Basic information

2002/2085(INI) INI - Own-initiative procedure	Procedure completed
External European Union relations concerning transport **Subject** 3.20.15 Transport agreements and cooperation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
RETT Regional Policy, Transport and Tourism	SIMPSON Brian (PSE)	22/05/2002

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	10/02/2003

Key events

Date	Event	Reference	Summary
13/06/2002	Committee referral announced in Parliament		
18/02/2003	Vote in committee		
18/02/2003	Committee report tabled for plenary	A5-0056/2003	
11/03/2003	Decision by Parliament	T5-0077/2003	Summary
11/03/2003	End of procedure in Parliament		
10/03/2004	Final act published in Official Journal		

Technical information

Procedure reference	2002/2085(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	RETT/5/16306

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A5-0056/2003	18/02/2003	
Text adopted by Parliament, single reading		T5-0077/2003 OJ C 061 10.03.2004, p. 0025-0106 E	11/03/2003	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2002)0649	19/11/2002	Summary

External European Union relations concerning transport

2002/2085(INI) - 11/03/2003 - Text adopted by Parliament, single reading

The European parliament adopted a resolution based on its own-initiative report drafted by Brian SIMPSON (PES, UK) on external relations in the field of transport. On a general note, Parliament felt that the Commission and Council should work towards full membership in ICAO as well as in IMO, thus ensuring coherence between Community law and international law and allowing the Community to act for its interests in an effective way. The importance of ILO membership was also discussed. On the question of air traffic, Parliament referred to the Court of Justice's judgements on the "open skies" cases on 5 November 2002. It drew attention to the adverse effects of bilateral open sky agreements both on European airlines and on consumers, since these effectively open European domestic market to American airlines and give only limited access of European airlines to the American market. Member States must denounce bilateral air transport agreements with third states if they conflict with the judgement of the European Court of Justice (with particular reference to the nationality clause), subject to a suspensive condition relating to the conclusion of suitably revised agreements. Once the Commission has been granted a suitable negotiating mandate, it should take up negotiations with the USA under the leading point of full reciprocity in order to create a "Transatlantic Common Aviation Area" and a genuine Single Market in air transport. Parliament also stated that it is unsatisfactory that European competition law defines different responsibilities for the Commission in regard to airline alliances, distinguishing between EU routes and third-country routes. The scope of Regulation 3975/87/EEC must be broadened to include routes between Community and third-country airports. Parliament also referred to the royalty charges levied by Russia on European airlines for the right to overfly Siberia, stating that it considered these to be illegal. This practice must stop immediately and Russian authorities must grant overflying rights, in accordance with the Chicago Convention, without imposing any 'royalties' over and above air traffic control charges. The concept of a "Russian Aviation Modernisation Fund" is a helpful option in this context. Any sums being paid by European carriers to Russian authorities should be used for such a fund. On maritime traffic, Parliament pointed to the fact that the Community has established stricter standards for the inspection of vessels calling at EU ports. The USA should recognise that security provisions in European ports are sufficient and that, should any tightening up of these provisions be required, such measures should be negotiated not with individual Member States, but with the Union. It also asked the Commission to investigate the problem of free access to markets in China, and the question of tax anomalies concerning seafarers in short sea shipping. Finally, Parliament called on the Commission to foster the integration of inland waterway transport markets in the enlarged EU, as well as to ensure good transport relationships with the neighbouring countries.

External European Union relations concerning transport

2002/2085(INI) - 19/11/2002 - Document attached to the procedure

This document consists of a communication from the Commission on the consequences of the Court judgements of 5 November 2002 for European air transport policy. The document recalls within the framework of the Chicago Convention of 1944, the worldwide regulatory framework has developed on the basis of bilateral air services agreements (ASAs). These agreements regulate the market conditions under which air carriers are able to operate air services. Since the internal market was implemented in the Community. These agreements do not differ greatly in form. Their main body contains the general principles, while annexes set out more detailed provisions. Often, there are also confidential memoranda of understanding that deal with such matters as commercial arrangements between air carriers and other financial questions. The main text of most ASAs remains unchanged for years, but changes in the annexes and Memoranda of Understanding (MOUs) are more frequent to take account of market developments. The "Open Skies" agreements commonly negotiated by the United States, are traditional bilateral agreements in that they reserve traffic rights strictly to the airlines from the two parties to the agreement. Against the background, international aviation has continued to develop mostly within a framework of bilateral air services agreements (ASAs). But the nature of the system and the individual manner in which it has been pursued by Member States creates conflicts with the unified system of regulation that has been developed inside the Community. Having become increasingly concerned about these conflicts, the Commission instigated legal action against eight Member States that had signed bilateral agreements with the United States - seven of them (Belgium,

Denmark, Germany, Luxembourg, Austria Finland and Sweden have signed "open skies" type agreements as described above and one of them (the United Kingdom) a more restrictive bilateral. On 5 November 2002, the European Court of Justice ruled in the cases against these eight Member States. The Court found that the eight agreements in question contain elements which deprive Community air carriers of their rights under the Treaty, the nationality clauses in the agreements being a clear violation of the right of establishment enshrined in Article 43. Therefore, although the Court could not have invalidated the agreements under international law, they constitute an infringement of Community law for which Member States are responsible towards the beneficiaries of the right of establishment. The legal clarity provided by the Court of Justice's judgements confirms the need to devise a comprehensive international policy for the aviation sector that will allow the Community to address these problems. The report concludes that the judgements of the Court of Justice of 5 November 2002 on the so-called "open skies" cases against eight Member States, not only have implications for the eight specific agreements with the United States but also for existing bilateral aviation agreements between Member States and other third countries and for any future negotiation of bilateral air services issues. According to Article 10 of the Treaty Member States shall takeall appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of the Treaty or resulting from action taken by the institutions of the Community. Moreover, as the Court found in the judgements of 5 November 2002, in the case of an infringement stemming from an international agreement, Member States are prevented not only from contracting new international commitments but also from maintaining such commitments in force. This argues strongly in favour of the urgent development of a Community external relations policy for air transport, which would, in any case, have considerable economic and political advantages. The Commission will come forward with any proposals that are necessary to ensure an appropriate follow-up. In the light of the foregoing considerations, the Commission has requested the eight governments directly concerned by the judgements to activate the provisions for denunciation contained in their agreements with the United States in order to ensure at the earliest possible date compliance with the judgements of the Court of Justice. The Commission has also requested the remaining seven Member States to activate the provisions for denunciation contained in their agreements with the United States in order to ensure compliance of their agreements with Community law and to avoid the necessity to pursue further infringement procedures. More generally, the Commission has asked all Member States to refrain from taking international commitments of any kind in the field of aviation before having clarified their compatibility with Community law. Finally, in order to take the first step forward in this area, the Commission has urged the Council of the European Union to agree a mandate as soon as possible for negotiations to replace the existing bilaterals with the United States with an agreement at Community level.