EC/USA Air Transport Agreement: Protocol to amend the Agreement

2010/0112(NLE) - 03/05/2010 - Document attached to the procedure

PURPOSE: signature and provisional application of the Protocol to Amend the Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part.

PROPOSED ACT: Decision of the Council and the representatives of the Governments of the Member States of the European Union, meeting within the Council.

BACKGROUND: the 2007 EU-US Air Transport Agreement represented a significant change in transatlantic aviation relations, providing broad new commercial freedoms for airlines and a comprehensive framework for regulatory cooperation with the United States on a wide range of issues. The 2007 EU-US Air Transport Agreement created substantial benefits for airlines, airports and air transport users in Europe. However, the EU was seeking additional investment and market access opportunities. Therefore, Article 21 of the 2007 EU-US Air Transport Agreement established a non-exhaustive list of 'items of priority interest' for the second stage negotiations, including additional investment and market access opportunities, as well as environmental issues.

After eight rounds of second stage negotiations, agreement was reached on 25 March 2010 on a draft Protocol to Amend the 2007 EU-US Air Transport Agreement.

The Protocol aims at:

- launching a process towards additional foreign investment opportunities in the airline industry,
- further opening market access, including further access by EU airlines to US Government-financed air transportation, and
- further strengthening the regulatory cooperation in all fields of aviation policy, particularly on addressing the environmental impact of aviation.

IMPACT ASSESSMENT: the Protocol further increases the benefits for consumers, airlines, labour, and communities in the Union: (1) in a study carried out for the Commission, the economic benefits of a fully Open Aviation Area between the EU and the United States have been estimated at several billion Euros per year; (2) another study estimates that further regulatory convergence in the field of air transport could significantly reduce costs for the industry. The same study concluded that the second stage negotiations have the potential to change the structure of the market in the EU and in the US, increasing profitability in the airline industry; (3) the inclusion of an article on the social dimension ensures that the further market opening will be accompanied by high labour standards and that labour-related rights will not be undermined by the new opportunities created by the Protocol; (4) lastly, the Protocol includes firm commitments from both Parties to limit or reduce the impact of international aviation on the environment.

LEGAL BASE: Article 207(5), in conjunction with Article 218 paragraphs (2) and (5), as well Article 218 (6)(a)(v) of the Treaty on the Functioning of the European Union. The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons: (i) an amendment of an international treaty at Union level can only be done at Union level; (ii) the objectives of the Protocol can only be achieved at Union level because they involve a number of areas of exclusive Union competence.

CONTENT: the Protocol amends the 2007 EU-US Air Transport Agreement with the following provisions:

- a legal obligation to reciprocally recognise the regulatory determinations of the other Party with regard to airline fitness and citizenship;
- an enhanced cooperation to limit the impact of international aviation on the environment. The cooperation on addressing the environmental impacts of international aviation will include the areas of research and development, air traffic management innovation, coordination in international fora;
- an explicit recognition of the importance of the social dimension and the benefits of high labour standards as well as an enhanced cooperation on the social effects of the agreement;
- a strengthened role of the Joint Committee, enabling it to address incompatible regulatory approaches, allow for reciprocal recognition of decision-making, and promote cooperation across a number of additional fields, including air traffic management, facilitation, safety and cooperation with other countries;
- a process towards further market access and investment opportunities. Both sides commit to continuing to remove market access barriers. The Joint Committee will regularly review progress in that respect. Both sides will establish a process of cooperation in the Joint Committee towards the shared goal of removing market access barriers;

further access of EU airlines to air transport funded by the US Government that is restricted currently to US airlines ("Fly America"). EU airlines will be able to sell air transportation to contractors of the US Government on any route, with exception of transport financed by the US Department of Defence.

The proposed Decision provides that the signing of the Protocol to Amend the Air Transport Agreement between the United States of America, of the one part, and the European Community and its Member States, of the other part, is hereby approved on behalf of the Union, subject to a Council Decision concerning the conclusion of the Protocol. The text of the Protocol is attached to this Decision. Pending its entry into force, the Protocol shall be applied on a provisional basis by the Union and its Member States, to the extent permitted under national law, from the date of signature.

The Protocol is accompanied by a Memorandum of Consultations that includes additional new elements, in order to further enhance the existing cooperation in the areas of aviation security, competition policy, and the joint efforts to address the environmental impact of international aviation.

BUDGETARY IMPLICATION: the proposal has no implication for the Union’s budget.