EC/Brazil Agreement: air services

2009/0115(NLE) - 08/07/2010 - Document attached to the procedure

This document details the content of the agreement between the European Union and Brazil of certain aspects of air services.

Purpose of the agreement: according to rulings by the Court of Justice of the European Union, the EU has exclusive competence with respect to various aspects of external aviation which had traditionally been governed by bilateral air services agreements between Member States and third countries.

As a consequence, on 5 June 2003, the Council authorised the Commission to open negotiations with third countries in order to replace certain provisions in existing bilateral agreements with EU agreements.

The Commission has therefore negotiated an Agreement with the Federative Republic of Brazil that replaces certain provisions in 12 bilateral air services agreements concluded between EU Member States and this country. That Agreement was signed on the 14 July 2010.

Its main provisions may be summarised as follows:

- **designation by a Member State**: to avoid discrimination between EU air carriers, the traditional 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**;
- **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;
- **taxation of aviation fuel**: whereas traditional bilateral agreements tend to exempt aircraft fuel in general from taxation, Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity permits such taxation for operations within the territory of the European Union;
- **compatibility with competition rules**: this Article prohibits anti-competitive practices.

Other provisions are also included such as on review of the agreement, its amendment and the date of its entry into force.

There is also an annex that contains the list of agreements and other arrangements concerning air services between Brazil and the Member States of the EU that have been replaced by this Agreement.