

Executive summary

Request from the European Commission to get a mandate to negotiate an agreement with the US implementing an unlimited system of wet leasing

Following blackmailing and retaliation measures taken by the US against some European airlines, the European Commission is pushing to get a mandate from the Member States to negotiate an agreement to liberalise wet leasing¹ with the US. This would lift the protections guaranteed under regulation 1008/2008.

Some US cargo operators, such as Atlas Air, are putting pressure, through their government, to have Europe amend its internal regulation and remove the provision that limits wet leasing to maximum 7 months (renewable once)².

The aim of this time limit was to ensure that European airlines would use wet leasing from third countries only in case of seasonal or **exceptional operational needs**³.

What's at stake here is the protection of European jobs! The removal of the 7-month limit would open the doors of the European market to US operators. They would be allowed to stay in Europe with their aircraft and crews for very long periods of time, organising a direct competition with local operators, but without the same tax and social obligations!

Although otherwise claimed by the European Commission, a reciprocal access is impossible! Indeed, the US legislation is much more protectionist, making it compulsory for a European operator that wishes to get a wet leasing contract to go through a public interest procedure, where restrictions could be required unilaterally⁴.

Another resulting risk would be to open the door to similar agreements with third countries, based on the argument that the US would have obtained a preferential agreement. Would the Commission be able (from a political but also legal point view) to deny to other third countries an open wet leasing system? This is highly unlikely.

Belgium must therefore actively participate in the blocking minority. At the very least, the European Commission must carry on an impact assessment, including all relevant stakeholders, in order to examine the legal tools that would allow the EU to ensure the same guarantees are implemented in the US legislation.

¹ Wet lease, in aviation, is a renting contract used by airlines and other aircraft operators. The airlines rent the airplanes and crews to other companies or leasing companies for two main reasons: using the aircraft without the burden of buying it and allowing a temporary increase in their capacities. The industry uses two types of lease: wet lease and dry lease.

² cf Regulation (EC) 1008/2008 Article 13, parag. 3, b

³ Having regard to 8, Regulation 1008/2008: *"In order to avoid excessive recourse to lease agreements of aircraft registered in third countries, especially wet lease, these possibilities should only be allowed in exceptional circumstances, such as a lack of adequate aircraft on the Community market, and they should be strictly limited in time and fulfil safety standards equivalent to the safety rules of Community and national legislation."*

⁴ U.S. Regulation 14 CFR part 212.

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