

Procedure file

Basic information		
NLE - Non-legislative enactments Decision	2009/0019(NLE)	Procedure lapsed or withdrawn
EC/Korea agreement: air services		
Subject 3.20.15.02 Air transport agreements and cooperation		
Geographical area South Korea		

Key players			
European Parliament			
Council of the European Union			
Council configuration	Transport, Telecommunications and Energy	Meeting 2935	Date 30/03/2009
European Commission			
Commission DG Mobility and Transport	Commissioner KALLAS Siim		

Key events			
18/02/2009	Preparatory document	COM(2009)0065	Summary
02/12/2009	Additional information		Summary
29/09/2020	Proposal withdrawn by Commission		

Technical information	
Procedure reference	2009/0019(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
Stage reached in procedure	Procedure lapsed or withdrawn

Documentation gateway					
Preparatory document		COM(2009)0065	18/02/2009	EC	Summary

Additional information	
National parliaments	IPEX

EC/Korea agreement: air services

PURPOSE: to conclude the Agreement on certain aspects of air services between the European Community and the Republic of Korea.

PROPOSED ACT: Council Decision.

CONTENT: following the judgments of the Court of Justice in the so-called "Open Skies" cases, on 5 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 Annex to the "horizontal mandate", the Commission has negotiated an agreement with the Republic of Korea that replaces certain provisions in the existing bilateral air services agreements between Member States and the Republic of Korea.

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. 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 resolves potential conflicts with the EC competition rules.

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 on the conclusion of the Agreement on certain aspects of air services between the European Community and the Republic of Korea and to designate the persons authorised to sign the Agreement on behalf of the Community.

EC/Korea 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 on certain aspects of air services between the European Community and the Republic of Korea, 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).