

European Sectoral Committee of Social Dialogue for Civil Aviation
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Mrs Violeta BULC
European Commissioner for Transport
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Brussels, 1 November 2014

Re.: Stopping Flags of Convenience in Aviation: Norwegian Air International

Dear Mrs Bulc,

In our capacity of Chair and Vice Chair of the EU Sectoral Social Dialogue Committee in civil aviation, we would like to congratulate you on your new role as EU Transport Commissioner. We very much look forward to working with you in the coming 5 years.

We noted and welcome your statements made towards the European Parliament, in particular on the need to prevent social dumping, to ensure social conditions of those working in the transport sector are fair, and that the related rules are enforced effectively.

In this context we contact you on the growing problem of ‘flags of convenience’ in aviation.

Such flags of convenience – which have in the maritime sector destroyed Europe’s fleet and employment – allow an airline to obtain an Air Operator Certificate (AOC) in a country where social, tax and/or safety regulations and oversight are less stringent than those of the state whose rules would normally be expected to apply. Some airlines even move their AOC. Such an artificial relocation from one country’s ‘flag’ to another country’s more ‘*convenient*’ flag is done to avoid local rules and apply instead ones chosen to be more lenient and commercially expedient. The effect is to create an unfair competitive advantage compared to those airlines that stay under their own country’s flag and abide by the local social, tax and health and/or safety rules and are overseen under the strict standards of their own national authorities.

A prominent and controversial example is Norwegian Air International (NAI). NAI is formally an enterprise registered in Ireland – its ‘flag of convenience’ – but without any flights from or to this country planned, without any aircraft physically based in Ireland, and with only very few staff in Dublin.

This artificial set up allowed it to obtain an Irish AOC, supposedly only to get better market access to the USA, whilst its parent airline company Norwegian Air Shuttle has already a Norwegian AOC allowing it to fly within Europe as well as to and from the USA.

In fact, this Irish AOC’s main effects are: to circumvent Norwegian labour law, to avoid paying any social charges in Norway or any EU country, and to fictitiously base its pilots in

Thailand (Bangkok) – employed by a temporary work agency in Singapore. Further it also allows the company to circumvent Norwegian immigration rules and recruit Thai cabin crew in place of European citizens.

Numerous EU Member States are opposing NAIs' request to obtain an authorisation to operate on the transatlantic market as NAI's business set-up does not respect the terms or spirit of the EU-US Air Transport Agreement (particularly Article 17bis on the social dimension) to which they are co-signatories. Along the same line, the US Department of Transportation (DOT) has so far refused to grant NAI provisional access to its market.

The Social Partners on both sides of the Atlantic, as well as many stakeholders from the airlines and air crew associations, share these concerns and have expressed this repeatedly both to the DOT and to DG MOVE. In particular, the Air Crew Working Group of the Social Dialogue Committee adopted, in June 2014, a 'Joint Declaration against EU-based Flags of Convenience in Aviation' (attached).

In case NAI's business model is accepted and the DOT gives the permit to this company, the EU aviation industry will lose thousands of European jobs. Once these jobs are lost, they will not come back because the working conditions will be dictated by sub-standard third country contracts. This is a way of permanently outsourcing jobs to third countries.

We firmly believe that NAI's market access to the USA cannot be subject to a quick decision, without first ensuring that the European legislation prevents such flags of convenience. Concretely this means that e.g. Reg. 1008/2008/EC should be adapted to reflect the evolution of the aviation market in Europe, and that other regulatory steps are taken to ensure fair competition within Europe's single aviation market.

We very much hope that under your leadership, DG MOVE will take the necessary steps to prevent this specific NAI scheme from going ahead, to improve our knowledge on such artificial business set-ups and their detrimental effects, and to quickly find solutions to the broader problem of flags of convenience, the related social dumping and market distortion.

To this effect, we would like to request a meeting with you at your earliest convenience and if possible still in 2014.

With best regards,



Emmanuel Jahan
Chair, European Sectoral Social Dialogue for Civil Aviation



Jon Horne
Vice Chair

Attachment: Joint Declaration against EU-based Flags of Convenience in aviation.

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