

International Air Transport Agreements – History, current issues and a discussion of new horizontal agreements between EU and RoW

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*This presentation goes back on research conducted in cooperation
with my colleague Wolfgang Grimme



Knowledge for Tomorrow



Overview

- A. International Air Service Agreements – History and current issues
- B. The impact of new horizontal ASA's signed by the EU
 1. Motivation / Research questions
 2. ECJ decision on community carrier market access
 3. Consequences of the ECJ decision
 4. Commercial implications of horizontal agreements
 5. Analysis of traffic impacts
 6. Perceptions of EU carriers' management
 7. Conclusions



A. International Air Service Agreements

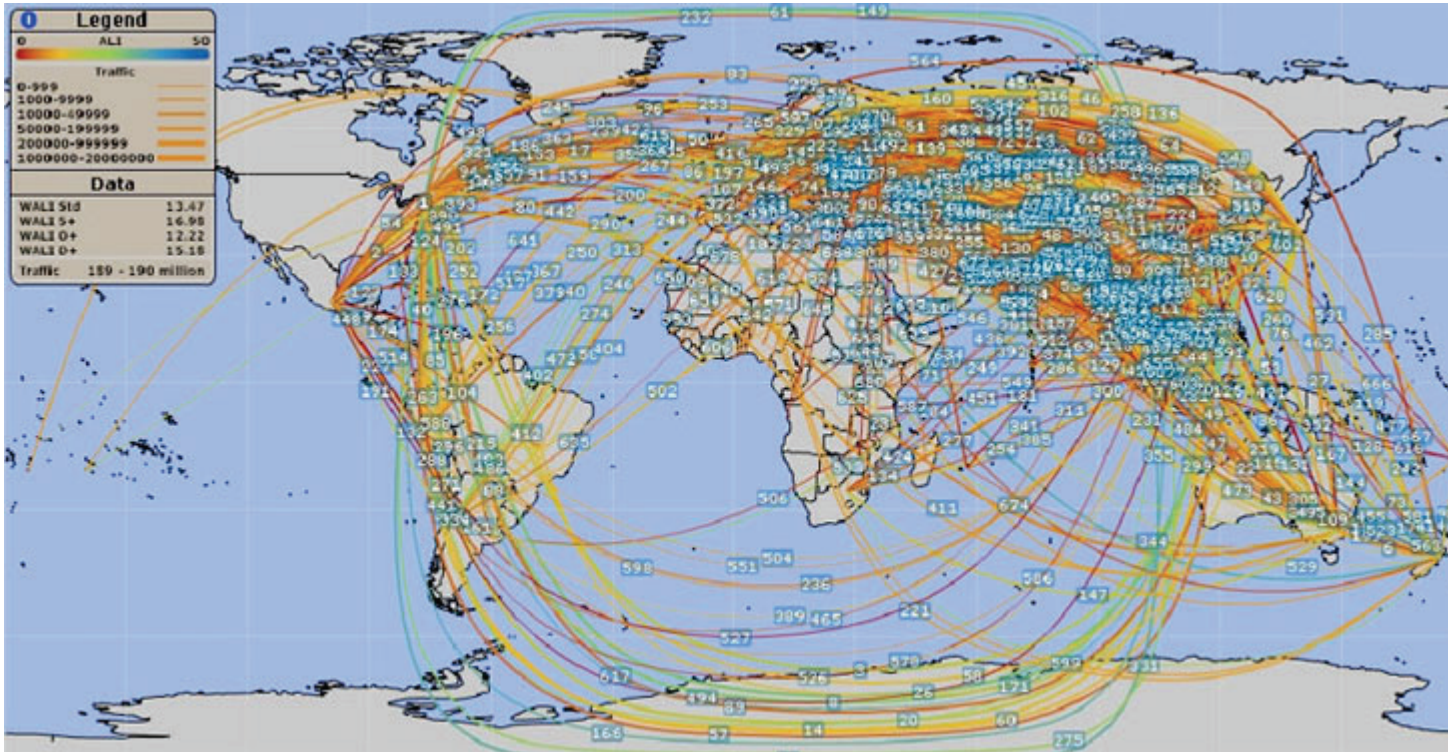
What is an international ASA?

- Necessity for int'l air transport:
 - No ASA => No commercial air services
- Treaty level (agreement under international law signed by actors in international law, i.e. sovereign states and international organizations)
- Different forms from bilateral to multilateral agreements
- Bilateral ASA are the most common form (>3,000)



A. International Air Service Agreements

What is an international ASA?



Map of bilateral air services agreements between World Trade Organization members.

Source: Air Services Agreement Projector, World Trade Organization, 2007,

via: Australien Government, Department of Infrastructure and Transport



A. International Air Service Agreements

International ASA make provisions on...

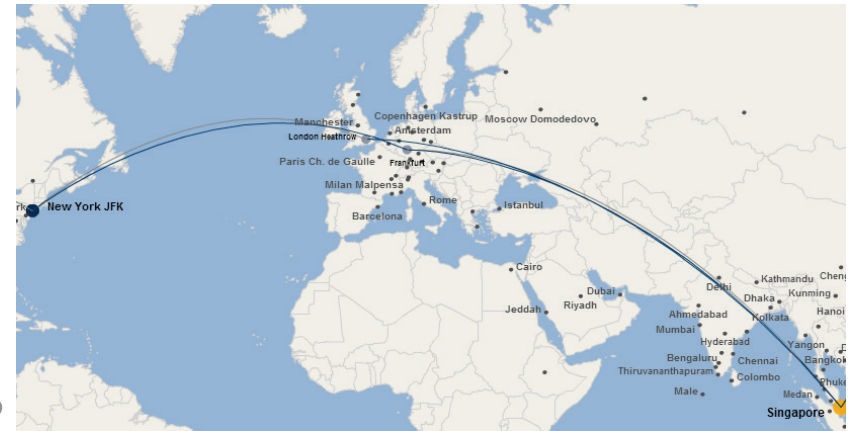
- Traffic rights
- Capacity
- Designation, ownership and control
- Tariffs
- Many other issues



A. International Air Service Agreements

International ASA make provisions on...

- Traffic rights
 - How many and which routes may be flown between the bilateral partners?
 - Which airports may be served?
 - Only the countries' main airports/hubs, or secondary airports as well?
 - Are „beyond“-services allowed?
 - E.g. Singapore-Frankfurt-JFK

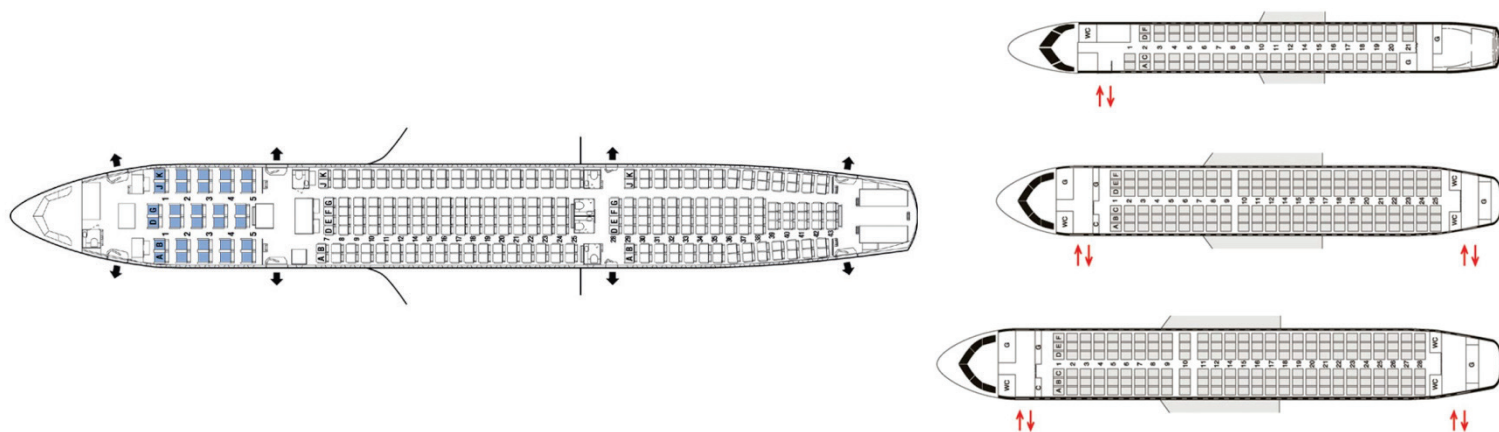


A. International Air Service Agreements

International ASA make provisions on...

- Capacity
 - How many flights per week?
 - How many seats / passengers per week?
 - Capacity share by country/partner (50%?)

Flight	plan	aircraft	destination
51-80	20:45	C52	Salzburg
51-80	20:50	B31	Bologna
51-80	20:55	B30	Kraenodar
51-80	20:55	A10	Bangkok
51-80	21:30	A04	Moscow
51-80	21:35	A02	Moscow
89-99	23:05	A18	via Luxor
112-125	23:20	A16	Hurghada
112-125	00:30	A16	Frankfurt
51-80	01:10	C80	Stuttgart
51-80	03:45	B35	Belgrade
51-80	06:25	A17	Munich
51-80	06:35	C51	Amsterdam
27-31	06:45	C58	Zurich
51-80	06:55	C55	Zagreb
51-80	06:55	A10	Zagreb



A. International Air Service Agreements

International ASA make provisions on...

- Designation, Ownership and Control
 - Max. number of airlines that may be nominated by the bilateral partners
 - Selection of actual carriers (usually not part of the ASA)
 - Ownership criteria carriers must meet to receive/maintain designation
 - often restrictions on foreign ownership



A. International Air Service Agreements

International ASA make provisions on...

- Tariffs
 - Fares, prices
 - Often: approval by governmental bodies



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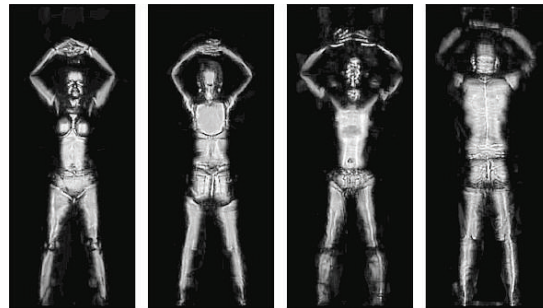
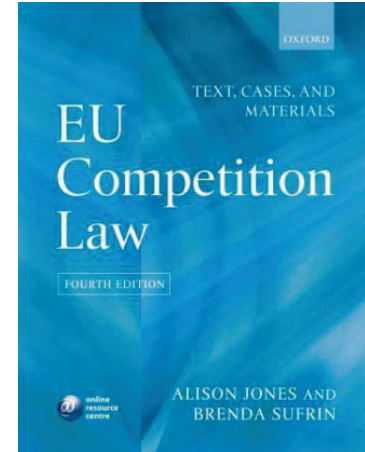
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A. International Air Service Agreements

International ASA make provisions on...

- Many other issues
 - Competition policy
 - Safety and security standards
 - Charter traffic
 - ...



A. International Air Service Agreements

History of international ASA's: Why so complicated?

- Chicago Convention 1944
 - Foundation of the „International Civil Aviation Organization“ (ICAO)
 - Strong air transport growth in 1930s
 - End of WW2 insight
 - Economies struggling in most countries



- ⇒ **Protectionistic international ruling on air transport**
- ⇒ **Airspace sovereignty**
- ⇒ **permission needed if foreign country is to be overflown or flown into**



A. International Air Service Agreements

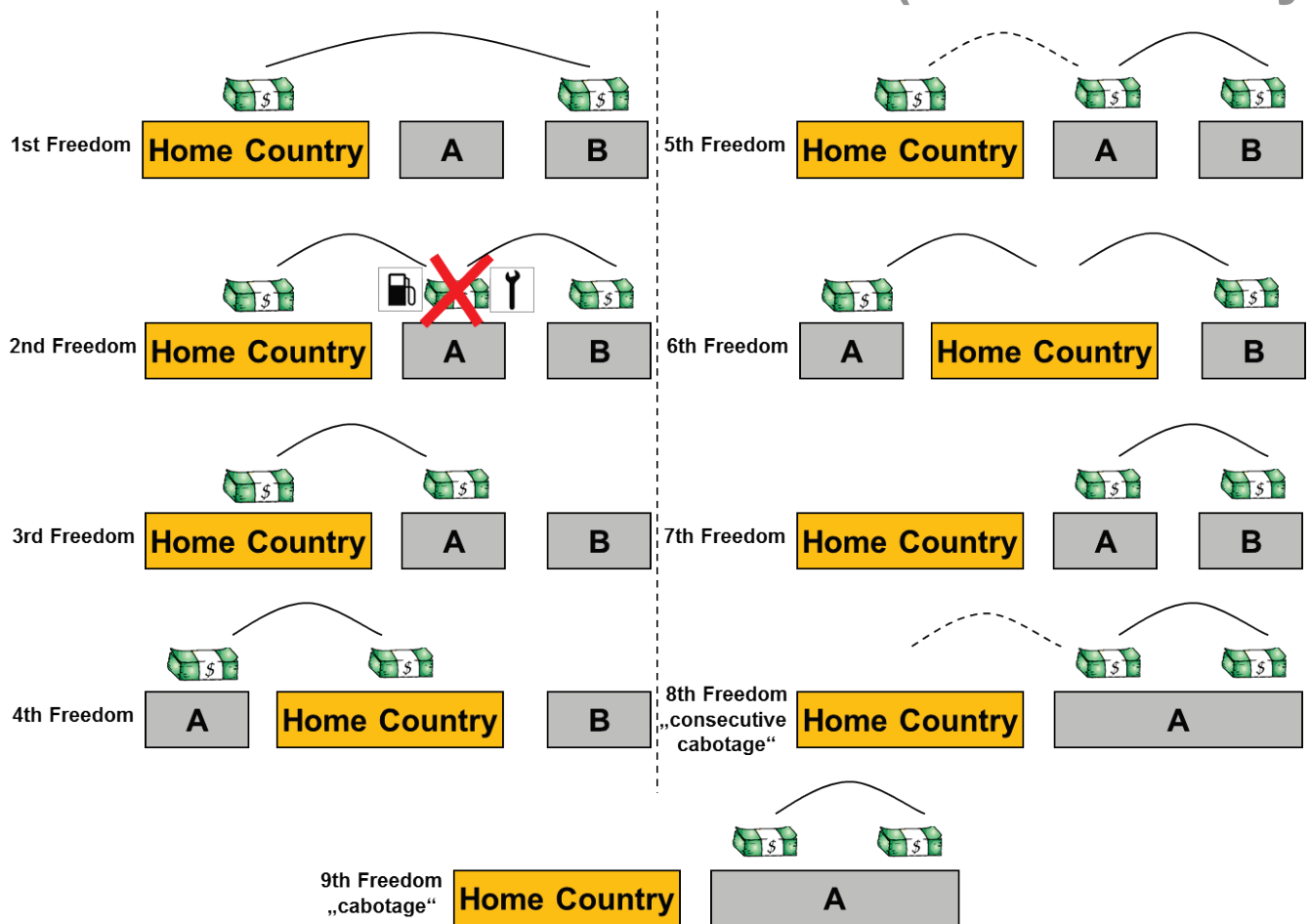
Implications of international ASA's

- Negotiation of new / amended treaties required to allow for air transport growth
- Monopolistic/duopolistic structures in many markets as only flag carriers were allowed to operate scheduled services; others had to focus on charters
 - Germany: Lufthansa versus Condor/LTU
 - UK: British Airways vs. Monarch/Britannia...
 - Yugoslavia: JAT vs. Aviogenex
 - ...
- Low capacities, low competition, low efficiency, high fares...
- Step by step liberalization from 1978 (intra-US) resp. 1990s (intra-EU)



A. International Air Service Agreements

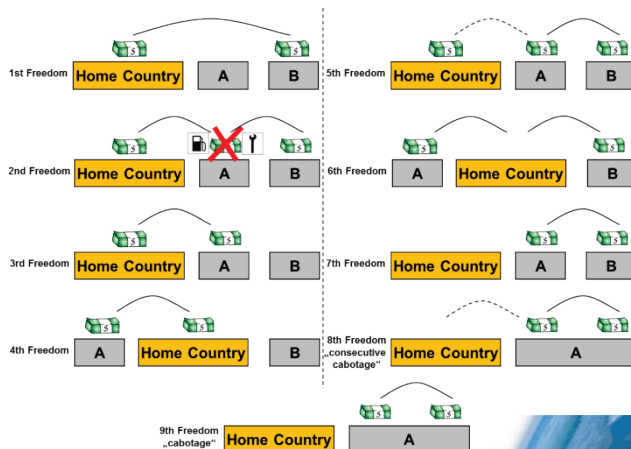
„Routes“ - Freedoms of the air (as defined by ICAO)



A. International Air Service Agreements

Freedom of the air - Practical relevance

Agreement	Freedoms
Traditional, restrictive int'l ASA	1-4/5 only, but not fully (i.e. restrictions on number of points, capacities, fares... apply)
Multilateral Open Sky agreement (e.g. EU-US)	1-4/5 fully granted; no fare restrictions; ownership restrictions still apply
Multilateral Open Sky (intra-EU)	1-9 fully granted; no ownership/fare/etc. restrictions



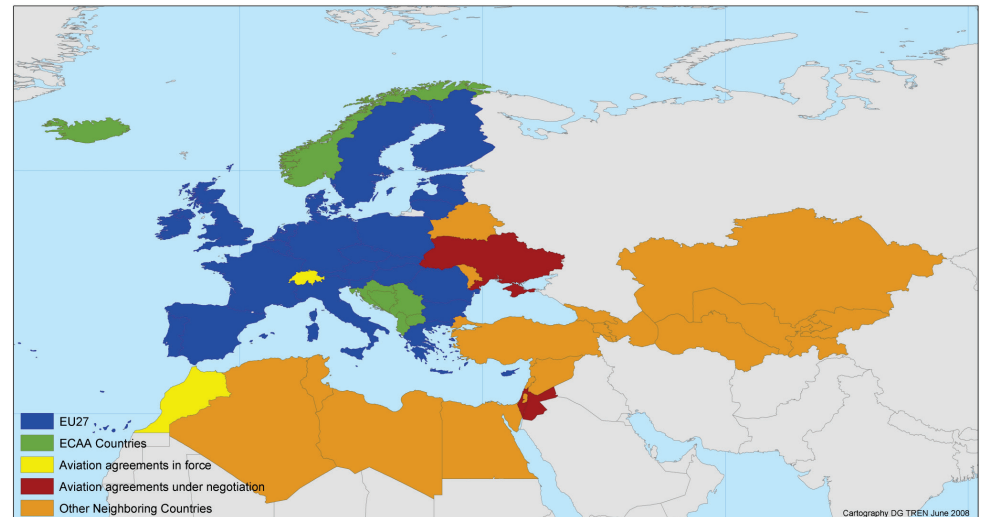
A. International Air Service Agreements

Multilateral Open Sky – Practical Relevance

- EU: extension of „open sky market“ to newly found European Common Aviation Area (ECAA)
- Incl. EFTA (European Free Trade Association) states Norway and Iceland (without Switzerland) and Albania, Bosnia and Herzegovina, Kosovo, Latvia, Macedonia, Montenegro and Serbia
- Far-reaching aviation „open sky“ agreements with Jordan, Morocco, Switzerland
- Similar agreements popping up elsewhere



Towards a Common Aviation Area



B. New EC horizontal agreements

1. Motivation / Research questions

- Liberalization of air transport markets has proved to be beneficial to consumers in many world regions
- Still, many markets are governed by restrictive bilateral air service agreements (ASAs)

Main research questions:

- What are the key characteristics of EU horizontal air services agreements?
- What are their actual impacts on flight supply and passenger volumes?
- Which stakeholders are supposed to benefit from liberalization?

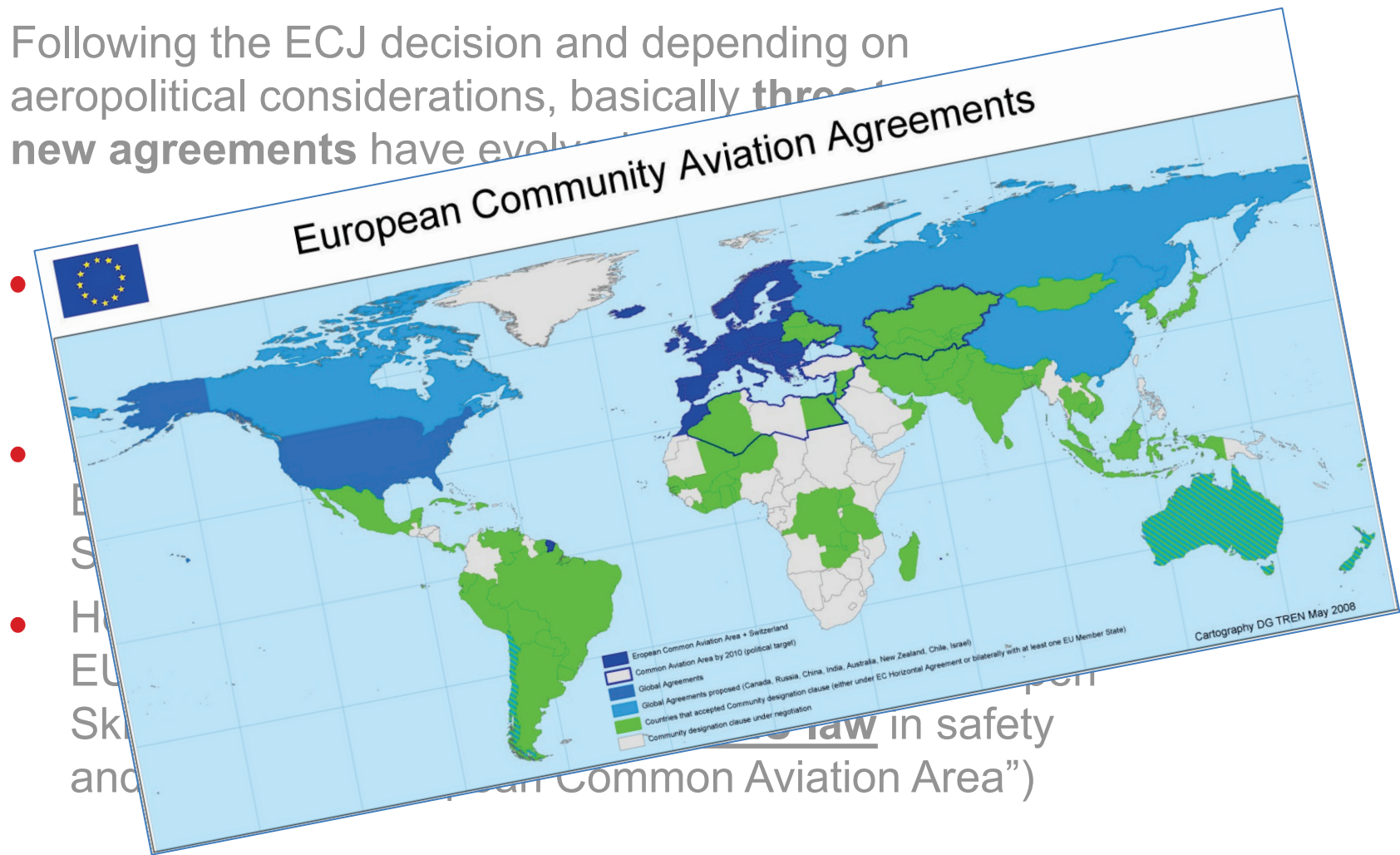
2. ECJ decision on community carrier market access

“Open Skies” Judgement of the European Court of Justice, November 2002:

- Bilateral ASAs between a Member State and a 3rd country permitting designation only of companies of the signatory EU State (“nationality clause”) is in breach of EU law (non market = equal treatment)
- ⇒ **Third countries need to accept concept of „Community carrier“**
- ⇒ **Status September 2009: 102 countries accept community carrier clause in at least one bilateral agreement (Source: EC website)**
- ASAs between EU Member States and their bilateral partner States must be amended to reflect this

3. Consequences of ECJ decision

Following the ECJ decision and depending on aeropolitical considerations, basically **three** new agreements have evolved



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European Common Aviation Area")

4. Commercial implications of horizontal agreements

- Member States authorize the European Commission to negotiate horizontal agreements
- European Commission concludes horizontal agreements to bring bilateral air services agreements in line with “community clause” -> third country accepts “community carrier” status, all EU carriers can make use of bilateral traffic rights

⇒ **Horizontal agreement ≠ Open Sky**

- *Alternative: Member states amend individual bilateral ASAs with third countries by integrating the “community carrier clause”*
- This does not remove market access restrictions outlined in bilateral ASAs
- If traffic rights are already used, no further market access possible

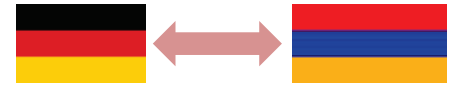
4. Commercial implications of horizontal agreements













Open sky Market access Restricted	<p>Germany-Turkey (nationality clause still not removed, but virtually unrestricted 3rd and 4th freedom traffic in practice)</p>	<p>EU-Maroc (open aviation area)</p> <p>EU-US (open sky incl. 5th freedom; no cabotage for EC carriers in US)</p>
	<p>„traditional“ bilateral ASA such as Spain-US (until 2008)</p>	<p>Armenia-Germany and most EC countries (horizontal agreement amending nationality clauses of bilateral agreements which remain restrictive)</p>
	yes	no
	Nationality Clause	

4. Commercial implications of horizontal agreements

Commercial implications of horizontal agreements –
example case:

Germany-Armenia bilateral ASA allows 7 weekly flights



Without horizontal agreement:	7x 	0x 	<input checked="" type="checkbox"/>
	5x 	2x 	<input type="checkbox"/>
With horizontal agreement:	7x 	0x 	<input checked="" type="checkbox"/>
	5x 	2x 	<input checked="" type="checkbox"/>
	7x 	7x 	<input type="checkbox"/>
Horizontal agreement and open skies:	7x 	7x 	<input checked="" type="checkbox"/>

5. Analysis of traffic impacts

Routes with usage of Community Carrier Designation

Airline	Home Country	Routes from “non-home” EU country to non-EU country
Adria Airways	Slovenia	Germany-Kosovo, Italy-Kosovo
Belle Air Europe	Italy	Belgium/Sweden-Kosovo Austria/Germany-Macedonia/Kosovo
Carpatair	Romania	Italy-Moldova
easyJet*	UK	Netherlands/Spain-Croatia France/Germany/Italy-Croatia/Morocco
Intersky	Austria	Germany/(Switzerland)-Croatia
Germania	Germany	Sweden-Iraq
Germanwings	Germany	France/Croatia
Jet Air Fly	Belgium	France/Italy/Spain-Morocco
Meelad Air	Germany	Denmark/Ireland
Norwegian	Norway (ECAA)	Bosnia/Croatia/Kosovo/Turkey
Air Shuttle	Denmark	Denmark/Finland/Croatia
Open Skies	UK	France/Croatia
Ryanair	Ireland	Italy/Netherlands/Spain-Morocco Denmark/Norway/Sweden-Croatia
Smartwings	Czech Republik	Slovakia-Israel
Thomson Airways	UK	Ireland-Egypt
Volotea	Spain	Italy-Croatia
WIZZ Air**	Hungary	Italy/UK-Croatia/Macedonia

⇒ Most routes of EU carriers to non-EU destinations from places outside their home countries go to Croatia, Morocco and Kosovo (ECAA = open sky)

*) Flights from and to Switzerland are assumed to be operated by easyJet Switzerland and thus not listed here.

**) In addition, WIZZ Air and its subsidiaries WIZZ Air Kosovo and WIZZ Air Ukraine connect several EU countries with destinations in Ukraine and Kosovo.

Source: OAG. Routes without open sky agreement are printed in bold type.

5. Analysis of traffic impacts

Overview of effects of horizontal air services agreements

Country	Type of agreement	Date signed	New entries of community carriers	Impact on traffic
Armenia	Horizontal	9 Dec, 2008	-	0
Azerbaijan	Horizontal	7 Jul, 2009	-	0
Georgia	Horizontal with Open Skies	3 Dec, 2010	-	0
Jordan	Horizontal with Open Skies	15 Dec, 2010	-	0
Moldova	Horizontal	25 Feb, 2008	-	0
Morocco	Horizontal with Open Skies	12 Dec, 2006	+	++
Ukraine	Horizontal	13 Oct, 2006	-	0
USA	Horizontal with Open Skies	2010	(+)	(+)* / 0 *)Spain

6. Perceptions of EU carriers' management

- Stakeholder interviews held with EU network carriers
- Only limited growth prospects in most markets where horizontal agreements were concluded
- In many cases: current traffic rights situation sufficient (rent-seekers?)
- Asymmetric benefits: managers perceive third-country carriers gain more through full EU market access (5th freedom rights, e.g. now used by Air Moldova)
- Real problems in day-to-day operations not traffic rights, but general business conduct (corruption problems, repatriation of foreign revenues)
- European Commission puts quite a lot of effort in the liberalization of markets with low commercial relevance

7. Conclusions (1)

Introducing horizontal agreements compatible with European law („community carrier clause“) do not necessarily result in “Open Skies”, commercial benefits and welfare improvements often limited

As long as bilateral agreements with restrictive air traffic rights stay in place, community carriers could only get „left-over“ traffic rights -> no effective scope to enter new markets -> especially for LCC

Horizontal agreements with community clause therefore largely symbolical, no real effect on market entries

We find three categories of consequences:

1. Conclusion of horizontal agreement does not change market situation, as traffic rights are taken (e.g. Armenia, Azerbaijan, Moldova)
2. Conclusion of Horizontal Open Skies agreement does not change market situation, as demand is supposed to be too low (Georgia)
3. Conclusion of Horizontal Open Skies agreement has changed market situation, as demand is high (Morocco)

7. Conclusions (2)

European Union puts lots of efforts into market liberalization

In several cases, community carriers do not perceive they can gain a lot through liberalisation, as markets are small

But findings show some rent-seeking behavior: some EU carriers exploit niche markets and benefit from limited traffic rights – no interest to support market access liberalization

Third country carriers fear to be driven out of markets, as carriers with better economies of scale, scope and density may enter markets – this leads to sometimes absurd limitations in bilateral air service agreements (Ukrainian limits for EU carriers to operate flights suitable for connections to North America)

Liberalization does not necessarily lead to increase in competition – new entrants are rare in small markets

Market growth also driven by other factors – e.g. visa requirements

Public policy perspective: European Commission should direct efforts to markets where real economic benefits could be reached – member states may not authorize EC to negotiate due to diverging interests

Thank you!

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