

Flags of **IN**convenience

**Are they sinking the
aviation industry?**

**Press briefing
11 July 2014, Brussels**



Social Partners join forces to fight against “Flags of Convenience” in civil aviation

Job losses, market distortion, declining labour standards, social dumping, unfair competition...

All are just collateral damages from the emerging development in civil aviation to seek to fly under a “Flag of Convenience” (FoC). The same phenomenon that decimated the West’s maritime industry decades ago has now arisen in civil aviation.

What is a flag of convenience?

‘A flag of a different country under which a ship (or now - an aircraft) is registered in order to avoid financial charges, regulations or labour standards in the owner’s country.’

What effect does it have?

It allows a business or owner to benefit from these advantages and have access to the markets of the states in which they operate despite not having to comply with the laws, taxes, or labour standards in those states. These free riders make money at the expense of citizens, governments and responsible companies.

The business or owner will thereby get a ‘free ride’ from the citizens, governments and enterprises that do comply and contribute in the state of operation.

If every business, enterprise or owner were allowed to do this, there would be nobody to pay national taxes, nobody to follow local or national regulations, and nobody employed locally to constitute a local consumer market. Clearly this sort of societal collapse is not tenable – why would we allow an airline (perhaps the most safety regulation critical of all businesses) to go down this route?

If airlines are allowed to use the Flag of Convenience model, it will result in: a collapse

of European jobs in the industry; the ability to sidestep many areas of European regulation and the ability to provide oversight of what is going on in these areas; and a race to the bottom in the industry as existing responsible airlines are forced to follow suit in order to survive.

This brings unfair competition and social dumping. The EU legislator should not tolerate this.

What is the Social Dialogue Committee for Civil Aviation?

A formal structure of the EU, the Committee is composed of all the ‘Social Partner’ organisations from every corner of the civil aviation sector.

- It has a number of statutory rights, including the ability to undertake collective activity where there is consensus between all the sector’s relevant Social Partners
- Each member organisation must be assessed as genuinely representative of their facet of the industry.
- The Social Dialogue Committee is accordingly the only body speaking directly for the entire civil aviation industry, both workers and businesses/employers alike.

Will we learn our lesson?

We now have a choice in Europe – do we stand idly by while our aviation industry sinks beneath our feet? Or do we demand that European institutions stand up for a fair market and European social rights and values for all EU citizens.

Press Release

Flags of **IN**convenience

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 scour 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 Ballesterio, 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’.

For further information, please contact:

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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. Full list and more information available here.

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

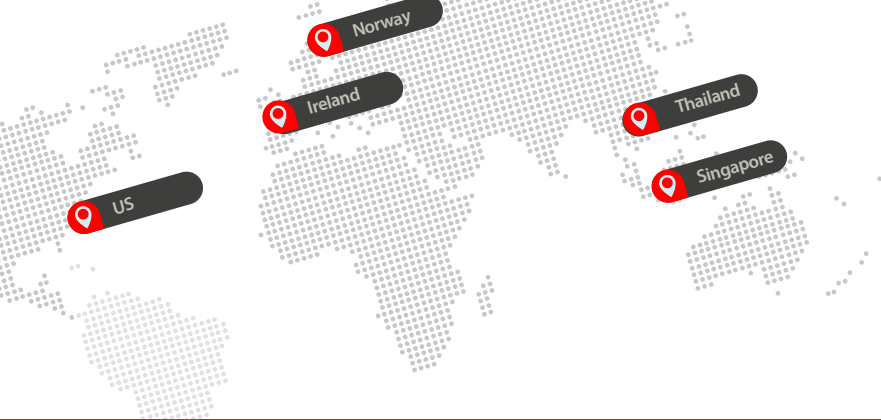


Emmanuel Jahan



Jon Horne

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.



"Norwegian" for beginners

10 useful facts about Norwegian:

1. In 2013 NAS set up Norwegian Long Haul (NLH) in Norway
2. NLH recruited European pilots on Singaporean contracts for a Bangkok base
3. They signed a contract with Global crew Asia to provide service to the airline called Norwegian Air International Singapore
4. Norwegian Long Haul Singapore is not a registered airline nor company in Singapore
5. NLH recruited Thai cabin attendants. Because this is not legal in Norway, NLH decided to register its aircraft in Ireland and request an exemption for the Norwegian government not to apply Norwegian legislation for twice 6 months
6. In 2013 Norwegian set Norwegian Air International in Ireland In 2014 NAI received an Air Operators' Certificate from the Irish authorities
7. NAI also requested a foreign air carrier permit from the US authorities
8. Amidst great opposition, decision by US authorities still pending
9. Awaiting US decision, NLH exemption expired so the company has moved its aircraft back to NAS and asked a new exemption
10. NAS received it and now operates under a wet-lease exemption from the Norwegian government



Norwegian Air Shuttle, Norwegian Air International, Norwegian Long Haul, Norwegian Long Haul Singapore? Confused about which airline we are talking about?

You are surely not the only one. The so-called new "business" model, put in place by Norwegian Air Shuttle (NAS) & its CEO - Bjorn Kjos - is intentionally designed in a non-transparent way to hide behind the confusion.

But there is a common thread to all this - all (daughter) companies and branches of Norwegian are designed in a way that makes it possible to **exploit the loopholes of EU legislation and the lack of coordination between countries of the European Economic Area as well as between the EU-US** and Asian authorities and regulatory systems.

To achieve this the "Norwegian model" in all its varieties has **spread across countries and continents in search for favourable legislation & rules**. For example, it counts on hiring pilots with European licenses through Singaporean recruitment agencies and Thai cabin crew, but

also setting up a base in Bangkok and registering its aircraft in Ireland in order to minimise costs.

The model uses **every single tool available to circumvent legislation and manoeuvre towards more suitable regulation, financial and legal loopholes or even friendly decision-makers**. When Norwegian failed to comply over hiring non-EU crews under Norwegian labour law, it decided to register its aircraft in Ireland (where immigration legislation is more flexible). At the same time, it has requested a foreign air carrier permit from the US Department of Transportation. But as the application is still pending - and under intense scrutiny - Norwegian is now attempting a new "system" - operating on a wet-lease exemption from the Norwegian government.

Norwegian has proved it already - **it is not afraid to bring into life models that do not comply with law**. It is perfectly possible that at the moment you're reading this a new set up is in the pipeline. A new set up that will again seek to undermine labour law, European regulation, taxation, employment rights and fair competition in aviation. The race to the bottom has begun!

Norwegian Airline Group Structure

norwegian.com

Norwegian Air Shuttle ASA (NAS)

- Parent company, registered and head quartered in Norway.
- All flights marketed in its name
- Lease 7 aircraft from various leasing companies
- Sub-lease aircrafts to NAI (and NLH before June 2014)

Norwegian Long Haul (NLH)

(Operations moved to NAS since June 2014)

- Limited company registered in Norway
- Air Operator's Certificate (AOC) in Norway
- 6 Aircraft leased from NAS
- Aircraft registered in Ireland and based in Oslo
- Crew supposedly based in Bangkok
- Flies to Thailand, US and intra EU-routes


Norwegian Air International (NAI)

- Limited company registered in Ireland
- No or rare flights from or to Ireland
- Air Operator's Certificate (AOC) in Ireland
- 1 Aircraft leased from NAS
- Aircraft based in Oslo
- Crew supposedly based in Bangkok
- Flies to Thailand and intra-EU routes

Temporary Employed Pilots

- By contract their services are sold to the airline "Norwegian Longhaul Singapore PTE. Limited" through the temporary work agency "Global Crew Singapore PTE., Limited".
- "Norwegian LH Singapore" is a shell company described as an airline but which has no AOC in Singapore.
- Contracts governed by Singaporean law
- Supposedly "based" in Bangkok and presumably would need work permits from Thailand
- So they have no social rights
- Jobs advertised by temp agencies, primarily Rishworth Aviation (New-Zealand)
- Cabin Crew are Thai recruited in Thailand and fly intra-EU flights

B787 Non Type Rated Captain Norwegian



Flight Crew Contract ()

Created on 5:

B787 Non Type Rated Captain Norwegian

Contract Term: 3 years renewable

Operational Base: Bangkok, Thailand

Ref: 775

Screenings are to be held in **Oslo** in August and November 2013

On behalf of Norwegian Long Haul A/S we are looking for Captains to fly Norwegian candidate is a current B777 Captain. **This is a great opportunity to Captain!**

Benefits:

- Great Pay and Per Diems
- Commuting possibilities to Europe during days off
- Layover accommodation and ground transportation provided by Norwegian
- Travel benefits for pilot and qualifying family members
- Medical Repatriation insurance is provided by Rishworth at no charge. Los a nominal fee


For more details and to fast track your application please **APPLY NOW** and register you will be able to view the full job description including pay. If you are registered already please login to your pilot portal.

Pilots who don't yet meet these experience requirements are invited to register and update their details at www.rishworthaviation.com. When your experience matches our position requirements, we will be able to notify you of positions which you qualify for, which may be of interest to you.

Required Qualifications

Minimum Requirements:

- JAA/EASA License
- EU passport
- 5000 hours total time
- 2000 PIC hours on any Boeing aircraft
- 500 PIC widebody Boeing hours
- Current B777, B767/B757 or B747-400 type rating
- Under 61 years old at date of application



Aircraft information
 Mode S 4CAB09
 Registration EI-LNF
 Type code B788
 Type Boeing 787-8 Dreamliner
 S/N 35313
 Airline Norwegian

Date	From	To	Flight	STD	ATD	STA	Status
2014-07-01	London (LGW)	Stockholm (ARN)	DY2852	08:40	08:55	11:00	Estimated 10:46
2014-07-01	Stockholm (ARN)	London (LGW)	DY2849	05:05	05:23	07:40	Landed 07:27
2014-06-30	London (LGW)	Stockholm (ARN)	DY2856	16:00	17:33	18:20	Landed 19:26
2014-06-30	Stockholm (ARN)	London (LGW)	DY2853	12:15	13:35	14:50	Landed 15:44
2014-06-30	London (LGW)	Stockholm (ARN)	DY2852	08:40	08:56	11:00	Landed 10:52
2014-06-30	Stockholm (ARN)	London (LGW)	DY2849	05:05	05:22	07:40	Landed 07:42
2014-06-30	Alicante (ALC)	Stockholm (ARN)	DY6204	-	00:19	-	Landed 03:24
2014-06-29	Stockholm (ARN)	Alicante (ALC)	DY6203	-	19:42	-	Landed 22:56
2014-06-29	Malaga (AGP)	Stockholm (ARN)	DY6103	10:25	10:37	14:35	Landed 14:17
2014-06-29	Stockholm (ARN)	Malaga (AGP)	DY6102	05:05	05:26	09:25	Landed 09:23
2014-06-27	London (LGW)	Stockholm (ARN)	DY2856	16:00	16:12	18:20	Landed 18:05
2014-06-27	Stockholm (ARN)	London (LGW)	DY2853	12:15	12:31	14:50	Landed 14:42
2014-06-27	London (LGW)	Stockholm (ARN)	DY2852	08:40	08:53	11:00	Landed 10:50
2014-06-27	Stockholm (ARN)	London (LGW)	DY2849	05:05	05:24	07:40	Landed 07:26

EI-LNF operates intra-EU routes. Where is the base? Bangkok?

About us...



Emmanuel Jahan

Social Dialogue Chairman

Emmanuel Jahan is the Chairman of the Sectoral Social Dialogue Committee for Civil Aviation (June 2013 - June 2015). He is the CEEP Europe representative in the governing board of the European Agency for the Improvement of Living and Working Conditions in the group of employers. Since 2005, he has been a permanent social affairs representative of Air France-KLM in Brussels, working with European institutions and organizations.

He works on issues linked applicable European labour law and social security law for mobile workers, transnational social agreements (expert to the European Commission), restructuring, posting of workers, pensions, European works councils and corporate social responsibility.



Jon Horne

Social Dialogue Vice-Chairman

Jon Horne is Vice-Chair of the Sectoral Social Dialogue Committee for Civil Aviation. He is an active pilot, flying 747s for a major UK airline, and is also Vice President of the European Cockpit Association, the European voice of professional pilots from 38 countries.

He has previously covered legal, regulatory and industrial affairs at ECA, and prior to this spent many years as an elected representative in the UK pilots' union, BALPA, where he specialised in employment issues, scheduling, and disciplinary matters. Jon also sits on the Executive Board of IFALPA, the global pilots' federation, providing a unique global perspective on the European aviation industry. He has appeared as an industry expert and representative before both the UK and European Parliaments, and at the ILO.



François Ballestero

Political Secretary for Aviation ETF

François Ballestero is a labour sociologist, expert in human resource management and in coaching. He studied European Affairs at the "Université Libre de Bruxelles". He has been ETF political secretary responsible for civil aviation since 2002. He previously held various positions in the European and Belgian trade unions, first as expert on social protection issues, then as expert on social dialogue issues. He participated in the negotiations to include the social dimension in the Maastricht, Amsterdam and Nice Treaties.

More information

Submissions to U.S. Department of Transportation on the case of "Norwegian" available on <http://www.noticeandcomment.com/DOT-OST-2013-0204-fpd-21019.aspx>

European Cockpit Association www.eurocockpit.be

European Transport Workers' Federation www.etf-europe.org



Scan the QR code to visit the website of the European Union Sectoral social dialogue - Civil aviation www.ec.europa.eu