



Flags of **IN**convenience

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.

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 render 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.