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REPORT

on the proposal for a Council decision on the conclusion of the Agreement
between the European Community and the Republic of India on certain aspects
of air services
(COM(2008)0347 – C6-0342/2008 – 2008/0121(CNS))

Committee on Transport and Tourism

Rapporteur: Gabriele Albertini

(Simplified procedure - Rule 43(1) of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Republic of India on certain aspects of air services (COM(2008)0347 – C6-0342/2008 – 2008/0121(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2008)0347),
 - having regard to Article 80(2) and Article 300(2), first subparagraph, first sentence, of the EC Treaty,
 - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0342/2008),
 - having regard to Rules 51, 83(7) and 43(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0000/2008),
1. Approves conclusion of the agreement;
 2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and the Republic of India.

EXPLANATORY STATEMENT

Background:

As ruled by the Court of Justice of the European Communities, the Community has exclusive competence with respect to various aspects of external aviation which were traditionally governed by bilateral air services agreements between Member States and third countries. The Court of Justice also ruled that certain aspects of such bilateral agreements were infringing Community law notably in relation to the freedom of establishment prohibiting Community carriers to establish themselves in other Member States and provide services under bilateral agreements of that Member State thereby discriminating among Community carriers on the basis of nationality.

Consequently, the Council authorised the Commission in June 2003 to open negotiations with third countries and to amend certain provisions in existing bilateral agreements in order to bring these in conformity with Community law.

In accordance with the mechanisms and directives in the Annex to the "horizontal mandate", the Commission has negotiated a Horizontal Agreement with the Government of the Republic of India that replaces certain provisions in the existing bilateral air services agreements between Member States and India.

In particular Article 2 of the Agreement replaces the traditional national designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment. Article 4 brings provisions in bilateral agreements which are anti-competitive (e.g. obligatory commercial agreements between airlines) in line with EU competition law.

When negotiating the Horizontal Agreement with the Government of the Republic of India, it was emphasised that the Agreement shall not affect the volume or balance of traffic rights. To this effect the terms of a letter from the European Community and its Member States to India were defined.

Annex 1 and 2 of the Horizontal Agreement list the bilateral agreements and their articles which are referred to in Articles 1 to 6 of the Horizontal Agreement; these are the agreements between India and all EU Member States with the exception of Estonia.

Annex 3 lists the other states referred to in Article 2: Iceland, Liechtenstein, Norway -which fall under the Agreement on the European Economic Area- and Switzerland falling under the Agreement between the European Community and the Swiss Confederation on Air Transport.

Parliament is entitled to give its opinion on this Agreement under the consultation procedure, in accordance with Rule 83 'International agreements', paragraph 7, which reads as follows:

"Parliament shall give its opinion on, or its assent to, the conclusion, renewal or amendment of an international agreement or a financial protocol concluded by the European Community in a single vote by a majority of the votes cast without amendments to the text of the agreement or protocol being admissible."

Position of the rapporteur:

The Indian air traffic market is currently among the fastest growing in the world. In 2006, air traffic in India was reported to have increased by some 50%. With such a rapid development in air traffic, serious bottlenecks are occurring in the air transport infrastructure both in terms of airport capacity, aircrafts available, technology and trained man-power.

Market opening and attempts to attract private and foreign capital to the Indian aviation market are seen as part of the measures necessary to develop and modernise India's aviation sector in order to meet increasing demand and consumer expectations. While the Indian aviation sector has long been characterised by a restrictive approach with limited access and strong state control, India has in recent years taken decisive steps towards a more open and competitive aviation market.

Due to its extraordinary growth rates and gradual market opening, India offers new business opportunities and a strong potential also for growth for European airlines, aircraft manufacturers and service providers.

As a significant result of the government's increasingly liberal aviation policy, India and the US signed a bilateral "open skies" agreement in April 2005. The agreement removes all limitations on capacity and controls on competitive pricing. The designation provisions also remove all quantitative controls on market entry while, however, retaining classical ownership and control restrictions. In addition to completely deregulating capacity and access in 3rd, 4th, and 5th freedom markets, the new agreement also provides for unrestricted 7th freedom all-cargo services. The new agreement is also expected to facilitate the development of new service patterns that would allow cross-polar non-stop services between the US and India that have not hitherto existed.

Following this positive example, your rapporteur suggests that in the near future an agreement with India should go further than the Horizontal Agreement, which was an important first step. A more comprehensive agreement should establish an ambitious framework integrating wider aviation issues such as regulatory co-operation in the fields of aviation safety, security, air traffic management, environment, technology and research as well as "doing-business" issues and industrial co-operation. With respect to environmental issues, the agreement must be consistent with the EU's commitment to sustainable development.

While ambitions should be high, a fully open aviation area with India may take time to develop and may best be developed in stages to allow a smooth transition and market integration based on a gradual implementation of new rules on a level playing field.

On the basis of the above your rapporteur suggests as a first step that the TRAN committee should give a favourable opinion on the conclusion of the Horizontal Agreement between the Community and India.

PROCEDURE

Title	Agreement between the EC and India on certain aspects of air services
References	COM(2008)0347 – C6-0342/2008 – 2008/0121(CNS)
Date of consulting Parliament	3.10.2008
Committee responsible Date announced in plenary	TRAN 9.10.2008
Rapporteur(s) Date appointed	Gabriele Albertini 15.7.2008
Simplified procedure - date of decision	15.7.2008
Date adopted	2.12.2008