


Procedure file

Basic information		
NLE - Non-legislative enactments Decision	2009/0115(NLE)	Procedure completed, awaiting publication in Official Journal
EC/Brazil Agreement: air services		
Subject 3.20.15.02 Air transport agreements and cooperation		
Geographical area Brazil		

Key players				
European Parliament	Committee responsible	Rapporteur	Appointed	
	TRAN Transport and Tourism		01/09/2009	
		S&D ICĂU Silvia-Adriana		
		Shadow rapporteur		
		PPE TEIXEIRA Nuno		
		ALDE MEISSNER Gesine		
		Verts/ALE LICHTENBERGER Eva		
		ECR FOSTER Jacqueline		
Council of the European Union	Council configuration	Meeting	Date	
	Transport, Telecommunications and Energy	3080	31/03/2011	
	Transport, Telecommunications and Energy	3052	02/12/2010	
	Transport, Telecommunications and Energy	2964	09/10/2009	
European Commission	Commission DG	Commissioner		
	Mobility and Transport	KALLAS Siim		

Key events			
03/08/2009	Preparatory document	COM(2009)0412	Summary
02/12/2009	Additional information		Summary
14/10/2010	Legislative proposal published	13988/2010	Summary
21/10/2010	Committee referral announced in Parliament		
02/12/2010	Debate in Council	3052	Summary
25/01/2011	Vote in committee		Summary
27/01/2011	Committee report tabled for plenary, 1st reading/single reading	A7-0004/2011	
15/02/2011	Results of vote in Parliament		
15/02/2011	Decision by Parliament	T7-0045/2011	Summary

31/03/2011	Act adopted by Council after consultation of Parliament		
31/03/2011	End of procedure in Parliament		

Technical information

Procedure reference	2009/0115(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 100-p2; Treaty on the Functioning of the EU TFEU 218-p6a
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed, awaiting publication in Official Journal
Committee dossier	TRAN/7/00530

Documentation gateway

Document attached to the procedure	COM(2009)0411	03/08/2009	EC	Summary
Preparatory document	COM(2009)0412	03/08/2009	EC	Summary
Document attached to the procedure	12922/2009	08/07/2010	CSL	Summary
Legislative proposal	13988/2010	14/10/2010	CSL	Summary
Committee draft report	PE452.696	10/11/2010	EP	
Committee report tabled for plenary, 1st reading/single reading	A7-0004/2011	27/01/2011	EP	
Text adopted by Parliament, 1st reading/single reading	T7-0045/2011	15/02/2011	EP	Summary

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

EC/Brazil Agreement: air services

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

PROPOSED ACT: Council Decision.

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.

In accordance with the mechanisms and directives in the Annex to the 'horizontal mandate?', the Commission has negotiated an agreement with Brazil that replaces certain provisions in the existing bilateral air services agreements between Member States and Brazil.

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

EC/Brazil Agreement: air services

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

PROPOSED ACT: Council Decision.

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.

In accordance with the mechanisms and directives in the Annex to the "horizontal mandate", the Commission has negotiated an agreement with Brazil that replaces certain provisions in the existing bilateral air services agreements between Member States and Brazil.

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 clauses 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 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 Brazil and to designate the persons authorised to sign the Agreement on behalf of the Community.

EC/Brazil 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 Federative Republic of Brazil, 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).

EC/Brazil Agreement: air services

This document details the content of the agreement between the European Union and Brazil of certain aspects of air services.

Purpose of the agreement: according to rulings by the Court of Justice of the European Union, the EU has exclusive competence with respect to various aspects of external aviation which had traditionally been governed by bilateral air services agreements between Member States and third countries.

As a consequence, on 5 June 2003, the Council authorised the Commission to open negotiations with third countries in order to replace certain provisions in existing bilateral agreements with EU agreements.

The Commission has therefore negotiated an Agreement with the Federative Republic of Brazil that replaces certain provisions in 12 bilateral air services agreements concluded between EU Member States and this country. That Agreement was signed on the 14 July 2010.

Its main provisions may be summarised as follows:

- designation by a Member State: to avoid discrimination between EU air carriers, the traditional designation clauses, referring to air carriers of the Member State party to the bilateral agreement, are replaced by an EU designation clause, referring to all EU carriers;
- safety: this provision ensures that safety provisions in bilateral agreements are applicable to situations when regulatory control over an air carrier is exercised by Member State other than Member State that designated that air carrier;
- taxation of aviation fuel: whereas traditional bilateral agreements tend to exempt aircraft fuel in general from taxation, Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity permits such taxation for operations within the territory of the European Union;
- compatibility with competition rules: this Article prohibits anti-competitive practices.

Other provisions are also included such as on review of the agreement, its amendment and the date of its entry into force.

There is also an annex that contains the list of agreements and other arrangements concerning air services between Brazil and the Member States of the EU that have been replaced by this Agreement.

EC/Brazil Agreement: air services

PURPOSE: to conclude an Agreement between the European Union and Brazil on certain aspects of air services.

PROPOSED ACT: Council Decision.

BACKGROUND: by its Decision of 5 June 2003, the Council authorised the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with an agreement at Union level. On behalf of the Union, the Commission has negotiated an Agreement with Brazil on certain aspects of air services in accordance with the mechanisms and directives in the Annex to the Council Decision of 5 June 2003.

The Agreement was signed on behalf of the Union on 14 July 2010 subject to its conclusion at a later date.

It is now necessary to approve and conclude this Agreement, on behalf of the European Union.

IMPACT ASSESSMENT: no impact assessment has been carried out.

LEGAL BASIS: Article 100(2), in conjunction with Article 218(6)(a) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: by this proposal, the Agreement between the European Union and Brazil on certain aspects of air services is approved on behalf of the Union.

The text of the Agreement is attached to the Decision. For more details on the content of the Agreement, please refer to the summary of the document annexed to the procedure dated 8 July 2009.

FINANCIAL IMPLICATION: this proposal has no implication for the EU budget.

EC/Brazil Agreement: air services

The Commission briefed ministers on the results of the first three rounds of negotiations on a comprehensive air transport agreement with Brazil, aimed at a gradual opening of market access and enhanced regulatory cooperation. Significant progress has already been made in the negotiations, which were held on the basis of the mandate given by the transport Council at its previous meeting in October. A fourth round is scheduled for 7-9 December in Rio de Janeiro.

Recently the EU has successfully negotiated two other aviation agreements with Brazil: one on cooperation in the field of civil aviation safety, which provides in particular for the mutual recognition of certification findings and standards regarding airworthiness, maintenance and environmental requirements; and, secondly, an "agreement on certain aspects of air services", which brings a number of provisions of the bilateral air services agreements between Brazil and EU member states into line with EU legislation so as to ensure non-discriminatory treatment of all EU airlines established in the Member States concerned.

EC/Brazil Agreement: air services

The Committee on Transport and Tourism adopted the report drafted by Silvia-Adriana ŃIC?U (S&D, RO) recommending the European Parliament to give its consent to the conclusion of the Agreement between the European Union and the Federative Republic of Brazil on certain aspects of air services.

EC/Brazil Agreement: air services

The European Parliament adopted a legislative resolution on the draft Council decision on the conclusion of the Agreement between the European Union and the Federative Republic of Brazil on certain aspects of air services.

The Parliament gave its consent to the conclusion of the Agreement.