the ATA. Safeguarding the credibility of the ATA is paramount – and submissions such as the A4A Docket of November on USG GmbH are not in the spirit of partnership.
- Crew visa: Warn that US crews will likely face visa requirements if nothing happens. Ask if A4A has been in contact with lawmakers on the issue.
- EU irritants: Stress our continued concerns with growing protectionism in the US (“flags of convenience” legislation, EASA AOC). Ask for insights into the US internal and legislative processes.

Speaking points
EU-US aviation relationship
- A well-functioning transatlantic market is crucial for the industry on both sides, in particular for the sustained recovery and growth of the sector.
- I count on A4A to be a partner in that respect. This means not to embrace unilateral instruments such as the International Air Transportation Fair Competitive Practices Act (IATFCPA) for issues covered by the ATA. A4A should also refrain from submissions calling for collective punishment of all new EU market entrants as done in November – this was very disappointing.
Crew visa

- We have discussed this already at our last meeting. So far, the US has showed no willingness to work towards lifting visa requirements for EU crews. This is in striking imbalance to US crews who travel visa free to the EU. This lack of reciprocity is not acceptable and must be addressed.

- For years we have tried to avoid the option of mutual non-reciprocity is as it would become a lose-lose situation.

Other irritants

- “Flags of convenience”: so-called “flags of convenience” legislation that would unilaterally alter the rights granted under the EU-US ATA – to the detriment of EU air carriers.

- EASA AOCs: EU carriers holding EASA AOCs de facto cannot enter the transatlantic market since 2 years now (!). DOT/FAA is very slow in doing the necessary so that permits can be approved in line with the ATA.

- This even though ICAO confirmed that EASA AOCs are fully compliant with the Chicago Convention. So in our view, there is not even the need to change the US domestic regulations in order to accommodate EASA AOC holders.

- This makes it even more urgent to resolve this unacceptable situation that a certain category of EU air carriers is denied entry to the transatlantic market.
As we told the US very clearly at the last Joint Committee meeting, we see this as a breach of the minimum procedural delay requirement of our ATA.

Defensive Points

Q. If A4A asks about AMS Schiphol

• Excessive noise levels have a big impact on the well-being of local residents, and it is important to allow Member States to mitigate negative impacts for the health of their citizens.

• Having said that, Member State measures must of course comply with EU law and international obligations.

• The Netherlands notified the Commission of Phase 2 on 1 September. My services are currently reviewing all documents received as a matter of priority assessing whether the Dutch authorities complied with the Balanced Approach Regulation.

• Regarding the international obligations under the ATA, the same goes as for the Balanced Approach Regulation. The Commission is observing that the legal obligations, be it under EU law or international law, are fully respected.

• I think we had constructive discussions on this topic at the special JC meeting on 13 November 2023. Be reassured that the Commission will watch carefully that the balanced approach is being applied.

• However, in the context of Amsterdam Schiphol allow me also to mention an issue that is worrying. Namely, the use of domestic instruments to address issues covered by the Air Transport Agreement.

• The ATA provides the mechanisms and tools to deal with any dispute relating to the application and interpretation of this agreement. For example, on its provisions regarding noise-based operating restrictions.

• Therefore, there is absolutely no room to apply a unilateral tool such as the Transportation Fair Competitive Practices Act (IATFCPA) to deal with matters covered by the ATA.
Q. **SAF: Beyond regulations, what else the EU is doing to support SAF?**

- Several financing tools to de-risk SAF production and support SAF development at all maturity stages:
  - Grants under the ETS Innovation Fund, can support development of SAF technologies to advance their commercial maturity. In the Large Scale Call, so far three SAF related projects were selected.
  - Grants under Horizon Europe, through its research programmes Horizon 2020 and Horizon Europe 119 SAF-related projects, with 24 of them directly related to fuels for aviation, with a budget of 493M€ and 150M€, respectively.
  - Financial instruments under InvestEU, thanks to the EU guarantee, the EIB and other partner banks can provide blended finance for high risk and high capex projects and de-risk investments into SAF, e.g. recent EIB loan of 120M€ to advanced biofuel plant in Spain.
  - The revised EU state aid rules, which allow support for SAF production and uptake.
  - European Hydrogen Bank will guarantee the purchase of hydrogen, notably by using resources from the Innovation Fund, through an investment of 3 billion € to help build the future market for hydrogen. It will be using a competitive bidding process in the form of auctions and therefore will provide and an efficient support to promising European projects. While the EHB initiative will support different industries, it will greatly support the production of synthetic aviation fuels in Europe.

- Fast tracking new SAF pathways and new SAF plants reaching the market:
  - EU Clearing House for SAF, that will support SAF producers help to speed up the time to market of new SAF technology pathways.
  - Net-Zero Industry Act lists SAF among net zero technologies, will help with faster permit approval and will potentially facilitate greater funding.

- Building **industrial alliances and cooperation** to create new value chains and pipeline of projects:
  - Renewable and Low-Carbon Fuels Value Chain Industrial Alliance (RLCF), that is a voluntary collaboration of stakeholders from entire value chain. Its ultimate objective is to ensure that aviation and waterborne transport have sufficient access to renewable and low carbon fuels.
  - The Alliance will identify and address the opportunities and market barriers, including access to feedstock and finance, and support developing a pipeline of R&I and industrial projects.
Q. SAF: EU financial support under FF55 for SAF is divided into 3 distinct tools

- The Energy Tax Directive (2025 onwards)
  - If adopted, tax on fossil fuel kerosene will progressively increase until reaching its full rate in 2033 which represents a benefit of 457€/mt when using SAF.
  - Under ETD, we estimate the total tax incentive of using SAF to equal €0.84 billion from 2025 to 2029 and €4.56 billion from 2030 to 2035.

- Emissions Trading System (not limited in time)
  - The continued SAF zero-CO2 rating under the ETS Directive results in a benefit that is proportional to the carbon price (ETS allowance).
  - Considering a carbon price of 90€ between 2025 and 2030, we estimate the benefit of using SAF during that period to €0.9bn.

- ETS SAF Allowances (2025 – 2030)
  - SAF Allowances are designed to close the remaining price difference between SAF and fossil kerosene after deduction of the ETS and ETD financial incentives while promoting the best-in-class and most sustainable aviation fuels.
  - Depending on their price, we estimate the support of SAF Allowances to be:
    - Between 2.500€/mt and 4.000€/mt for RFNBOs.
    - Between 900€/mt and 1.700€/mt for advanced biofuels.
    - Between 150€/mt and 850€/mt for the rest.
  - Considering a carbon price ranging from 90€ to 100€ between 2025 and 2030, we estimate the total available funding of SAF Allowances to €1.8bn.

Q. SAF: Why does ReFuelEU Aviation exclude fuels eligible under ICAO’s CORSIA sustainability scheme?

- The EU stands firmly by the agreement in ICAO and contributes to the work on sustainability criteria under CORSIA. All such fuels adhering to the ICAO criteria are necessary to reach the net-zero by 2050 goal (LTAG).

- In the EU, we decided to incentivise the use of e-fuels and advanced biofuels for aviation as those are most scalable and sustainable to meet aviation future needs. The Regulation does not ban importing of fuels not covered by the Regulation (food and feed-based biofuels and low carbon fossil origin fuels). The EU is not the only jurisdiction also incentivise only a subset of the CORSIA eligible fuels.
Q. SAF: Is it correct that the EU’s implementation of CORSIA is not fully compliant with ICAO’s rules?

- The EU is fully committed to CORSIA, all EU Member States are voluntary participants. Aviation is covered by EU ETS since 2021. The implementation in Europe goes through the ETS Directive, and thus needs to take into consideration the constraints of that law.

- ETS applies only on intra-EEA flights, while CORSIA for extra-EEA flights on (not covered by the ETS). Thereby, we contribute even more than in other parts of the world to achieving ICAO’s medium-term objective of carbon-neutral growth.

- The only major difference is that for offsetting of emissions stemming from intra-EEA rules, we only accept another “currency”, the ETS allowance, that represents a higher level of ambition in Europe.
Annexes: Background notes (separate document of the mission briefing book)