EC/Brazil Agreement: air services

2009/0115(NLE) - 03/08/2009 - Document attached to the procedure

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.