

With growth in global trade, international air freight volumes are expanding. Air freight carriers can only take advantage of this with the appropriate traffic rights. The process of gaining route licences can take several years, and many carriers have to rely on fifth freedom rights.

Negotiating traffic rights for freight

After four years of little change, freight traffic volumes and yields are rebounding and strengthening in some international markets. While this brings relief to carriers that are still dealing with fuel surcharges, and the high belly capacity provided by passenger airlines, future development also relies on negotiating of additional traffic rights. This requires several stages of negotiations that can sometimes take several years to complete.

Initial considerations

The international route networks of the largest freight airlines are small compared to the passenger carriers'. Limitations or restrictions on a freight airline's route network can make freight operations difficult to justify and sustain. The air transport market is still highly regulated, so gaining new route or traffic rights starts with the examination of traffic freedoms.

Lucien Schummer, vice president of alliances and strategy at Cargolux explains that route or traffic rights for an airline depend on its sovereignty. The Chicago convention of 1944 defined the eight traffic freedoms, which all have to be acknowledged by countries that have signed the convention. The majority of the world's countries are signatories, but the Soviet Union was one that did not sign it.

First freedom rights allow an airline to fly over another country that is signatory to the convention. This presents problems for airlines that fly over Russian airspace, and requires separate negotiations. Airlines have to pay Russia special navigation charges. Second freedom rights allow an airline to land for technical requirements, such as

refuelling or to perform maintenance, in another signatory country.

Third and fourth freedom traffic rights permit an airline to carry traffic between its home country and another, but require a bilateral agreement between the two states. Negotiating third and fourth freedom traffic rights for an airline is where the main process starts. Two countries have a bilateral air service agreement which their governments negotiate. Some bilaterals have changed little over decades and still tightly regulate the capacity and number of flight frequencies and different airlines operating between a pair of countries.

Some countries have adopted a more liberal approach in recent years, and the US in particular has led the way. The US has adopted an open skies policy with several countries. This allows an unrestricted amount of capacity and frequencies, as well as allowing fifth freedom traffic from the two countries concerned. The US made its first open skies agreement with the Netherlands in 1992, and has since negotiated open skies agreements with other countries. Others have followed a more liberal approach since. Several countries, such as the United Kingdom, still have a highly regulated bilateral agreement with the US.

It has been argued that open skies agreements are beneficial for air freight in terms of improving trade, because of the increased capacity that the airlines provide.

Fifth freedom rights permit an airline to carry traffic on to a second country from one to which it operates under third and fourth freedom rights, provided that the flight's origin and destination are in the country's home state. In other words, while an airline from Country A can carry traffic to Country B, it can also

market and carry traffic between Country B and Country C. Although Country B may allow fifth freedom rights for an airline from Country B, Country C still has to agree to allow the airline from Country A to enter its market, which requires a separate negotiation between Country A and Country C.

The US has historically had fifth freedom traffic rights between Japan and China and several countries in the Asia Pacific. Northwest Airlines and United (previously Pan Am) were given these fifth freedom traffic rights between Japan and other Asian states.

In the freight market, FedEx and United Parcel Service (UPS) use the fifth freedom rights to market and carry traffic between Japan and their bases in the Philippines. Traffic is carried between the US and Japan using the third and fourth freedom rights. The flights originate and end in the US. Freight is then switched to other aircraft at the airlines' respective bases in the Philippines and flown to other Asia Pacific countries such as Singapore, Thailand and Taiwan. These onward flights are still technically fifth freedom rights, because the freight only changes aircraft; this is referred to as a 'starburst change of gauge'.

Sixth freedom rights are referred to as 'back-to-back' flights. Here revenue traffic is carried by an airline from one country to another using two sets of third/fourth freedom routes that connect via its country of domicile. An example is a US airline carrying traffic between the Philippines and the Netherlands via the US.

"Sixth freedom rights have been looked at a lot by Singapore Airlines," says Schummer. "Most of its rights are sixth freedom rights and these are necessary for it to operate."

Seventh freedom rights permit an

FedEx is an example of a freight carrier using fifth freedom rights to give it a wide international route network. Fifth freedom rights include operations from Japan to a number of countries in the Asia Pacific and to China.

airline to carry revenue traffic between two foreign states without the flight operating via its own country. These rights have also been pursued by small countries, such as Singapore, which has only a small volume of traffic going to or from it.

Eighth freedom rights give an airline cabotage rights, which are the ability to operate domestic flights within a foreign country.

Negotiation process

Air service bilateral agreements are often negotiated every two or three years between governments. “Bilaterals are a balanced relation between two countries. The framework between two countries is a starting point for an airline to gain traffic rights,” says Ursula Sperber, head of legal and political affairs at Lufthansa Cargo. “An airline can choose to operate charter services to another country if it wants to start operations before it has traffic rights, however, since only scheduled services are covered by bilateral agreements. Charter operations are only permitted a limited number of flights, however.”

Obtaining scheduled rights may be possible for an airline if its country’s bilateral already has the required capacity and frequency limits it needs to operate services. If the bilateral requires widening, the airline’s government has to negotiate with the other state to expand the agreement. “Some countries may not even agree to discuss expansion of a bilateral, and it can take up to 20 years and several rounds of discussions to negotiate third and fourth freedom rights,” says Schummer. “Our problem is our base in Luxembourg, since it is a small country which has a small amount of freight traffic going in or out of it. Other countries have sometimes been reluctant to give us third and fourth freedom rights since we will be relying mainly on the air freight volumes their industry and commerce generate. Air freight traffic rights are easier than rights for passenger operators, however, since countries need an export bridge for their manufacturing activity, and freight carriers provide this.”



Airline designation

Although two states may have a bilateral air service agreement, if an airline is not one of the designated carriers it has to apply to its government for rights.

Airlines have to meet several criteria to be designated by their governments to operate the bilateral services. “Bilaterals have single or multiple airline designations for each state,” says Sperber. “If an airline is already designated under the bilateral it applies to the government for a share of the rights. If the airline is not designated then it will ask the government to negotiate with the other country on its behalf to get the bilateral increased. The added problem is that bilaterals do not split the stated capacity and frequencies between passengers and freight, and freight carriers have to get a share of this.

“Lufthansa Cargo was able to develop its route network quickly under Lufthansa’s passenger traffic rights, since we have a lot of capacity within the rights we were not using,” says Sperber. “Lufthansa Cargo is now a separate company and we operate under our own traffic rights. The bilaterals that Germany already had left us plenty of scope to become a separate company.”

Airlines have to meet several criteria to be awarded rights by their governments. “Some of these criteria include an airline being fit to operate the services it is requesting. These include the ability to operate the route in terms of having adequate finances, infrastructure and aircraft, as well as a serious interest,” explains Schummer. “Another criterion is there being high enough traffic volume potential. Governments have to consider

if the market is underserved, and how an airline and new air freight service can contribute to part of the industrial supply chain. An example of this is Australia, which was highly regulated and limited access by freight airlines until the end of the 1990s, when it gave open skies access to freight carriers because it felt this would help its commerce with other parts of the world.”

It is easier for airlines to get traffic rights if they are established, but unknown carriers have to gain the confidence of their government. In the US, the department of transportation (DoT) selects airlines and allocates them frequencies. The first stage of allocation is the government inviting applications from airlines, which is followed by a series of hearings for each carrier to argue its case. This process can take a few years, but in most cases takes only a few months. The US DoT has to consider what would achieve the greatest public interest in terms of competition between airlines, level of service to the public and industry, and economic benefit to a particular community.

Expanding networks

The volume and size of the air freight market varies around the globe. Some airlines have managed to develop large networks and operate to countries that do not have their own airlines serving the market. Other carriers have developed their networks with a high proportion of fifth and sixth freedom rights. “We now have 75 agreements with 75 countries and all are very different,” says Schummer. “Most of our traffic is fifth freedom, since there is naturally little third and fourth freedom traffic to and



The US DoT invites airlines to apply for route licences, which is followed by a hearing process. The US DoT recently awarded Polar Air Cargo traffic rights to China.

from Luxembourg. We require fifth and sixth freedom rights to combine with third and fourth freedom rights to develop. Difficult markets to negotiate rights with have been China, Japan, Korea, Indonesia and some South American countries. Japan, for example, has 50% of gross domestic product in the Asia Pacific region and has given very little rights to outside airlines. It has its own cargo airlines. The trend is now for some of these countries to open up, however."

Many air freight markets have depended on fifth freedom traffic rights because of large directional imbalances in freight volumes. This is a particular problem in the intra and international Latin American air freight markets. "Many routes do not get operated as pure freight routes because of this imbalance," explains Norberto Jochmann, president of Absa. "Many routes operated are multi-sector routes and rely on fifth freedom rights to make them feasible." Fifth freedoms are often granted when a country requires air freight capacity to assist its trade and industry, or when its own airline is small.

"VARIG Log operates a three-sector route from Sao Paulo to Los Angeles via Lima, Peru and Quito Ecuador," says Jochmann. "The first sector to Lima uses third and fourth freedom rights, between Brazil and Peru and Brazil and the US. The second between Lima and Quito does not have fifth freedoms between Peru and Ecuador, but does have fifth freedoms between Peru and the US, so freight is loaded bound for Los Angeles. The third sector has fifth freedom rights between Ecuador and the US, since Ecuador does not have its own freight airline. Flowers and fish are therefore

loaded up at Quito.

"Although Ecuador does not have a freight airline, Peru has Cielos del Peru, which is a DC-10 operator. There is therefore a reciprocal agreement whereby Cielos del Peru uses fifth freedom rights to operate from Lima to Miami via Sao Paulo," continues Jochmann.

There are several other examples of fifth freedom rights between South American countries and the US. Absa operates from Sao Paulo to Miami via Bogota, Colombia using fifth freedom rights between Colombia and the US. "This comes from an agreement made by Brazil and Colombia in 2001. Prior to this, we did not have fifth freedom rights between Colombia and the US, and so could not embark freight at Bogota," says Jochmann. "The US did, however, give fifth freedom rights from several countries in South and Central America, including Ecuador, Peru, Chile and Panama. Colombia was added later. These countries are of interest to us, since we can carry asparagus from Peru to the US for three or four months of the year and then transit via another country in other months."

While western countries in Latin America have generally been liberal and granted fifth freedom rights to countries such as Chile, Brazil and Argentina, countries on the Eastern side of the continent have generally been more protectionist. "Venezuela has not agreed to fifth freedom rights for Brazil to the US, and so we cannot pick up freight when operating to Miami," says Jochmann. "There is, however, a high volume of fruit from Sao Paulo to Caracas which commands high yields, so we fly to Venezuela. We then operate to Bogota, since we have fifth freedoms

from there to the US, but cannot upload any freight in Caracas. There is high demand at Bogota for Miami, however, which makes the whole routing economic. Lan Cargo similarly uses fifth freedom rights it has from Peru, Ecuador and Panama to the US, and also uses fifth freedom rights to operate via Brazil when coming back from the US to Santiago. While Chile and the US are very liberal, and have an open skies agreement, Argentina and Brazil are still protective."

Market liberalisation

Sperber explains that many Asian countries see liberalisation of the air freight market as a bad idea, and remain protective. "Chinese airlines, for example, have little demand from their customers to fly to Europe and so it has been hard for us to get a larger bilateral with China," says Sperber. "We do have a lot of fifth freedom rights for historical reasons, but we have few to countries where the national carrier is strong. Japan, for example is still protectionist."

Other regions of the world have become more liberal and are allowing more foreign airlines to operate in and out of their countries because it is regarded as helpful for their economies. China declared an open skies policy for Hainan Island a few years ago, allowing foreign airlines fifth freedom rights, in a move to attract foreign investment.

As the US has become liberal and signed open skies agreements with several countries, others are also beginning to adopt a more liberal approach. India, for example thinks the bilateral it has with Germany is sufficient and has been reluctant to renegotiate, but Sperber cites India as a country taking a more liberal stance.

Singapore is another example of a country adopting a liberal approach. It gave a lot of sixth and seventh freedom rights to foreign carriers because the country could not afford to isolate itself economically. As a consequence several foreign freight airlines, including FedEx and UPS, operate sixth freedom operations to and from Singapore. Similarly, Singapore Airlines aggressively pursued sixth and seventh freedom traffic rights, which it required to develop a large network, since it could not rely on third and fourth freedom rights alone. 