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Brussels, 19 January 2016

## **ETF RESPONSE TO THE COMMISSION'S AVIATION STRATEGY FOR EUROPE**

### **I. INTRODUCTION**

The European Transport Workers' Federation (ETF), representing more than 250.000 aviation workers from 82 national unions in 41 European countries, is committed to ensure fair working conditions and social rights in all aviation sub-sectors (airlines, air traffic management and airport services) and achieve social progress for all aviation workers.

Aviation is a strong driver of economic growth and jobs in the European Union, although, this sector is losing its power as an engine able to generate direct employment in numbers and in quality. In recent years, jobs offered are often outsourced, poorly paid and the precariousness of work in aviation has increased.

The overall message of the Commission's "Aviation Strategy for Europe" is in line with a hyper-liberal and excessive market-driven attitude. The ETF does not approve this approach, as only business and market forces will decide the fate of the European aviation industry.

Apparently, the goal of the document would be in harmony with an attitude to strengthen the competitiveness and sustainability of the entire EU air transport value network. However, ETF is disappointed to see how the Commission only identifies the problems without offering real long-term sustainable solutions and concrete measures leading to foreseeable results. ETF notices the impasse in which the Commission leads the EU aviation sector as it keeps attention to only two of the pillars of sustainability – economic and environmental, while constantly and deliberately ignoring the third one – the social. This situation compromises the stability and viability of the whole system. Social dumping and flags of convenience, which are the day-to-day growing reality of the workers, are being totally ignored by the Commission.

For these reasons, the ETF is of the opinion that there is no real strategic vision on the Commission's "strategy". A holistic strategy needs to link growth, quality jobs, environment, development and a progressive social perspective. However, we agree on the Commission's analysis about the importance of aviation and we believe that it is essential to see it as a fundamental part of the EU transport infrastructure.

Moreover, opening European aviation to unequal competition and hoping EU airlines will survive in the attempt is not realistic. Strong measures must be taken to protect EU

aviation. This fundamental flaw in concept makes the document far from being adequate as to implement a real defence for the EU aviation industry and its workers, both on the ground and in the air.

In the framework of negotiations with third countries, it is vital to have fairness and reciprocity, the highest safety, security, labour and social standards, protection of jobs and working conditions, a fair distribution of the benefits of a still growing industry and the continuing public service element. Reciprocity must prevail in terms of market access and employment opportunities on both sides.

Future EU policies must be the cornerstone in which the EU should keep alive its hopes to maintain the EU aviation in a leading position worldwide. New competitors will not hesitate to use their strengths to impose a new global framework that may destroy EU companies, employment and social cohesion.

It is the mission of the EU Institutions to defend the EU aviation's interests together with all stakeholders, including the social partners. En route to this aim, ETF is ready to establish a dialogue with the interested parties and institutions to defend a strategic aviation vision that includes all the concerns with particular reference to working conditions, employment, quality jobs, social rights which should serve as a basis for future global standards.

## II. THE ETF'S VISION OF FUTURE EU AVIATION

The ETF's vision of future EU aviation can be summarized in these five points:

### 1) **Passenger safety and security are paramount**

Aviation is known as one of the safest modes of transport and the European Union recognizes the need for a high and uniform level of protection by adopting common safety rules. These rules must cover the whole aviation safety chain including airlines, airports, independent handlers and air traffic management. Safety and security cannot be compromised because of excessive competitive pressure. Furthermore, aviation is not only important for economic growth, but also for territorial and social cohesion. Therefore, it has to be considered in terms of quality, accessibility and reliability. One of the tools to ensure quality is mandatory certification of safety-critical staff along with a policy aiming towards retaining staff skills in the industry by avoiding continuous staff turnover.

### 2) **Fair civil aviation in Europe**

European civil aviation should offer equivalent opportunities to all stakeholders. Rogue competition should not be permitted with the pretext of "getting cheaper airfares" as workers are citizens at the same time and deserve the same level of protection. A comprehensive legal framework has to be adopted with the aim of putting an end to policies that solely prioritise profit before people and safety.

### 3) **NO to social dumping**

The mere fact that there is no common definition of social dumping does not mean that it is non-existent. In fact, it has been encoded in the "genetic information" of the



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European Union by creating a single market while having 28 different social systems in the Member States. It is important to reiterate the ECJ ruling in the Laval case 2007: “In that regard, it must be pointed out that the right to take collective action for the protection of the workers of the host State against possible social dumping ... justifies a restriction of one of the fundamental freedoms guaranteed by the Treaty [...]”<sup>1</sup>. Taking into account the current developments in aviation, the ETF believes that the social dumping practices by some airlines should be addressed in the context of a broader debate on unfair competition, both from the perspective of the internal market, as well as the EU external aviation policy, with the aim to eradicate all forms of social dumping including offshoring.

#### 4) **YES to fair working conditions and social rights for the aviation workers**

The European Commission should finally live up to the statement from the 2011 White Paper saying that “Market opening needs to go hand in hand with quality jobs and working conditions, as human resources are a crucial component of any high quality transport system.” The Commission should implement a project in civil aviation that can gather the social partners’ support in order to bring back decent jobs to the aviation industry, particularly in light of external competition. We must develop fair agreements on tax regimes, unfair commercial practices and State subsidies of carriers from third countries.

#### 5) **Free movement and freedom of establishment without abuse**

The ETF is of the opinion that the four fundamental EU freedoms defined in the framework of the single market should not be used as a pretext for “forum shopping” (looking for the most lenient legislative framework) or circumvention of applicable labour law. On the contrary, they must be used to create quality jobs in Europe. A new sustainable quality-job-creating project needs to be identified and promoted in civil aviation with the involvement of all social partners through the Sectoral Social Dialogue Committee for civil aviation.

### III. THE ETF PROPOSALS ON THE AVIATION STRATEGY

***On 7 December 2015, the European Commission presented its long-awaited communication entitled ‘An aviation strategy for Europe’. The ETF and its affiliated organisations examined carefully the text of the communication accompanied by the Commission staff working document (SWD) and compared it against its own goals and positions. This document summarizes ETF’s position on the proposals of the European Commission.***

#### 1. IMPORTANCE OF EU AVIATION AND THE NEED FOR A COMPREHENSIVE STRATEGY

While the ETF agrees with the Commission on the fundamental role of aviation, not only as an important sector of the economy but also as a multiplier and strategic tool of external relations, we strongly oppose the overall neoliberal and market-driven tone of the Commission's document. On the other hand, we do not agree that the EU's

<sup>1</sup> Judgment of the Court (Grand Chamber) 18 December 2007 in Case C-341/05, para 103



liberalisation in the past 20 years has been a success story for all parties involved. As we have pointed out in previous documents, it has brought many benefits to the travelling public in terms of greater access to air travel, cheaper air fares and diversified product offers, but also a race to the bottom of working conditions of most of the aviation workers. The deterioration of working conditions can be illustrated by excessive rise in productivity<sup>2</sup> without recruitment of workers.

Commission also uncritically quotes the EU-US Aviation Agreement as one of the successes of EU aviation policy. Notwithstanding the traffic growth between EU and US, we should not forget the persisting unbalanced treatment of EU and US carriers in areas of cabotage and restrictions of ownership and control. On the contrary, one of the positive aspects, even if incomplete, is the Article 17bis of the 2<sup>nd</sup> stage agreement signed in 2010 containing a first-ever clause on social matters.<sup>3</sup>

Similarly, the ETF supports the need to have a comprehensive strategy for EU aviation, so "*Europe must be a leading player in international aviation and a global model for sustainable aviation, with a high level of service and ambitious EU standards*". In particular, we welcome the commitment to reinforcing social agenda and creating high quality jobs in aviation. We also agree on the need of adoption of an ambitious external aviation policy that ensures fair competition for EU companies including sustainable social provisions. On the other hand, the ETF believes that the shift to a risk and performance based mind-set should not be a pretext for cost saving and it should co-exist with binding safety standards

***It is time for the Commission to deliver on social issues!***

<sup>2</sup> according to the recent Study on employment and working conditions in air transport and airports by Steer, Davies and Gleave for the EC (July 2015), there was a 43% rise in productivity between 2000 and 2013) on the basis of EU airline passengers per person employed

<sup>3</sup> Article 17 bis Social Dimension: 1. The Parties recognize the importance of the social dimension of the Agreement and the benefits that arise when open markets are accompanied by high labour standards. The opportunities created by the Agreement are not intended to undermine labour standards or the labour-related rights and principles contained in the Parties' respective laws. 2. The principles in paragraph 1 shall guide the Parties as they implement the Agreement, including regular consideration by the Joint Committee, pursuant to Article 18, of the social effects of the Agreement and the development of appropriate responses to concerns found to be legitimate.



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## 2. CONCRETE POLICY PROPOSALS

### a. Paramount importance of safety and security

In the light of the expected growth, aviation must retain its reputation as the safest mode of transport. Therefore, the ETF welcomes the Commission's commitment to a high level of safety and security standards. ETF expresses deep concerns with the social and occupational health and safety dimension of the rules and regulations set by EASA. Social issues as well as occupational health and safety issues have a link with safety. Having regulations putting targets on social and occupational health and safety issues linked to safety is a way to improve the safety level in Europe.

#### Effects of new business models and atypical employment on safety

We have concerns on the possible integration of new business models without having critically assessed their impact on safety and social elements. The ETF's experience shows that some wide-spread employment models<sup>4</sup> involving questionable employment forms may have adverse effects on safety levels, e. g. in terms of occurrence reporting or compliance and enforcement of flight time limitations. This includes precarious and atypical employment forms such as excessive use of fixed-term contracts, agency work, zero-hour contracts, two-tier employment contracts, bogus self-employment, subcontracting or pay-to fly. This view has also been reflected by the EASA Regulatory Advisory Group (RAG). These practices also devalue existing professional skills in the sector and reduce labour mobility. In any case, direct employment must be guaranteed to ensure organisational stability and safety.<sup>5</sup>

#### Inclusion of ground handling into the scope of EASA

In the context of high level standards throughout the whole aviation industry, the ETF understands that the initial proposal to include ground handling into the scope of Regulation (EC) 216/2008 outlined in the roadmap published by the Commission in September 2015 is part of the aviation strategy.

The ETF supports this important move for the safety and security of the European civil aviation. However, important outstanding issues have to be addressed, such as:

- training standards and qualifications of ground handling workers, as a mean to reduce the staff turnover having negative effects on the aviation safety chain
- number of staff around the plane in relation to turn-around times
- health risks stemming from exposure to air pollution on the tarmac

The ETF also opposes Commission intention to rely only on industry standards and requests full certification of ground handlers when safety is at stake.

#### Independent funding of EASA

ETF is of the position, that as an agency of the European Commission in service of the EU citizens, funding should be provided by the EU budget. Therefore, the ETF rejects any proposals to introduce in to the SES charging regulation the ability to provide some

<sup>4</sup> according to a recent University of Ghent study commissioned by the European Social Partners, only 52,6 per cent of pilots working for a low fare airline had a direct employment contract with the company

<sup>5</sup> such as e. g. in case of maintenance staff (see Part 145, AMC 145.A.30(d) Personnel requirements)



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funding for EASA. This will provide further complexity in to the composition of the unit rate, resulting in competing pressures on funds. ETF does not agree that this will be cost neutral and inevitably further pressure on operator costs will result as the EASA element is sure to grow.

### New technologies and threats

Drones will be undisputedly part of the future of aviation in Europe and worldwide. The ETF acknowledges the opportunities for the whole industry. At the same time, we would like to stress that there is only one sky and consequently one safety system. Therefore, comprehensive regulations have to be developed to ensure proper safety. Against this background, the ETF is rather skeptical towards the application of risk-based framework to drones. This also applies to the intentions of the Commission to relax safety rules for General Aviation. The ETF requests that any future initiative on new technologies takes strongly into account its impact on employment. The ETF also highlights the need to address cyber-threats: in air traffic management, the new concept of remote tower operations needs to be assessed accordingly.

In addition, the ETF fully supports the pursuit of high safety standards with regard to foreign airlines operating to the EU, or being used by EU citizens. Besides the safety angle, these efforts support fair competition. The ETF also supports increased involvement of the EU social partners when EASA initiatives may have an important social and/or occupational, health and safety impact, especially during the preparatory work.

#### ***ETF proposals for the revision of EASA Basic Regulation No 216/2008:***

- ***the notion of Regulatory Impact Assessment (RIA) on social and occupational health and safety issues must be reinforced. If the RIA proposes to address social then this must be addressed by EASA prior to any further initiatives from EASA and/or from the***
- ***EASA should get the competence to ban the worst forms of atypical employment and/or limit other forms having adverse effect on safety levels***
- ***EASA should have a strong mandate to regulate all parts of the aviation safety chain including ground handling activities (training and qualifications, turn-around times, number of staff, etc)***
- ***performance-based approach should not be used as an alternative to prescriptive rules but rather as their add-on***
- ***a consultation mechanism on effects of safety-related rules on social and health and safety issues should be established involving EU social partners***

*ETF will present a specific paper on the Commission proposal for a Regulation repealing Regulation 216/2008 (on EASA)*



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## **b. Strong social agenda and high quality jobs in aviation**

In line with its commitment to ensure fair working conditions and social rights of the civil aviation employees, the ETF welcomes that for the first-time ever, social matters are being discussed as an integral part of aviation policy. Unfortunately, the concrete policy proposals contained in this policy chapter are rather weak and there is a risk that the whole chapter only remains a lip service.

### Lack of concrete proposals and actions

While the Strategy enumerates a number of problematic areas, such as new business and employment models including multiplication of operational bases, it does not adequately take into account the risk of offshoring or relocating and/or hiring aircrew to/in third countries without any social protection, atypical employment<sup>6</sup> or pay-to-fly schemes. The Commission only proposes a limited answer to these problems and does not examine the impact on employment that this system could have on the aircrew population in Europe. Similarly, the Commission does not offer any solutions to the problems of ground staff related to lack of social protection, training and qualification.

The ETF has been part of the Sectoral Social Dialogue Committee for Civil Aviation since its establishment and remains committed to dialogue with all recognized EU social partners but the Commission should be more courageous and propose concrete legislative changes to ensure level playing field in the single market with regards to social matters.

In addition, the ETF will continue to strive for the adequate official consultation of the civil aviation social dialogue committee by the Commission on all matters and proposals at community level that have social implications in the sector. All relevant information and reasonable deadlines must be provided to this committee in due time, so that it can, in turn, adequately respond to the consultation. The Commission must fulfil its responsibilities in particular by consulting the social dialogue committee when it launches its impact assessment before proposing a new legislation.

### **ETF proposals**

- ***better coordination between DG MOVE and other DGs on sector-specific and horizontal policies***
- ***in promoting innovation and fair new business models, the EU must ensure equal opportunities for all and fair competition***
- ***giving a prominent role to recognized EU social partners during consultations through the Sectoral Social Dialogue Committee for civil aviation***
- ***a social progress agreement for aviation including oversight and enforcement mechanisms***

<sup>6</sup> as acknowledged by the Framework Agreement on Fixed-Term Work implemented Council Directive 1999/70/EC, contracts of an indefinite duration are, and will continue to be, the general form of employment



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### c. Air Traffic Management

#### Single European Sky cannot be built without workers

Despite being supportive to the overall idea of a Single European Sky, the ETF is strongly opposed to the use of the SES to introduce further liberalisation of ATM services having negative social consequences on workers. In addition, the so-called "human factors pillar" has to be taken into account when implementing any technological initiatives linked to SES, which is not the case now.

#### Questionable arguments

While the ETF agrees with the general aim of continuous efficiency improvement of European aviation and reducing capacity limits, we have repeatedly questioned the alleged cost of a fragmented airspace which is estimated by the Commission to be €5 billion. According to EUROCONTROL statistics, the delay caused by ATFCM in total (both airport and en-route) accounted to 1.27 min compared to airline-related delay of 3.04 min per flight in 2014. This demonstrates that the airlines themselves are responsible for almost 50 per cent of delay costs.<sup>7</sup> Similarly, the comparison between the US and European air traffic management showing an alleged 70 per cent efficiency gap is misleading because it does not take into account differences in financing, architecture and purchasing power parity.

#### NO to minimum service requirements

The ETF strongly deplores the attempts to introduce "minimum level of service in managing European airspace" which can be used as a pretext to undermine the right of collective industrial action guaranteed by the Charter of fundamental rights of the European Union, especially when arrangements on minimum service requirements exist at national level. Measures on the right of strike are not allowed at EU level (article 153 of the TFEU).

While admitting that conflicts exist, the ETF would like to point out that industrial unrest is an expression of the work force's dissatisfaction and long term frustration rather than the cause of disruption in what is called "a sustainable" economy. Measures that ignore the human factor in the liberalized market and recognise only "bottom line" conditions in a cold calculation of profit and loss are inadequate and have already led (and will lead) to social conflicts.

The ETF firmly rejects this Commission's approach and considers it as an attempt of reducing the right of aviation workers for industrial actions and strike and limiting the benefits of proper social dialogue and consultation to find socially balanced solutions.

#### ***ETF proposals for the SES2+ package and other ATM related issues:***

- ***to amend the performance scheme provisions by adding measurable targets and indicators for the Safety KPA***
- ***unbundling of support services should be left out of the regulation or at the very least remain optional and not binding***
- ***develop the "fifth pillar" of SES – human factor (mandatory social dialogue for FAB implementation, guidelines for trade union consultation***

<sup>7</sup> CODA DIGEST All-Causes Delay and Cancellations to Air Transport in Europe – 2014



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**on FAB and at national level, no forced staff mobility, just culture, change management)**

- **instead of imposing minimum level of service, promoting a genuine social dialogue in ATM on this issue**
- **introduction of competence schemes for all safety related personnel**

#### **d. Aircrew**

##### Home base

The ETF has been arguing for the need to clarify the labour law and social security applicable to highly mobile workers in civil aviation and there are significant loopholes in social protection of European aircrew, due to the lack of clarity of the legislation. While this request has been partly taken on board in the Strategy, we strongly believe that publishing a practice guide on applicable labour law and the competent court, as well as considering the need for further clarification of applicable law, are insufficient. There is a need to amend the existing legal rules and align both technical legislation (Regulation (EU) 83/2014) and social security legislation (Regulation (EU) 465/2012), so that the "home base" corresponds to the "usual workplace" definition in accordance with the EU case law; it has to guarantee stability and determine both social security and labour law applicable in line with Rome I Regulation<sup>8</sup> and the principle of *favor laboratoris*<sup>9</sup>.

##### Operating license and principal place of business

It is however regrettable that the Commission decided not to pin down the relationship between the principal place of business and the operating license as defined in Regulation (EC) 1008/2008, so that the operating license of the Community air carrier could only be granted by a state where the given operator has material resources, personnel and most importantly substantial aviation activities including continued airworthiness management. In ETF's view, this would be a suitable measure to prevent the creation of letterbox companies, "forum shopping" and consequent social dumping on the EU Single Market. During the consultation process, the ETF has given numerous examples to the Commission where the airlines "relocated" on paper their headquarters to benefit from weaker labour law, lower social security contributions or – even worse - to avoid union representation. Yet, the Commission still argues that more evidence is needed. This non-action of the Commission is contrary both to the EP resolution on the future aviation package<sup>10</sup> and the EESC opinion on Social dumping in the European civil aviation sector.<sup>11</sup>

##### 3<sup>rd</sup> country workers

It is the ETF position that European carriers operating under an EU Member State's AOC must have a principal place of business in the respective Member State and as such, all employees must therefore be EU nationals or persons with EU residence and work permits. In the exceptional case where third-country crewmembers are working on board of a carrier with an AOC issued by an EU member state, they must be subject to

<sup>8</sup> Regulation (EC) No 593/2008 the law applicable to contractual obligations (Rome I)

<sup>9</sup> the standard *favor laboratoris* means that the labour court in labour disputes interprets the legal rules in favour of the employee

<sup>10</sup> European Parliament resolution of 11 November 2015 on aviation (2015/2933(RSP))

<sup>11</sup> <http://toad.eesc.europa.eu/viewdoc.aspx?doc=ces/ten/ten565/en/EESC-2015-00417-00-00-AC-TRA-en.docx>



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the same European labour and social regulations whatever their nationality and with respect to the principles of equality and non-discrimination. Therefore, the ETF insists on the clarification and extension of current visa and work permit requirements to third-country nationals working on board of EU-registered airplanes as a means to ensure equal treatment, high level of security and to avoid labor exploitation through the use of non-EU employees. The risk of having two-tier labor conditions within the same crew could also become a safety hazard. In terms of security, the ETF is deeply worried that 3<sup>rd</sup> country workers are not subject to same security background checks as their European colleagues.<sup>12</sup>

**ETF proposals for cooperation between DG MOVE, DG EMPL, DG HOME and DG JUST:**

- **to amend Regulation (EC) No 465/2012 on social security coordination in order to shorten the 10-year transitional period and clarify the situation of crewmembers having multiple home bases during a calendar year**
- **to amend Regulation (EC) 1008/2008 on common rules for the operation of air services (improvement of definition of principal place of business in relation with operating license, binding application of social legislation, linking AOC with substantial aviation activities)**
- **extension of Directive 2011/98/EU (Single Permit Directive) to third-country aircrew working on board of EU-registered airplanes in order to guarantee equal treatment**

#### e. Ground handling

The ETF is disappointed that the Commission devotes such little attention to ground handling development. According to its own words, the Commission will continue to pursue the effective implementation of the Directive 96/67/EC, undertake its evaluation and then decide if it needs to be reviewed.

Given the fact that the proposal for a new Regulation on ground handling has been withdrawn in December 2014 due to no foreseeable agreement between the EU institutions, the ETF insists that the "improved implementation" must not be interpreted as further liberalisation of EU ground handling with detrimental consequences for the workers such as job losses, lower wages, deterioration of working conditions. In order to guarantee proper implementation, EU social partners must remain closely involved.

The ETF is opposed to sub-contracting *in cascade* and will continue to fight for binding social protection of workers in case of call for tender or partial loss of activity (wages,

<sup>12</sup> As stated in paragraph Annex of Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security, "A crew identification card of a crew member employed by a Community air carrier and an airport identification card may only be issued to a person who has an operational need and has successfully completed a background check in accordance with point 11.1.3." (1.2.3.1). Furthermore, it states that "In accordance with Community and national rules, a background check shall at least:

- (a) establish the person's identity on the basis of documentary evidence;
- (b) cover criminal records in all states of residence during at least the preceding 5 years; and
- (c) cover employment, education and any gaps during at least the preceding 5 years." (11.1.3.)



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working conditions and seniority, etc), for quality jobs and the acknowledgement of representative collective agreements within the sector . Similarly, we insist on the need to improve training and qualification standards for ground staff.

**ETF proposals for cooperation between DG MOVE and DG EMPL:**

- ***the concept of “economic entity” should be clarified in a way to extend the benefits of Directive 2001/23 to ground handling workers in case of call for tenders or partial loss of activity. The ECJ found that there is a transfer of undertaking where there is a change in the legal person who is responsible for carrying on the business and who by virtue of that fact incurs the obligations of an employer to employees of the undertaking, regardless of whether or not the ownership of the undertaking is transferred***

**f. External aviation policy**

No relaxation of Ownership and Control (O&C) rules

As already mentioned, we share the analysis that aviation has become a strategic element in economic development policies. In this context – contrary to Commissions' views – we do not see current rules on ownership and control as being restrictive but rather ensuring that effective control remains in the hands of European subjects. Therefore, the ETF opposes any attempts to relax current O&C rules, in particular on unilateral basis. Moreover, the EU institutions should ensure their proper oversight and enforcement. This is even more important given the fact that some non-European countries decided to use international aviation as part of their economic diplomacy.

Respect of social standards as a precondition for comprehensive agreements

Since there is no consensus between EU Member States regarding their approach vis-à-vis Gulf States, the ETF believes that it is too early for the Commission to request a negotiating mandate. Before requesting a negotiating mandate for a comprehensive agreement between the EU and Gulf countries, the Commission should demonstrate the mutual benefits of such an agreement as outlined in the preamble of the Chicago Convention<sup>13</sup>. In any case, a future mandate must - as a *conditio sine qua non* - address the issue of fair competition including the respect of workers' rights, namely at least ILO Fundamental Conventions. In addition, provisions similar to Article 17bis of the EU-US Air Transport Agreement must be included along with provisions on compliance and enforcement. European authorities must be able to ensure proper oversight and apply sanctions in case of non-respect of the social clause.

In the ETF's views, the same applies to other priority countries, such as China and Japan.

<sup>13</sup> [...] *the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.*



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### Need to prevent unequal subsidies for non-EU carriers

The ETF strongly disagrees with the tone of Commission when it comes to fair competition between the EU carriers and their foreign counterparts: while the Commission is trying to insinuate that the 'unfair' state subsidies are "alleged" and yet to be proven, we believe that sufficient evidence has been presented to support this thesis, e. g. by the US Partnership for Open & Fair Skies.<sup>14</sup> This has also been reflected in the EP resolution on the future Aviation Package.<sup>15</sup> One of the important elements that also needs to be addressed is the difference in insolvency protection among the EU and some other countries. The Commission should therefore acknowledge the fact and start protecting the interests of EU citizens and businesses, giving priority to the retention of decent jobs in Europe.

In terms of regulatory framework, the current rules for protection of EU airlines against unfair commercial practices by third country carriers have proven to be inefficient and unenforceable. Therefore, the ETF fully supports the revision of Regulation (EC) 868/2004 to address the scope and concept of unfair practices, procedural framework and sanctions (including a possible suspension of traffic rights).

### Global action needed

Together with its global sister – the International Transport Workers' Federation (ITF), the ETF has been advocating for the need for binding global employment standards. To this end, the EU together with its Member States should promote close cooperation between ILO and ICAO on the definition of labour law jurisdiction, labour and social standards, as well as proper enforcement of ILO Fundamental Conventions during bilateral or multilateral negotiations. As a first step towards achieving this aim, the Commission should facilitate a Social Progress Agreement between the recognized EU social partners in civil aviation.

#### **ETF proposals:**

- ***ratification of ILO Fundamental Conventions No 29, 87, 98, 100, 105, 111, 138 and 182 should be a precondition to negotiate comprehensive agreements***<sup>16</sup>
- ***negotiation of global social progress agreement under ILO based on the standards of the proposed EU social progress agreement***
- ***a standard social clause including oversight and enforcement mechanisms should become part of all comprehensive agreements***

<sup>14</sup> <http://www.openandfairskies.com/wp-content/themes/custom/media/White.Paper.pdf>

<sup>15</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0394&language=EN>

<sup>16</sup> *Fundamental conventions: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ; Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105) ; Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182) ; Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*



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## g. Analysis on jobs and employment

The proposed strengthened analysis on jobs and employment in aviation comes short of the ETF's proposal to create an observatory on jobs and employment. As opposed to ad-hoc research, an observatory would ensure consistent and reliable data on the effects of EU aviation policy on employment. Given its specific status, European social partners<sup>17</sup> should enjoy a prominent role in managing the research together with the Commission.

### **ETF proposal:**

- **creation of a tri-partite Observatory on jobs and employment in aviation governed jointly by the European Commission, employer and worker organisations (recognized EU social partners)**

<sup>17</sup> <http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/european-social-partners>



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## IV. CONCLUSIONS

### ETF's commitment to work with EU institutions

The ETF remains committed to work with the three EU main institutions to achieve fair working conditions and social rights for all aviation workers and to end social dumping in European aviation:

- We call on the European Commission to take due account of the interests of European aviation workers when proposing concrete legislative actions
- We call on the European Parliament as the sole institution having direct democratic legitimacy to ensure future of European aviation, including for the employees
- We call on the Council of Ministers as representative of Member States to protect the interest of their citizens, notably through a fair social regulated aviation market.

### Key role of Social Dialogue

The ETF fully endorses Commissions' proposals to strengthen the role of the European Sectoral Social Dialogue Committee. Once again, we would like to stress that the European Social Partners have to play a prominent role among all stakeholders, as they are subject to regular scrutiny of their capacity and representativeness which is not the case for other actors.

### Need for coordinated efforts of the Commission

In the past, we have seen far too often that there is 'more than one European Commission' and trade unions can expect a different response from DG MOVE, DG Employment or DG Competition. Therefore, it is up to the Commission to prove that it has a coherent structure and policy. The ETF expects that the Commission will address further issues in the upcoming Labour Mobility Package that is being prepared under the leadership of the Commissioner for Employment, Social Affairs, Skills and Labour Mobility. Again, we strongly call on DG MOVE and DG EMPL to work together in order to establish an integrated aviation strategy, which includes a social dimension.

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### **Other reference documents**

- *Resolution of the European Parliament on the future Aviation Package*
- *Opinion of the European Economic and Social Committee on Social dumping in the European civil aviation sector (TEN/565)*
- *Opinion of the European Economic and Social Committee on Integrated EU Aviation Policy (TEN/569)*



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