

Darkening Skies?



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Presentation by P. Paul Fitzgerald

Open Skies History

The first Open Skies Agreement was signed on October 14th 1992 between the U.S. and the Netherlands.

US D.O.T. Order 91-1-41, (Jan 23, 1991) referred to as "**Northwest 2**" allowed facilitated KLM/NW cooperation. = start of Skyteam.

That was less than 20 years ago.

Already the concept is in trouble.

Open Skies Def 1992

In re Defining "Open Skies," DOT Order 92-8-13, (August 5, 1992), the US DOT spelled out the 11 elements of an Open Skies agreement.

1. Open entry on all routes.
2. Unrestricted capacity and frequency on all routes.
3. Unrestricted route and traffic rights, no restrictions on intermediate or beyond points, change-of-gauge, routing flexibility, co-terminalization of 5th Freedom traffic.
4. Double disapproval in 3rd and 4th Freedom markets, price matching rights in 3rd country markets and price leadership to the extent that carriers in 3rd country markets have it.
5. Liberal charter arrangements (least restrictive of two regimes applies).
6. Liberal cargo regimes.
7. Un-restricted Conversion and remittance arrangements
8. Open Code-sharing arrangements.
9. Liberal self-handling arrangements.
10. Level playing field with respect to user charges, fees, inter-modal rights, access to infrastructure.
11. Explicit commitment for non-discriminatory operation of an access for Computer Reservation Systems.

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Open Skies Def 1992

The 1992 definition was not specific on

- 6th Freedom*
- 7th Freedom for passenger operations
- 8th Freedom (consecutive cabotage)*
- 9th Freedom (pure cabotage)*
- Airline ownership
- Environmental issues

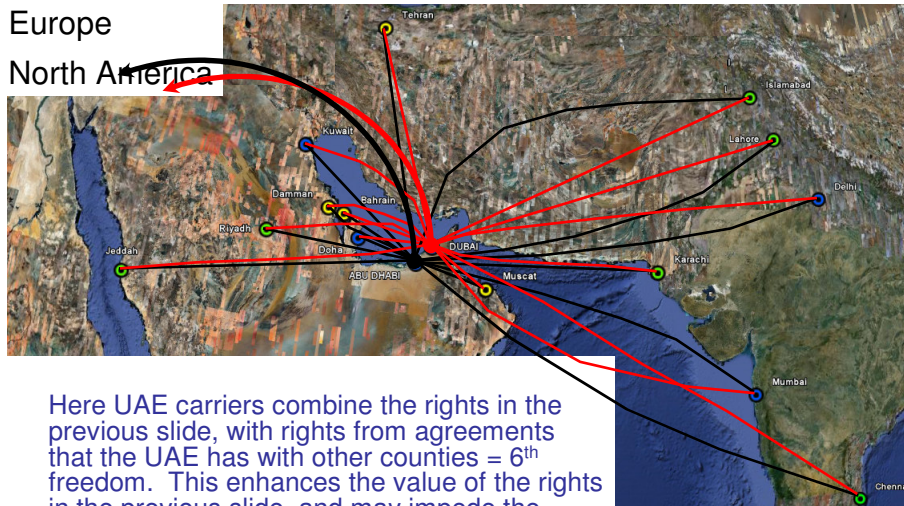
* Each of these freedoms existed in 1992 and was being exercised in foreign markets by U.S. carriers.

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The explicit freedoms



The Practical Freedoms



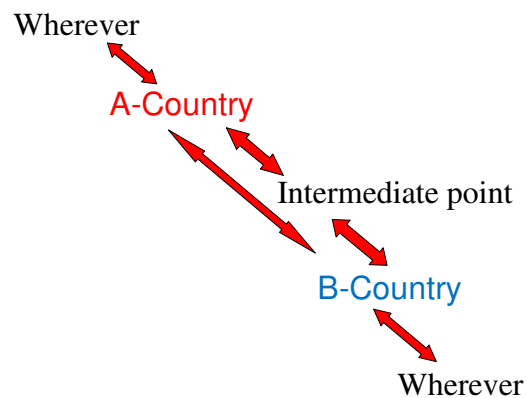
2007 Open Skies Template

- A. Routes for the airline or airlines designated by the Government of A-Country :
1. From points behind A-Country via A-Country and intermediate points to a point or points in B-Country and beyond.
 2. For all-cargo service or services, between B-Country and any point or points.
- B. Routes for the airline or airlines designated by the Government of B-Country:
1. From points behind B-Country via B-Country and intermediate points to a point or points in A-Country and beyond.
 2. For all-cargo service or services, between A-Country and any point or points.

Liberal granting of six freedoms 1-6. No mention of 7, 8 or 9.

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A-Country - B-Country Open Skies



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6th Freedom

Melbourne VI AU (MEL)

To Auckland NZ (AKL)	1640 miles
1200 1725 NZ8 772 Daily 0 L	
To San Francisco CA US (SFO)	7870 miles
1200 1245 NZ8 772 X3 1 LDB	

Open Sky agreements now allow for 6th Freedom services but rarely are they this explicitly advertised. Air New Zealand's flight 8 operated from Melbourne, Australia, via Auckland to San Francisco.

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7th Freedom

www.airfrance.com

Jours Days	Dép. Dep.	Arr. Arr.	Durée Dur.	N° Vol Flight N°	Via Via	Validité Validity
LONDRES						LON
→ Los Angeles (CA) LAX						-7:00
1234567	17.00	2 20.15	2	11:15 AF060	→	22/05-25/10

Air France's London-originating Heathrow-Los Angeles service was an example of 7th Freedom.

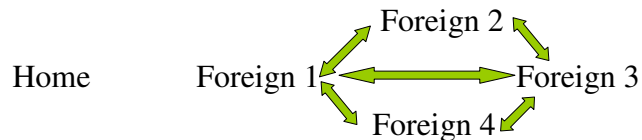
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Two types of Cabotage

8th Freedom is an airline operating between two points in a foreign country as part of an international service.



9th Freedom is an airline operating between two points in a foreign country.



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8th Freedom Examples

8th Freedom (Consecutive cabotage) is an airline operating between two points in a foreign country as part of an international service.

The Frankfurt-Berlin segment of Pan Am's New York-Frankfurt-Berlin service which operated between 1966 and 1990 is perhaps the only example of a true 8th Freedom service.

The Tokyo-Okinawa segment of Northwest's former Los Angeles-Tokyo-Okinawa service was subject to conditions. Similar condition apply to Northwest's current Tokyo-Nagoya-Saipan service.



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8th Freedom Examples 2

From NEW YORK, NY (JFK)

TO: SYDNEY, AUSTRALIA (SYD)

From - To Validity	Days	Dep	Arr	Flight	Aircraft	Elapsed time
-	-	1234567	18:40	09:20+2	QF108	744 22:40

From LOS ANGELES, CA (LAX)

TO: SYDNEY, AUSTRALIA (SYD)

From - To Validity	Days	Dep	Arr	Flight	Aircraft	Elapsed time
-	-	1234567	23:45	09:20+2	QF108	744 14:35

Qantas offers a daily New York-Los Angeles-Sydney service.

JFK-LAX local traffic rights would be 8th Freedom.

Carrier	Flight #	Departing		Arriving		Aircraft Type	Cabin	AA Flight Miles	Meals	Travel Time
		City	Date & Time	City	Date & Time					
AMERICAN AIRLINES OPERATED BY QANTAS AIRWAYS	7366	JFK New York	Feb 11, 2009 06:40 PM	LAX Los Angeles	Feb 11, 2009 09:55 PM	744	Economy		N/A	22 hr 40 min
AMERICAN AIRLINES OPERATED BY QANTAS AIRWAYS	7366	LAX Los Angeles	Feb 11, 2009 11:45 PM	SYD Sydney	Feb 13, 2009 09:20 AM	744	Economy		N/A	

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9th Freedom = "Pure" Cabotage

There are several examples of 9th Freedom within the EU, particularly within France, Italy, Spain and the U.K.

- British-based Easy Jet flies from Paris to Toulouse and Nice, from Madrid to Ibiza and from Milan to Naples, Rome and Venice.
- Irish-based Ryanair flies from Glasgow to London, Barcelona to Malaga, Paris to Marseilles, Milan to Rome.

Paris (Beauvais) (BVA) - Marseille Provence MP2 (MRS)				Wednesday, 11/2/2009
FR7773	11/02/2009 21:40:00	Depart	Paris (Beauvais) (BVA)	
	11/02/2009 23:00:00	Arrive	Marseille Provence MP2 (MRS)	

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How valuable are rights?

Unused 5^{ths} in N.A.

- YUL-BOS (Israel + UK)
- YUL-ORD (Belg + Yug)
- YUL-DTW (UK)
- YUL-FRA (India)
- YUL-MIA (Argentina)
- YUL-MEX (Spain)
- YUL-JFK (various)
- YUL-PIT (UK)
- YYZ-ORD (Italy)
- YYZ-FRA (Singapore)
- YYZ-SEA (Thailand)

Unused 5^{ths} (Trans-At)

- YYZ-BMH (Pakistan)
- YYZ-FRA (Singapore)

Unused 5^{ths} in EU

- BRU-TXL (US)
- BRU-MAN (CDA)
- BRU-SVO (US)
- BRU-VIE (US)
- FRA-ATH (US)
- FRA-BOM (US)
- FRA-BUH (US)
- FRA-BUD (US)
- FRA-DEL (US)
- FRA-IST (US)
- FRA-LHR (US)
- FRA-MXP (US)
- FRA-SVO (US)

- FRA-PRG (US)
- FRA-LED (US)
- FRA-VIE (US)
- FRA-WAW (US)
- LHR-TXL (US)
- LHR-BRU (US)
- LHR-HAM (US)
- LHR-LYS (CDA)
- LHR-NCE (CDA)
- MUC-FCO (CDA)
- CDG-ATH (US)
- CDG-TXL (CDA)
- CDG-CAI (US)
- CDG-DUS (CDA)
- CDG-GVA (US)
- CDG-TLV (US)
- CDG-ZRH (US)

Declining Value of 5^{ths}

Long-range aircraft make 5th freedom rights obsolete.



So do code-shares

Airlines like to fly non-stop from hub to destination.

Asia/Australia/New Zealand is the only region where there is still extensive use of 5th Freedom rights.

5^{ths} mainly used where non-stops not feasible; EU-Australia, U.S-Southeast Asia, Asia-Latin America.

AIR CANADA 

From: Cologne/Bonn, Germany

Leave	Arrive	Flight	Type	Freq	Stops	Meal
Départ	Arrive	Vol	Avion	Jours	Esc	R
Cologne/Bonn, Germany (CGN)						
Frankfurt, Germany (FRA) 85 mi						
0600	0640	* 9140	CR1	X7	0	
0620	0705	* 9140	AR8	7	0	

Accessing “interior” markets

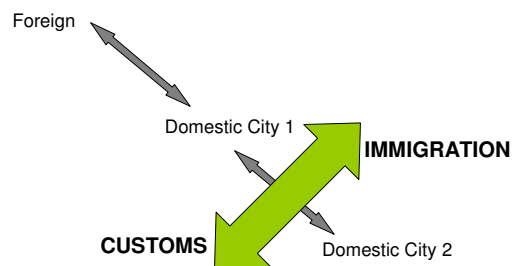


LH serves 17 cities ATL, BOS, CLT, ORD, DFW, DEN, DTW, IAH, LAX, MIA, JFK, MCO, PHL, PDX, SFO, SEA, IAD

In addition, Lufthansa code shares with Star Alliance partners United and Continental to virtually every city in the US. AF/KLM and BA have similar arrangements.

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En-route Clearance 1



These issues are similar whether the “domestic country” is Australia, Brazil, China, Canada, India, Pakistan, the U.S. or the Schengen agreement area of the EU.

En-route clearance

- Airlines hate it (Blind sectors)

Olympic 423	ATH 08:55	YUL 12:05	YUL 13:20	YYZ 14:35	Tue/Thu	343
Zoom 217	CDG 17:55	YUL 19:35	YUL 20:35	YYZ 21:50	Tue/Fri	767
Air Transat 411	CDG 11:55	YUL 13:35	YUL 14:45	YYZ 16:00	Fri	330

- Carrying local passengers on the domestic sector

Air Canada 861	LHR 11:15	YYT 13:15	YYT 14:10	YHZ 15:15	Daily	763
Air China 992	YVR 13:45	<i>SHA 16:30</i>	<i>SHA 17:35</i>	PEK 19:30	2X	74L
Air India 112	LHR 10:00	<i>DEL 22:40</i>	<i>DEL 1:05</i>	BOM 3:00	3X	747
Lufthansa 715	NRT 10:45	MUC 15:40	MUC 16:30	FRA 17:40	Weekly	747
Pakistan 724	FRA 13:15	LHE 1:05	LHE 2:50	KHI 4:30	Weekly	747
Varig 861	JFK 20:00	GIG 6:20	GIG 07:15	GRU 8:30	4X	743
Qantas 2	BKK 7:55	<i>SYD 20:45</i>	<i>SYD 22:05</i>	MEL 23:30	Daily	744
TWA 841	AMS 11:05	JFK 14:05	JFK 16:15	LAX 19:07	Daily	747

In 1992 national carriers flew international routes serving 2 cities in their home country. Only TWA 841 had full traffic rights. CA 992, AI 112 and QF 2 could carry connecting international passengers.

Infrastructure Challenges



It is getting increasingly difficult to find gates and slots at the world's major airports.

Own the terminal; BA @ JFK.

Get semi- exclusive use of an airport; CO @ CLE.

Build an exclusive runway; AK @ KUL.

Infrastructure Challenges 2

Porter Airlines' fight with the FAA for greater access to EWR shows how infrastructure can impede the exercise of rights under an Open Skies agreement.

FAA-2008-0221, Slot restrictions, March 18, 2008;
FAA-2008-0036, two-part landing fee, Jan 17, 2008; and
FAA-2008-0517, slot auction, May 16, 2008.

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Environmental Issues

- Environmental issues are directly linked to fuel efficiency. Airlines have tremendous incentives to improve fuel efficiency.



Air Canada stripped this aircraft, C-GDSP of more than 300 pounds of paint in November 2005 in an effort to save fuel. The results were not very good so the plane was re-painted in June 2006.

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Airline Ownership



- In 2008 75% of Air Canada's shares were held by ACE Aviation Holdings Inc.
- At the time 75% of the shares in ACE Aviation Holdings Inc. were owned by foreigners.
- If you take 75% of 75% you get 56.25% or majority voting control.

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Anti-Trust Immunity

Oneworld has been seeking Anti-trust immunity since 2007, and the discussion is still ongoing.



These applications could get even more complicated. See Congressman Oberstar's *FAA Reauthorization Act of 2009*, H.R. 915.

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Understanding Industry

- Airlines may not need full Open Skies agreements; most low-cost international carriers depend almost exclusively on 3rd and 4th freedoms. Air Asia, Jetstar Airways, Ryanair, Southwest.
- Air Bilateral Agreements serve consumers best when negotiators focus on those issue which expand competition on a level-playing field basis; access to infrastructure, taxation, doing business, self-handling.
- Issues such as cabotage, airline ownership and the environment should not be seen as conditions precedent for greater air liberalization.

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Thank You



Paul Fitzgerald.