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REPORT

on the proposal for a decision of the Council and the representatives of the governments of the Member States of the European Union, meeting within the Council, on the conclusion of the Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand
(8044/3/2007 – COM(2006)0169 – C6-0210/2007 – 2006/0058(CNS))

Committee on Transport and Tourism

Rapporteur: Saïd El Khadraoui

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***. 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). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a decision of the Council and the representatives of the governments of the Member States of the European Union, meeting within the Council, on the conclusion of the Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand (8044/3/2007 – COM(2006)0169 – C6-0210/2007 – 2006/0058(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the proposal for a decision of the Council and the representatives of the governments of the Members States of the European Union, meeting within the Council (COM(2006)0169)¹,
 - having regard to the Decision of the Council and the representatives of the governments of the Members States of the European Union, meeting within the Council, on the signature and provisional application of the Air Transport Agreement between the European Community and its Members States, on the one hand, and the United States of America, on the other hand, containing the draft agreement as signed between the EU and US delegations on 30 April 2007 (8044/3/2007),
 - having regard to its resolution of 17 January 2006 on developing the agenda for the Community's external aviation policy²,
 - having regard to its resolution of 14 March 2007 on the conclusion of the Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand³,
 - having regard to Articles 80(2) and 300(2), first subparagraph, of the EC Treaty,
 - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0210/2007),
 - having regard to Rules 51 and 83(7) of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0320/2007),
1. Approves the conclusion of the agreement;
 2. Instructs its President to forward its position to the Council and the Commission, and the governments and parliaments of the Member States and the United States of America.

¹ Not yet published in OJ.

² OJ C 287 E, 24.11.2006, p.84.

³ Texts adopted , P6_TA(2007)0071.

EXPLANATORY STATEMENT

Towards an EU-US aviation agreement

Air services between the EU and US presently operate on the basis of bilateral agreements between individual Member States and the US. These bilateral agreements contain provisions that the European Court of Justice ruled in November 2002 to be incompatible with Community law. Therefore it was decided to create a new legal framework for UE-US aviation relations and negotiations on an Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand, were conducted by the European Commission under a mandate received from the Council in June 2003. This mandate set the objective of establishing an Open Aviation Area (OAA) between the EU and US, creating a single market for air transport between the EU and US in which investment could flow freely and in which European and US airlines would be able to provide air services without any restriction, including in the domestic markets of both parties.

Achievement of the mandate in full would require significant legislative changes in the United States, in particular to remove the existing legal restrictions on foreign ownership and control of US airlines and on cabotage. These issues remain extremely politically sensitive in the US. For this reason, the mandate recognised the possibility of implementing an agreement in a staged approach, provided that guarantees for progression to subsequent stages are given. The EU accepted during the negotiations that cabotage could not be included in a first-stage agreement, but made clear to the US that a first-stage agreement would be acceptable to the EU only if meaningful progress was made towards the removal of restrictions on ownership and control of US airlines. In response to this the US Department of Transportation (DOT) issued a "Notice of Proposed Rulemaking" (NPRM) in November 2005 that would re-interpret the statutory requirement for US airlines to be under the "actual control" of US citizens so as to expand opportunities for foreign citizens to invest in and participate in the management of US airlines. This step was sufficient for the EU, provided that the NPRM would be adopted as a final rule that would constitute clear, meaningful and robust changes to US policy on ownership and control.

The DOT however decided in December 2006 to withdraw the NPRM, after reviewing a multitude of public comments, including those received from the US Congress. This made a new round of negotiations on the draft agreement necessary, to make it in another way acceptable for the EU side. These resulted in a new draft agreement on 2 March 2007, which was signed at the EU-US summit of 30 April 2007. The Council endorsed the draft agreement and decided to apply it provisionally as from 30 March 2008.

Parliament's first appreciation

Parliament responded swiftly to the new draft agreement by means of its Resolution of 14 March 2007 on the conclusion of the Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand (T6-0071/2007). It welcomed the first-stage Agreement as an important step towards an integrated transatlantic aviation market that will be to the benefit of consumers. Although it would have preferred the conclusion of one balanced overall agreement, it could

accept the phased approach, because in Article 21 of the draft agreement an agenda and a clear timetable for negotiations on a second-stage agreement is given, including provisions allowing other parties to suspend rights specified in the first-stage agreement, if 30 months after the start of negotiations on a second-stage agreement no such agreement has been reached. A second-stage agreement should deal with issues as cabotage, right of establishment, ownership and de facto control and state aid.

Parliament also noted that the development of regulatory convergence is only partially dealt with in the draft agreement and is left to a large extent to the joint committee. Nevertheless, Parliament welcomed cooperation between the EU and US authorities responsible for the field of aviation safety. As for security, the importance of security measures for aviation was recognised but they should be based on a proper risk assessment and not be excessive or uncoordinated. The efficiency of additional measures introduced since 2001 should be reviewed by the US and the Commission, so as to eliminate overlapping and weak links in the security chain. The concept of 'one stop security', checking passengers and luggage only at the start of their journey and not again at every transfer, was advocated. The privacy of European and US citizens should be respected when personal passenger data are exchanged between the EU and the US.

Furthermore it was recognised that the aviation sector has several negative environmental effects, in particular as a source of noise and as a contributor to climate change, and that these effects will increase with the growth of aviation. The need for both the EU and the US to take effective measures to reduce the negative environmental impact of aviation was underlined. In that respect it welcomed the Commission proposal to include aviation in the European emissions trading system, but also pointed out that talks will need to be held with the US at an early stage with a view to encompassing transatlantic air traffic within the European emissions trading system by 2012. Finally, US and EU aviation stakeholders should enter into a continuous dialogue on social standards, with the aim of promoting mutual understanding, a level playing field and high social standards at the same time and international social legislation should be applied.

Parliament called on the Commission to ensure full information and consultation of the European Parliament before and throughout second-stage negotiations and welcomed regular meetings between Members of the European Parliament and the US Congress to discuss all relevant issues concerning an EU-US aviation agreement. The Rapporteur will, therefore, look for a more systematic dialogue and exchange of information directly with the US Administration and Congress with a view to better monitor the implementation of the current agreement and the preparation of the second-stage agreement.

Additional remarks

The Council has asked Parliament by letter of 7 June 2007 to give its opinion on the draft Agreement. In the same letter, the Council informed Parliament that the Agreement will be applied provisionally as from 30 March 2008.

In the light of the remarks above on the way to this Agreement and Parliament's Resolution of 14 March 2007, your Rapporteur proposes to approve the Agreement. At the same time, he underlines the need to address all the issues not included sufficiently in this first-stage

agreement to be dealt with in the second-stage agreement.

PROCEDURE

Title	Air Transport Agreement between the EC and the USA			
References	COM(2006)0169 - C6-0210/2007 - 2006/0058(CNS)			
Date of consulting Parliament	7.6.2007			
Committee responsible Date announced in plenary	TRAN 9.7.2007			
Committee(s) asked for opinion(s) Date announced in plenary	LIBE 9.7.2007			
Not delivering opinions Date of decision	LIBE 3.9.2007			
Rapporteur(s) Date appointed	Saïd El Khadraoui 30.6.2006			
Discussed in committee	22.11.2006	24.1.2007	27.8.2007	11.9.2007
Date adopted	11.9.2007			
Result of final vote	+: -: 0:	37 0 0		
Members present for the final vote	Michael Cramer, Arūnas Degutis, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Georg Jarzembowski, Stanisław Jałowiecki, Timothy Kirkhope, Dieter-Lebrecht Koch, Jaromír Kohlíček, Sepp Kusstatscher, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Robert Navarro, Josu Ortuondo Larrea, Paweł Bartłomiej Piskorski, Luís Queiró, Reinhard Rack, Brian Simpson, Renate Sommer, Dirk Sterckx, Silvia-Adriana Țicău, Yannick Vaugrenard, Lars Wohlin, Roberts Zīle			
Substitute(s) present for the final vote	Johannes Blokland, Jeanine Hennis-Plasschaert, Elisabeth Jeggle, Anne E. Jensen, Antonio López-Istúriz White, Helmuth Markov, Willem Schuth, Catherine Stihler, Ari Vatanen			
Substitute(s) under Rule 178(2) present for the final vote	Ralf Walter			