



EUROPEAN PARLIAMENT

2009 - 2014

---

*Committee on Transport and Tourism*

---

**2010/0132(NLE)**

13.10.2011

**\*\*\***

## **DRAFT RECOMMENDATION**

on the draft Council decision on the conclusion of an Agreement between the European Union and the Government of the Republic of Indonesia on certain aspects of air services  
(13238/2011 – C7-0242/2011 – 2010/0132(NLE))

Committee on Transport and Tourism

Rapporteur: Brian Simpson

***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.)

## CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	4
EXPLANATORY STATEMENT .....	5

## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the draft Council decision on the conclusion of an Agreement between the European Union and the Government of the Republic of Indonesia on certain aspects of air services (13238/2011 – C7-0242/2011 – 2010/0132(NLE))**

### **(Consent)**

*The European Parliament,*

- having regard to the draft Council decision (13238/2011),
  - having regard to the Agreement between the European Union and the Government of the Republic of Indonesia on certain aspects of air services (10843/3/2010),
  - having regard to the request for consent submitted by the Council in accordance with Article 100(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0242/2011),
  - having regard to Rules 81 and 90(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Transport and Tourism (A7-.../2011),
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 Republic of Indonesia.

## **EXPLANATORY STATEMENT**

### **Introduction**

International aviation relations between Member States and third countries have traditionally been governed by bilateral air services agreements. The EU Court of Justice ruled in 2002 that national designation clauses in the bilateral agreements infringe EU law. They allow a third country to reject, withdraw or suspend the permissions or authorisations of an air carrier that has been designated by a Member State but that is not substantially owned and effectively controlled by that Member State or its nationals. This has been found to constitute discrimination against EU carriers established in the territory of a Member State but owned and controlled by nationals of other Member States. This is contrary to Article 49 of the Treaty on the Functioning of the European Union which guarantees nationals of Member States who have exercised their freedom of establishment the same treatment in the host Member State as that accorded to nationals of that Member State. There are also further issues, such as competition, where compliance with EU law should be ensured through amending or complementing existing provisions in bilateral air services agreements between Member States and third countries.

Thus, the Commission has negotiated the Agreement that replaces certain provisions in the existing 19 bilateral air services agreements concluded between EU Member States and Indonesia.

### **Main aspects of the Agreement**

Article 2 (Designation clause): To avoid discrimination between EU air carriers, the national 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. The objective is to give all EU air carriers non-discriminatory access to routes between the EU Member States concerned and Indonesia.

Article 3 (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.

Article 4 (Taxation of aviation fuel): Whereas traditional bilateral agreements tend to exempt international flights from fuel taxation, Council Directive 2003/96/EC permits such taxation for operations within the EU, provided that certain conditions are met. The aim of the Agreement is to expand that right of Member States to Indonesian airlines wishing to operate intra-Union flights.

Article 5 (Compatibility with competition rules): This Article prohibits anti-competitive practices.

The Agreement was signed on 29 June 2011 and the two parties have agreed to act in accordance with the agreement from the time of signature until it comes into force. To conclude the Agreement, the Council needs the consent of the European Parliament. In accordance with Article 81 of the Rules of Procedure the Parliament shall take a decision by means of a single vote, and no amendments to the agreement itself may be tabled.

Your Rapporteur suggests that the TRAN committee should give a favourable opinion on the conclusion of the Agreement.