EU/West African Economic and Monetary Union agreement: air services

2008/0145(NLE) - 13/04/2010 - Legislative proposal

PURPOSE: the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services.

PROPOSED ACT: Council Decision.

CONTENT: following the judgements 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 Community 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 the West African Economic and Monetary Union that replaces certain provisions in the existing bilateral air services agreements between Member States and the Member States of the West African Economic and Monetary Union.

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 5 and 6 of the Agreement address two types of clauses concerning matters of Community competence. Article 5 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 6 (Pricing) resolves conflicts between the existing bilateral air services agreements and Council Regulation No 2409/92 on fares and rates for air services which prohibits third country carriers from being price leaders on air services for carriage wholly within the Community. Article 7 brings provisions in bilateral agreements which are clearly anti-competitive (obligatory commercial agreements between airlines) in line with EU competition law.

This Decision approves the conclusion of the Agreement between the European Community and the West African Economic and Monetary Union on certain aspects of air services is approved on behalf of the Community.