

PRESS RELEASE
Brussels, 11 July 2014

Flags of INconvenience

Europe must stop social dumping and flags of convenience in aviation

“Flags of convenience”, the scheme used in the maritime sector to seek laxer regulatory, taxation and labour regimes, is threatening the European aviation industry. A joint declaration signed by the group directly representing both employers and workers in the industry warns against the rise of this new development: airlines using “Flags of Convenience” (FoC) undercut fair competition in the sector, avoid many regulations and scorn the globe to exploit labour without European social rights and standards.

At a press conference on Friday, 11 July 2014 in Brussels, the **EU Social Dialogue Committee for Civil Aviation** presented a joint declaration warning that Flags of Convenience will lead European aviation to the fate of the decimated European maritime industry with almost no European crew left. A precedent now risks being set as one non-EU airline uses an Irish registration, despite having no Irish base, to fly within Europe and to the US, with Thailand based crews on a variety of Far Eastern contracts.

*“The inconvenient truth is that such companies are not creating new ‘business models’ in the market. Rather, they are exploiting regulatory loopholes and insufficiently coordinated legislation behind a distraction of publicity over a few cheap flights”, said **Jon Horne, Vice-Chair of the Social Dialogue Committee**. “They blatantly undermine the international rules and agreements designed to ensure fair competition and employment standards. If FoCs, what is in fact an ‘exploitation model,’ are not stopped now it will force currently responsible airlines into a race to the bottom and aviation jobs exit Europe for good.”*

*“An airline using infrastructure, healthcare and education in Europe whilst not contributing to European social systems commits social dumping, and is parasitic on the responsible European citizens and businesses who effectively subsidise them,” said **François Ballesterro, Political Secretary for Civil Aviation at the European Transport Workers’ Federation (ETF)**.*

*“It is vital for our industry to remain competitive. But competition can only work if it is on a level playing field, with clear and simple rules applied to all,” said **Emmanuel Jahan, Chair of the Social Dialogue Committee**. “The European Commission has the power to decisively stop abuse and mockery of European legislation; we hope steps will be taken to guarantee the competitiveness of the European industry and the preservation of European jobs.”*

The Social Partners call on the EU Commission and newly elected Members of the Parliament to take urgent measures against “Flags of Convenience”. Among the proposed changes are revision of legislation on visas and work permits for non-EU based crews, as well as clarity on ‘principal place of business for airlines’.

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Note to editors: The Sectoral Social Dialogue Committees are the official EU representative forum for the socio-economic interests, established by Commission Decision of 20 May 1998. The Sectoral Social Dialogue for Civil Aviation is therefore the European Labour Management Body and expresses the genuine democratic position of employers and employees in the EU aviation sector. The European Cockpit Association (ECA), the European Transport Workers’ Federation (ETF) and the Association of European Airlines (AEA) are among the members of the Social Dialogue.

Joint Declaration against EU-based Flags of Convenience in Aviation
as endorsed by the Air Crew Working Group of the Sectoral Social Dialogue Committee,
5 June 2014

During the Plenary meeting of the Sectoral Social Dialogue Committee for Civil Aviation held on 5 June 2014, the European social partners of the Air Crew Working Group present at meeting expressed their concern with recent developments in the aviation industry that seriously threaten the European social model, employment, and fair competition in the aviation market.

At issue is a new 'business model' that makes use of a "flag of convenience" in Europe, resulting in a distortion of social conditions and competition. A precedent for this business model is currently being set by a non-EU airline that has obtained an operating license in an EU Member State despite having no substantial aviation activities in that country and without planning to have any base within the EU. European airlines provide extensive and comparatively decent employment in Europe in contrast to the history of decline in the European maritime sector – here the past permissive attitude towards the use of flags of convenience has been devastating to industry and employment alike, and must be taken into account to avoid significant aviation job losses in Europe.

This deliberate choice of establishment in a Member State in order to avoid the social laws of another country is what defines a "flag of convenience" – a phenomenon unanimously condemned by the international community. Furthermore replacing local crews with non-European Economic Area (EEA) workers, subject to lower terms and employment conditions, amounts to social dumping at the expense of the European social security systems and the employees. This cannot be tolerated within the EU.

The European social partners of the Air Crew Working Group urged the European Commission to decisively stop this kind of development before it spreads.

The European social partners of the Air Crew Working Group called upon the European Parliament, the Council of Ministers and the Commission to take urgent action to:

- Prevent the development of EU-based flags of convenience in aviation, or the importing of non-EU flags of convenience in the sector, and
- Revise Regulation 1008/2008 including the definition of « place of business » to ensure that EU operating licences can only be issued in the country where the operator has substantial aviation activities, including a substantial number of flights, crews and bases in line with existing case law and other EU legislative measures. Following that the requirement in recital 9 of this regulation on national and Community social legislation should be rendered mandatory, and
- Ensure that the aviation authority who delivers the AOC to the airline is required to assess the effective base of the crew and undertakes regular checks, and
- Co-ordinate and revise legislation on visas and work permits for non-EEA based crews to prevent any possible illegal use of foreign workers on board EU registered airplanes operating in or from the EU. This should include a revision of Directive 2011/98 EU (single permit directive) to extend its application to mobile workers in civil aviation.

Those urgent changes are a crucial first step to ensure the credibility of the European Union's determination, both in Europe and internationally, to build fair and open aviation markets and to guarantee the competitiveness of the European industry and the preservation of European jobs.

The Chair



The Vice-Chair



Note: AEA's position with respect to this declaration is most accurately reflected in its submission filed in the US DOT docket on the case of Norwegian air international.