

Procedure file

Basic information		
NLE - Non-legislative enactments Decision	2008/0145(NLE)	Procedure completed
EU/West African Economic and Monetary Union agreement: air services		
Subject 3.20.15.02 Air transport agreements and cooperation		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	TRAN Transport and Tourism	PPE KOCH Dieter-Lebrecht Shadow rapporteur S&D EL KHADRAOUI Saïd ALDE MEISSNER Gesine Verts/ALE LICHTENBERGER Eva ECR BRADBOURN Philip	21/07/2009
	Former committee responsible		
	TRAN Transport and Tourism		
Council of the European Union	Council configuration	Meeting	Date
	General Affairs	3068	21/02/2011
	Transport, Telecommunications and Energy	2935	30/03/2009
European Commission	Commission DG Mobility and Transport	Commissioner KALLAS Siim	

Key events			
17/07/2008	Preparatory document	COM(2008)0463	Summary
02/12/2009	Additional information		Summary
13/04/2010	Legislative proposal published	06646/2010	Summary
06/05/2010	Committee referral announced in Parliament		
01/12/2010	Vote in committee		Summary
07/12/2010	Committee report tabled for plenary, 1st	A7-0361/2010	

	reading/single reading		
18/01/2011	Results of vote in Parliament		
18/01/2011	Decision by Parliament	T7-0003/2011	Summary
21/02/2011	Act adopted by Council after consultation of Parliament		
21/02/2011	End of procedure in Parliament		
25/02/2011	Final act published in Official Journal		

Technical information

Procedure reference	2008/0145(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 218-p6a; Treaty on the Functioning of the EU TFEU 100-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/7/00115

Documentation gateway

Preparatory document		COM(2008)0463	17/07/2008	EC	Summary
Document attached to the procedure		06190/2009	09/03/2009	CSL	
Legislative proposal		06646/2010	13/04/2010	CSL	Summary
Committee draft report		PE445.935	19/08/2010	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0361/2010	07/12/2010	EP	
Text adopted by Parliament, 1st reading/single reading		T7-0003/2011	18/01/2011	EP	Summary

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Decision 2011/126](#)
[OJ L 051 25.02.2011, p. 0001](#) Summary

EU/West African Economic and Monetary Union agreement: air services

PURPOSE: the signature and provisional application of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services.

PROPOSED ACT: Council Decision.

CONTENT: following the judgements of the Court of Justice in the so-called 'Open Skies' cases, in June 2003 the Council granted the Commission a mandate to open negotiations with third countries on the replacement of certain provisions in existing agreements with a Community agreement (the 'horizontal mandate'). The objectives of such agreements are to give all EU air carriers non-discriminatory access to routes between the Community and third countries, and to bring bilateral air service agreements between Member States and third countries in line with Community law.

In accordance with the mechanisms and directives in the 'horizontal mandate', the Commission has negotiated an agreement with the West African Economic and Monetary Union that replaces certain provisions in the existing bilateral air services agreements between Member States and the West African Economic and Monetary Union. Article 2 of the Agreement replaces the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment. Articles 4 and 5 of the Agreement address two types of clause concerning matters of Community competence. Article 4 deals with the taxation of aviation fuel, a matter which has been harmonised by Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity, and in particular Article 14 (2) thereof. Article 5 (Pricing) resolves conflicts between the existing bilateral air services agreements and Council Regulation No 2409/92 on fares and rates for air services which prohibits third country carriers from being price leaders on air services for carriage wholly within the Community. Article 6 brings provisions in bilateral agreements which are clearly anti-competitive (obligatory commercial agreements between airlines) in line with EU competition law.

In accordance with the standard procedure for the signature and conclusion of international agreements, the Council is asked to approve the decisions on the signature and provisional application and on the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services and to designate the persons authorised to sign the Agreement on behalf of the Community.

EU/West African Economic and Monetary Union agreement: air services

The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Decision on the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis Treaty/EC/Art.80(2), Art.300(2) first para and (3) first para. - became Art 100(2), Art 218 (6)(a) of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an interinstitutional non-legislative procedure (NLE).

EU/West African Economic and Monetary Union agreement: air services

PURPOSE: the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services.

PROPOSED ACT: Council Decision.

CONTENT: following the judgements of the Court of Justice in the so-called 'Open Skies' cases, in June 2003 the Council granted the Commission a mandate to open negotiations with third countries on the replacement of certain provisions in existing agreements with a Community agreement (the 'horizontal mandate'). The objectives of such agreements are to give all Community air carriers non-discriminatory access to routes between the Community and third countries, and to bring bilateral air service agreements between Member States and third countries in line with Community law.

In accordance with the mechanisms and directives in the Annex to the 'horizontal mandate', the Commission has negotiated an Agreement with the West African Economic and Monetary Union that replaces certain provisions in the existing bilateral air services agreements between Member States and the Member States of the West African Economic and Monetary Union.

Article 2 of the Agreement replaces the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment.

Articles 5 and 6 of the Agreement address two types of clauses concerning matters of Community competence. Article 5 deals with the taxation of aviation fuel, a matter which has been harmonised by Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity, and in particular Article 14(2) thereof. Article 6 (Pricing) resolves conflicts between the existing bilateral air services agreements and Council Regulation No 2409/92 on fares and rates for air services which prohibits third country carriers

from being price leaders on air services for carriage wholly within the Community. Article 7 brings provisions in bilateral agreements which are clearly anti-competitive (obligatory commercial agreements between airlines) in line with EU competition law.

This Decision approves the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services is approved on behalf of the Community.

EU/West African Economic and Monetary Union agreement: air services

The Committee on Transport and Tourism adopted the report drafted by Dieter-Lebrecht KOCH (EPP, DE) recommending the European Parliament to give its consent to the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services.

EU/West African Economic and Monetary Union agreement: air services

The European Parliament adopted a legislative resolution on the draft Council decision on the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services.

Parliament consents to the conclusion of the Agreement.

EU/West African Economic and Monetary Union agreement: air services

PURPOSE: to conclude the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services.

NON-LEGISLATIVE ACT: Council Decision 2011/126/EU concerning the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services.

CONTENT: following the judgments of the Court of Justice in the so-called 'Open Skies' cases, in June 2003 the Council granted the Commission a mandate to open negotiations with third countries on the replacement of certain provisions in existing agreements with a Community agreement (the 'horizontal mandate?'). The objectives of such agreements are to give all EU air carriers non-discriminatory access to routes between the Community and third countries, and to bring bilateral air service agreements between Member States and third countries in line with Community law.

By this Decision, the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services, is hereby approved on behalf of the Union.

To summarise, the Agreement:

- replaces the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment;
- deals with the taxation of aviation fuel, a matter which has been harmonised by Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity;
- resolves conflicts between the existing bilateral air services agreements and Council Regulation No 2409/92 on fares and rates for air services which prohibits third country carriers from being price leaders on air services for carriage wholly within the Community;
- brings provisions in bilateral agreements which are clearly anti-competitive (obligatory commercial agreements between airlines) in line with EU competition law.