



Unblocking the Single European Sky

How to unblock the Single European Sky

Introduction

Gibraltar is a British Overseas Territory and it has been part of the EU since the United Kingdom joined in 1973.

- Under the EU Treaties and the UK Act of Accession, Gibraltar is not excluded from participation in EU aviation measures. It is a British airport on British territory.
- Gibraltar must therefore be included in SES 2+ and all other EU civil aviation measures and anything less would create a discriminatory regime against EU nationals in EU territory. The exclusion of Gibraltar Airport would therefore be illegal.
- However, successive Spanish Governments have sought to exclude Gibraltar from Europe whilst using the EU as a means to advance their own sovereignty claim over Gibraltar.
- This issue, at base, cannot be about considering a sovereignty claim, where the EU has no competence. It must be about the application of EU law in EU territory, where the EU is competent.

The 2006 Cordoba Agreements

- In 2006, the Spanish, UK and Gibraltar governments signed the Cordoba Agreements in which:
 - ✓ Spain committed itself to abandon its pursuit of the exclusion of Gibraltar Airport from EU civil aviation measures
 - ✓ All EU civil aviation measures were to be extended to Gibraltar
 - ✓ Gibraltar would construct a new air terminal parallel to the frontier fence with direct access to an adjoining building to facilitate entry from the Spanish side of the frontier.

- Under the Cordoba Agreements, the potential for growth was astronomical and, as a consequence, huge economic benefits were expected on both sides of the border.
- Gibraltar kept its promise. Its new air terminal opened in 2011 at a cost, to Gibraltar's tax-payers, of over €80 million with no EU funding for the project. The terminal was designed and built so as to link with the adjoining building on the Spanish side – a building that was never constructed.
- Spain reneged on its commitments in 2011 and again started seeking the exclusion of Gibraltar Airport. The negative consequences of this u-turn for civil aviation continue to affect the entire EU.
- The result of these Spanish objections is a fragmented European airspace which creates delays for passengers, hinders competitiveness and growth, and increases carbon emissions.

Options to resolve the current impasse

- ***Option 1: Apply all civil aviation legislation to Gibraltar Airport without prejudice to the respective legal positions of the UK and Spain about the land on which the airport is built.***

This is the formula which was abandoned by Spain in 2011. The Cordoba Agreements enabled EU aviation measures to progress without prejudice to the respective legal positions of the UK and Spain over the land on which the airport is situated.

- ***Option 2: Not mention Gibraltar specifically by name in the proposed legislation.***

Gibraltar Airport is an airport of the EU and must not be discriminated against on the basis of an illegitimate sovereignty claim. Omitting any specific mention of Gibraltar in SES 2+ would cause it to be treated as every other EU airport is treated.

The bottom line is that the solution lies in the application of EU law and, by virtue of EU law, Gibraltar is automatically included.