Basic information

2006/0202(CNS) CNS - Consultation procedure Decision	Procedure completed
EC/Malaysia agreement: air services, replacing the bilateral agreements by a Community agreement **Subject** 3.20.15.02 Air transport agreements and cooperation **Geographical area** Malaysia	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	COSTA Paolo (ALDE)	21/11/2006

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2850	2008-02-18
Transport, Telecommunications and Energy	2791	2007-03-22
Agriculture and Fisheries	2790	2007-03-19
Agriculture and Fisheries	2774	2006-12-19

European Commission

Commission DG	Commissioner
Energy and Transport	BARROT Jacques

Key events

Date	Event	Reference	Summary
25/10/2006	Legislative proposal published	COM(2006)0619	Summary
17/01/2007	Committee referral announced in Parliament		
27/03/2007	Vote in committee		Summary
29/03/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0093/2007	
24/04/2007	Decision by Parliament	T6-0103/2007	Summary
24/04/2007	Results of vote in Parliament		

18/02/2008	Act adopted by Council after consultation of Parliament		
18/02/2008	End of procedure in Parliament		
05/03/2008	Final act published in Official Journal		

Technical information

Procedure reference	2006/0202(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 300-p2/3-a1 EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/42215

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE386.308	02/03/2007	
Committee report tabled for plenary, 1st reading/single reading		A6-0093/2007	29/03/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0103/2007	24/04/2007	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2006)0619	25/10/2006	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Decision 2008/0196
OJ L 060 05.03.2008, p. 0030 Summary

EC/Malaysia agreement: air services, replacing the bilateral agreements by a Community agreement

2006/0202(CNS) - 25/10/2006 - Legislative proposal

PURPOSE: on the signature and provisional application of the Agreement between the European Community and the Government of Malaysia on certain aspects of air services, replacing bilateral agreements.

PROPOSED ACT: Council Decision.

CONTENT: following the judgments of the Court of Justice in the “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 a Community agreement. The objectives of such agreements are to give all EU air carriers non-discriminatory access to routes between the Community and third countries, and to bring bilateral air service agreements between Member States and third countries in line with Community law.

International aviation relations between Member States and third countries have traditionally been governed by bilateral air services agreements between Member States and third countries. Traditional designation clauses in Member States’ bilateral air services agreements infringe Community law. They allow a third country to reject, withdraw or suspend the permissions or authorisations of an air carrier that has been designated by a Member State but that is not substantially owned and effectively controlled by that Member State or its nationals. This has been found to constitute discrimination against Community carriers established in the territory of a Member State but owned and controlled by nationals of other Member States. This is contrary to Article 43 of the Treaty which guarantees nationals of Member States who have exercised their freedom of establishment the same treatment in the host Member State as that accorded to nationals of that Member State. There are further issues, such as aviation fuel taxation or tariffs introduced by third country air carriers on intra-Community routes, where compliance with Community law should be ensured through amending or complementing existing provisions in bilateral air services agreements between Member States and third countries.

In accordance with the horizontal mandate, the Commission has negotiated an agreement with Malaysia that replaces certain provisions in the existing bilateral air services agreements between Member States and the Government of Malaysia. Article 2 of the Agreement replaces the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment. Article 4 (Pricing) resolves conflicts between the existing bilateral air services agreements and Council Regulation 2409/92/EC on fares and rates for air services which prohibits third country carriers from being price leaders on air services for carriage wholly within the Community. The services of the European Commission have indicated to the Malaysian authorities that provisions of air services agreements between Member States and the Government of Malaysia which may render ineffective the competition rules applicable to undertakings must be brought into conformity with competition law. To this effect, the Commission services have proposed an article in the Horizontal Agreement to ensure compatibility with competition law. The Malaysian authorities have informed the Commission services that they do not wish to include such a provision at this stage, and prefer to address these issues in bilateral negotiations with Member States, rather than in the context of a "horizontal" agreement. The European Commission has informed the Government of Malaysia that it has taken note of its decision and reiterated that issues of incompatibility with competition rules must be resolved.

The relevant provisions of bilateral air services agreements between Member States and the Government of Malaysia will be superseded or complemented by provisions in one single Community agreement. 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 provisional application and on the conclusion of the Agreement and to designate the persons authorised to sign the Agreement on behalf of the Community.

EC/Malaysia agreement: air services, replacing the bilateral agreements by a Community agreement

2006/0202(CNS) - 18/02/2008 - Final act

PURPOSE: the conclusion of the Agreement between the European Community and Malaysia on certain aspects of air services.

LEGISLATIVE ACT: Council Decision 2008/196/EC on the conclusion of the Agreement between the European Community and the Government of Malaysia on certain aspects of air services.

CONTENT: following the rulings of the Court of Justice of the European Communities in the “Open skies” case, the Council authorised the Commission, in June 2003, to open negotiations with third countries in order to replace certain provisions in existing bilateral agreements with Community agreements. On behalf of the Community, the Commission has negotiated an Agreement with Malaysia on certain aspects of air services, in accordance with the mechanisms and directives in the Annex to the Council Decision authorising the Commission to open negotiations with third countries in order to replace certain provisions in existing bilateral agreements with Community agreements.

The Council decided to approve the agreement between the European Community and Malaysia on certain aspects of air services. Article 2 of the agreement replaces the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment. Article 4 (Pricing) resolves conflicts between the existing bilateral air services agreements and Council Regulation No 2409/92 on fares and rates for air services, which prohibits third country carriers from being price leaders on air services for carriage wholly within the Community.

EC/Malaysia agreement: air services, replacing the bilateral agreements by a Community agreement

2006/0202(CNS) - 24/04/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Paolo **COSTA** (ALDE, IT), and approved the conclusion of the Agreement between the European Community and Malaysia on certain aspects of air services. The report was adopted by 518 votes in favour to 7 against with 19 abstentions.