

Moving Beyond Blue Skies Into Truly Open Skies

Airports and the services they provide are critical to the economy of Canada. Canadian air policies need to be brought into the 21st century; current air policies encourage secrecy and unfair agreements. Specifically, the federal government must be called on to recognize that the current approach to air agreements is having a negative impact on regional and local economies across Canada. This in turn is hampering the rate of our collective economic recovery. While the Canadian Chamber has consistently focused on the need for improvement in terms of Canada's air agreements (most recently by calling for an expedited process for the implementation of the Blue Skies policy) the extent of the challenge and the pace of movement towards truly open skies in other jurisdictions now means that it is imperative that the federal government must move beyond the current Blue Skies policy and embrace a true open skies approach to air agreements. Included in this approach should also be a focus on allowing right of establishment for foreign domiciled carriers in Canada.

In November, 2006, the federal government announced the Blue Skies International Air Policy. Further to this Canada negotiated an Open Skies treaty with the US which while concluded in November 2005 was not fully implemented until March of 2007. Both of these announcements were welcomed by the business community. The benefit of both these agreements is seriously impaired by the limited number of truly Open Skies that Canada has negotiated.

It should be noted that air agreements alone are not the panacea in terms of growing international markets. The one-off agreement with China in 2007 was relatively liberal, but the lack of Transit-Without-Visa (TWOV) for Chinese Nationals, coupled with other visa issuance issues initially contributed to China withholding Approved Destination Status (ADS) for Canada, thus seriously undermining the potential market.

Further complicating the issue is the lack of alignment of the federal government departments to deal with an Open Skies policy. For example, there are very few airports in Canada that offer 24/7 Canada Border Services for the arrival of an international passenger or cargo flight.

In establishing negotiating priorities and mandates the government should take into account the needs of the broader stakeholder community. Over the past year, the federal government placed its focus to an Open Skies agreement with the European Union, which while concluded the implementation structure remains challenging given that implementation is structured in four phases with open skies not coming into existence until phase 3 of the agreement. While the restrictions remain concerning the agreement does move us forward in that it does remove all previous restrictions on direct service between the 27 EU member countries and Canadian markets. The Chamber welcomes the opportunity with the EU, but is concerned that the benefits will be not be uniform and will lead to distortions on a regional basis. This in turn undermines Canada's ability to move forward on the Asia Pacific agenda, which is an important avenue for Canada's economy.

It was originally stated that the agreements would cover the following elements for all scheduled passenger and cargo service:

- Third, fourth, fifth and sixth freedom rights
- Seventh freedom rights will apply to stand alone, all-cargo service
- No limit to the number of airlines permitted to operate
- No limit on the permitted frequency of service or type
- Openness and flexibility of code-sharing services

The Chamber continues to agree that these are foundations to all air agreements. Given that, however, the conditions that are placed on the negotiating priorities of the federal government are a concern. In particular, the negotiating calendar and the process itself, with two exceptions are problematic. With

respect to the U.S. and E.U. negotiations, two representatives of the Canadian Airport Council have been afforded the opportunity to participate as observers. Canadian observers have been limited to Canadian airlines and in certain situations the pilots union. The Chamber believes that this policy needs to evolve similar to the U.S., whereby any airport may sit as an observer/representative of its community.

The Chamber is also concerned with the lack of transparency in the Open Skies policies. Canada has, as of March 2007, adopted an Open skies agreement with the US, in addition Canada claims 9 Open Skies agreements with Barbados, Costa Rica, Dominican Republic, El Salvador, Iceland, Ireland, South Korea and the United Kingdom. However these treaties are confidential with access granted only to government officials, airlines and airports. Business stakeholders and the general public do not have access to the details. An example of this is the agreement with China, signed in April 2005. Details such as frequency entitlements and destinations served are still confidential. As well, Iceland has signed an Open Skies agreement with Canada, the details of which have never been disclosed to the airport community, stakeholders or the general public. As Iceland's agreement was not totally disclosed and most of the expanded freedoms did not occur for many years to come, this is not truly an Open Skies agreement. The Chamber is concerned as bilateral agreements are still being negotiated that are never made public. By contrast, the U.S. is not legally permitted to enter into such agreements without public disclosure.

A lack of urgency placed on the need to immediately enter negotiations with key markets is also of concern to the Chamber. Many regions have a history of suffering under the legacy of restrictive agreements with some of our most important markets for tourism and trade, The Chamber believes it is incumbent on the federal government to move beyond the current Blue Skies International Air Policy and develop a 21st century true open skies policy, placing significant emphasis on the Asia Pacific region.

The Chamber is also disappointed by the lack of action on the issue of rights of establishment in Canada's approach to air policy. It must be recognised that the airline industry is very capital intensive and to have arbitrary barriers to foreign investment in an age of increasing integration of the global economy is anachronistic to say the least. The Chamber continues to believe that rights of establishment are the most effective way to immediately introduce significant new investment and competition into the market. The granting of rights of will increase competition and choice as companies look to establish a Canadian presence.

The granting of rights of establishment will bring increased competition and choice as companies look to establish a Canadian presence. This increased investment will inevitably bring increased employment, as the sector grows and foreign carriers establish operations in Canada they will by definition employ Canadians.

It seems clear that the Canadian approach to international aviation is not providing our economy with the opportunities being experienced in jurisdiction after jurisdiction around the world. More worrying, it is clear that unless immediate action is taken Canada will continue to fall behind and our local, regional, provincial and national economy will suffer as a result.

Recommendations

That the federal government:

1. Move beyond the current Blue Skies International policy and aggressively pursue true open skies agreements in all bilateral transport negotiations, both in passenger and cargo.
2. Focus efforts on key markets as identified by community and industry stakeholders.
3. Adopt a balanced approach to stakeholders, recognizing the needs of Canada's air carriers as well as taking into consideration community stakeholders. Individual airports on behalf of these communities must be granted equal observer status to that of the airlines, thus ensuring against confidential addendums and MOU's in the process.

4. Adopt a policy of negotiating open, transparent air agreements.
5. Allow the establishment of foreign-owned but Canadian-domiciled carriers (the right of establishment) in Canada.
6. Undertake a proactive, aggressive and unified strategy across all departments and jurisdictions in order to fully leverage the gateway potential of Canada's airports.