EU/United States Air Transport Agreement

2006/0058(NLE) - 21/04/2006 - Legislative proposal

PURPOSE: to sign a provisional application of the Air Transport Agreement between the European Community and its Member States and the US and to conclude an Air Transport Agreement between the same parties.

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

CONTENT: in June 2003, the European Community and its Member States were given a mandate to negotiate an Agreement with the United States of America for an "Air Transport Agreement". The mandate was given following rulings by the European Court of Justice in November 2002 which stated that existing bi-lateral arrangements in the air transport sector were incompatible with EU law. Currently, there are twenty separate Agreements in place governing the laws and provisions of air operations between Europe and the US.

The objective of the negotiations, therefore, was the establishment of an "Open Aviation Area" (OOA) between the EU and US. The idea being to create a single market for air transport between the EU and US in which EU and US airlines would be able to provide air services without any restriction and which would include the domestic markets of both parties. Given the wide-ranging implications of such an Agreement, most notably the requirement for the US to remove restrictions on foreign legal ownership and control of US airlines cabotage, the Agreement became a politically sensitive issue for the US government. To address this problem both parties have agreed to a staggered implementation of the Agreement. At the same time, however, there is an implicit understanding that mechanisms should be put in place which allow the Agreement to become more complete.

As a first stage, the EU has accepted that cabotage will not be included in the first Agreement. The EU has made clear to the US that this would only be acceptable if meaningful progress can be made towards the removal of restrictions on ownership and control of US airlines. As such the Council has stated that it will take particular notice of progress made by the US Department of Transportations and its pledge to re-interpret the statutory requirement that US airlines can only be under the "actual control" of US citizens.

In other words, the adoption of this Decision by the Council will be subject to US adoption of rules deemed to constitute clear, meaningful and robust changes to the US' policy vis-à-vis foreign ownership of its commercial air fleet. Depending on the speed with which the US confirms its commitment to re-assessing its current statutes, signature of the Agreement could take place in the first half of 2006.

The Agreement represents a comprehensive first-stage agreement that will replace the existing bilateral agreements concluded by the Member States with the United States. It removes all existing restrictions on the rights of both Community air carriers and Unites States air carriers to operate between points in the European Community and points in the United States. Further, the Agreement established provisions which allow Community air carriers uniform conditions for market access; it establishes new arrangements for regulatory co-operation between the European Community and the United States and it establishes provisions essential to the safe, secure and efficient operation of transatlantic air services.

There will be strengthened co-operation in matters concerning aviation security and aviation safety and there will be new arrangement for co-operation between the EU-US Competition authorities concerning the application of their respective competition regimes affecting the transatlantic market. All of the terms will simultaneously apply to the 25 EU Member States who will apply the same rules without

discrimination and in a uniform manner. In return, Community air carriers will be able to access commercial opportunities, which Member States, acting individually, have been unable to secure. In short, adoption of the proposed Agreement will help enact one of the main objectives of the negotiations, namely the creation of a level playing field between all the EU and US air carriers, complemented by tight regulatory rules.

The proposal has no implications for the Community budget.