EU/Cape Verde agreement: air services

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PURPOSE: conclusion of the Agreement on certain aspects of air services between the European Union and the Republic of Cape Verde.

PROPOSED ACT: Council Decision.

LEGAL BASIS: Article 100(2), in conjunction with Article 218(6) of the treaty on the Functioning of the European Union. The proposal is entirely based on the "horizontal mandate" granted by the Council taking into account the issues covered by the law of the European Union and bilateral air services agreements.

IMPACT ASSESSMENT: no impact assessment was carried out.

BACKGROUND: following the judgements of the Court of Justice in the so-called "Open Skies" cases, on 5 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 an agreement at Union level (the "horizontal mandate").

The objectives of such agreements are to give all European Union air carriers non-discriminatory access to routes between the European Union and third countries, and to bring bilateral air service agreements between Member States of the European Union and third countries in line with the law of the European Union.

CONTENT: in accordance with the mechanisms and directives in the Annex to the "horizontal mandate", the Commission has negotiated an agreement with the Republic of Cape Verde that replaces certain provisions in the existing bilateral air services agreements between Member States of the European Union and the Republic of Cape Verde.

- Article 2 of the Agreement replaces the traditional designation clauses with an EU designation clause, permitting all European Union carriers to benefit from the right of establishment.
- 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 competition rules of the European Union.

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 Union and the Republic of Cape Verde and to designate the persons authorised to sign the Agreement on behalf of the European Union.

BUDGETARY IMPLICATION: this proposal has no implication for the European Union budget.