EU/US Air Transport Agreement – Potential Impact on Ireland

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Air Transport Users Council

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DUBLIN AIRPORT AUTHORITY plc
IRISH HOTELS FEDERATION
SHANNON DEVELOPMENT

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Foreword

This report examines the possible impact on Ireland of an EU/US Open Aviation Area Agreement (OAA) – colloquially (and incorrectly) known as "EU/US Open Skies". The OAA agreement will create the largest single international aviation market in the world with a combined population of over seven hundred million people. The report sets out to establish how Ireland can maximise the benefits and mitigate the risks in the new environment.

The completion of EU liberalisation of the airline industry in 1992, to create a single European market, has been overwhelmingly positive for Ireland. Results include:

- The exponential growth of air traffic in and out of Ireland from five million passengers per year before liberalisation to almost 25 million passengers in 2004.
- Ireland-UK is the most competitive air transport market in Europe.
- Dublin-London is the busiest international route in Europe.

Good air access is critical to Ireland's economy and this increase in air passenger numbers since liberalisation has been one of the pillars on which our current prosperity is built.

As one of the most open, internationally trading economies in the world, Ireland's goal must be to ensure that an EU/US OAA agreement has similar impacts and benefits.

Although there is a risk that such an agreement may lead to massive consolidation in the aviation industry and create a handful of mega international carriers with less choice for consumers, the implementation of correct policies will foster and underpin competition with ensuing benefits for all. Accordingly, it is vital that the lessons learned in EU liberalisation are applied in the wider transatlantic context.

This report is the first which looks at this issue from the Irish perspective.

The research was commissioned by a consortium of public and private bodies led by the Chambers of Commerce of Ireland's (CCI's) Air Transport Users Council (ATUC). The group includes Aer Lingus; the state airports body formerly known as Aer Rianta; the Irish Hotels Federation; Shannon Development and the South West Regional Authority. The range of partners was selected to be both sectorally and geographically spread and thereby bringing the maximum experience to bear on the report. CCI would like to thank all the partners for their support in this significant undertaking and all those who made submissions and presentations to the consultants during the public consultation process that was part of the preparation of this report. We would also like to commend the authors for the result.

John Dunne
Chief Executive

Chambers of Commerce of Ireland

Tadhg Kearney
Chairman

CCI's Air Transport Users Council

The Authors

Frederik Sørensen and Alan Dukes were co-authors of the first ever EU discussion paper on Air Transport Liberalisation twenty six years ago. They are the ideal architects to draw up the road map that will allow this country to maximise the benefits in the new air transport environment that will be created by this liberalisation process. The Chambers of Commerce of Ireland and partners are privileged to have secured the services of such distinguished international experts.

Frederik Sørensen is a native of Denmark who spent nearly three decades in Brussels and on his recent retirement was Head of Air Transport Economic Policy and External Aviation Relations working for the EU Commission. He has been involved with virtually every major initiative in air transport in Europe since 1977 and was the main architect of EU air transport liberalisation.

Alan Dukes is Director-General of the Institute of European Affairs and a CCI board member. He is a former Irish Minister for Transport, Minister for Finance and Leader of Fine Gael. An economist by profession, he is a recognised expert on transport policy.

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Executive Summary

The present report reviews the implications for Ireland of the introduction of a liberal air transport agreement between the US and the EU. The effects on aviation and other economic sectors in Ireland are considered. It outlines action which could be taken to gain maximum advantage from the new framework and to reduce, if not eliminate, potential negative effects, if any.

It has not been possible to carry out any direct market analyses but the report draws on information extracted from relevant sources as identified in the report.

The report outlines the process leading up to the EU/US negotiations and the effects of the liberalisation of intra-EU liberalisation air transport completed at the beginning of 1993. It starts from the premise that the aim of the current negotiations is a total liberalisation of the EU/US market.

A detailed presentation of the EU mandate for negotiation is included as well as an analysis of the present state of the negotiations. It is clear that the elements which have been accepted by the US would include all the elements that are necessary for Ireland, such as open market access[1] between the EU and the US, competition rules, state aid, commercial opportunities, ground handling and institutional arrangements. The remaining elements should not create negative effects for Ireland even if they are achieved only in a second phase.

It is clear that a liberal EU/US agreement will create beneficial effects for Ireland perhaps in the order of a 10% increase in economic activity. It is equally clear that the current operational restrictions on Irish transatlantic traffic in favour of Shannon cannot be maintained except for a relatively short transitional period. This will establish maximum possibilities of growth for Dublin. Shannon may run into difficulties unless active and forceful supporting activities are undertaken. Other Irish airports will not automatically benefit although there may be limited opportunities for Cork on foot of current upgrading of facilities.

Benefits will accrue to business interests in Ireland, including tourism, and to transatlantic passengers to and from Ireland.

In the air transport sector, Aer Lingus will be the principal beneficiary: Irish leasing interests will also get a boost.

Irish air carriers must prepare for increased competition.

The market opening will probably lead to stronger growth at Dublin airport; in certain circumstances, Shannon could experience some growth, albeit at a lower level than Dublin; in other circumstances, Shannon could experience some difficulties. There may be scope for limited transatlantic services from Cork, particularly when the current capital expenditure increases terminal capacity, but business opportunities for other airports, such as Knock and Kerry are more problematical and will depend to a significant extent (in the first place) on the development of the technical capacities of those airports.

It should be emphasised that the OAA by itself will provide only a limited boost to economic development and that it must be combined with other policies, infrastructure investments and incentives to reap all the possible benefits.

Air transport is an important, but not the only, factor in determining the location of economic activity. The existence of year-round transatlantic air services is important for Shannon, as are the number of non-stop and one-stop destinations served from there. Connections to Europe, either directly from Shannon or via an improved service to Dublin are also of considerable importance for Shannon and its hinterland. The development of transatlantic services from Cork is also a possibility, particularly when the capital development project is completed, increasing terminal capacity.

1 This includes both route rights, capacity and air fares.

In order to ensure balanced economic development throughout Ireland it might be necessary to review other Irish policies which have an impact on spatial development.

The Essential Air Services Program (EASP) reinforces Dublin's dominance in terms of airport services particularly at the expense of Shannon and to a lesser extent Cork airport. In this context it should be considered whether a Public Service Obligation (PSO) could be introduced on routes between Shannon and/or Cork and certain US destinations. Such a PSO could, perhaps, be part of a transitional arrangement. Furthermore it should be considered whether PSO support to air services with more than 30,000 seats can or should be continued.

Shannon will be able to sustain links to the US, although it will become more dependent on US air carriers if Aer Lingus concentrates its services at Dublin. Shannon has a weakness in that its links to Continental Europe are constituted by Low Cost Air Carriers (LCC). LCCs have not meshed with transatlantic links since they do not accept interlining. This situation could be remedied if operational interlining could be established. This would improve the situation especially in view of the recent institution by Ryanair of new services from Shannon to Continental European destinations. Interlining might also present Cork with a possible competitive advantage in terms of its international services.

With tourism as the major generator of demand for transatlantic air services among people travelling to the South-West, Mid-West and West, Cork and Shannon would have to retain a substantial proportion of existing and new North American tourist travel in competition effectively with Dublin as inward destinations. In this connection, non-scheduled seasonal services could be an important component of business for each of these airports, although it has to be recognised that there are particular problems associated with the provision of such services, as experience in Shannon amply demonstrates.

Irish airports must position themselves, review the structure of their charges and diversify the services they offer. The potential for damage from consolidation should be countered. Possibilities of supporting the development of air freight should be studied and implemented.

The Irish government must ensure proper wording in the agreement on competition and antitrust rules, institutional measures, state aid, slot allocation and air freight.

The first phase will have significant positive impacts on the Irish economy and air transport sector. There is nothing in the outstanding issues which would have negative effects in Ireland.

Ireland should therefore support any effort to restart negotiations, particularly since there would be major difficulties in negotiating a separate Irish agreement with the US.

Infrastructure links between the West and East of Ireland will have to be improved so that existing and new businesses in the Western parts of Ireland will not be tempted to abandon or discount a location in this area.

Chapter 1 – Introduction

The purpose of this report is to present an overall view of how a liberal air transport agreement between the US and the EU will influence the aviation and other economic sectors in Ireland. It outlines action which could be taken to gain maximum advantage from the new framework and to reduce, if not eliminate, potential negative effects, if any.

It seeks to outline realistic outcomes for Ireland from the US/EU negotiations and to establish the strength and weaknesses, opportunities and threats to Ireland in an EU/US open aviation area.

The report takes account of:

- opinions presented at the hearings which took place on the 2nd and 3rd of February, 2004;
- written submissions received in the context of these hearings, and
- consultations with the stakeholders in the study on 19th July, 2004 and 27th October, 2004.

It has not been possible to carry out any direct market analyses but the report draws on information extracted from relevant sources, as identified.

Chapter 2 – EU/US Air Transport Negotiations

2.1 Current EU Air Transport Framework

This is described in some detail, since it is felt that the principles developed during this process of liberalisation will influence the way in which an EU/US air transport agreement will be constructed.

- The European Economic Community was founded in 1958. Legislation was passed in most areas in which the Treaty conferred a competence on the Community, but for a number of reasons it was some time before any serious effort was made to put together an air transport policy. This may have been beneficial, since it meant that the mistakes made with the early legislation in other areas could be avoided.
- In 1977, the effort to create a common air transport policy for the EU began in earnest. A working group was created in the Council.
- In 1978, a list of priorities was drawn up and approved by the Council. This list emphasised (as the penultimate point) the need to open up market access, starting with interregional air services. This was considered the least difficult area in which to begin the process of liberalisation.
- In 1979, the Commission published a Memorandum with a blueprint for the liberalisation of air transport entitled "Contribution of the European Communities to the development of air transport services".
- In 1983, the Interregional Air Services Directive was approved by the Council of Ministers. It had taken some time but this turned out to be quite fortuitous because all the elements of the subsequent packages were contained in this first effort. It provided that market access be opened up in terms of both routes and capacity. Fares should be more freely set and should not be artificially regulated. The general rule was established that, where fares were not freely fixed, they should be related to the costs of the individual air carrier in question and not based on an agreement within IATA. The principle of the right to match competing fares was also established.
- A long period of relative inactivity ensued. Tension, however, gradually built up until the Commission initiated action under the competition rules against market fixing behaviour by air carriers. It gradually became apparent to Member States that action was needed to avoid a situation in which the market would be opened up in an uncontrolled manner by the Commission.
- When the Council adopted the programme to complete the internal market by 1992, it became evident that economic integration had to be promoted in all areas.
- At this point, the vital role of air transport in the development of the European Community began to be appreciated at the political level. Business travel is an essential element in economic integration. Tourism (inward, outward or both) is an important economic activity for every Member State. Without competitive air travel, these activities would be severely hampered. The needs of these two sectors of activity were not very well served during the first 20 years of the Community because the air transport sector in Europe was very fragmented. It was divided into a number of separate national markets with a strong distinction between domestic and international traffic. There were sharp distinctions between scheduled and non-scheduled air transport, with the latter being the largest passenger air transport provider within Europe. The scheduled market was highly regulated while the non-scheduled market was quite open but limited in scope. There was (and still is) a mixture of state-owned and privately-owned air carriers.

- The first liberalisation package was approved in 1987. This was the first large-scale legislative effort in civil aviation for the Community. It was not comprehensive because it did not cover either domestic traffic or transport between the large airports. It did, however, encompass the same economic principles as for the interregional services directive. Within the scope of this package, market access was opened up and multiple designation was made possible. Capacity regulation was maintained but within a much more liberal framework. Pricing became free within a system of pricing zones.

- The second liberalisation package was approved in 1990. This covered all traffic flows except domestic flows. Some capacity regulation was maintained to avoid disruptive developments but care was taken to ensure that normal traffic growth could always be accommodated. Pricing was further liberalised and in some instances the principle of “double disapproval” was introduced.

- At about that time, air transport policy began to take on a life of its own. Politicians began to see that it was popular to try to make this sector more efficient and that there was a strong feeling that air transport was failing in its function as a driving force for economic integration.

- The third package was approved in 1992 and took effect on 1 January 1993. This legislation covers all economic aspects of air transport, from the setting up of air carriers (Regulation (EC) 2407/92), to market access (including capacity) (Regulation (EC) 2408/92), to fares (Regulation (EC) 2409/92). With this package, the regulatory architecture of the internal market for the air transport sector was completed by the end of 1992.

- The third package creates a Community-wide air transport market. It is now possible for a Community legal entity (an individual or a company), irrespective of nationality, to set up an air carrier anywhere within the Community and, from that base, to exploit opportunities wherever they exist within the single market. The old protectionism has disappeared. Air carriers have the right to operate and do not need any government permission, as they did prior to the 1992 package.

- The regulatory distinction between scheduled and non-scheduled air services has been eliminated. This means that it is up to the air carriers themselves to decide in which mode they will operate.

- Air carriers are able to set prices freely and to decide on the amount of capacity to offer in the market.

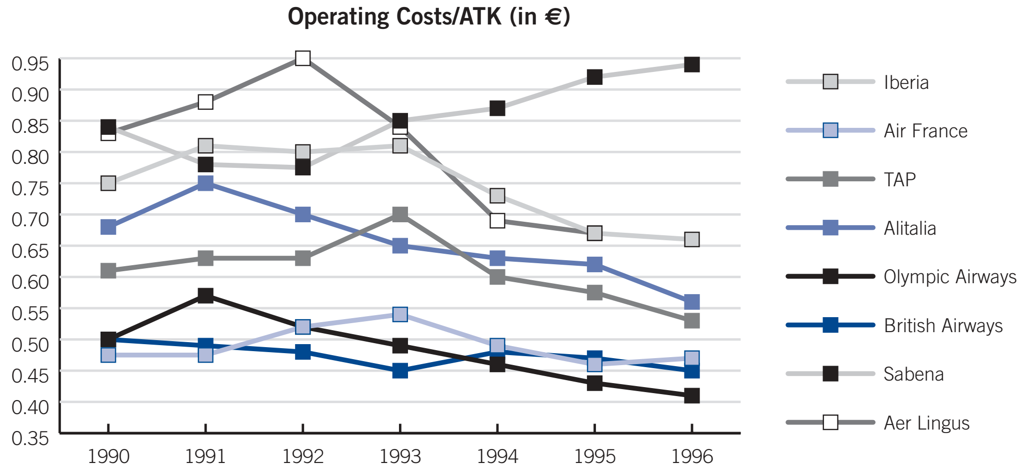
- In brief, EU air carriers were given commercial freedom by the 1992 package. Furthermore, they are no longer subject to discretionary or arbitrary decisions by the public authorities but can claim legal rights enforceable in national and Union Courts of Justice. This package details the requirements for obtaining an operational license from an EU Member State, without which a Community Air Carrier cannot carry out commercial operations within or outside the EU. The package also sets out the rules for market access and pricing for Community Air Carriers. A complete system for commercial operations had been created with very liberal possibilities of access to the total EU aviation market.

- This package transformed the European air transport market. The Commission took stock of the situation in the late nineties and wrote:

“The Commission assessed these developments in 1996, noting that the liberalisation process has mutated the economic environment for air transport by making it an increasingly competitive market. The first three years of liberalisation resulted in gradually growing competition, in particular the number of carriers considerably increased. Liberalisation has brought clear benefits to consumers. However, some shortcomings might weaken the liberalisation process’s ability to deliver to the consumer better services at lower cost. The report highlighted the problem of capacity restrictions and high costs for infrastructure as well as the contradictory and unsatisfactory trend concerning fares. While promotional fares have become more widespread, the prices of fully flexible fares have increased. There are still large differences in fares per kilometre across Europe. Recent developments after 1996 confirm the trend.”

An even more striking illustration of the development can be seen from the following graph on the trends in operating costs across a sample of EU airlines:

Figure 1: Trends in Operating Costs for Certain EU Airlines



Source: Communication 1999/182 from the Commission to the Council on the European Airline Industry

Figure 1 illustrates very clearly how the new competitive environment put pressure on the air carriers to reduce costs (with one exception, namely Sabena, which subsequently went bankrupt). It is also clear from this graph how vulnerable Aer Lingus was. Without this commercial pressure and resulting cost reductions it is doubtful whether European air carriers would have been able to handle the economic recession in later years without substantial state aid.

It is useful to add to this description that the response of the so-called flag carriers was to establish a system of strong alliances. At a given point, there was a question as to whether competition could survive. This situation changed with the growth of the Low Cost Carriers (LCC) during the 1990s and afterwards. The LCC, as they are understood in today's debate, are scheduled air carriers which operate point to point services with a very basic service level and extremely low fares. Low fare non-scheduled services have existed for a long time in Europe and have traditionally had more than 50% of the air traffic. The LCC are generating new traffic and capturing market share from both the flag carriers and the non-scheduled air carriers. It is likely that, within a few years, the LCC will have captured about 30-40% of the scheduled market, their market share in Ireland is already higher than this. If the non-scheduled air carrier market share is added in, low fare air transport provision accounts for well over 50% of the market in Europe.

The liberalisation process in Europe shows that air transport responds to normal market forces and that competition imposes normal commercial pressures on air carriers. This also happened in the US. It is likely that a similar situation will come about when an EU/US air transport agreement is concluded.

2.2 History of Ireland/US Bilateral Air Links

The air transport relationship between Ireland and the US has followed a traditional bilateral pattern, going from protectionism in 1945 to a more open structure in 1993. Traffic rights continue to be limited, since Ireland has not negotiated an open skies agreement with the US.

The 1945 agreement and diplomatic notes gave US air carriers access to Shannon as the sole gateway to Ireland while Irish air carriers started with traffic rights to New York (via Boston) and Chicago provided that Chicago would not be served by any flight to New York or Boston.

In 1973 a single US air carrier, to be designated, was permitted onward traffic rights from Shannon to Dublin but no traffic rights between the two airports.

In 1990 US air carriers obtained onwards traffic rights from Shannon to Dublin and charter rights to Cork. Irish air carriers had traffic rights to Boston, Chicago, New York direct and Los Angeles.

In 1993 Shannon's position as the single gateway was relaxed to a requirement that each airline with traffic rights must operate an equal number of non-stop flights to Dublin and Shannon respectively on a yearly basis. This restriction now hampers the development of transatlantic services.

In 2000 Irish air carriers obtained further traffic rights to Baltimore from Shannon under the open cities programme.

All of the existing Irish traffic rights are taken up by Aer Lingus but since the agreement allows multi designation, it is open to other Irish air carriers to enter these markets if they wish. As a result of Aer Lingus membership of the One World Alliance, all of the services are now code shared with American Airlines, although operated by Aer Lingus. We assume that this will continue as long as Aer Lingus remains part of the One World Alliance.

Ireland has recently tried to obtain an Open Skies agreement with the US. It is reported that Ireland tried to obtain a transitional phasing out of the Shannon restrictions. The US was reported to be willing to accept a short transitional period of a few years. There can be no doubt that such an agreement would have been accepted by the European Commission and incorporated in the EU/US agreement. However, this scenario came to an end when the Council of Ministers refused to accept the first phase of the EU/US agreement as negotiated by the Commission. This raises the question as to whether Ireland on its own can negotiate an Open Skies agreement with the US.

In view of the European Court of Justice (ECJ) ruling[2] on the Open Skies agreements concluded by a number of Member States, it is clear that the Irish bilateral situation is also in conflict with EU principles, particularly in respect of the clause on ownership and control. This clause allows the US to refuse designation by Ireland of an air carrier not owned and controlled by Irish nationals.

The present Irish bilateral arrangement with the US is also in conflict with EU legislation and competence in relation to ground handling and price leadership.

The ECJ accepted that Member States can individually negotiate traffic rights but this cannot be done by referring to or confirming an existing agreement.

In addition, a new Regulation[3] has been adopted by the Council of Ministers and the European Parliament on the negotiation and implementation of air service agreements between Member States and third countries. This Regulation entered into force at the end of May 2004. According to this Regulation, a Member State cannot enter into an aviation agreement with a third country if this is contrary to the object and purpose of the Community common transport policy. This policy includes both the ECJ ruling and the mandate given by the Council to the Commission to negotiate an Open Aviation Area with the US. As long as Ireland negotiates in line with this there should be no problems.

If Ireland wanted to negotiate an independent agreement with the US, it could not be done by simply amending the present framework, since this would correspond to a confirmation of the offending clauses on ownership & control, ground handling and price leadership. It is unlikely that the US would agree to a new bilateral agreement on traffic rights without specifying which airlines might be designated. A general designation clause covering all airlines with an establishment in Ireland would open the door for airlines from countries without an Open Skies agreement with

2 For further information on the ECJ ruling see the later section on pages 11 to 13.
3 Regulation (EC) No847/2004

the US (e.g. the UK). The US might be willing to experiment in an arrangement with Ireland to see how such a clause would function but so far it has not shown any willingness to do so.

Finally, any negotiation and subsequent agreement would have to be given the green light by the Commission. In a situation where negotiations have come to a standstill and the Commission is urging Member States to denounce Open Skies agreements with the US, it is unlikely that the Commission would give the green light for a new Irish Open Skies agreement.

It would therefore be in the Irish interest to support efforts to get the EU negotiations restarted so that the complementarity between an EU agreement and an Irish agreement can be re-established.

2.3 Background to Current EU/US Air Transport Negotiations

As described in section 2.1, the European Union has gradually created an internal market for aviation, culminating in the so-called third package on 1 January 1993.

The European Commission, however, did not regard the external situation as satisfactory. Traffic rights from the EU to third countries were governed by bilateral agreements between individual Member States and third countries. In principle, only national air carriers[4] could operate services between the contracting parties and permission to operate depended on a positive decision by the Home State (this is known as the designation procedure). Third countries were given the right to refuse the designation of a non-national air carrier. Many Member States with protectionist tendencies used these bilateral agreements as a justification to designate only their favoured air carrier, i.e. the one that they owned and controlled, and not air carriers owned and controlled by other Member States and/or their nationals. This meant that the free internal aviation market was not reflected externally. Thus, the efforts that had been undertaken to create a large and vibrant home market (internal market) for Community Air Carriers had been substantially vitiated in their effects on the economies of EU airlines and their services, since only national carriers had access to third countries.

The European Commission made several efforts to initiate Community negotiations in order to establish traffic rights with third countries at the EU level, but most of these efforts were in vain. There were, however, a few exceptions, in the form of a multilateral aviation agreement between the EU, Norway and Sweden and a bilateral agreement between the EU and Switzerland. The large number of bilateral agreements between the Member States and third countries, however, remain in place. In the European Commission's view, this created, particularly in the North Atlantic market, a situation in which the Community Air Carriers suffered a definite handicap, since US air carriers could operate to European airports and beyond to other EU or third country airports, while Community Air Carriers could operate only to designated US airports but not beyond to other US airports. In other words, the EU internal market was open to US air carriers while the US internal market was closed to Community Air Carriers.

The European Commission tried in 1995 to obtain agreement in the Council of Ministers to open Community aviation negotiations with the US. The Council agreed to open exploratory talks with the US on soft rights i.e. ownership, environment etc., but not on traffic rights. It quickly became clear that the US was ready to talk to the EU but only if all issues, and traffic rights in particular, were on the table. While the Council of Ministers could agree that a potential EU/US aviation agreement should contain liberal market access provisions, it could not actually agree to grant a mandate. In 1998, the European Commission lost its patience and submitted a number of cases to the European Court of Justice (ECJ) against 8 Member States, 7 for having concluded open skies agreements with the US and the UK for having agreed to a nationality clause in its Bermuda 2 agreement with the US.

4 This means an air carrier majority owned and controlled by the designating state and/or its nationals.

The European Commission claimed exclusive competence in respect of bilateral agreements dealing with market access. Its argumentation was:

1. The contention that Community agreements were necessary in order to achieve the objectives of the Treaty.

2. If this argument were not accepted, the Commission referred to the fact that a complete system of market access had been established in the EU and, by virtue of the ERTA[5] judgment, external competence would have to be accepted.

3. If this argument were not accepted, then the ERTA principle would apply to a number of separate areas and the Commission argued in particular that the nationality requirements in the agreements in question were contrary to Article 52 of the Treaty.

The Member States argued against Community exclusive competence on three main grounds.

(a) They claimed that the main part of the agreements in question had been established before the creation of the European Community or before the Member State's accession to the Community and that the agreements were therefore protected under Article 234 of the Treaty.

(b) They argued that the system of market access was not complete and that exclusive competence had therefore not been established by virtue of the ERTA principle.

(c) Finally, the argument was advanced that, for reasons of *public policy*, it had been necessary to accept certain provisions in the bilateral agreements.

The European Court of Justice (ECJ) did not accept the first two claims made by the Commission. The rejection of the first claim did not come as a surprise, since the same rejection had previously figured in ECJ opinion 1/94[6]. As to the question of applying the ERTA principle, the ECJ reconfirmed its application to the subject matter. However, the ECJ found that exclusive competence had not been established, since the common rules were not complete in respect of market access etc. because the rules applied only to Community nationals and not to foreign air carriers. This is an important pronouncement by the ECJ since it allows a precise determination of when the application of the ERTA principle of exclusive external competence exceeds EU rules.

The ECJ made another important ruling by pronouncing that the application of the ERTA principle had established Community exclusive external competence in a number of areas in the aviation sector. The ECJ pointed to Computerised Reservation Systems (CRS), price leadership for airfares and slot allocation (although in this last case the Commission had not demonstrated which provision in the bilateral agreement would be affected). This finding of the ECJ is important since it demonstrates that the question of exclusive external competence is not a matter of looking at the whole sector but concerns self-contained parts of it. The question of exclusive competence was further nailed down in the sense that:

"The failure of that Member State to fulfil its obligations lies in the fact that it was not authorised to enter into such a commitment on its own, even if the substance of that commitment does not conflict with Community law."

Finally, the ECJ decided that the nationality clauses constituted an infringement of the Treaty and that a confirmation of these clauses in new agreements constituted a failure of the Member States to fulfil their obligations under the Treaty, irrespective of Article 234:

"Moreover, although Article 234 of the Treaty applies to rights and obligations flowing from agreements concluded by Member States before the Treaty entered into force, it cannot apply to amendments which Member States make to such agreements by entering into new commitments after the entry into force of the Treaty."

5 Case 22/70 Commission v Council [1971] ECR 263 (The ERTA judgment)
6 Opinion 1/94 of 15 November 1994([1994] ECR I-5267

The argument by Member States that the principle of *public policy* is relevant to the issues in question was rejected by the ECJ.

This ECJ ruling demonstrates that the Court does not like to decide what are basically policy issues. However, the ECJ emphasised that Article 80.4 provided all the possibilities for the EU and the Member States to arrange matters. In other words, the Court pointed out that it is up to the Council, the Commission and the Member States to get their acts together.

The effect of this ruling by the ECJ means that a typical bilateral aviation agreement has become illegal. The situation is complex since the ECJ ruling has established a situation of mixed competence i.e. some of the issues (traffic rights in particular) fall within the ambit of Member State competence while others fall within the EU exclusive competence. It is unlikely that traffic rights can be negotiated by Member States in isolation because the traffic right situation depends to a large extent on the nationality of the air carriers which can be designated.

The ECJ ruling addressed the problems of the nationality clauses in the bilateral agreements in the light of the right of establishment contained in the EU Treaty. Council Regulation EU2407/92 on Licensing of Air Carriers also addresses the question of establishment. However, the two notions are different. Regulation 2407 looks at the main place of business of an air carrier with a view to deciding, in the context of the Chicago Convention, which Member State should be responsible for licensing the air carrier and for its safety. The right of establishment in the Treaty goes much further and concerns the right of a company to have a commercial presence throughout the EU. In this sense, an air carrier like Lufthansa is, in fact, established in all Member States. Therefore, when the ECJ pronounces that a Member State must have a non-discriminatory procedure for designating or selecting air carriers established on its territory, this notion goes beyond what is normal in international aviation.

The question of ownership also gives rise to certain concerns in the context of liberalising the nationality clauses. The intention is probably to urge the replacement of the nationality clauses by a clause based on establishment (in the sense of the Chicago Convention). In this case, the difference referred to above between the concept of *establishment* in the Treaty and that contained in the Chicago Convention will have to be resolved. If the EU is a party to the solution then this difference can probably be managed in that it becomes an internal question for the EU. On the other hand, it is also conceivable that a real liberalisation of ownership and control will be pursued, making it possible for nationals of the partners in a bilateral or multilateral agreement to invest in each other's air carriers. This situation can be resolved only at EU level. Council Regulation EU2407/92 makes it clear in Article 4 that any air carrier to be licensed by a Member State must be majority owned and effectively controlled by EU nationals. This obligation can be relaxed according to Article 4 only if the EU is a party to an international agreement or Convention that introduces another regime. In other words, in respect of ownership and control, EU exclusive competence exists by law.

2.4 The Brattle Report

If the EU and the US were to succeed in establishing an agreement on the issues set out above, the evidence available suggests that traffic would grow at an increased rate. In order to assess the effects of an Open Aviation Area (OAA) the European Commission asked the Brattle Group to carry out a study of the matter. The report of the study was published in December 2002 and is available on the Commission's website. The report clearly shows that an agreement between the EU and the US on an OAA would provide more possibilities for air carriers and airports. As an example, dedicated business air services have already developed, using airports other than the main hubs. Similar possibilities could be opened up for freight services, particularly if the US market were opened up.

(The following section in italics is composed of extracts from the Brattle Report, which the authors of the current study consider helpful in illustrating the analysis and the arguments relevant to the present case. The authors of the current study have inserted a number of comments in footnotes.)

Economic Impact of an Open Aviation Area: Qualitative Effects

Analysis of the economic effects of an Open Aviation Area begins with the theory of trade and investment. Trade theory predicts that fully liberalising international trade and investment in aviation services would increase efficiency and benefit consumers in multiple ways:

More Efficient Firms Replace Less Efficient Firms: *In a liberalised market, more efficient airlines would replace less efficient ones, or less efficient airlines would adopt the practices of more efficient ones, leading to significant cost savings and an increase in industry efficiency. This substitution would occur through two mechanisms: industry restructuring (e.g., mergers, acquisitions, joint ventures), and increased competition (e.g., a carrier from one EU country could establish a transatlantic hub in another EU country).*

Table 1: Estimated Impact of Cost Reductions

	Flight Type		
	Intra-EU	*Transatlantic*	*All Flights*
Current Costs (million/year)	39,531	28,578	68,110
Potential Savings (million/year)	2,268	621	2,888
Percent of Current Costs	5.7%	2.2%[7]	4.2%

As of December 2, 2002, €1 = $0.9927. For convenience, we have assumed €1 = $1.

Table I shows our results. We estimate that the potential cost savings to the airline industry from greater productive efficiency are about €2.9 billion annually, or 4.2 percent of total costs. Nearly 80 percent of the savings would come from intra-EU, as opposed to transatlantic, operations. We further estimate the impact if these savings were passed through to consumers in price reductions. In addition to the direct benefit of €2.9 billion a year, they would produce an annual increase in consumer welfare of as much as €370 million due to the increase in passenger traffic that lower prices would generate.

Exploitation of Size-Related Economies over a Larger Market: *This same process of expansion and consolidation would allow air carriers to exploit size-related economies, leading to further efficiency gains. For example, a merger or deep alliance might allow two carriers to spread certain fixed costs over more passengers (scale economy). The carriers might achieve added savings by reconfiguring their combined network to connect more flights to certain hub airports (scope economy). They might also achieve higher utilisation e.g., by combining traffic to raise load factors (density economy).*

Closer Integration among Firms Leads to Pricing Synergies[8]: *By facilitating deeper forms of integration between US and EU carriers, liberalisation would allow improved price coordination on transatlantic interline routes (i.e., routes that require passengers to fly on two or more airlines to reach their destination). Without coordination, each carrier will set the fare for its leg of the flight without considering how it will affect demand for the other legs. If the same carriers are allowed to coordinate, each will have an incentive to set lower fares so as to increase combined profits (a process known as elimination of double marginalisation.).*

7 This percentage is relevant for Ireland.
8 This effect would come about as a function of alliance building or mergers, if they were allowed. The authors do not believe that Table 2 is relevant except within alliances.

Table 2: Annual Impact of Increased Interline Price Coordination		
	Lower Bound Scenario	*Upper Bound Scenario*
Increased Passenger Volume (‘000s/year)	975	5,654
Increase in Consumer Surplus (million/year)		
From Price Decreases for Existing Customers	571	888
From Increased Traffic	59	458
Total	**629**	**1,347**

The Lower Bound Scenario assumes an 18 percent price reduction and a price elasticity of demand of 1.0, while the Upper Bound Scenario assumes a 28 percent price reduction and a price elasticity of demand of 2.5.

Our approach is inherently conservative. First, under an Open Aviation Area, non-allied carriers could engage in deep alliances, up to and including mergers. Thus the impact could be greater than from the looser type of alliance that was the focus of the studies from which we extrapolated. Second, an Open Aviation Area would allow carriers that now are loosely allied to deepen their alliance or undertake a full-blown merger, which could produce additional fare reductions on interline routes that are already subject to price coordination.

***Output Expansion:** At least three mechanisms would lead to expanded output in a liberalised market. First, cost savings from the first two efficiency effects described above would be passed through to consumers (at least in the long run) in the form of lower prices, leading to increased demand. Second, price reductions resulting from improved price coordination on transatlantic interline routes would increase demand. Third, US bilateral agreements with Greece, Ireland, Spain, and the United Kingdom all restrict output to varying degrees; an Open Aviation Area would eliminate these restrictions.*

Our analysis shows that partial aviation liberalisation through Open Skies agreements has led to a substantial increase, 10 percent, in the number of transatlantic passengers overall. To estimate the impact of liberalising the four remaining output-restricting bilateral agreements, we extrapolate from that result, as shown in Table 3. By this conservative measure, we estimate that an Open Aviation Area would lead to an additional 2.2 million passengers travelling annually between the United States and Greece, Ireland, Spain, and the United Kingdom. As Table 4 shows, the corresponding impact on consumer welfare ranges from 0.6 billion to 1.5 billion a year.

Table 3: Estimated Volume Increases from Lifting of Output Restrictions for Non-Open Skies Countries				
Country	*Actual Volume in 2000 (‘000s)*	*Predicted Percent Increase from Open Skies Agreement*	*Predicted Volume in 2000 (‘000s)*	*Change in Volume in 2000 (‘000s)*
	[1]	[2]	[3] = (1 + [2]) x [1]	[4] = [3] - [1]
Greece	342	10%	377	35
Ireland	1,587	10%	1,748	161
Spain	1,825	10%	2,011	185
United Kingdom	17,810	10%	19,617	1,807
Total	**21,564**	**10%**	**23,753**	**2,188**

Source:DOT International T-100 Data

Table 4: Predicted Increase in Consumer Surplus Due to Lifting of Output Restrictions (million/year)						
Country	*Lower Bound Scenario*			*Upper Bound Scenario*		
	Gain Due to Price Decreases for Existing Customers	*Gain Due to Increased Traffic*	*Total Gains*	*Gain Due to Price Decreases for Existing Customers*	*Gain Due to Increased Traffic*	*Total Gains*
Greece	18	1	19	8	0	8
Ireland	95	5	99	39	2	41
Spain	106	5	112	44	2	46
United Kingdom	1,181	58	1,239	486	24	510
Total	**1,401**	**69**	**1,469**	**577**	**29**	**605**

Source: DOT International T-100 Data and BAe Database

Notes:
Calculated for routes where volume and bidirectional fares are both available.
Utilises January 2001 fares.
The Lower Bound Scenario assumes an elasticity of 1.0, while the Upper Bound Scenario assumes an elasticity of 2.5.
For reasons explained in Chapter 5[10], the assumptions behind the two scenarios result in greater gains in the Lower Bound Scenario than in the Upper Bound Scenario.

Cross-Border Flows of Capital: *The liberalisation of aviation trade and investment likely would lead to significant cross-border flows of capital as airlines engage in consolidation and deeper integration and establish new operations in markets that are opened or made more accessible by liberalisation. Cross-border investment would in turn play a major role in driving many of the benefits described above.*

Cross-Border Flows of Labour: *In theory, liberalisation also may lead to cross-border flows of labour as workers seek higher wages. In this way, liberalisation could facilitate labour substitution i.e. the substitution of less expensive foreign workers for more expensive domestic workers, either directly or indirectly. Although labour substitution benefits consumers and lower-wage workers, it imposes costs on other workers.*

Total Economic Impact

As Table 5 shows, we estimate that passenger traffic would increase annually by between 4.1 million and 11.0 million passengers on transatlantic routes, and between 13.6 million and 35.7 million on intra-EU routes, for a total increase of 17.7 million to 46.7 million passengers per year. These are significant increases. They represent an increase of 9 percent to 24 percent in total transatlantic travel, and 5 percent to 14 percent in intra-EU travel.

Table 5[10]: Total Estimated Increase in Passenger Volume ('000s/year)			
Effect	*Area*	*Lower Bound Scenario*	*Upper Bound Scenario*
Cost Savings	Transatlantic	968	3,169
Pricing Synergies	Transatlantic	975	5,654
No Output-Restricting Bilaterals	Transatlantic	2,188	2,188
Subtotal		*4,131*	*11,011*
Cost Savings	Intra-EU	13,527	35,720
Total		**17,658**	**46,731**

As Table 6 shows, we estimate that an Open Aviation Area would increase consumer surplus by a large amount from €5.1 billion to €5.2 billion annually.[11] Transatlantic traffic accounts for €2.7 billion to €2.8 billion, or just over half, of that increase. As explained in Chapter 610, the lion's share (3.1 billion to 3.8 billion annually) comes from gains to consumers that do not involve any reduction in airline profits.

Table 6[10]: Total Estimated Increase in Consumer Surplus (million/year)							
Effect	*Area*	*Lower Bound Scenario*			*Upper Bound Scenario*		
		Gain Due to Price Decreases for Existing Customers	*Gain Due to Increased Traffic*	*Total Gain*	*Gain Due to Price Decreases for Existing Customers*	*Gain Due to Increased Traffic*	*Total Gain*
Cost Savings	Transatlantic	621	41	662	621	158	778
Pricing Synergies	Transatlantic	571	59	629	888	458	1,347
No Output-Restricting Bilaterals	Transatlantic	1,401	69	1,469	577	29	605
Subtotal		*2,592*	*168*	*2,760*	*2,085*	*645*	*2,730*
Cost Savings	Intra-EU	2,268	83	2,351	2,268	216	2,483
Total		**4,860**	**251**	**5,111**	**4,353**	**860**	**5,213**

Chapter 6[9] also quantifies the impact of an Open Aviation Area on industries that supply direct inputs to aviation, such as aircraft and computer equipment. As Table 7 shows, we estimate that the increased airline revenue identified in Chapters 4 and 5[9] would lead to additional economic output in directly related industries ranging from 3.6 billion to 8.1 billion a year. Note that this figure excludes any of the potential impact on industries such as tourism and leisure that would be among the most significant beneficiaries of aviation liberalisation.

9 *Of the Brattle report.*

Table 7[10]: Revenue Impact on Directly Related Industries (million/year)						
Effect	*Lower Bound Scenario*			*Upper Bound Scenario*		
	Revenue	*Direct Economic Impacts*	*Direct-Plus Indirect Economic Impacts -*	*Revenue*	*Direct Economic Impacts*	*Direct-Plus - Indirect Economic Impacts*
Pricing Synergies	571	571	1,053	2,908	2,908	5,365
No Output-Restricting Bilaterals	1,401	1,401	2,584	1,484	1,484	2,738
Total	**1,971**	**1,971**	**3,637**	**4,392**	**4,392**	**8,103**

Additional Benefits We Could Not Measure

Our estimate of the benefits of an Open Aviation Area is conservative. We noted above several ways in which our methodology understates the benefits of complete liberalisation. In addition, we did not quantify three of the efficiency effects we identified (i.e., size-related economies, capital flows, and labour flows), because of data limitations and/or to avoid double counting. Specifically, an Open Aviation Area could bring additional benefits in two areas that we were not able to measure. The first is the cost savings from transatlantic mergers. The analysis in Chapter 4[10] captures conservatively the price effects of transatlantic consolidation, and the Chapter 3[10] analysis captures some of the potential benefits of merger-related cost savings. But a transatlantic merger might enable additional cost savings not captured by our analysis, because it relies on comparisons among existing airlines, and no existing airline has access to the benefits of a transatlantic merger.

The second area is the consumer and producer benefits from expansion of internal EU and US passenger networks that would accompany transatlantic liberalisation. The expansion of the internal markets would occur as increased competition leads to lower prices and greater passenger volumes. Consumers would benefit from lower fares, while producers would benefit from the profits on the increased volumes. We could not measure (most of) these effects due to a lack of intra-EU and intra-US fare and volume data comparable to the transatlantic data used for the analysis in Chapters 3 through 5[10].

The footnote comments on the Brattle report make it clear that some of the conclusions of that report are debatable. However, it is worthwhile to read the whole report since it was used in the debate in the Council of Ministers on the mandate to negotiate an OAA with the US. One of the questions that was not resolved in the Brattle report is whether or not low-cost air services might be attracted to enter the transatlantic market if an EU/US agreement were to become a reality. The experience in the US is that low-cost airlines have successfully entered the coast-to-coast domestic market with non-stop services. With that in mind, we would not be surprised to see low-cost operators enter the transatlantic market, particularly if a really free market were to be established. Such a development would represent a real opportunity for both Dublin and Shannon and it might well create new possibilities for airports which today have no transatlantic air services, e.g. Cork or (less likely) Kerry and Knock on condition that they are adequately equipped to handle any traffic that might be offered.

2.5 The EU Negotiating Mandate

On 5 June 2003, the European Commission received a mandate to open fully-fledged negotiations for an agreement on an open aviation area with the US. In fact, the Commission received an additional mandate to negotiate clauses

10 For Table 5 through Table 7, the Lower Bound Scenario represents an assumed elasticity of 1.0, while the Upper Bound Scenario represents an assumed elasticity of 2.5. For the Pricing Synergies results, the Lower Bound Scenario also assumes an 18 percent price decrease, while the Upper Bound Scenario assumes a 28 percent price decrease. The elasticity assumptions behind the two scenarios imply that the Lower Bound Scenario yields greater consumer surplus gains than the Upper Bound Scenario with respect to the effects of No Output- Restricting Bilaterals. (This is a footnote of the Brattle report.)

in any bilateral agreement which would be considered to be in conflict with EU legislation. This second mandate is perhaps as important as the first but it is clear that priority will be given to the first. Formal negotiation meetings have already taken place between the EU and the US.

In this context it would be reasonable to assume that, in addition to old and new Member States of the EU, Norway, Iceland and Switzerland will sooner or later become signatories.

The mandate is not a public document. Sufficient information is, however, available to discuss its different elements.

The idea behind the mandate is to establish a common aviation market with open access and fair competition. These two aims should be achieved by establishing agreement in a number of areas:

1. OPEN MARKET

a. Market access

There are no surprises here since the stated aim is clearly to establish a situation where air carriers can operate freely between any two airports within the territories constituted by the US and the EU. This aim of the EU, which corresponds to the policy framework within the EU, clearly raises the issue of cabotage, to which the US is traditionally opposed.

b. Slot allocation

This issue is closely related to market access. It should therefore be as open as possible. The mandate also specifies that Community Air Carriers should not see their situation deteriorate as a consequence of the agreement.

c. Ownership and Control

Liberalisation of ownership and control is mentioned as one of the more important issues for the EU. The mandate does not aim for deregulation. It seeks only to ensure that US and EU nationals have the right to own and control air carriers in the whole of the Open Aviation Area. This raises questions in the US, not the least in the context of providing lift capacity for military actions (the so-called CRAF program).

In this context, the mandate states that consideration should be given to the fact that air carriers owned by Icelandic, Norwegian or Swiss interests might exist in the EU and that they should be assured of non-discriminatory treatment.

d. Leasing

Leasing is mentioned in the mandate and it is clear that the EU would wish the protectionist US rules to be relaxed. This once more raises the question of cabotage (which is difficult for the US) in the context of wet leasing.

e. Pricing, capacity and frequencies

Air carriers should be able to set prices freely without the need to file with the authorities.

2. FAIR COMPETITION

It is clear that competition rules constitute one of the main elements under this heading but other areas are equally important: as an example, air carriers should be prevented from gaining an unfair advantage by skimping on safety conditions, etc.

a. Competition rules

EU competition rules are mentioned in the mandate. The issue is how to manage situations where conflicts arise between these rules and the US antitrust rules. Convergence in the application of these two sets of rules is the goal.

This would mean that there is no intention of modifying either EU competition rules or US antitrust rules. The aim would be to ensure that there is co-operation in the form of the exchange of basic data and in the formulation of measures which might be taken. In this way, it would be possible to ensure that action in competition matters by the parties to the agreement would not be cumulative but would be in synergy, and that more flexible and speedy procedures could be applied.

While the agreement cannot in itself approve code sharing and other co-operative arrangements, it should indicate that such arrangements shall be permitted unless there are grounds for concern under the competition or antitrust rules, or both. The same would apply to intermodal operations.

b. State aid

The mandate is fairly cautious on state aid and stipulates only that a consultation procedure between the parties should be established. This is understandable, since it is to be assumed that this issue will be raised by the US. Over the years, each side has expressed difficulties with the policy of the other. Most recently, the US has expressed unhappiness with the draft Regulation of the EU on retaliatory measures in cases where state aid leads to unfair competition.

3. LICENSING OF AIR CARRIERS

One of the most important elements of the licensing requirements for Community Air Carriers is that the air carriers must be economically and technically fit. This is also the case in the US, but such rules must be enforced.

4. COMMERCIAL OPPORTUNITIES

The EU has liberalised commercial opportunities in the context of the General Agreement on Trade in Services (GATS) while the US has not. In practice, the US is open but the mandate aims to copperfasten this in the agreement.

5. SAFETY AND SECURITY ISSUES

Safety is also mentioned as an area where common standards should, if possible, be developed. This heading is a normal one in bilateral agreements but it might be of more importance if the EU/US agreement were be open to accession by other countries.

Security is mentioned in the same way.

6. ENVIRONMENT

This issue has been the subject of the most recent conflict in aviation between the EU and the US. The mandate aims for the highest standards, taking international standards as a starting point. The fact that the issue is not posed more explicitly than it actually is may simply reflect a diplomatic reflex on the part of the EU. However that may be, the US still has problems with several EU Member States.

7. SOCIAL CONDITIONS

This area is important, since different social conditions can lead to labour unrest, safety problems and unfair competition. However, much of what happens in this area is a part of a general social policy and is not specific to the air transport sector. It has therefore been difficult to specify exact aims for the negotiations. Convergence in areas which are specific to air transport should be pursued and for that purpose, consultation with the social partners should be an explicit element in the agreement.

8. CONSUMER PROTECTION

Consumer protection in the EU is well established. An EU/US agreement should safeguard these rules.

The basic principles of the EU Computerised Reservation System (CRS) rules should be preserved and it is desirable to align the rules applicable in the EU and the US.

9. GROUND HANDLING

Ground handling should be liberalised and, as a minimum, equal treatment should be ensured.

10. INSTITUTIONAL ARRANGEMENTS

The last issue mentioned is that of institutional arrangements. In the many discussions which have taken place over the years, the suggestion made by the Association of European Airlines – i.e. the establishment of a permanent body to take responsibility for, *inter alia*, the application of competition and antitrust rules – has been considered by the US as constituting a major problem. It can be inferred from a number of speeches by Commission officials that this idea is not contained in the mandate but that it seeks rather to ensure that a framework will exist which can ensure cooperation, exchange of information and resolution of conflicts in a speedy way. The possibility cannot be excluded that the difficult issue of binding arbitration will be raised in this context by one side or the other.

11. OTHER ISSUES

In addition to these issues, it is to be expected that all the other topics normally found in a bilateral agreement will also be raised. There is no reason to believe that these will create any particular difficulties.

Chapter 3 – Progress of the Negotiations

3.1 Status as at October 2004

The US quickly accepted the opening of negotiations with the EU. Many expected that they might refuse, because of the difficult situation currently being experienced in air transport. Thereafter, the question became whether they would be willing to accept something more than a multilateral open sky agreement such as those signed with a number of APEC states.

The negotiations started in 2003 and have made considerable progress. They have now reached a point where it is clear that a total solution will take time and that therefore a phased approach might usefully be considered.

Agreement or a point approaching agreement has been reached on a number of issues which would therefore be included in a first phase. Other issues are still being discussed, both with respect to content and to whether they should be included in whole or in part in the first phase. The situation compared to the mandate is as follows:

3.2 Agreed Elements

1. MARKET ACCESS

Market access has not created difficulties, except in the case of cabotage (see point three of "Outstanding Elements").

However, the US has suggested that a first phase approach might be to open the door for indirect air carriers in the US. This would allow EU air carriers to sell and market their brand names in the US, but the actual operation of the flights would have to be undertaken by US air carriers. This concept could be described as giving the European air carriers the possibility to act as a kind of seat-only scheduled tour operator for individual passengers. The US does not want to allow such an indirect air carrier to code share and it is not certain that the carrier could purchase slots. However, for a European air carrier which is not interested in operating cabotage air services, this might, in certain circumstances, constitute an interesting option. In fact, EasyJet operated for some time as an indirect or virtual air carrier where its services were being operated by Air Foyle. To some extent, this is being done by US air carriers – such as FedEx and UPS – in Europe.

2. EU NATIONALITY CLAUSE

The US has accepted an EU clause to replace the existing nationality clauses which were found illegal by the European Court of Justice. This is basically what the US signed with a number of the APEC countries. However, this would open the way for consolidation within Europe only and not in the whole market established by an EU/US agreement. In other words, the US has accepted that establishment is open within the EU for EU nationals but has not accepted this concept within the whole of the OAA. This is an indication of the protectionism which the US unions have imposed on the negotiations.

3. WET LEASING

The US has accepted that US air carriers may wet lease EU aircraft but only for international air services. This is a step forward but it is still more protectionist than the situation in Europe.

4. COMPETITION RULES

The existing text would establish cooperation between the competent authorities on both sides, namely the US Department of Transportation and the EU Commission. However, the mandate calls for an effort to approach the application of the antitrust and the competition rules and in this respect the text is weak. Nevertheless, experience has shown that with a cooperation agreement there will be a tendency for each sides to learn from the other and that a de facto narrowing of the differences in application will take place.

5. INSTITUTIONAL FRAMEWORK

The draft text of an agreement does contain such a framework. However, it does not guarantee a speedy resolution of conflicts in the same way as intended by the mandate.

3.3 Outstanding Elements

1. ESTABLISHMENT

Ownership and control are issues that cannot be resolved in a first phase. The US is willing to increase the ownership threshold to 49%, corresponding to the EU legal situation. This, however, is not satisfactory to the EU Member States which, together with the industry, want to go further. Efforts are going on to obtain a commitment from the US to discuss how this aim can be realised and what would happen if this is not possible within a reasonable time span.

It is unlikely that this would be enough to open market access to the London airports. In order to achieve this (which would most likely be a condition from the US side), something very substantial would have to be agreed on full liberalisation of ownership of control in the second phase. This could possibly be done by specifying in the agreement that future discussions would have to concentrate on how ownership could in reality be liberalised.
The EU might push to have the ownership issue opened up for air freight in a first phase. This might conceivably succeed and we believe that it might be in the Irish interest.

It is not inconceivable that the US might be on the verge of accepting an opening in this area in order to transform air transport into a normal economic activity, to provide capital to US airlines and to encourage needed consolidation. These are just a few of the possible and plausible reasons for a change in the traditional US attitude. At earlier talks, the US even stated that in order to consider such a shift in policy they would need to go beyond agreements with individual States. This would not mean that the nationality clauses would disappear but that they would be replaced by a joint EU/US clause.

2. LICENSING

EU air carriers must be technically and economically fit in order to hold an operating license. The idea with the mandate was to have a similar obligation written into the agreement. The provisions on safety would seem to take care of the technical fitness but there is, as yet, nothing about economic fitness. This is a serious omission. The US has rules on economic fitness but, in times of crisis, they might “look the other way” unless the agreement is specific on this point. The provisions on economic fitness are intended to further fair competition and to make it possible for smaller air carriers to compete in the market.

3. CABOTAGE

This is another very contentious issue. It is unlikely that this will be a part of the first phase in a two or three phase approach, except possibly for air freight, although even that is unlikely. A half way step might be to open up for code sharing on domestic US routes. From an Irish point of view, it would be advantageous to open up for air freight both in respect of cabotage and code sharing since a company like Cargolux could make use of these opportunities.

This is no surprise since in a European framework it was only in the last (1993) package that domestic air transport was included. It could therefore have been imagined that a realistic EU negotiating stance would be to place full cabotage in a second phase. However, at the Council meeting on June 18, 2004, it became apparent that the EU Member States want some progress in this area in a first phase.

The problem is that US air carriers can today operate within Europe to a significant extent, while EU air carriers are excluded from the US market. This is a consequence of international rules which apply between States. Domestic air transport, by definition, takes place only within States. The EU is not a State for the purposes of such agreements, while the US is. The US fears that, by opening up for cabotage, it will open the door to other countries as well and they consider their home market as too valuable for that. It is, in fact, a kind of protectionism which has its origin in the US unions and is, therefore, a politically difficult issue for the US.

4. 7TH FREEDOM

As described above, the concept of market access used in the present text is limited to consecutive air services: i.e. for an EU air carrier, the air service must start in the EU and for a US air carrier it must start in the US. This dilutes the concept of an Open Aviation Area, but this dilution is probably not very important, except perhaps for air freight.

5. DOMESTIC WET LEASING

Wet leasing of foreign aircraft for US domestic air services is another issue in this context. The US considers this as “cabotage wet leasing” although such a concept does not exist in the normal aviation lexicon.

As this is simply an administrative rule on the Federal Aviation Administration’s (FAA) part, there is a real possibility that agreement might be found on liberalisation in this matter, possibly to alignment on current EU rules. This would be in the Irish interest. because Irish firms are already active in this sector and their activity is restricted by US rules.

6. STATE AID

Consideration of state aid as an element in an aviation agreement would be completely new. There are currently no international rules covering state aid in the air transport sector. The difficult issues for the US would probably be chapter 11, Fly America and the existing support to the airline industry. The issue in the EU would be concentrated on the draft Regulation providing for retaliation where foreign state aid would lead to unfair competition. However, the benefits from defusing a number of flash points in this area are so great that it is not inconceivable that an agreement can be reached.

The text currently on the table includes a very general clause providing for discussion of such matters and attempts to reach conclusions. It proposed no specific rule nor does it set out any consequences if one party permits state aid which affects air carriers of the other party.

7. SLOT ALLOCATION

Current systems of slot allocation differ between the EU and the US. There is speculation that the EU may move towards a market-based slot allocation system. The mandate states the objective that the situation for EU air carriers should not deteriorate. This could create a delicate situation. The US today provides slots to foreign air carriers in relation to the traffic rights which have been granted. This becomes much more difficult to do in an open market. In fact, the US stepped out of that system in the open market agreement with Canada. Canada initially obtained a number of slots, but the Canadian air carriers subsequently had to obtain slots in the same way as US air carriers i.e. by buying them. The US may well offer a similar solution for the OAA. The situation is in fact even more complex since the US has stated that by 2007 the system of slot allocation will be eliminated. If this is really so, then airport access will become a matter of obtaining apron space, which is controlled either by the airline owners of the terminals or by the US airports. Slot allocation is not included in the present text and the Commission has made it known that it will bring it into the text only in the second phase when the issue of establishment is tackled. The US clearly wants to use slot allocation as a lever to obtain access to Heathrow for further US airlines in addition to the two which already have access there. If, in the meantime, the EU has moved to a market based allocation scheme, such an understanding might not be necessary.

8. SOCIAL

The present text says nothing about social standards. This must be seen as a defect since such standards, apart from being intrinsically desirable, are also an element in ensuring fair competition.

3.4 Timing

If agreement can be reached on a phased approach, we believe that an agreement can be reached in 2005 with the new US administration. An attempt to reach an agreement was made in June, 2004, but the Council of Ministers refused the deal because there was too little certainty about the second phase. A full-scale agreement would take much longer, possibly until 2008-2010.

Chapter 4 – Air Transport in Ireland

After a decade of sustained economic growth, employment in Ireland in 2004 was higher than at any time since the foundation of the State. Irish living standards exceed the EU average. Government indebtedness has been reduced from the highs of the 1980s and now ranks second lowest in the euro-zone. The economy proved resilient through the global downturn in 2001-2003 and continued to grow, albeit more slowly than during the late 1990s. The *Medium-Term Review 2003-2010,* carried out by the Economic and Social Research Institute (ESRI) projected an average annual GNP growth rate of 5.4% for the Irish economy in the second half of this decade. This projection is supported by the Department of Finance in its *Economic Review and Outlook 2003.*

Table 8: Economic Performance Indicators

	1993	*2001*	*2003*
Unemployment %	15.7	3.9	4.7
Government Debt as % GNP	93	37.5	34
Corporation Tax	10/40	20/25	12.5/25
Personal Tax	27/48	20/42	20/42
Irish GDP % EU-15	69	117	125
Irish GNP % EU-15	75	99	101

Data assembled from the Department of Finance and AMECO, 2004

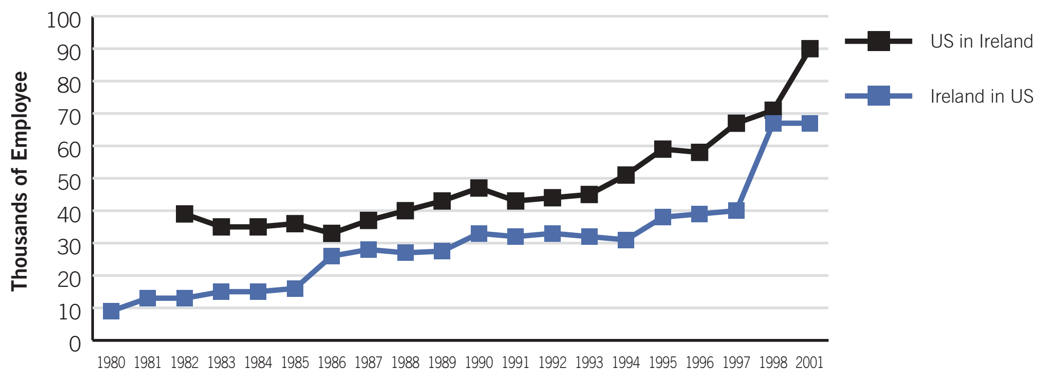
As a small open economy at the edge of Europe, Ireland has a strong interest in improving and expanding international transport services so as to minimise the competitive disadvantages associated with geographic peripherality and island status. While shipping has been the dominant mode of international goods transport, international air services for Ireland are critically important if the opportunities for growth in internationally-traded services and high value-added manufacturing identified in the recent report of the Enterprise Strategy Group are to be realised.

Air transport services are the main conduit for trade in high value goods and services in an increasingly globalised economy. Therefore, it is vital that Ireland has the global air connectivity that allows international executives, investors, researchers and high-yield tourists to connect as easily with Ireland as with other key European countries with which we compete in emerging knowledge economy activities. Given the ever-deepening economic links with the US through two-way flows of direct investment, technology, trade and tourism, it is clear that US-Irish aviation links are crucial for Irish enterprise policy.

Ireland's success in developing new areas of foreign direct investment in higher-value added activities such as research centres, financial services, digital media and supply chain management will be dependent on how international air connectivity is developed. In 2003, IDA Ireland supported almost 500 US companies which between them directly employed approximately 100,000 people. Air connectivity is also essential to the continued success of indigenous firms, especially those with a strong external focus. It is believed that as many people are employed in the US by Irish firms as are employed by US companies in Ireland. Figure 2 illustrates Ireland as an example of the two-way benefits of EU/US investment flows[11]:

11 Quoted by Paraic White in "An Indispensable Partnership", IEA, 2004.

Figure 2: Employment Associated with Irish Outward and Inward Investment



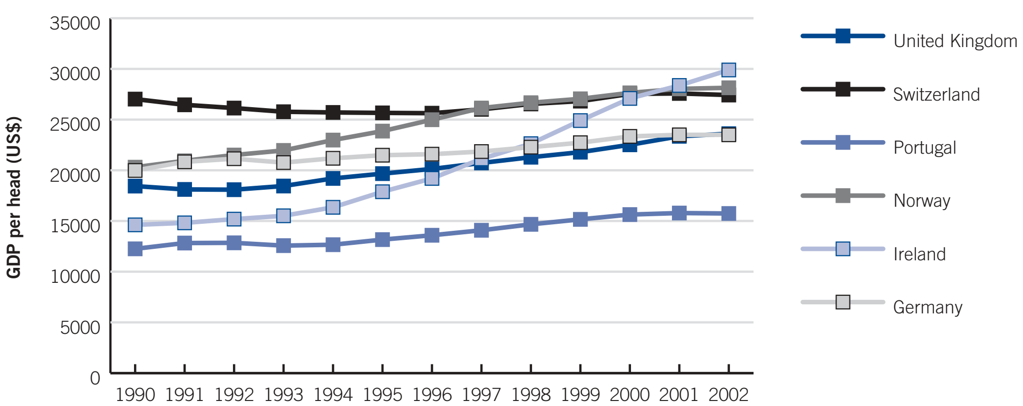
Source: Forfas Outward Direct Investment Oct 2001

4.1 Recent Trends

The development of air transport in Ireland has been closely associated with economic growth. It is clear that air transport is immensely important for industrial location, international competitiveness and economic growth. For secondary and tertiary economic sectors, access to air transport is a very important location factor. It is not the only important location factor but the lack of easy access to air transport can lead to potential locations being discarded. This is particularly so for island communities.

Air transport grows as a function of GDP. It is therefore not surprising to see the combination of strong growth for both air transport and the economy in general in Ireland.

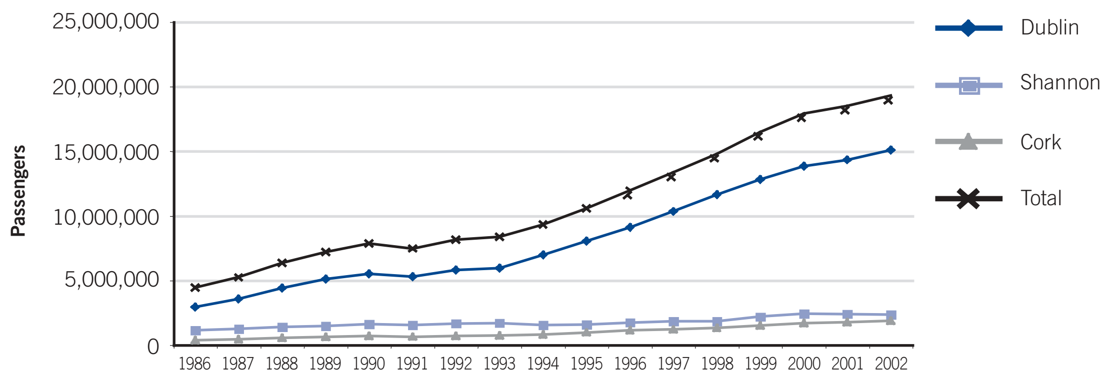
Figure 3: GDP Per Head at Price Level and PPP of 1995 (US$)



Source: OECD

Since 1993, growth in GDP per head in Ireland has been remarkably high, compared to growth rates in other European countries.

Figure 4: Passengers at 3 Irish Airports



Source: Aer Rianta

It is equally evident that passenger throughput at Irish airports, and particularly at Dublin Airport, began to increase strongly in 1993.

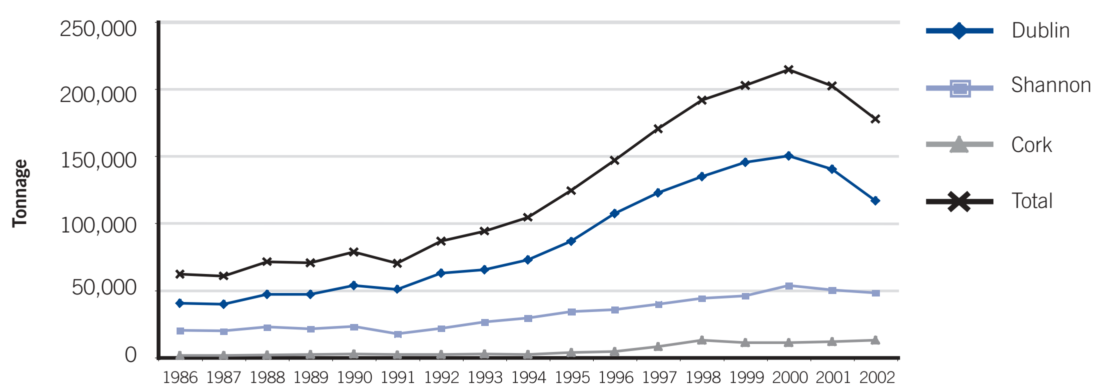
In the period from 1993 to 2002, GDP per head doubled while passenger numbers more than doubled, particularly at Dublin. This development coincides with the introduction of full liberalisation of air transport within the EU from 1 January 1993.

The number of destinations served has grown also. In 1990, Dublin had 46 foreign destinations: by 2002, this had had grown to 67. Domestic destinations grew from three to nine. For Shannon, the number of foreign destinations grew from 15 in 1992 to 23 but domestic destinations remained at one.

It is tempting to link this growth in traffic, destinations and GDP to the EU air transport liberalisation but it would be misleading to do so since other factors have also been at work, such as Irish economic policy and the GATS. It is, however, clear that EU liberalisation gave a considerable additional boost.

Air freight also experienced a period of considerable growth. It is, however, apparent that the economic recession after 2000 has adversely affected this sector, particularly at Dublin. It is apparent also that Shannon is much stronger than Cork in respect of air freight while Cork is relatively strong on the passenger side, although lacking transatlantic air services.

Figure 5: Air Freight at 3 Irish Airports



Source : Aer Rianta

Non-scheduled air transport is not very prominent. On the North Atlantic, this traffic segment has gradually diminished from about 16% in 1994 to a current level of 3%, as illustrated in Annex 10.

In the European context, Ireland is not a large market. It has a comparatively small domestic sector and a small percentage to third countries. However, it accounts for a disproportionately large share of the total EU-US market as seen in Table 10. From Annex 11 the Ryanair effect is clearly evident.

Table 9: Overview of the Changes in the International Intra-EU Air Passenger Transport

	Number of passengers in 2001	*Evolution 2000-2001*	*Average evolution 1993-2000*
EU-15	217,154,068	*-1.77%*	*+7,53%*
BELGIUM	13,824,377	-8.24%	+11.36%
DENMARK	11,787,252	*+4.36%*	:
GERMANY	53,786,814	-2.90%	+7.43%
GREECE	19,440,315	*+1.73%*	:
SPAIN	71,749,980	+3.26%	+8.85%
FRANCE	33,432,736	-0.16%	+6.15%
IRELAND	14,478,094	+4.25%	+15.61%
ITALY	29,946,466	+3.22%	+9.48%
LUXEMBOURG	1,416,579	-2.32%	+9.53%
NETHERLANDS	21,730,777	-3.12%	+9.65%
AUSTRIA	8,479,472	-1.18%	+6.43%
PORTUGAL	10,849,060	+5.65%	+6.88%
FINLAND	5,646,394	+1.70%	:
SWEDEN	12,086,080	+0.21%	+16.45%
UNITED KINGDOM	87,893,652	+3.00%	+7.45%

The following Table shows that while, in the North Atlantic context, Ireland is smaller than the UK, Germany, France, the Netherlands, Italy and Spain, it is larger than any of the remaining individual markets. (The Netherlands has a market share which is proportionately much larger than the Irish, due to the fact that the Netherlands has long operated an aggressive and open airport policy at Amsterdam-Schiphol, supplemented by a strong alliance between KLM and Northwest airlines, which is expected to continue under the new ownership of KLM).

Table 10: International Extra-EU Air Passenger Transport to World Regions in 2001: Percentage Shares of Individual Member States															
	BE	DK	DE	EL	ES	FR	IE	IT	LU	NL	AT	PT	FI	SE	UK	EU-15
Total extra-EU transport	2.96	3.08	21.55	:	5.70	16.07	1.08	6.68	0.10	8.77	2.81	1.23	1.02	2.03	26.95	100
Europe except EU	3.50	6.32	27.76	:	7.05	9.01	0.66	5.85	0.18	7.31	5.13	1.12	2.04	4.17	19.91	100
America	2.30	1.04	16.48	:	7.66	14.78	2.44	6.15	0.00	10.06	0.66	1.83	0.27	0.69	35.63	100
Asia & Australasia	1.29	2.35	21.92	:	1.25	15.80	0.03	6.10	0.00	11.80	3.01	0.02	0.95	1.17	34.28	100
Africa	5.13	0.58	17.22	:	3.43	36.59	0.30	10.62	0.25	5.73	1.69	1.59	0.30	0.81	15.77	100

4.2 Irish Air Carriers

All air carriers licensed by a Member State must respect the rules of (EU) Regulation 2407/92. Class A air carriers licensed by Ireland are listed in Annex 3. Other smaller air carriers have also been licensed but only those listed in Annex 3 may operate large aircraft. Only Aer Lingus seems to have an immediate interest in scheduled services on the North Atlantic. This does not exclude the possibility that other air carriers might in the future develop an interest in North Atlantic services.

Aer Lingus has traditionally been the dominant air carrier. However, Ryanair has developed strongly and is now carrying more passengers than Aer Lingus although with a significantly lower revenue per passenger. Ryanair is challenging for the position as the European carrier with the largest number of passengers in Europe.

1. AER LINGUS

Aer Lingus has gone through very serious difficulties in the period since 1993. It has always been in a peripheral situation in the European and worldwide markets, with a very strong set of competitors out of London. As a result, the airline found it difficult to achieve economies of scale. These difficulties were exacerbated by the fact that new competition developed both domestically and internationally. Aer Lingus found itself in the same situation as Iberia when faced with competition by charter air carriers: i.e. it became essential to reorganise in order to become competitive. The economic crisis of the last three to four years made that very difficult but it seems that Aer Lingus has come successfully through this very challenging period. The financial results for 2003 were very good and reflect the fact that the airline, in contrast to other European legacy air carriers, has been substantially reshaping itself as a low cost air carrier. Tight control of costs will continue to be necessary and further economy measures would seem to be necessary.

Aer Lingus is Ireland's only State-owned airline: all the other existing Irish airlines are private sector companies. The authors of this report have no mandate to consider the implications of recent developments or of current discussions on its future development. There has been some interest in privatising Aer Lingus.

2. CITYJET

CityJet was bought by Air France some years ago: there have been no other trans-frontier investments.

3. RYANAIR

The relatively large size of the Irish aviation market is due partly to the fact that Ireland is home to the largest European LCC, namely Ryanair. This airline was created during and possibly as a function of the European air transport liberalisation. It has gradually risen to prominence, particularly since 2000, when the economic crisis gave the low cost sector a tremendous boost. It operates to secondary airports by preference. It has strong operations out of several airports in Ireland to destinations in Europe.

4.3 The Irish Domestic Market

The Irish domestic market is dominated by a series of Public Service Obligations (PSOs). A recent study[12] shows that the following destinations have received support under the Irish EASP for public service. It is uncertain whether any of these routes would have been operated without this support.

Table 11: EASP Routes and Carriers, 1995 to Date

	9.1.1995-8.1.1998	9.1.1998-8.1.2001	18.1.2001-21.7.2002	22.7.2002-21.1.2003	3.3.2003-17.1.2004	to 21.7.2005
Kerry	Aer Lingus	Aer Lingus	Aer Arann (4)	Aer Arann	Aer Arann	Aer Arann
Galway	Aer Lingus	Aer Lingus	Aer Arann (4)	Aer Arann	Aer Arann	Aer Arann
Sligo	Aer Lingus (1)	Aer Lingus	Aer Arann (4)	Euroceltic (5)	Aer Arann (6)	-
Donegal	Ireland Airways (2)	Aer Arann (3)	Aer Arann (4)	Euroceltic (5)	Aer Arann (6)	-
Knock	-	-	Aer Arann (4)	Aer Arann	Aer Arann	Aer Arann
Derry	-	-	Loganair	Loganair	Loganair	-

Notes:

(1) From 1.4.1997

(2) Initially won for one year from 16.8.1996. Thereafter renewed for 2 years to 15.8.1999, but the service ceased on 12.2.1998 when the company went into liquidation.

(3) Subsequent to the liquidation of Ireland Airways, Aer Arann won a temporary competition which ran from 2.3.1998 to 31.12.1998, and subsequently won the competition to run the service until January 2001.

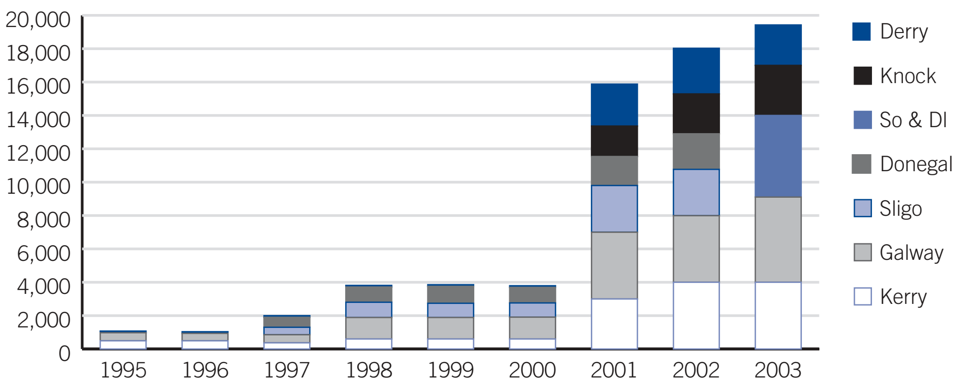
(4) Set to run from 18.1.2001 to 17.1.2004; Aer Arann ceased to operate its routes on 4.11.2001, due to financial difficulties at the company. Temporary competitions were run for these routes, to run from 5.11.2001 to 21.7.2002, which Aer Arann won.

(5) Set to run from 22.7.2002 to 21.7.2005; Euroceltic routes ended on 21.1.2003 because of loss of CAA licence.

(6) Aer Arann won temporary contract to run from 3.3.2003 to 17.1.2004 (termination date for Derry route).

Furthermore, it should be noted that all of the routes are between the destinations in the first column and Dublin. In other words because of the EASP Dublin has a domestic feeder network to international routes while Shannon has none. The compensation level is not insignificant and it is growing.

Figure 6: EASP Subvention Levels, 1995-2003 (Euro'000)



12 DKM Economic Consultants for the Department of Transport, May 2003.

The passenger numbers are shown as follows:

Table 12: Passenger Numbers on EASP Services, 1995-2003

	1995 '000	*1996 '000*	*1997 '000*	*1998 '000*	*1999 '000*	*2000 '000*	*2001 '000*	*2002 '000*	*2003f '000*
Kerry (3)	42	57	58	60	70	79	78	82	82
Galway (3)	51	54	55	66	74	72	86	97	96
Sligo (1)	-	-	20	22	21	24	23	26	NS
Donegal (2)	-	2	9	10	11	12	15	19	NS
Knock (3)	-	-	-	-	-	-	8	11	11
Derry	-	-	-	-	-	-	20	24	26
Total	**93**	**113**	**141**	**157**	**175**	**188**	**230**	**259**	
% annual change		22%	25%	11%	12%	7%	23%	13%	

Notes:

1. *Sligo/Dublin PSO service began in April of 1997.*
2. *Donegal/Dublin PSO service began in August of 1996.*
3. *Kerry, Galway and Knock contracts are to continue until July 2005. Forecast passenger numbers for 2004 on these routes are 85,000, 104,000 and 12,000 respectively, and roughly half these for 2005.*

NS Not specified. From 3.3.2002 to 17.1.2003 Aer Arann are operating these routes combined under a temporary contract, which does not forecast passenger numbers.

The DKM study makes the point that:

"Scrapping the EASP services altogether would have some potentially important indirect effects. It would improve the prospects for services from whatever regional airports survived, including cross-channel services, since it would make available, so to speak, those passengers currently routing through Dublin. And it would benefit Shannon, which has the two most favoured (in terms of frequency) PSO regional airports, Galway and Kerry, in the Northern and Southern portions of its natural hinterland."

4.4 Transatlantic Air Transport Market for Ireland

The transatlantic market to and from Ireland has grown steadily for several years. It stagnated after 2000 because of the economic recession but picked up again in 2003.

Table 13: Transatlantic Passengers for Aer Rianta Airports.

Airport	*1998*	*1999*	*2000*	*2001*	*2002*	*2003*
Overall	1,223,028	1,462,686	1,649,446	1,616,680	1,417,268	1,697,388
Dublin	674,328	829,759	966,451	939,329	798,902	1,011,861
Shannon	548,559	632,780	682,715	677,068	617,877	685,312
Cork	141	147	280	283	489	215

Both Dublin and Shannon are currently connected to destinations in the US, as set out in Table 14.

Table 14: Scheduled Air Services Between the US and Ireland (Summer Season 2004)

Dublin

Route	Weekly frequencies		Airline	Intermittent stops in Shannon	
		Return			Return
Dublin – Los Angeles	5	5	Aer Lingus	0	0
Dublin – Chicago	7	7	Aer Lingus	0	0
Dublin – Boston	7	7	Aer Lingus	3	4
Dublin – New York	14	14	Aer Lingus	7	7
Dublin – Baltimore	5	5	Aer Lingus	5	5
Dublin – Atlanta	7	7	Delta	3	4
Dublin – Newark	7	7	Continental	0	0
Dublin – Philadelphia	7	7	USAir	0	0

Shannon

Route	Weekly frequencies		Airline	Intermittent stops in Dublin	
		Return			Return
Shannon – Chicago	7	7	Aer Lingus	3	3
Shannon – Boston	9	9	Aer Lingus	0	0
Shannon – New York	7	7	Aer Lingus	0	0
Shannon – Baltimore	5	5	Aer Lingus	0	0
Shannon – Atlanta	7	7	Delta	4	3
Shannon – Newark	7	7	Continental	0	0
Shannon – Philadelphia	7	7	USAir	0	0

Source: OAG.

According to these figures Dublin has four non-stop service gateways in the US with at least daily service while Shannon has five. If the criterion is changed to one or more non-stop services per week both Dublin and Shannon have seven gateways.

No route-specific figures are available on a systematic basis for passenger traffic. However, the Central Statistical Office publishes information on the number of visitors to Ireland and on the numbers of Irish people going abroad on transatlantic routes (Annexes 4 to 6).

Annex 4 can be compared to the figures published by Aer Rianta (see Table 13). These sets of data are generally consistent with each other since the Aer Rianta figures cover movements through the airports, while the CSO figures are concerned with the numbers of persons. This means that a person going on a return trip on the transatlantic counts for two in the Aer Rianta table but for only one in the CSO Tables in Annexes 4 and 5.

Annexes 4 and 5 suggest a very important factor. Annex 4 shows the numbers of visitors to Ireland with their residence in the US or Canada. These visitors must have travelled on a transatlantic route. Annex 5 shows that the transatlantic traffic is only about half as large. The difference arises from the fact that some visitors cross the Atlantic to London or to other transatlantic gateways in the EU and then take connecting flights to Ireland. Transatlantic traffic into and out of Ireland could double if it were possible to persuade these passengers to go straight to and from Ireland instead of travelling via other gateways. This issue is further developed in chapter 6.1.

4.5 Airport Capacity

It is not the task of this report to make an airport capacity study. We have, however, discussed the situation with Aer Rianta (the state airports authority).

Most of the Irish airports have adequate or more than adequate capacity to handle the kinds of traffic for which they currently cater. In general, they are not equipped to deal with larger-capacity, heavier aircraft, nor are they equipped for truly “all-weather” operations. An overview of runway length and instrument landing capabilities is set out in Table 16.

1. Dublin

A fairly recent report[13] stated:

> “The decision to designate Dublin airport as co-coordinated and to appoint ACL as the schedule co-coordinator is fully justified. The success of this operation will secured through the following actions:
>
> Airlines behave responsibly in assisting ACL to spread the air transport movement (ATM) peaks;
>
> The Irish Aviation Authority is prepared to adopt procedures which increase hourly runway capacity (in particular adopting a 3 mile aircraft separation)[1]; Work on the terminal is completed and the refurbishment of the old check-in area does not adversely affect the running of the terminal.
>
> We believe that these conditions can be met and that if they are, 3-4 years growth may be possible before there is insufficient slack in the system to allow self-management. This assumes that traffic grows by the ‘baseline’ Aer Rianta projection. If growth continues at the rates experienced in the recent past, capacity could be reached as early as 2002.
>
> Beyond this there will be a need for firmer and more prescriptive control. However, in the intervening period, if the airlines cannot demonstrate the ability to comply fully with ACL under ‘co-ordination’ then ‘full co-ordination’ will be necessary. It is recommended that there is a review of the success of self management by, at the latest, June 2001 (and each subsequent June), in order to manage a transition to full co-ordination before the November scheduling conference, if it is deemed necessary.
>
> The regulation provides for a rapid transition to full co-ordination as the Member State can designate an airport as fully coordinated if a thorough capacity analysis”…does not indicate possibilities of resolving the serious problems in the short term…”. Furthermore, the Regulation provides for full co-ordination to be applied at certain periods or even to be lifted, thereby offering two alternative options.
>
> As a note of caution, we must point out that at any airport, even with full coordination, there may still be serious congestion and poor quality of service at peak times because of unexpected problems and surges in demand. At airports like Dublin, which are operating near their absolute maximum capacity, this is highly likely.”

13 S.H.& E. on Assessment of Capacity of Dublin Airport, 2001.

The report further states that:

> "The rapid growth at Dublin in recent years has placed significant strains on its facilities. However, the capacity provided by the full extension of Pier C and the recent opening of the 6 bay extension should have greatly eased pressure in the terminal area. With the exception of North American traffic, there is potentially considerable operational flexibility in the areas to be used for the processing of the bulk of passengers."

> These conclusions, combined with the impression that financing of the construction of new capacity at the airport is far from assured, give rise to further remarks in the chapter below on the impact of an EU/US Air Transport Agreement on Ireland.

Another report[14] indicates fewer problems but the problems identified are related to long haul traffic:

> "We understand that the Runway Enhancement Group at Dublin Airport is actively seeking methods to increase runway capacity. Some minor operational benefits will become available through the use of the cross-runway 16/34 and as a result of the re-opening of the shorter Runway 11/29. As a result of these and other minor improvements, Aer Rianta are targeting an increase of one additional aircraft movement per hour in 2005, and this process is expected to continue in future years. Whilst this could potentially increase passenger throughput, it should be noted that existing terminal capacity scheduling constraints may still apply."

and:

> "In terms of stand availability, there is no shortage of contact stands with the vast majority of aircraft operations having access to these stands and with a comparatively low level of remote stand use except during summer weekends. The only major constraint is the shortage of contact stands for overnight parking and for some long-haul operations with increased turnaround times. The usage of contact stands is higher at Dublin than almost all other European airports so we feel that carriers should accept that, on certain occasions and time periods, it may be necessary to use a remote stand."

However, it is acknowledged in the report that the conclusions do not take account of the effects of an OAA:

> "Our first caveat is the possible effect of an increase in transatlantic flights from Dublin following the potential relaxation of the Shannon stopover under the US-Eire bilateral. Dependent on the timings of any possible new flights, we believe that there could be significant constraints on particular airport facilities, particularly at weekends in the summer season. However, we feel that these can mostly be overcome, e.g. through the use of remote rather than contact stands, through changes in the check-in islands used for transatlantic flights and possibly by diverting passengers to US-based Immigration facilities rather than using the Dublin-based INS facility."

This last conclusion, however, is based on short term predictions and a simple assumption that an OAA will provide more demand but not how much. We therefore believe that the conclusions of the S.H. &E. report are still valid and that the concerns on financing are relevant.

2. Shannon

Shannon Airport has more than adequate physical capacity to deal with current traffic levels. It is capable of handling some increase in traffic without the need for expansion of facilities.

14 Alan Stratford & Associates, Dublin Airport Capacity Study, June 2004.

3. Cork

Cork Airport currently has the capacity to operate B757 and B747-400 on transatlantic services having regard to runway length, runway lighting, landing aids, terminal capacity (with some co-ordination efforts) and aircraft handling. Terminal capacity will be significantly enhanced once the current capital investment programme is completed[15].

15 *Information taken from the Aer Rianta Cork website*

Chapter 5 – Hearings

In order to ensure a broad range of inputs to the study, hearings of interested parties were arranged and an invitation was issued to make submissions. A list of those who took up this invitation is set out in Annex 13.

The interventions were generally in favour of an OAA. However, concerns were expressed by some who feared that an OAA would fatally damage transatlantic traffic through Shannon.

On the other hand, the concern was expressed that the maintenance of the Shannon gateway restrictions would reduce the benefits of an OAA for Ireland.

Concerns:

On the negative side, one of the recurring themes was that only one transatlantic gateway – Dublin – is sustainable. This, it was claimed, is clearly demonstrated by looking at the experience of other states in Europe, as set out below. The figures show the concentration of transatlantic traffic in the states shown and were provided by Signal and Shannon Development:

- Austria – 100% VIE
- Belgium – 100% BRU
- Denmark – 100% CPH
- Finland – 100% HEL
- France – 98% PAR
- Germany – 96% FRA
- Italy – 90% ROM
- Luxembourg – 100% LUX
- Netherlands – 100% AMS
- Norway – 100% OSL
- Portugal – 100% LIS
- Sweden – 100% STO

These figures are not quite complete since they fail to take account of the fact that Scandinavia is one area of operation for SAS, the UK is omitted and the figure for Rome is incorrect since Milan is, if anything, bigger than Rome. However, they are nevertheless of such a nature that this claim will be discussed in chapter 6.4.2.

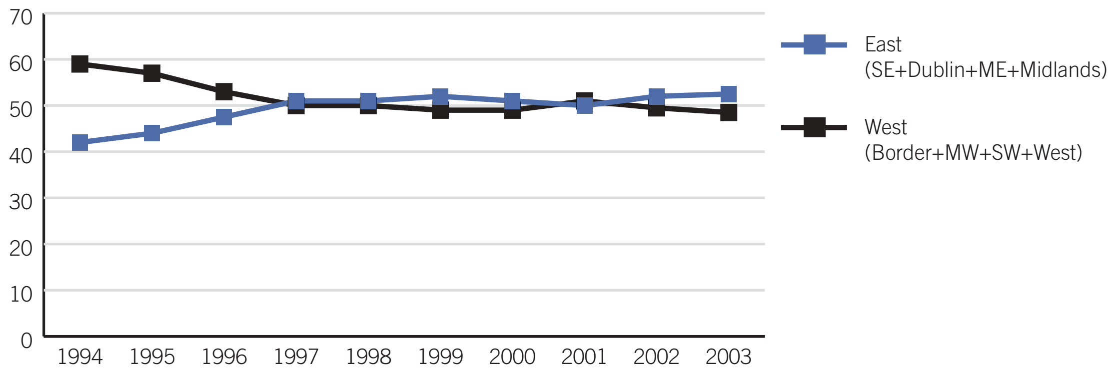
These concerns are based on the assertion that Shannon airport is of critical importance for business development in the West of Ireland. This issue also is taken up in chapter 6.4.2.

On the basis of these assertions, the organisations concerned argue for the maintenance of the Shannon restrictions or, failing that, for a long transitional period. One added difficulty in their opinion is the fact that traffic to Shannon is very seasonal so that it would be difficult to maintain year-round service without the operational restrictions.

To support these views, a considerable body of information was presented about the location of industry in Ireland and, in particular, about inward investment by American interests. It was remarked that there has been a 50/50 split between the West and the East[16] as measured by the employment created although the East has started to pull slightly ahead as indicated by the following figure[17]. Annexes 19 and 20 give a more complete outline of the geographical spread of US companies in Ireland.

16 *Roughly East and West of a line drawn between Derry and Waterford.*
17 *Assigning regional data to the East and the West is not exact but a balance has been struck by assigning Borders to the West and Midlands to the East.*

Figure 7: Percentage Share of Employment in US Companies in Ireland by East/West Region; 1994-2003



Source: IDA

The opposing concern presented is that the maintenance of the Shannon operational restrictions, even for a transitional period, would reduce the overall benefits for Ireland. This might also create difficulties for Aer Lingus, which would not be able to achieve the economic rationalisation necessary to compete effectively against additional US air carriers.

In this context, it should be mentioned that we obtained, on the whole, a reassuring impression of the competitiveness of Aer Lingus through the contacts we had with the company and through the published economic results.

As to the capacity situation at Shannon and Dublin, we obtained confirmation of the concerns expressed about Dublin in the SH&E report and the difficult financing situation. No capacity problems were mentioned for any other Irish airport.

Chapter 6 – Effects in Ireland of an Agreement

6.1 General Economy

We conclude that the Irish economy will secure benefits of the kinds identified in the Brattle report. (In fact, the report devoted some attention to Ireland specifically because Ireland is a non-open skies country).

This conclusion was supported by views adduced during the hearings which were undertaken in the context of this study.

It is possible that the Brattle analysis may understate the potential benefits to Ireland since none of the comparator open skies countries lies in the centre of the transatlantic market, as does Ireland. This conclusion is underpinned by the conclusion below that the effects for the air transport sector are significantly underestimated.

On the other hand, it should be noted that the Brattle report could not take the economic weakening in 2000-2002 into account nor could it predict the strengthening of the euro.

In view of these conflicting factors, it would be unwise to expect a significantly higher growth than that predicted by the Brattle report.

In this context it is also important to note that inflation in Ireland has been higher than in many competitor areas, so no explosive growth should be expected.

This is supported in a recent report, Ahead of the Curve[18], which states:

1) The exponential change in the scale of globalisation; India and China, for example, have a combined population in excess of two billion people. These countries offer low costs, an ample supply of skilled labour and are now part of the global competition for markets and mobile investment

2) The Irish cost base has increased substantially

3) Ireland's low rate of corporation tax is being emulated by competitors

4) Despite many excellent individual company performances, few of our indigenous industry sectors have achieved strong growth in exports over the past 10 years

5) Imminent changes in EU state aid limits will place new restrictions on state aid for enterprise after 2006.

The Group continues by stating that it is necessary to develop a new enterprise strategy based on services and knowledge as a driver of economic development and the group goes on to say:

> "In the context of our current success, calls for a new and different enterprise strategy may appear alarmist. However, the current model of enterprise development in this small, open economy must adapt to face these challenges. There are significant areas of opportunity for Ireland to exploit its natural advantages and to develop new areas of competence in pursuit of sustainable enterprises. To position Ireland to exploit these and to grow robustly in the decade to come, there is an immediate requirement to redefine the strategy for enterprise policy and development in Ireland."

The Group does not develop any indications of where geographically this development will or should come. Neither does it go into any discussion on infrastructure needs except to refer to the National Spatial Strategy (NSS) and underline the importance of infrastructure.

18 *Enterprise Strategy Group, July 2004.*

Behind this last conclusion of the Group lies an important issue for air transport. It is possible to invest in infrastructure (airports) ahead of demand, particularly if the infrastructure is publicly owned. However, air services will come only if profitability is perceived as likely, unless some sort of public economic support can be provided. In the context of an OAA, the only support possibility would be a PSO. Investment should be prioritised in the National Spatial Strategy (NSS) designated gateways and hubs to enable them to achieve their regional potential.

It is also important to underline that

1) Economic development will induce growth in air transport as seen earlier,

2) If air transport is not available at a reasonable level of quality then development of certain types of industry, service and tourism would be severely handicapped and

3) Air service availability will open the door for development but will not by itself generate economic development. However, it should be noted that investments in aviation infrastructure, i.e. airports, will create new employment in the surrounding regions, with a multiplier effect of about two to three. This then may attract some air services. In fact, a kind of symbiotic relationship exists between air transport and other economic sectors. These facts explain why it is clear that the OAA will create new development but that the extent of this development is uncertain and depends on other activities.

An OAA would add substantially to the growth capacity of the Irish economy.

The Group focuses on industry development and does not tackle (in the main body of the report) the biggest export in air transport terms – tourism. The importance of tourism is illustrated by Table 15.

Visitors from North America account for about 15% of overseas visitors but they account for nearly 20% of the Irish revenue from overseas visitors. From a tourism point of view, it is therefore good business to attract more North American visitors. An OAA will facilitate this because it will become easier to adapt operations to changes and new developments in demand.

Table 15: Visitors from North America – Purpose of Visit

Main purpose of visit	*1998*	*1999*	*2000*	*2001*	*2002*
Holiday	59	58	62	63	64
Visit Friends/Relatives	17	20	17	16	16
Business/Conference	14	12	12	13	13
Study/Personal/Other	10	10	9	8	7

Source: Fáilte Ireland

While Ireland as a whole will benefit, the regional distribution of the benefits is likely to be differentiated. This subject will be taken up later in this chapter in an examination of the induced developments to the air transport sector, business and tourism in the regions by an EU/US agreement. It must be recalled that this report deals only with transatlantic air traffic and its effects.

6.2 Air Transport Sector

1. POTENTIAL MARKET

For Ireland, a very large potential market exists by virtue of the fact that many transatlantic passengers visiting Ireland use other transatlantic gateways in Europe, London being particularly important. As stated earlier, the total transatlantic market is almost twice as large as the direct Ireland-US market. An open market with the US will therefore have a potential added effect, going beyond what might at first be expected.

This added effect could result from the fact that air passengers generally prefer to make a non-stop air trip rather than being obliged to take a connecting air service and they prefer not to have to "backtrack".

It would not be realistic to assume that all the transatlantic traffic now "backtracking" via London and other EU gateways could be recuperated. It is also clear that the major US gateways are covered (see Annex 8). However, with new services between Ireland and two to four additional important US gateways and improvement of existing services to daily service, we would expect that 30% to 40% of the indirect traffic could go direct to Ireland. Aer Lingus has publicly stated that it expects its transatlantic traffic to double when traffic rights to and from the US are liberalised. We believe that this can be achieved only if Aer Lingus is able to overcome the factors which currently give rise to backtracking.

Annex 17 show very clearly that backtracking affects Dublin much more than other Irish destinations

Recuperating backtracking traffic would not directly create new economic growth since these visitors are coming to Ireland anyway. However, such a development would strengthen Irish air transport and, through the multiplier effect, the rest of the Irish economy also. It is also important to note that this would strengthen the Irish air transport sector without creating significant airport capacity problems, except to the extent that some short haul traffic would be converted to long haul traffic with longer turn around times: as indicated above, this would cause some difficulties at Dublin airport[19].

2. INDIRECT AIR CARRIER

This effect could be strengthened further by the US offer to accept European air carriers as indirect air carriers in the US. This would permit a dedicated travel promotion campaign in the US. Ireland (Aer Lingus) has a good name in the US and by acting as an indirect air carrier it could offer end to end trips even in cases where an Irish air carrier could not operate directly.

This should not be exaggerated. Cabotage has not been used much in Europe. However, both UPS and FedEx have used this opportunity in Europe in the area of air freight. Cargolux has stated an interest in cabotage rights in the US, so perhaps the possibility of exploiting the Indirect Air Carrier concept could be of interest to that company and to other similar air carriers. It is therefore curious (and contradictory) that the Association of European Airlines has stated that none of their members, which include Aer Lingus and Cargolux, would be interested in this opportunity. If this concept is included in an OAA, no substantial economic effect should be expected, but it would give Irish and other European air carriers the same opportunities as US air carriers are currently exploiting in Europe.

3. HUBBING

Aer Lingus has developed into a competitive air carrier but is today unable to compete in the most efficient manner for transatlantic traffic due to the limited number of gateways in the US and the Shannon restriction. The code sharing arrangement with American Airlines has probably helped considerably but the open market access represented by an OAA would be even more helpful in cases where commercial traffic could justify other non-stop services. The alliance with American Airlines serves another purpose, namely to discourage other US air carriers, as can be seen from experience in a number of open skies countries. The OAA combined with the One World alliance would allow Aer Lingus to offer a much more competitive mix of non-stop and one-stop transatlantic services to virtually all US destinations[20].

London would naturally fight back and the planned provision of new runway capacity in the London area will eventually be a factor in the competitive situation. UK airlines, however, can at best offer only one-stop services to the US in the Irish market: in many cases they can offer only two-stop services. Furthermore, British Airways might probably not react in an aggressive manner since they are in alliance with Aer Lingus[21]. With the security concerns and more cumbersome screening procedures, transfer services via London are not as attractive or competitive as in the past.

19 See pages 34 and 35.
20 These benefits are likely to be reduced if Aer Lingus withdraws from the One World Alliance.
21 If Aer Lingus should leave OneWorld as recent rumours indicate this would invalidate this conclusion.

No other air carrier in Ireland would seem to be in a position to enter the transatlantic market but the low- (or lower-) cost market might turn out to be tempting. Ireland continues to experience strong GDP growth and strong growth in a variety of business sectors. This could encourage the emergence of low- cost dedicated business air services such as those which Lufthansa has started from Düsseldorf. The Air France investment in CityJet could perhaps result in the establishment of such services.

Ryanair is not set up to operate in the transatlantic market. It is not, however, inconceivable that it might develop connecting services with a new US air carrier. EasyJet might perhaps establish an Irish hub and cooperate with a US air carrier such as JetBlue.

4. DOMESTIC MARKET

We do not believe that the Irish domestic market will attract new foreign competition, since the yield situation is not strong, a fact underlined by the existence of EASP air services. It is unlikely that a US air carrier would bid for Irish domestic services, even if it could. So far, no other European air carrier is involved except Air France indirectly. It is simply too expensive to devote aircraft and crew to such a service abroad.

5. AIR FREIGHT

We believe that there is a definite opportunity for further developing transatlantic freight services based on Shannon, Dublin and possibly Cork. As already mentioned, environmental concerns are making life very difficult for other airports. The significance of these concerns has led to efforts at Prestwick and at several regional airports in France to develop this market. In our opinion, Ireland is in a much better position to serve the transatlantic market and to link up to the rest of Europe, possibly with the involvement of outside entrepreneurs.

However, while European airports in general can count on significant road feed, this is rather limited in Ireland.

6. VENTURE CAPITAL

It is not known whether Irish venture capital would see an interest in investing in the US air transport sector if the ownership and control rules were relaxed. The opposite is much more likely. UPS and FedEx have already invested heavily in Europe and a viable air freight potential in Shannon should be able to attract foreign capital. The Low Cost sector, which is exhibiting very substantial profit margins, should also be able to attract foreign venture capital.

7. LEASING

If the wet leasing market in the US were to open up, it is clear that Ireland would be in a strong position to benefit with its leasing interests. At any rate it is a win/win situation since US leasing interests today can pursue their interests in Europe while US is a closed market for wet leasing.

7. FAIR COMPETITION

The data quoted in this report shows that the Irish transatlantic market, though small in comparison with other European markets, is relatively strong. Aer Lingus is competitive but vulnerable to predatory competitive practices by large competitors. An alliance gives a substantial degree of protection[22]. Irish air carriers would have a significant interest in ensuring that competition and antitrust rules are applied efficiently and speedily. The Irish government should pay specific attention to this issue in the OAA. It should ensure that the Competition Authority has the capacity to intervene as provided for in Regulation (EU) 1/2003. It should also push for the inclusion of measures in the other areas of importance for fair competition which are not yet included.

22 A OAA would permit the strengthening of the One World Alliance.

8. INSTITUTIONAL FRAMEWORK

The same concern would exist in relation to institutional matters. If a problem were to arise in the market, it might very quickly have detrimental effects in a small submarket. Ireland therefore has an interest in ensuring that problems can be dealt with efficiently and quickly, and that enforcement measures are adequate.

9. ESTABLISHMENT

This will not be an element in a first phase of an OAA.

Our consultations have not revealed any interest on the part of EU operators in establishing in the US, except perhaps in the air freight sector.

This is, nevertheless, an issue which should concern the Irish aviation sector. Liberalisation in this area will open the door to large scale consolidation involving not only European air carriers but US carriers also. In the framework of such consolidation, the number of transatlantic hubs might be reduced if the consolidated air carriers were to try to streamline their networks in order to reduce costs. Airports which are dependant on only one long haul airline could be vulnerable if faced with such a development.

Consolidation of this kind will not take place very quickly. While the US is a very important market, other third countries still have traditional bilateral agreements with EU Member States. Resistance from one or more of these states could lead to serious traffic losses and therefore put a consolidation effort on hold. The International Civil Aviation Organisation (ICAO) conference in March 2003 created an atmosphere in which states were urged to accommodate liberalisation in other states even where they themselves did not take this route. This is, however, no guarantee against difficulties and a solution may have to wait until the EU, on the basis of the second mandate as mentioned above, has been able to establish agreements with the relevant states.

Such a delay in respect of the introduction of Right of Establishment would give airports and other aviation interests time to take preventative measures against the negative effects of future consolidation among air carriers.

10. CABOTAGE

It is unlikely that US air carriers will try to penetrate the Irish domestic market.

It is unlikely also that Irish air carriers would want to establish cabotage services in the US, except in the area of air freight. Any measures that have the result of creating a more open market for air freight would be potentially beneficial to Shannon. There would not seem to be any downside.

11. DOMESTIC LEASING

The EU market is already open. It would be to Ireland’s advantage to get similar market opportunities in the US.

12. STATE AID

On the assumption that Ireland grants no further state aid, any strengthening of the text in the agreement would help further to ensure fair competition.

13. SLOT ALLOCATION

The present situation in which the US guarantees slots to foreign air carriers should be maintained as long as possible. It is acceptable that slot allocation is not included in the first phase of an OAA. If it should be included in a second phase, then it should only be in a way that would give the US air carriers national treatment and not in such a way that a certain number of slots would be reserved for the US air carriers.

6.3 Spatial Distribution

1. OVERALL

The benefits described previously will cover the whole of Ireland but it is likely that the effects will be more pronounced in the East of Ireland as indicated.

The extent of this development will depend on whether Shannon and Cork airports can compete with Dublin.

In the context of the hearings conducted during the course of this study, it was represented to us that consideration should be given to the potential of Cork, Kerry and Knock airports to participate in the market for transatlantic services. On the basis of information to hand, we believe that each of these airports would have to make substantial investments in some or all of the following areas before they could become viable players:

- runway capacity (length, width and load-bearing capacity),
- runway lighting,
- landing aids,
- terminal capacity (docking facilities, passenger handling capacity),
- aircraft handling and servicing capacity.

In the absence of such investment, these airports are either incapable of handling any segment of the current transatlantic market, or would be limited to a very small number of niche sectors. The capital investment programme currently nearing completion at Cork Airport addresses some of these issues.

In order to address this issue it is necessary to look at airport characteristics in respect of runway length and facilities for instrument landings. Transatlantic air services need relatively long runways and instrument landing facilities (ILS) are important.

The following table shows the present situation:

Table 16: Airport Characteristics

Airport	*Runway (metres)*	*ILS cat. (ICAO cat.)*
Cork	2133 x 45	II – (2)
Donegal	1496 x 30	**NIL**
Dublin	2637 x 45	IIIA – (3)
Galway	**1201** x 30	**NIL**
Kerry	2000 x 45	**I**
Knock	2300 x **45**	I – (3)
Shannon	3199 x 45	II – (2)
Sligo	**1199** x 30	**NIL**
Waterford	1433 x **30**	I – (2)

Source: DOT

It is clear that only Cork, Dublin, Kerry, Knock and Shannon have runways which are, or are close to being, able to support transatlantic services. Instrument landing possibilities should be at ILS cat. II levels: this leaves Cork, Dublin and Shannon. We have been told that Kerry might consider improving its facilities to ILS cat. II level: we are not in a position to form a judgement on the likelihood or possible timing of such an improvement.

While any comment on future industrial and service development in the catchment areas of Cork, Kerry and Shannon is speculative, we believe the certain strategic factors can be identified.

First, both Shannon and Cork have, and will continue to have, much wider catchment areas than Kerry. In the absence of some extraordinary growth stimulus in Co. Kerry[23], air service demand arising from economic development in the Mid-West and South-West (and arguably in the southern parts of the Midlands) would naturally tend to gravitate toward Shannon or Cork, assuming the capacity in either or both of those airports to provide the services.

Second, there is clearly considerable potential for economic growth in the catchment areas of Shannon and Cork. It can be expected that increasing congestion in the greater Dublin area, affecting overland transport in particular, will favour development in the catchment areas of these two airports and might result in some diversion of traffic originating in these catchment areas away from Dublin as the airport of choice.

As indicated above, demand for transatlantic air transport services to the West, Mid-West and South-West regions depends very heavily on tourism i.e. visitors from North America. Annex 17 shows that the most important tourism market for North America is the South West. The corresponding demand in the catchment areas of Cork and Shannon is nearly equivalent.

The catchment areas of Cork and Shannon substantially overlap one another in counties Cork, Kerry, Limerick, Tipperary and Offaly. In addition the Shannon catchment area extends to a large part of the West. The Cork catchment area extends also to County Waterford and part of County Wexford (for further details, see Annexes 15 and 17).

Each is overlapped by the Dublin catchment area which is reinforced by the EASP service from Galway to Dublin. On the other hand, road traffic congestion in the greater Dublin area has the potential to reduce the effective extent of the Dublin overlap.

With tourism as the major generator of demand for transatlantic air services among people travelling to the South-West, Cork and Shannon would have to retain a substantial proportion of existing and new North American tourist travel in competition effectively with Dublin as inward destinations. In this connection, non-scheduled seasonal services could be an important component of business for each of these airports, although it has to be recognised that there are particular problems associated with the provision of such services, as experience in Shannon amply demonstrates.

Both the Cork and Shannon catchment areas feature industries which are important generators of business travel (e.g multinational firms in the IT, chemicals and other sectors). To compete effectively with Dublin, these airports would have to offer a range of services of interest to business travellers similar to or broader than the range available through Dublin.

In the short to medium term, it is clear that services through Cork or Shannon would consist of routes that would be “thinner” than those currently being operated through Dublin or Dublin/Shannon. It would be important in order to achieve viable volumes that scheduled operators would have access to other destination points in the US through the US access point from Cork or Shannon.

For each of these airports (and indeed for Dublin) any development of the LCC formula in transatlantic air services could open up new opportunities, as could the development of dedicated business services.

The fact that Shannon is already an “incumbent” in the provision of transatlantic air services will clearly give it at least an initial advantage in any competition with Cork.

23 The official population forecasts show a lower than average growth rate.

2. Shannon

Concerns have been raised as to whether Shannon can survive as a transatlantic gateway when the current restrictions disappear.

There are four areas which need to be considered.

- Passenger traffic
- Cargo traffic
- Leasing
- Servicing

It is unlikely that Shannon will see difficulties in the air cargo area. Shannon has no specific environmental constraints and plenty of capacity (see more below). Shannon is also better placed to offer maintenance and service checks because of the good environmental situation and available capacity. The only area where Shannon may have difficulties is in respect of passenger traffic.

a. Passenger traffic

Aer Lingus is likely to want to strengthen its hub in Dublin if the Shannon restrictions are eliminated. It is always possible for the Government, acting as owner of the airline, to order it to serve Shannon but this would not be in the commercial interest of the air carrier. Under EU state aid rules, the Government could not order it to do so and then pay compensation, since this would normally be regarded as state aid. On the other hand, it might be possible to introduce a PSO from Shannon to certain points in the US, but this could not be confined to Aer Lingus. Experience with PSOs domestically in Ireland indicates that a traditional PSO could turn out to be very costly, but an incentive per ticket, as applied between the Canary Islands and mainland Spain, could also be considered.

Shannon is vulnerable because of its heavy dependence on an airline which does not have its main base there, although Aer Lingus currently has an important operation in Shannon.

Other airlines, such as United Airlines, are likely to enter the US-Ireland market if and when the Shannon restrictions are eliminated but will wish to serve Dublin. Delta too will probably leave Shannon to concentrate its services on Dublin. If this takes place it is essential for Aer Lingus to be as competitive as possible, so that any restrictions on services out of Dublin could be counter-productive for the airline.

The probable result is that Shannon airport will experience a drop in transatlantic passenger traffic. It has been indicated to us by Aer Rianta that they expect a sharp drop of traffic at Shannon, maybe 40-50%, when the OAA is introduced and the current restrictions disappear. On the other hand, on the occasion of a previous relaxation of the Shannon restrictions, transatlantic traffic through Shannon continued to increase, but at a lower rate than traffic through Dublin. Recent announcements of American Airlines' intention to open new services to Shannon and Dublin may bear this out.

The claim made to us during the hearings that an OAA would result in only one transatlantic gateway in Ireland does not take account of Ireland's strategic location (mentioned above), nor does it take account of Shannon's strong local market or environmental advantages. Italy has two transatlantic gateways because it would be illogical to fly from Milan to Rome to take a flight to the US. The market from Rome, on the other hand, is too strong to be satisfied by services via Milan to the US. In the UK, Manchester has been able to establish direct air services to the US. It can also be argued that the population in other regions in Europe without direct air services to North America is much higher than that in the region around Shannon. However, for a region like Shannon, population is nearly irrelevant since the main demand exists on the basis of the level of tourism. Additionally, a significant amount of industry based on North American investment has been placed in the West of Ireland because air services exist to the US.

The question of the future for continued transatlantic air service to Shannon therefore merits further consideration. In this context, it is necessary to look at the problem of seasonality, which may work against the possibility of ensuring year round transatlantic scheduled air services for Shannon.

Shannon-originating traffic is substantial. As noted above, passengers generally prefer to avoid the kind of "backtracking" involved in making a transatlantic connection in Dublin. Passengers also much prefer a non-stop flight. For these reasons, it is unlikely that Shannon will be left without flights to the US[24].

On the other hand the situation is somewhat fluid since overseas visitors tend to visit several regions on one trip which means that they have a choice between going to Shannon or Dublin. This is illustrated by the following table:

Table 17: Regions Visited (%)

	1998	*1999*	*2000*	*2001*	*2002*
Dublin	68	63	68	72	71
Midlands/East	15	15	14	15	14
South East	34	30	30	30	31
South West	57	63	61	53	54
Shannon	51	50	47	45	48
West	45	51	40	43	40
North West	21	17	14	11	12

Source: Fáilte Ireland

Table 13 and Annex 9 demonstrate that a direct demand of about 600,000 passengers per annum plus transit exists at Shannon. It is clear that the transit traffic would disappear but the basic demand would still exist. It is the continuation and possible development of this basic demand that is important for the continued development of the region being served by Shannon. A transatlantic service would need about 90,000 to 120,000 passengers in order to achieve a reasonable load factor. Continental had 97,000 passengers in 2002 (of which 16,000 were transit passengers), while Delta had 101,000 passengers in total (of which 44,000 were transit passengers). It is easy to see why Continental might be interested in maintaining services to Shannon since they can count on picking up more passengers if Aer Lingus were to concentrate on Dublin. The situation for USAir is not known.

It is our understanding that Aer Lingus has committed itself to stay in Shannon, offering some services to the US, for five years. This, combined with the maintenance of the Shannon restrictions for a transitional period of two to three years, seems to us to be the most realistic scenario for the airport. The US will not accept a longer transitional period for an Open Skies agreement. In this scenario, it is essential that any measures intended to strengthen the situation at Shannon be put in hand as soon as possible.

Annexes 4 to 6 and 18 show clearly that transatlantic traffic for Ireland is a very seasonal business. The following table shows that this is echoed for the regions. This is not unusual for air transport but normally the traffic peaks would to a large extent be catered for by non-scheduled flights.

24 In this context it should be kept in mind that the Shannon market is sufficiently important to support a number of routes to Continental Europe.

Table 18: Seasonality of Visitors from North America by Region, 2003 (%)							
Month of Arrival	*Dublin*	*Midlands East*	*South East*	*South West*	*Shannon*	*West*	*North West*
January – March	17	17	10	13	13	17	12
April	7	8	7	7	7	6	4
May	10	12	11	13	12	10	6
June	13	10	12	14	12	14	15
July	15	8	16	16	16	14	14
August	11	12	15	12	12	13	18
September	11	13	15	11	11	12	15
October – December	16	19	13	14	17	14	15

Source: Fáilte Ireland

This is not the case in Ireland as seen from Annex 10 and definitely not for Shannon where charter accounts for only 2%. At the same time package tours account for 30-40% of holidaymakers and it is also clear that white collar[25] workers account for about 90% of tourists. This is probably a reflection on the fact that Ireland does not try to attract mass tourism.

The seasonality in demand is accommodated by more scheduled flights during the high season. This is unwelcome for Shannon where the concern is that year round air service may not be possible to sustain without the current restrictions.

An additional concern is the low level of business traffic which is especially important for scheduled air transport. For Shannon, it is even lower (5%) than for Dublin (10%), as set out in Annex 17.

This is somewhat surprising since the employment of US owned companies is split nearly 50/50 between East and West, as set out in Figure 7 and Annex 19 and 20. However, a closer look at Annexes 19 and 20 makes it clear that, while the preponderance of activity in the Chemicals, Electrical & Optical equipment sectors and manufacturing sectors, which create significant demand for foreign travel, is outside the greater Dublin region, it is Dublin which is overwhelmingly dominant in the international services sector. This explains to a very large extent why business travel demand is higher in the East. This factor is further compounded by the EASP services and the general attractiveness of Dublin airport. On the other hand, some industry has probably been attracted to the West by a combination of financial incentives and the presence of Shannon, which again explains the strength of air freight at Shannon. It would therefore be wrong to conclude, on the basis of business travel demand, that the elimination of scheduled air services at Shannon would have minimal effect on location of US owned enterprises.

These characteristics – a high level of tourism demand and low level of business traffic – would indicate a situation of interest for low cost operations. The possibility of LCC air services should therefore not be discarded on transatlantic air services to and from Shannon, although LCCs have not so far been successful on the North Atlantic and Charter traffic has declined.

The basis for a year round service can be calculated to be about 60% to 70% of the total traffic i.e. about 400,000 minus leakage to Dublin plus backtracking. This would leave traffic demand of 300,000 to 400,000 passengers as a basis for air service planning. This should justify air service to about three US gateways – e.g. Newark, Boston and Chicago.

25 Including managerial and professional classes

In the specific context of the future of transatlantic operations through Shannon, we offer the following specific reflections.

1) It is frequently contended that transatlantic passenger services through Shannon are important for the many US-based or owned firms in the Mid-West and Western regions of Ireland. There is, however, no evidence that travel by personnel attached to these firms either takes place principally through Shannon or forms a significant component of total passenger transport through Shannon. On the other hand, there is some evidence that such firms account for a significant proportion of freight traffic through the airport.

2) If Delta withdraws from Shannon and Aer Lingus reduces its activity there, an opportunity will be created for other carriers (e.g. American Airlines, Continental and USAir) to compete for passengers who would otherwise use discontinued Delta and Aer Lingus services. These replacement services might have to compete with inducements (such as FFPs) offered by the departing carriers, but the potential for profitable services would exist.

3) Continental is reportedly about to join the Skyteam alliance. If Delta discontinues Shannon services, Skyteam could usefully integrate Shannon into its network.

4) A withdrawal by Delta, a reduced level of activity by Aer Lingus and continued (and perhaps even increased) operation by Continental and USAir would still ensure four transatlantic services through Shannon, maintaining a useful base for development.

5) The development of off-peak tourism activities (which is beyond the scope of this study) would clearly be important for Ireland-US air services in general, and for services through Shannon in particular.

6) Apart from traditional all-service air carriers, it might also be possible to start up dedicated business services with smaller aircraft (such as Boeing BBJ or Airbus A319CJ), as Lufthansa is doing from Düsseldorf to the US. The possibilities from Shannon and perhaps Cork are technically better than from any other airport in Europe because of the shorter distance. JetBlue, for example, are already operating such distances already within the US but they or similar air carriers might need some convincing to become interested in Shannon.

7) Annex 7 shows that Copenhagen airport has a transatlantic traffic volume which corresponds to that of Shannon. It is able to sustain four transatlantic services. There is no reason to doubt that Shannon could do the same if Shannon or the region were to carry out a vigorous promotion effort.

8) Shannon has a weakness in that its services to Continental Europe do not normally accept interlining, being low-cost operations. It would be desirable that a mechanism allowing operational interlining be put in place.

9) Finally, Dublin might have difficulties accommodating strong transatlantic growth in advance of further investment in airport capacity (see SH&E study referred to on page 38). For as long as this is the case, it could be to Shannon's benefit.

b. Air cargo

Cargo business could produce further opportunities for Shannon, which is in the middle of the transatlantic market. More and more airports on mainland Europe are experiencing environmental problems with night-time traffic. Shannon has the capacity and the location to capitalise on these difficulties.

c. Essential Air Services Programme

As noted above, the EASP might have detrimental effects on Shannon's competitive capacity. It might be necessary to review the EASP in order to ensure that feeder traffic to Shannon is not eliminated.

The role of Shannon and Dublin as gateways for transatlantic traffic to Irish regions is illustrated by the data in Annex 14. We believe that the figures for Shannon are somewhat reduced by the EASP. It is, for example, probable that the Public Service Obligation funded services through Galway and Kerry funnels some traffic to Dublin which would otherwise use Shannon. This may be inferred from the DKM study referred on pages 31 and 32 above.

It should also be considered in view of article 4.2 of EU Regulation 2408/92 whether in fact compensation can be paid to a number of the PSO services where the capacity on the route is well above 30,000 seats annually. This formal argument and the effect on Shannon should be taken into account when the future of the EASP is decided.

In any case, the air connection between Shannon and Dublin should be improved so that it provides a good service throughout the day.

d. Better surface connections

Improvement of surface transport connections to Shannon would have the effect of enlarging the airport's hinterland for transatlantic traffic. To optimise this situation it is important that the infrastructure investments foreseen in the NSS for the West of Ireland should be implemented.

Furthermore, the successful development of air freight business at Shannon would, in any case, generate a need for good road connections both in the West of Ireland and across the island.

In a "worst case scenario" in which Ireland-US air links (and particularly Shannon-US links) were drastically reduced, it would be necessary to improve road links between West and East in order to facilitate the movement of inbound passengers out of the main arrival point in Dublin.

Chapter 7 – Summary of Conclusions

An EU/US agreement will be beneficial to Ireland.

Benefits will accrue to business interests in Ireland, including tourism, and to transatlantic passengers to and from Ireland.

In the air transport sector, Aer Lingus will be the principal beneficiary: Irish leasing interests will also get a boost.

Irish air carriers must prepare for increased competition.

The market opening will probably lead to stronger growth at Dublin airport: in certain circumstances, Shannon could experience some growth, albeit at a lower level than Dublin; in other circumstances, Shannon could experience some difficulties. The ongoing upgrades in terminal capacity at Cork airport will increase its likelihood for attracting transatlantic traffic.

Business opportunities for other airports, such as Knock and Kerry are more problematical and will depend to a significant extent (in the first place) on the development of the technical capacities of those airports.

It should be emphasised that the OAA by itself will provide only a limited boost to economic development and that it must be combined with other policies, infrastructure investments and incentives.

Air transport is an important, but not the only, factor in determining the location of economic activity. The existence of year-round transatlantic air services is important for Shannon, as are the number of non-stop and one-stop destinations served from there. Connections to Europe, either directly from Shannon or via an improved service to Dublin are also of considerable importance for Shannon and its hinterland.

In order to ensure balanced economic development throughout Ireland it might be necessary to review other Irish policies which have an impact on Shannon and on the West of Ireland in general.

The Essential Air Services Program (EASP) reinforces Dublin's dominance in terms of airport services particularly at the expense of Shannon and to a lesser extent Cork airport. In this context it should be considered whether a PSO could be introduced on routes between Shannon and/or Cork and certain US destinations. Such a PSO could, perhaps, be part of a transitional arrangement. Furthermore it should be considered whether PSO support to air services with more than 30.000 seats can or should be continued.

Shannon will be able to sustain links to the US, although it will become more dependent on US air carriers if Aer Lingus concentrates its services at Dublin. Shannon has a weakness in that its links to Continental Europe do not mesh well with transatlantic links. This situation could be remedied if operational interlining could be established.

Irish airports must position themselves, review the structure of their charges and diversify the services they offer. The potential for damage from consolidation should be countered. Possibilities of supporting the development of air freight should be studied and implemented.

The Irish administration must ensure proper wording in the agreement on competition and antitrust rules, institutional measures, state aid, slot allocation and air freight

The first phase will have significant positive impacts on the Irish economy and air transport sector. There is nothing in the outstanding issues which would have negative effects in Ireland.

Ireland should therefore support any effort to restart negotiations particularly since there would be major difficulties in negotiating a separate Irish agreement with the US.

Infrastructure links between the West and East of Ireland will have to be improved so that existing and new businesses in the Western parts of Ireland will not be tempted to abandon or discount a location in this area.

ANNEXES

ANNEX 1

Glossary

AOC:	Aircraft Operators Certificate which is issued by the competent authority of a state certifying that an airline's operations are technically safe.
ATC:	Air Traffic Control.
ATFM:	Air traffic flow management.
ATM:	Air Traffic Management. A wider term than ATC.
Available Seat-Kilometres (ASK):	The total number of seats available for the transportation of revenue passengers multiplied by the number of kilometres which those seats are flown.
Available Tonne-Kilometres (ATK):	The total number of metric tonnes available for the transportation of passengers, freight and mail multiplied by the number of kilometres which this capacity is flown.
Bilateral Agreements:	International air traffic is based on bilateral agreements concluded between two states. The agreements set out possibilities for airlines of the two states to operate, market and sell their services.
Breakeven Load Factor:	The load factor at which operating revenues will cover operating costs. Unit cost divided by yield.
CAA:	Common Aviation Area. An area composed of several states within which air transport operates according to the same rules.
Cabotage:	The right to carry paying traffic within a foreign country. This traffic right is very seldom granted.
CAEP:	ICAO Committee on Aviation Environment Protection.
CFM:	Central Flow Management carried out in Europe by Eurocontrol.
Chicago Convention:	International Convention from 1944 which sets the basic ground rules for international civil aviation.
CNS:	Communications, Navigation and Surveillance. Together with ATM this constitutes the elements of a total air traffic navigation system.
Code sharing:	Two or more air carriers using their flight designator codes on the same flight.
CRS:	Computerised Reservation System. EU common rules exist setting standards for their operation.
DBC:	Denied Boarding Compensation. EU common rules exist.
Distances:	Airport-to-Airport great circle distances are used.
Dry leasing:	Leasing of an aircraft without crew.

EASA:	European Air Safety Authority.
EASP:	Essential Air Services Program.
FFP:	Frequent Flyer Programme.
Franchising:	The use by an air carrier of another air carrier's flight designator code.
FTL:	Flight Time Limitation. The flight time allowed for Pilots and cabin crew. EU rules are in preparation.
Fully flexible fare:	An air fare without restrictions which is also fully refundable.
GATS:	General Agreement on Trade in Services. Only a few aspects of air transport are covered i.e. Computerised Reservation Systems, Doing Business and Foreign Repair Stations.
GDP:	Gross Domestic Product.
GPS:	Geostationary Positioning System. A satellite navigation system.
Grandfather-right:	A term from slot allocation which indicates that an air carrier has the right to be given the same slot as it was operating in the preceding season.
Ground-handling:	Services to ensure the proper flow of passengers, baggage and freight (i.e check-in, baggage and freight handling) and ancillary services such as catering, cleaning of aircraft, fuelling and ordinary maintenance of aircraft, towing of aircraft, etc.
Hard rights:	Traffic rights and directly related services.
Hub:	Traffic centre for an airline where the traffic is scheduled in waves so that connections are facilitated.
ICAO:	International Civil Aviation Organisation. A specialised Agency of the United Nations responsible for establishing SARPs (Standards and Recommended Practices) in the technical, (economical) and legal fields of international civil aviation. The EU has observer status.
ILS:	The Instrument Landing System is an approach aid employing two radio beams to provide pilots with vertical and horizontal guidance during the landing approach. The localiser provides azimuth guidance, while the glide-slope defines the correct vertical descent profile. Marker beacons and high intensity runway lights are also part of the ILS.
Indirect air carrier:	A company that sells air transport to the public and issues tickets in its own name and with its own designator code but uses another air carrier to operate the air services being sold. Also called virtual air carrier.
Interlining:	The possibility with the same ticket to use other air carriers.
Load factor:	See passenger load factor and overall load factor.
Market investor principle:	A term in connection with assessment of whether state aid exists which is not the case if a normal market investor would have acted in the same way.

Nationality clause:	A clause in typical bilateral agreements which allows the receiving country to refuse the designation of an air carrier which is not owned or controlled by the citizens of the designating country.
NGO:	Non Governmental Organisation
Non-scheduled services:	Are defined as 'Non-scheduled services': charter flights and special flights performed for remuneration on an irregular basis, including empty flights and blocked-off charters, other than those reported under scheduled services.
One time last time:	After the final liberalisation which took effect from 1 January 1993 it was accepted by the Commission that an air carrier in economic difficulties could be given state aid once more but after that no more.
Open Skies Agreements:	Agreements between the US and a large number of other states which liberalise market access (routes, capacity and prices) between the US and the other states but keep the US home market totally protected.
Operating License:	Together with the AOC the operating license certifies that an airline is both technically and economically fit. Without an operating license the airline is not allowed to operate any aircraft.
Operating Ratio:	The relationship between operating revenues and operating expenses. The latter may be inclusive or exclusive of net interest.
Overall Load Factor %:	The percentage of total capacity available for passengers, freight and mail which is actually sold and utilised. Computed by dividing total revenue tonne-kilometres actually flown by total available tonne-kilometres
Passenger Load Factor %:	The percentage of seating capacity which is actually sold and utilised. Computed by dividing revenue passenger-kilometres flown by available seat-kilometres flown on revenue passenger services.
Public Service Obligation (PSO):	In cases where air transport is vital for a region the state may specify certain levels of quality of service for any airline operating on a route and if necessary the state may pay compensation if no airline is willing to operate without.
Revenue Freight:	All freight counted on a point-to-point basis (in metric tonnes) covered by air waybills for which remuneration is received. Freight carried on trucking services is not included.
Revenue Passengers Carried:	A passenger for whose transportation an air carrier receives commercial remuneration.
Revenue Passenger-Kilometres (RPK):	One fare-paying passenger transported one kilometre. RPK's are computed by multiplying the number of revenue passengers by the kilometres they are flown.
Revenue Tonne-Kilometres (RTK):	One tonne of revenue traffic transported one kilometre. Revenue tonne-kilometres are computed by multiplying metric tonnes of revenue traffic (passenger, freight and mail) by the kilometres which this traffic is flown. Passenger tonne-kilometres are calculated using standard weights (including baggage) which may differ between airlines and between domestic/short/long-haul.

Scheduled Services: Flights scheduled and performed for remuneration according to a published timetable, or so regular or frequent as to constitute a recognisably systematic series, which are open to direct booking by members of the public.

Slot Allocation: Distribution of departure and arrival times for aircraft.

Soft rights: Rights which relate more to the conditions for operation such as marketing and selling etc.

TABD: Trans Atlantic Business Dialogue (Between US and EU businesses).

TEP: Transatlantic Economic Partnership (between US and EU).

Traffic distribution: The distribution by a state of traffic between two or more airports serving the same city.

Traffic rights: The right to carry passengers, freight and mail for remuneration. These rights are set out in a systematic way as follows:

- 1st freedom is the right to overfly a country
- 2nd freedom is the right to overfly a country and make a technical stop for fuelling or repair
- 3rd freedom is the right to carry passengers etc from the carrier's home state to another state.
- 4th freedom is the right to carry passengers etc from another state back to the home state.
- 5th freedom is the right to carry passengers etc between two foreign states on a service which is an extension of a service from the home state.
- 6th freedom is the right to carry passengers etc between two foreign states via a connection point in the home state i.e. a combination of 4th and 3rd freedom.
- 7th freedom is the right to carry passengers etc between two foreign points on a free-standing service.
- 8th freedom is the right to carry passengers etc on a service within a foreign country which is an extension of a service from the home state. This is a form of cabotage.
- 9th freedom is the right to carry passengers etc on a free-standing service within a foreign country. This is pure cabotage.

Unfair Contract Terms: The EU has set out principles for defining contract terms which are unfair in a Directive from 1993.

Unit Cost: The average operating cost incurred per available tonne-kilometre.

Use it or loose it rule: A term from slot allocation which indicates that is a slot is not used it will have to be given back to the slot pool for distribution to other air carriers.

Warsaw Convention: International Convention from 1929 which alone or in combination with later protocols sets out the rules for compensation in case of accidents.

Wet leasing: Leasing of an aircraft with crew.

Yield: The average amount of revenue received per revenue tonne-kilometre. Passenger yield: passenger revenue per RPK.

ANNEX 2

Overview of the Changes in the Total Air Passenger Transport Broken Down by Destinations

	Total transport			*National*			*International intra-EU*			*International extra-EU*		
	Thousand of passengers 2001	*year on year (%) change 2000/2001*	*Annual average (%) change 1997/2000*	*Thousand of passengers 2001*	*year on year (%) change 2000/2001*	*Annual average (%) change 1997/2000*	*Thousand of passengers 2001*	*year on year (%) change 2000/2001*	*Annual average (%) change 1997/2000*	*Thousand of passengers 2001*	*year on year (%) change 2000/2001*	*Annual average (%) change 1997/2000*
European Union	570115	-2.0	+ 6.7%	145854	-1.3	+ 4.5%	217 154	-1.8	+ 7.6%	207107	-2.7	+ 7.3%
Belgium	19789	- 8.4	+ 10.7%	3	- 61.9	+ 145.6%	13 824	- 8.2	+ 10.1%	5961	- 8.6	+ 12.1%
Denmark	19794	+ 3.4	+ 4.8%	1800	- 11.1	- 9.2%	11 787	+ 4.4	+ 7.5%	6207	+ 6.7	+ 6.5%
Germany	118161	- 2.1	+ 6.3%	20920	- 5.2	+ 5.6%	53 787	- 2.9	+ 7.0%	43454	+ 0.6	+ 5.8%
Greece	30982	+ 0.9	+ 9.6%	6111	+ 0.0	+ 11.6%	19 440	+ 1.7	+ 9.3%	5430	- 1.0	+ 8.5%
Spain	112944	+ 2.7	+ 8.0%	29688	+ 2.8	+ 4.7%	71 750	+ 3.3	+ 9.5%	11506	- 0.8	+ 7.6%
France	94388	- 2.1	+ 7.0%	28556	- 7.3	+ 5.0%	33 433	- 0.2	+ 7.6%	32400	+ 1.0	+ 8.4%
Ireland	17325	+ 3.8	+ 10.5%	674	+ 1.1	+ 14.2%	14 478	+ 4.3	+ 9.6%	2173	+ 1.5	+ 15.8%
Italy	65903	- 2.0	+ 8.0%	22487	- 2.0	+ 5.1%	29 946	+ 3.2	+ 10.0%	13470	- 12.0	+ 8.9%
Luxembourg	1619	- 2.2	+ 5.2%	0	+ 0.0	+ 0.0%	1 417	- 2.3	+ 7.9%	202	- 1.6	- 8.6%
Netherlands	39596	- 2.5	+ 8.5%	186	- 12.1	+ 2.1%	21 731	- 3.1	+ 9.2%	17680	- 1.7	+ 7.7%
Austria	14697	- 0.5	+ 6.6%	559	+ 2.5	+ 8.4%	8 479	- 1.2	+ 6.0%	5659	+ 0.3	+ 7.3%
Portugal	16258	+ 0.2	+ 10.1%	2937	+ 4.1	+ 14.6%	10 849	+ 5.7	+ 7.2%	2472	- 21.2	+ 17.6%
Finland	10764	+ 0.4	+ 4.4%	3058	- 2.0	+ 1.4%	5 646	+ 1.7	+ 7.5%	2060	+ 0.6	+ 1.3%
Sweden	24260	- 0.3	+ 7.5%	8086	+ 0.5	+ 5.7%	12 086	+ 0.2	+ 8.0%	4087	- 3.2	+ 9.9%
UK	163029	+ 0.5	+ 6.7%	20789	+ 6.6	+ 0.0%	87 894	+ 3.0	+ 8.8%	54346	- 5.4	+ 6.2%

Source: Eurostat

ANNEX 3

List of Licensed Air Carriers (Category A)

This list represents the only air carriers licensed by the Commission in accordance with Council Regulation (EEC) No 2407/92.

Operator	*Licence effective from...*	*Contact Name*	*Telephone No.*	*Facsimile No.*	*Types of Operation*	*Nature of Air Service(s)*
Comhfhorbairt Gaillimh Teoranta, T/A Aer Arann Express, The Atrium, Dublin Airport, Co. Dublin.	01/12/93	Mr. Fergal Barry Commercial Manager	+353 1 8145240	+353 1 8145250	Fixed Wing	Carriage of passengers, cargo and mail.
Aer Lingus Limited Dublin Airport, Co. Dublin.	15/11/99	Mr. William Walsh Chief Executive	+353 1 8862222	+353 1 8868683	Large Passenger Aircraft	Scheduled and non-scheduled commercial air transport- passengers, cargo and mail.
Air Contractors (Ireland) Ltd., The Plaza, New Street, Swords,Co. Dublin.	16/07/98 Chief Executive	Mr. Rudy Kellar	+353 1 8121900	+353 1 8121919	Fixed Wing (Freight only)	Carriage of cargo, mail (limited), passengers and aerial work.
CityJet Ltd., Swords Business Campus, Balheary Road, Swords, Co. Dublin.	10/08/01	Mr. Geoffrey O'Byrne White Chief Executive	+353 1 8700100	+353 1 8700155	Fixed Wing	Scheduled and unscheduled commercial air transport of passengers, cargo & mail.
Ryanair Ltd. Corporate Head Office, Dublin Airport, Co. Dublin.	01/12/93	Mr. Jim Callaghan Head of Regulatory Affairs	+353 1 8121212	+353 1 8444409	Fixed Wing	Carriage of passengers, cargo and mail
Starair (Ireland) Ltd. Airport Business Park, Dublin Airport, Co. Dublin.	03/07/03	Mr. Gerald Williams General Manager	+353 1 8447973	+353 1 8447971	Fixed Wing	Carriage of passengers, cargo and mail
Westair Aviation Corporate Jet Centre, Shannon Airport, Co. Clare.	01/12/93	Mr. Frank Moloney General Manager	+353 61 475166	+353 61 474544	Fixed Wing and Helicopters	Carriage of passengers, cargo and mail
EU-JetOps Limited (T/A EUjet), Debis AirFinance House, Shannon, Co. Clare.	30/05/03	P.J. McGoldrick Chief Executive	+353 61 723700	+353 61 723701	Fixed Wing	Carriage of cargo passengers, and mail

ANNEX 4

Number of Overseas Visitors to Ireland

Area of Residence: USA and Canada

(Units : Thousand)

Year	Q1	Q2	Q3	Q4	Year
1995	68	175	264	109	616
1996	74	212	290	126	702
1997	95	242	298	129	764
1998	114	245	336	159	854
1999	141	264	371	167	943
2000	155	295	397	195	1042
2001	160	273	332	148	913
2002	134	239	301	174	848
2003	141	254	324	185	904
2004	173	275			

Source: CSO

ANNEX 5

Number of Overseas Visitors to Ireland

Route: Transatlantic
(Units : Thousand)

Year	*Q1*	*Q2*	*Q3*	*Q4*	*Year*
1995	31	74	127	45	277
1996	33	90	149	58	330
1997	42	100	139	58	339
1998	53	110	170	85	418
1999	76	124	194	95	489
2000	87	152	210	109	558
2001	91	160	194	93	538
2002	75	129	174	106	484
2003	89	161	202	115	567
2004	103	150			

Source: CSO

ANNEX 6

Number of Visits Abroad by Irish Residents

Route: Transatlantic
(Units : Thousand)

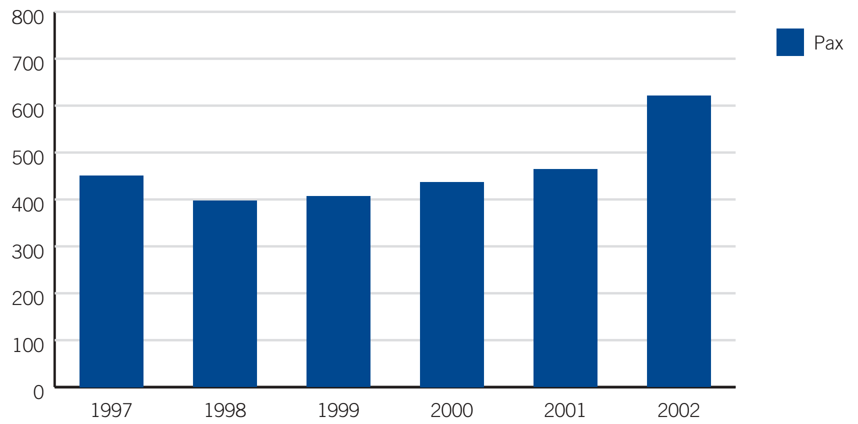
Year	*Q1*	*Q2*	*Q3*	*Q4*	*Year*
1995	23	40	51	32	146
1996	31	36	51	35	153
1997	30	37	58	36	161
1998	32	43	61	42	178
1999	42	52	72	61	227
2000	45	61	71	65	242
2001	54	66	68	55	243
2002	48	47	61	51	207
2003	47	62	79	70	258
2004	57	70			

Source: CSO

ANNEX 7

Transatlantic Traffic at Copenhagen Airport							
Copenhagen	*1997*	*1998*	*1999*	*2000*	*2001*	*2002*	*CAR*
CPH-EWR	160.180	180.015	191.328	202.967	179.736	241.825	8,6%
CPH-IAD	0	0	0	0	57.589	106.819	
CPH-JFK	77.176	9.531	0	0	0	0	-100,0%
CPH-ORD	101.825	103.287	106.581	116.716	112.005	127.454	4,6%
CPH-STL	111.815	104.645	108.953	117.406	114.721	144.710	5,3%
	1997	*1998*	*1999*	*2000*	*2001*	*2002*	
Overall Total	**450.996**	**397.478**	**406.862**	**437.089**	**464.051**	**620.808**	
% Var year on year 1997 to 2002		-13%	2%	7%	6%	25%	

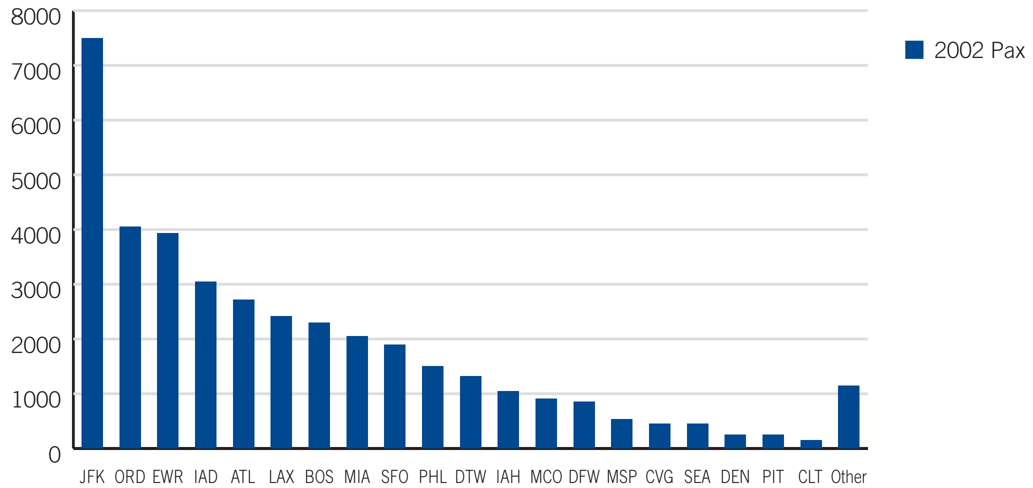
CPH – US Pax Traffic by Route 1997 to 2002



ANNEX 8

Main US Destinations for Transatlantic Traffic from Europe

Top US Destinations 2002 (Pax)



ANNEX 9

Air Traffic Statistics

Direct Passenger Movement[1] by Air from and to Ireland (Republic) – Number (000's)

Period		Dublin Airport		Cork Airport		Shannon Airport						Total[2] (Excluding in transit)	
						Outward		Inward		In Transit			
		Outward	Inward	Outward	Inward	East-bound	West-bound	East-bound	West-bound	East-bound	West-bound	Outward	Inward
1993	Year	2,645	2,621	276	277	242	344	323	248	143	260	3,569	3,530
1994	Year	3,219	3,176	314	313	250	304	279	257	99	202	4,170	4,107
1995	Year	3,737	3,670	388	385	282	314	290	289	79	161	4,824	4,736
1996	Year	4,244	4,193	462	453	327	327	306	331	79	192	5,472	5,393
1997	Year	4,826	4,744	494	482	331	322	298	335	80	270	6,105	5,989
1998	Year	5,408	5,379	542	524	349	391	350	357	58	145	6,849	6,766
1999	Year	5,926	5,922	617	604	401	432	398	403	139	185	7,541	7,487
2000	Year	6,429	6,387	684	668	521	467	430	529	110	144	8,238	8,146
2001	Year	6,670	6,676	733	721	525	457	421	530	126	139	8,536	8,494
2000	January	377	335	40	33	23	21	15	18	13	14	470	408
	February	396	393	39	38	21	22	22	21	13	15	487	482
	March	470	494	45	46	24	33	30	26	16	20	581	605
	April	505	486	51	50	33	32	28	35	7	14	630	609
	May	565	558	66	63	49	37	39	53	10	8	729	725
	June	647	609	76	71	61	52	49	62	10	12	849	802
	July	700	721	80	83	69	56	57	76	10	11	920	952
	August	703	691	82	81	77	57	50	75	9	13	937	913
	September	646	654	72	70	58	50	50	55	7	13	842	843
	October	565	576	56	56	46	44	36	44	5	7	724	724
	November	444	449	40	39	31	36	31	31	4	6	558	556
	December	413	421	37	39	29	26	24	35	6	11	512	526
2001	January	393	383	39	35	29	24	20	25	4	9	493	468
	February	413	415	39	39	31	25	24	32	4	5	516	517
	March	459	471	43	43	30	35	35	32	8	9	575	590
	April	514	513	53	53	37	34	30	38	5	8	648	645
	May	592	566	70	65	48	39	41	51	16	10	762	738
	June	689	649	86	80	63	55	48	63	18	14	909	856
	July	727	750	86	90	65	58	56	69	13	14	952	982
	August	745	751	91	90	71	59	54	69	13	17	986	982
	September	670	678	81	79	55	42	40	52	14	14	864	863
	October	580	590	61	62	41	34	31	39	12	12	729	735
	November	464	479	43	43	30	30	23	29	11	17	576	583
	December	426	430	41	44	27	21	20	30	7	9	525	534

1 *Exclusive of internal passenger traffic*

2 *Includes Connaught Airport and Waterford Regional Airport from January 1987, Galway Airport (Corrib Airport) from March 1988, Carrickfin Airport (Donegal Air-port) from April 1988; Kerry County Airport (Kerry Airport) from May 1989 and Sligo Airport (Sligo North West Airport) from June 1990 Note: The net movements (inward less outward) are not reliable indicators of migration trends.*

ANNEX 10

Ireland – North America Traffic 1994-2003

Dublin – North America Scheduled – Charter Split

	Scheduled	Charter	Total	Charter % of Mkt.
1994	347,041	50,615	397,656	13%
1995	356,851	44,699	401,550	11%
1996	423,904	53,977	477,881	11%
1997	476,188	58,890	535,078	11%
1998	590,076	84,252	674,328	13%
1999	746,167	83,592	829,759	10%
2000	900,058	66,393	966,451	7%
2001	885,695	53,634	939,329	6%
2002	766,956	31,946	798,902	4%
2003	970,532	41,329	1,011,861	4%

Shannon – North America Scheduled – Charter Split

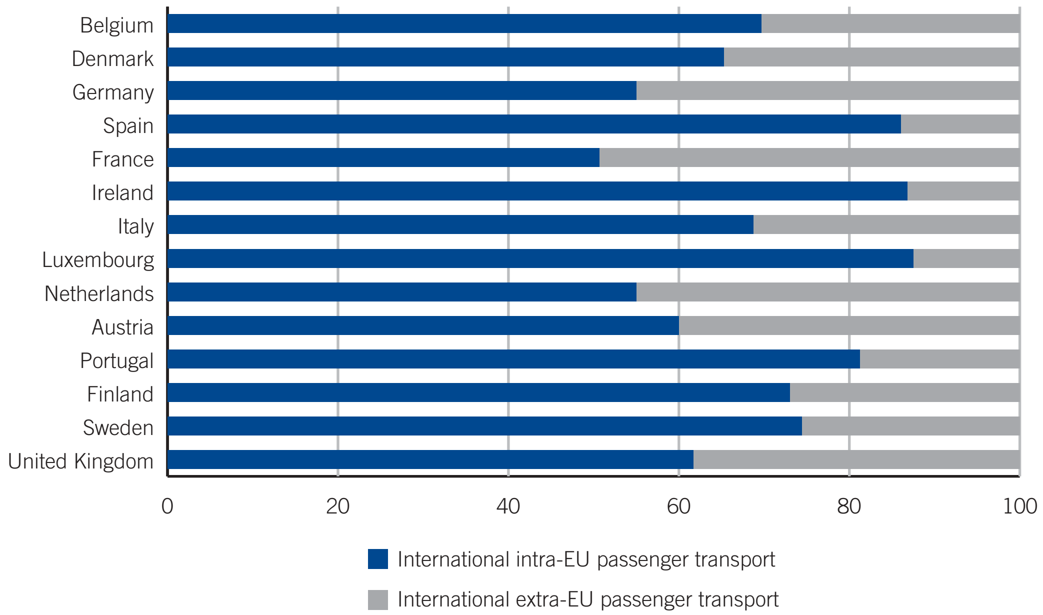
	Scheduled	Charter	Total	Charter % of Mkt.
1994	346,849	84,171	431,020	20%
1995	369,293	81,422	450,715	18%
1996	440,908	54,594	495,502	11%
1997	426,737	69,543	496,280	14%
1998	473,167	72,546	545,713	13%
1999	581,318	50,054	631,372	8%
2000	651,699	31,006	682,705	5%
2001	651,057	26,011	677,068	4%
2002	606,675	11,202	617,877	2%
2003	671,005	14,307	685,312	2%

Ireland – North America Scheduled – Charter Split

	Scheduled	Charter	Total	Charter % of Mkt.
1994	693,890	134,786	828,676	16%
1995	726,144	126,121	852,265	15%
1996	864,812	108,571	973,383	11%
1997	902,925	128,433	1,031,358	12%
1998	1,063,243	156,798	1,220,041	13%
1999	1,327,485	133,646	1,461,131	9%
2000	1,551,757	97,399	1,649,156	6%
2001	1,536,752	79,645	1,616,397	5%
2002	1,373,631	43,148	1,416,779	3%
2003	1,641,537	55,636	1,697,173	3%

ANNEX 11

Distribution Between International Intra-EU and Extra-EU Passenger Transport by Air in 2001



Source: Eurostat

ANNEX 12

Total International Air Passenger Transport Development by Country

	Change 2000-2001 (%)	*Average annual growth 1993-2000 (%)*
EU – 15	-2.22	+7.80
Belgium	-8.34	+11.57
Denmark	:	:
Germany	-1.37	+6.98
Greece	:	+5.14
Spain	+2.68	+8.76
France	+0.43	+7.04
Ireland	+3.88	+16.34
Italy	-2.03	+9.37
Luxembourg	-2.22	+6.69
Netherlands	-2.48	+9.91
Austria	-0.58	+7.62
Portugal	-0.62	+7.26
Finland	+1.41	:
Sweden	-0.69	+17.67
United Kingdom	-0.39	+7.45

Source: Eurostat

ANNEX 13

Participants in Hearing

- Aer Lingus
- Aer Rianta
- Aer Rianta Shannon
- bmi
- Clare County Development Board
- Cork County Development Board
- Ennis Chamber of Commerce
- Fáilte Ireland
- Fingal Development Board
- InterTradeIreland
- Irish Airline Pilots Association (IALPA)
- Irish Congress of Trade Unions (ICTU)
- Irish Hotels Federation
- Irish Tourist Industry Confederation (ITIC)
- James Nix
- John N. Kenna (Transport & Logistics Consultant)
- Mid-West Regional Authority
- Shannon Development
- SIGNAL Workers Group
- Services Industry Professional Trade Union (SIPTU)
- South West Regional Authority
- Swords Fingal Chamber of Commerce
- Youghal Chamber of Commerce

ANNEX 14

Regional Statistics Provided by Bord Fáilte

Overseas Visitors Arriving by Air in 2002		
Overseas Visitors (000s)	*Total*	*% by Air*
Britain	3,452	65
M Europe	1,378	86
N America	844	92
Other	245	87
Total Overseas	**5,919**	**76**

Airport Used for Entering Ireland (%)					
		% of Total Air Through:			
Visitors to Dublin	*% By Air*	*Dublin Airport*	*Shannon Airport*	*Cork Airport*	*Total Air*
Britain	74	98	1	*	100
M Europe	92	98	2	1	100
N America	94	82	18	0	100
Other	88	98	2	1	100
Total Overseas	**83**	**95**	**5**	*****	**100**
		% of Total Air Through:			
Visitors to Midlands/East	*% By Air*	*Dublin Airport*	*Shannon Airport*	*Cork Airport*	*Total Air*
Britain	64	98	2	1	100
M Europe	91	94	4	2	100
N America	94	77	23	0	100
Other	90	94	4	2	100
Total Overseas	**76**	**93**	**7**	**1**	**100**
		% of Total Air Through:			
Visitors to South East	*% By Air*	*Dublin Airport*	*Shannon Airport*	*Cork Airport*	*Total Air*
Britain	38	74	9	17	100
M Europe	75	83	11	6	100
N America	93	62	37	1	100
Other	80	91	4	5	100
Total Overseas	**61**	**74**	**19**	**7**	**100**

Airport Used for Entering Ireland (%) *(continued)*

		% of Total Air Through:			
Visitors to South West	*% By Air*	*Dublin Airport*	*Shannon Airport*	*Cork Airport*	*Total Air*
Britain	60	22	8	70	100
M Europe	78	59	16	25	100
N America	94	48	49	3	100
Other	84	76	5	19	100
Total Overseas	**74**	**44**	**23**	**34**	**100**
		% of Total Air Through:			
Visitors to Shannon	*% By Air*	*Dublin Airport*	*Shannon Airport*	*Cork Airport*	*Total Air*
Britain	79	22	72	6	100
M Europe	88	52	43	5	100
N America	95	38	62	*	100
Other	87	76	16	7	100
Total Overseas	**87**	**38**	**58**	**4**	**100**
		% of Total Air Through:			
Visitors to West	*% By Air*	*Dublin Airport*	*Shannon Airport*	*Cork Airport*	*Total Air*
Britain	52	62	37	2	100
M Europe	83	79	16	4	100
N America	96	55	45	*	100
Other	85	87	7	5	100
Total Overseas	**76**	**67**	**30**	**2**	**100**
		% of Total Air Through:			
Visitors to North West	*% By Air*	*Dublin Airport*	*Shannon Airport*	*Cork Airport*	*Total Air*
Britain	59	91	5	3	100
M Europe	86	85	12	2	100
N America	99	65	35	0	100
Other	88	87	6	6	100
Total Overseas	**79**	**80**	**18**	**2**	**100**

Source: Bord Fáilte Survey of Overseas Travellers

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ANNEX 15

Population and Employment by Region							
Region	*Population 2003*			*Total employment 2003*		*Employment in foreign owned firms*	
	(000's)	*age 25-44 %*	*% growth 2001-2031*	*(000's)*	*% of population*	*(000's)*	*% of total*
Border	436.0	27.8	4.7	30.8	7.1	11.3	36.7
Dublin	1,137.6	33.4	56.0	94.4	8.3	51.7	54.8
Mid-East	423.6	32.1	49.7	30.0	7.1	15.8	52.7
Midlands	227.0	28.8	-9.9	12.8	5.6	4.7	36.7
Mid-West	344.5	28.6	18.3	27.9	8.1	17.9	64.2
South-East	427.1	28.5	0.7	29.2	6.8	12.1	41.4
South-West	585.5	29.4	7.2	44.9	7.7	22.2	49.4
West	397.7	27.6	21.7	27.5	6.9	13.9	50.5
Total	3,978.9	30.3	25.9	297.5	7.5	149.7	50.3

Source: IDA (Population) and Forfás (Employment)

ANNEX 16

Passenger Numbers for the Regional Airports 1990-2003							
Year	*Donegal*	*Galway*	*Kerry*	*Knock*	*Sligo*	*Waterford*	*Total*
1990	7,905	150,983	81,791	145,749	48,769	48,682	**483,879**
1991	7,169	138,102	54,059	101,230	31,532	38,955	**371,047**
1992	3,816	70,344	46,805	105,462	28,398	17,722	**272,547**
1993	7,548	75,908	21,473	95,244	18,386	17,187	**235,746**
1994	7,867	81,064	38,220	128,802	18,199	20,263	**294,415**
1995	8,881	80,356	76,922	137,912	21,187	29,255	**354,513**
1996	14,064	74,976	88,469	161,435	21,950	23,280	**384,174**
1997	21,681	74,431	123,601	172,070	21,308	20,777	**433,868**
1998	15,119	91,295	157,173	186,689	23,646	18,978	**492,900**
1999	23,136	91,276	164,742	197,358	24,234	17,824	**518,570**
2000	20,653	99,976	153,612	173,421	24,439	15,523	**487,624**
2001	21,701	111,660	156,501	202,853	23,693	29,061	**545,469**
2002	23,977	110,120	169,812	199,089	26,316	34,541	**563,855**
2003	38,355	137,165	305,333	247,721	30,329	34,919	**793,822**

ANNEX 17

Overseas visitors to Ireland

Overseas Tourism to Regions – 2003								
Region	*Total*		*North America*		*North America – Route of Entry (%)*			
	(Incl. bus.)	*Business %*	*No.*	*business %*	*Trans-atlantic*	*GB – Air*	*GB – Sea*	*Other*
Dublin	3.444	27	551	10	56	32	5	6
Midlands East	775	17	119	9	70	21	4	6
South East	907	9	228	2	68	25	4	2
South West	1515	13	392	3	72	20	5	3
Shannon	983	14	334	5	81	14	2	3
West	1159	7	348	4	74	18	4	4
North West	476	10	101	1	83	13	1	3

ANNEX 18

Visitors to Ireland by Route of Entry

Route of Entry (%)	*1998*	*1999*	*2000*	*2001*	*2002*
Transatlantic Air	49	52	54	58	56
Air from Britain	33	34	31	28	30
Air from M. Europe	4	4	5	5	7
Sea from Britain	12	9	8	8	6
Sea from M. Europe	*	*	*	*	*
Via N. Ireland	1	1	2	1	1

Month of Arrival (%)	*1998*	*1999*	*2000*	*2001*	*2002*
January – March	12	15	15	18	16
April	7	6	6	7	7
May	10	10	9	11	10
June	13	12	13	12	12
July	14	15	14	14	13
August	14	13	13	14	12
September	11	11	11	8	10
October – December	19	18	19	16	21

Region of Residence	*1998*	*1999*	*2000*	*2001*	*2002*
New England	13	17	17	16	15
– Massachusetts	8	9	10	8	10
– Connecticut	3	4	4	4	3
Mid Atlantic	28	27	24	20	20
– New York	15	15	13	14	11
– New Jersey	7	5	5	2	4
– Pennsylvannia	6	7	6	4	5
Mid West	21	21	21	23	21
– Ohio	4	2	1	3	3
– Illinois	7	9	9	8	6
– Michigan	3	2	2	2	2

Region of Residence (continued)	*1998*	*1999*	*2000*	*2001*	*2002*
South	21	18	22	23	21
– Florida	4	3	3	5	3
– Texas	4	3	2	2	3
– Virginia	3	2	3	2	2
– Maryland	3	2	4	3	2
West	17	17	17	18	24
– California	9	5	7	5	13

Social Class (%)	*1998*	*1999*	*2000*	*2001*	*2002*
Managerial/Professional (AB)	46	50	48	42	41
White Collar (C1)	37	39	45	47	50
Skilled Worker (C2)	13	9	5	9	7
Unskilled Worker (DE)	4	2	3	2	1

ANNEX 19

Employment in US Companies in Ireland per Planning Region in each NACE Sector for 2003	South East	Border	Mid-West	South-West	Dubin	West	Mid East	Midlands	All Regions
Total Manufacturing	**6.107**	**5.201**	**6.232**	**11.144**	**7.713**	**10.054**	**10.964**	**2.121**	**59.536**
Food products beverages and tobacco		346		245		253	63		907
Textiles and textile products		415		407					822
Clothing, footwear and leather		80		121					201
Pulp paper and paper products; publishing and printing			74		584	159	208	20	1.045
Chemicals chemical products and man-made fibres	1.227	1.227	516	3.374	1.690	1.537	2.472	1	12.044
Rubber and plastic products	271	264	239	414	67	278	43	120	1.696
Other non-metallic mineral products					164				164
Basic and fabricated metal products	164	9	74	206	467	344	49	64	1.377
Machinery and equipment n.e.c.	30		57	98	1.169	819	97	208	2.478
Electrical and optical equipment	3.135	2.347	5.196	6.100	3.393	6.664	7.456	1.476	35.767
Transport equipment	909	513	76	179	137		576	190	2.580
Other manufacturing n.e.c.	371				42			42	455
Financial Services	**180**		**7**		**2.722**		**142**		**3.051**
International Services	**925**	**1.796**	**491**	**2.662**	**17.228**	**1.166**	**1.604**	**375**	**26.247**
ALL SECTORS	**7.212**	**6.997**	**6.730**	**13.806**	**27.663**	**11.220**	**12.710**	**2.496**	**88.834**

Source: Forfás

ANNEX 20

Regional Shares of Employment in US Companies in Ireland in each NACE Sector for 2003

	South East	*Border*	*Mid-West*	*South-West*	*Dublin*	*West*	*Mid East*	*Midlands*	*All Regions*
Total Manufacturing	**10.3%**	**8.7%**	**10.5%**	**18.7%**	**13.0%**	**16.9%**	**18.4%**	**3.6%**	**100.0%**
Food products beverages and tobacco	0.0%	38.1%	0.0%	27.0%	0.0%	27.9%	6.9%	0.0%	100.0%
Textiles and textile products	0.0%	50.5%	0.0%	49.5%	0.0%	0.0%	0.0%	0.0%	100.0%
Clothing, footwear and leather	0.0%	39.8%	0.0%	60.2%	0.0%	0.0%	0.0%	0.0%	100.0%
Pulp paper and paper products; publishing and printing	0.0%	0.0%	7.1%	0.0%	55.9%	15.2%	19.9%	1.9%	100.0%
Chemicals chemical products and man-made fibres	10.2%	10.2%	4.3%	28.0%	14.0%	12.8%	20.5%	0.0%	100.0%
Rubber and plastic products	16.0%	15.6%	14.1%	24.4%	4.0%	16.4%	2.5%	7.1%	100.0%
Other non-metallic mineral products	0.0%	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%	100.0%
Basic and fabricated metal products	11.9%	0.7%	5.4%	15.0%	33.9%	25.0%	3.6%	4.6%	100.0%
Machinery and equipment n.e.c.	1.2%	0.0%	2.3%	4.0%	47.2%	33.1%	3.9%	8.4%	100.0%
Electrical and optical equipment	8.8%	6.6%	14.5%	17.1%	9.5%	18.6%	20.8%	4.1%	100.0%
Transport equipment	35.2%	19.9%	2.9%	6.9%	5.3%	0.0%	22.3%	7.4%	100.0%
Other manufacturing n.e.c.	81.5%	0.0%	0.0%	0.0%	9.2%	0.0%	0.0%	9.2%	100.0%
Financial Services	**5.9%**	**0.0%**	**0.2%**	**0.0%**	**89.2%**	**0.0%**	**4.7%**	**0.0%**	**100.0%**
International Services	**3.5%**	**6.8%**	**1.9%**	**10.1%**	**65.6%**	**4.4%**	**6.1%**	**1.4%**	**100.0%**
ALL SECTORS	**8.1%**	**7.9%**	**7.6%**	**15.5%**	**31.1%**	**12.6%**	**14.3%**	**2.8%**	**100.0%**

Source: Forfás

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