



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0004/2011

27.1.2011

RECOMMENDATION

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
(13988/2010 – C7-0335/2010 – 2009/0115(NLE))

Committee on Transport and Tourism

Rapporteur: Silvia-Adriana Țicău

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

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

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DRAFT EUROPEAN PARLIAMENT 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 (13988/2010– C7-0335/2010 – 2009/0115(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (13988/2010),
 - having regard to the draft Agreement between the European Union and the Federative Republic of Brazil on certain aspects of air services (12922/2009),
 - having regard to the request for consent submitted by the Council in accordance with Article 100(2), Article 218(8), first subparagraph, and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0335/2010),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Transport and Tourism (A7-0004/2010),
1. Consents to conclusion of the Agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Federative Republic of Brazil.

EXPLANATORY STATEMENT

Introduction

As ruled by the Court of Justice of the European Union, the EU 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.

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

Thus, the Commission has 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 the Federative Republic of Brazil. The Agreement was signed on the 14th of July 2010.

The Treaty of Lisbon

Under the Treaty of Nice, when the negotiations were taking place, Parliament was consulted on international air agreements. The Treaty of Lisbon, which entered into force on 1 December 2009, extended the circumstances in which Parliament's consent is required for the conclusion of an international agreement. Air service agreements now fall within this category because they cover a field to which the ordinary legislative procedure applies¹. The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 on the "Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures"².

The enhanced role for the Parliament under the new Treaty implies a corresponding responsibility to monitor the conduct of negotiations more closely, making full use of the possibilities provided in Rule 90 of Parliament's Rules of Procedure. It is clearly desirable for all parties that any concerns of sufficient importance to call into question Parliament's readiness to grant consent be identified and addressed at an early stage rather than after the negotiations have been concluded.

Objectives of the Agreement

Article 2 (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.

Article 3 (Safety)

This provision ensures that safety provisions in bilateral agreements are applicable to

¹ Article 218(6)(a)(v) of the Treaty on the Functioning of the European Union

² COM(2009)0665

situations when regulatory control over an air carrier is exercised by Member State other than Member State that designated that air carrier.

Article 4 (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.

Article 5 (Compatibility with competition rules)

This Article prohibits anti-competitive practices.

Conclusions

The Horizontal Agreement with Brazil will restore a sound legal basis for the EU's aviation relations with Brazil. This has been an important first step in strengthening EU-Brazil aviation relations which has allowed Brazil and the EU to further enhance aviation cooperation and move towards negotiating a comprehensive air services agreement between Brazil and the EU.

Upon a request from the European Commission, the EU Transport Council granted on 15 October 2010 a mandate to the European Commission to negotiate a comprehensive air services agreement with Brazil based on a combination of gradual market opening and regulatory cooperation and convergence.

Such an agreement is expected to be able to generate a consumer surplus (benefits in terms of lower fares) of up to €460 million. It will have a positive employment effect and is expected to offer significant new business opportunities for EU airlines as well as benefits to the travelling public.

In the light of the above, the Rapporteur proposes that Parliament gives its consent to the conclusion of the Agreement. As it cannot enter into force until it has been concluded, it would also be highly desirable that, once Parliament has taken its decision, Council finalises the procedures without any undue delay.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	25.1.2011
Result of final vote	+: 38 -: 0 0: 0
Members present for the final vote	Inés Ayala Sender, Georges Bach, Izaskun Bilbao Barandica, Antonio Cancian, Michael Cramer, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Ville Itälä, Dieter-Lebrecht Koch, Georgios Koumoutsakos, Werner Kuhn, Eva Lichtenberger, Marian-Jean Marinescu, Gesine Meissner, Hella Ranner, Vilja Savisaar-Toomast, Olga Sehnalová, Brian Simpson, Keith Taylor, Silvia-Adriana Țicău, Giommara Uggias, Thomas Ulmer, Peter van Dalen, Dominique Vlasto, Artur Zasada
Substitute(s) present for the final vote	Philip Bradbourn, Spyros Danellis, Anne E. Jensen, Petra Kammerevert, Bogdan Kazimierz Marcinkiewicz, Guido Milana, Janusz Władysław Zemke