Basic information

2010/0143(NLE) NLE - Non-legislative enactments Decision	Procedure completed
EU/Brazil Agreement: civil aviation safety **Subject** 3.20.01.01 Air safety 3.20.15.02 Air transport agreements and cooperation **Geographical area** Brazil	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	ȚICĂU Silvia-Adriana (S&D)	21/06/2010
	Shadow rapporteur TEIXEIRA Nuno (PPE) MEISSNER Gesine (ALDE) LICHTENBERGER Eva (Verts/ALE) FOSTER Jacqueline (ECR) KOHLÍČEK Jaromír (GUE/NGL)	

Council of the European Union

Council configuration	Meetings	Date
Foreign Affairs	3112	2011-09-26
Agriculture and Fisheries	3026	2010-07-12

European Commission

Commission DG	Commissioner
Mobility and Transport	KALLAS Siim

Key events

Date	Event	Reference	Summary
		COM(2010)0266	Summary

21/05/2010	Preparatory document		
05/10/2010	Initial legislative proposal published	13989/2010	Summary
21/10/2010	Committee referral announced in Parliament		
17/05/2011	Legislative proposal published	13989/1/2010	Summary
21/06/2011	Vote in committee		Summary
30/06/2011	Committee report tabled for plenary, 1st reading/single reading	A7-0259/2011	
13/09/2011	Decision by Parliament	T7-0356/2011	Summary
13/09/2011	Results of vote in Parliament		
26/09/2011	Act adopted by Council after consultation of Parliament		
26/09/2011	End of procedure in Parliament		
19/10/2011	Final act published in Official Journal		

Technical information

Procedure reference	2010/0143(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the European Union TFEU 100-p2 Treaty on the Functioning of the European Union TFEU 218-p6a Treaty on the Functioning of the European Union TFEU 218-p8-a2 Treaty on the Functioning of the European Union TFEU 207-p4
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/7/03018

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE452.665	08/11/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0259/2011	30/06/2011	
Text adopted by Parliament, 1st reading/single reading		T7-0356/2011	13/09/2011	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	11282/2010	29/06/2010	Summary
Initial legislative proposal	13989/2010	05/10/2010	Summary
Legislative proposal	13989/1/2010	17/05/2011	Summary

European Commission

Document type	Reference	Date	Summary
Preparatory document	COM(2010)0266	21/05/2010	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Decision 2011/0694
OJ L 273 19.10.2011, p. 0001 Summary

EU/Brazil Agreement: civil aviation safety

2010/0143(NLE) - 26/09/2011 - Final act

PURPOSE: to conclude an Agreement between the EU and the Federative Republic of Brazil on civil aviation safety.

NON-LEGISLATIVE ACT: Council Decision 2011/694/EU.

CONTENT: the Commission negotiated, on behalf of the European Union, an Agreement on civil aviation safety with the Government of the Federative Republic of Brazil in accordance with the Council Decision authorising the Commission to open negotiations. The Agreement was signed on 14 July 2010, subject to its conclusion in accordance with Council Decision 2010/489/EU.

By the present Decision, the Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety is hereby approved on behalf of the Union.

The Decision lays down procedural arrangements for the participation of the Union in the joint bodies established by the Agreement, as well as for the adoption of certain decisions concerning, in particular, the amendment of the Agreement and its Annexes, the addition of new annexes, the termination of individual annexes, consultations and dispute resolution and the adoption of safeguard measures.

The Member States should take the necessary measures in order to ensure that their bilateral agreements with Brazil on the same subject are terminated as of the date of the entry into force of the Agreement.

ENTRY INTO FORCE: 26/09/2011.

EU/Brazil Agreement: civil aviation safety

2010/0143(NLE) - 13/09/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a legislative resolution on the draft Council decision on the conclusion of an Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety.

Parliament gave its consent to the conclusion of the Convention.

EU/Brazil Agreement: civil aviation safety

2010/0143(NLE) - 21/05/2010 - Preparatory document

PURPOSE: to conclude an Agreement between the EU and Brazil on civil aviation safety.

PROPOSED ACT: Council Decision.

LEGAL BASES: Articles 100(2) and 207(4) in conjunction with Article 218(6)(a) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the EU.

BACKGROUND: the Council granted the Commission authorisation to conduct negotiations with Brazil on the reciprocal acceptance of certification findings in the field of civil aviation safety and environmental compatibility on 9 October 2009 and instructed the Commission to carry out these negotiations in accordance with a set of negotiating directives and appointed a special committee to assist it in this task. The authorisation stated that an agreement between the EU and Brazil should ensure that:

(a) products designed, manufactured, modified, or repaired under the regulatory control of one party to be easily issued the necessary approvals to be registered or operated under the regulatory control of the other party;

(b) aircraft registered or operated under the regulatory control of one party to be maintained by organisations under the regulatory control of the other party.

The draft agreement and two annexes on certification of airworthiness and on maintenance respectively were agreed ad referendum in Rio de Janeiro in March 2010.

IMPACT ASSESSMENT: no impact assessment was carried out.

CONTENT: the content of the Agreement between the EU and Brazil may be summarised as follows:

Clear rights and obligations for the Parties: the applicable law for the EU is Regulation (EC) N° 216/2008 and its implementing measures. The EU system is fully reflected in the draft text setting out clearly a separation of tasks with regard to certification of aeronautical products and components and organisations involved in the design and manufacture of such products and components.

With regard to maintenance, while Brazil's National Civil Aviation Agency (ANAC) staff qualification process has been found comprehensive, certain processes regarding training remain to be fully implemented. By the same token, the surveillance of maintenance organisations is performed through an extensive yearly audit by two ANAC auditors using detailed checklists. Since ANAC and EASA have only recently started to cooperate in the area of maintenance, in order to provide for a full reassurance of the Brazilian oversight system and to maintain confidence in that system, the Agreement proposes to proceed to full recognition of the certification and oversight carried out by ANAC only when the capability to ensure the oversight of maintenance organisations has been demonstrated. Once such capability has been demonstrated, it is proposed that as in the case of the bilateral agreement between the EU and Canada on civil aviation safety, ANAC will be in a position to issue approvals on behalf of EASA to maintenance organisations located in Brazil carrying out maintenance on aircraft and parts designed in the EC, without the need for the Agency to issue its own certificates/approvals on the basis of certificates/approvals issued by ANAC.

This is in line with the European legal requirements set out in Regulation (EC) N° 216/2008 which provides that in the framework of an international agreement certificates "may" be issued by EASA or Member States' authorities on the basis of certificates issued by third country authorities. The Commission considers that these provisions are not an obstacle for the EU to conclude an international agreement whereby certificates issued by the competent authority of the third country are automatically valid in the EU. With this in mind the agreement provides in the area of maintenance for transitional arrangements to build confidence. The parties agree that for the purposes of the Maintenance Procedure:

- compliance with the applicable legislation relating to maintenance of one party and with the regulatory requirements specified in its Appendix B1 amounts to compliance with the applicable legislation of the other Party;
- each Party's Competent Authorities certification practices and procedures provide for an equivalent proof of compliance with the requirements referred to above;
- the respective standards of the Parties pertaining to licensing of maintenance personnel are considered to be equivalent.

Clear means to achieve the objectives of the mandate: the draft Agreement**:**

- stipulates that each party shall accept findings of compliance as results of specified procedures of the other party when these are made according to the provisions of the annexes;
- recognises the right of either party's regulatory authority to issue certificates attesting conformity with the system of the other party on behalf of that other party;
- ensures that confidence is maintained in each other through the appropriate mechanism – it provides for a system of continual cooperation and consultation that is put in place by means of enhanced cooperation in the framework of audits, inspections, timely notifications and consultations on all matters falling within its scope.

Increased cooperation on safety policy through transparency and exchange of safety information: it is proposed that the Partiesexchange information and data, and develop joint programmes in order to increase capabilities to mitigate potential risks for civil aviation with a view to implementing an oversight system for all aircraft operating in their territories.

While safeguarding confidentiality of sensitive (proprietary) information, the agreement gives the two sides the possibility

- of providing each other, on request and in a timely manner information and assistance related to accidents, incidents or occurrences related to the matters covered by the agreement, and
- of exchanging other safety information relating to aircraft operations and results of surveillance activities including of ramp inspections on aircraft using the airports of each Party in accordance with procedures developed by ANAC and EASA.

Regular consultations and rapid dispute resolution: aJoint Committee of the Parties is created, as well as sub-committees – the Joint Sectorial Committee on Certification and the Joint Sectoral Committee on Maintenance – reporting to the Joint Committee of the Parties and monitoring the application of the Annexes. The Joint Committee as well as the sub-committees has both consultation and mediation functions, so as to ensure the smooth functioning of the agreement by providing a forum for resolving differences between the parties. It is entrusted with recommending to the Parties any amendments to the agreement and its annexes and with developing working procedures on regulatory cooperation and transparency for all activities which are not developed by the sub-committees. In this way, discussions in the areas which are not covered by the two annexes but are covered by EU law (e.g. aircraft operations, licences or synthetic training devices) can be discussed in a constructive manner so as to pave the way for any future modification of the agreement. Consultations can be requested at any time. Nevertheless, the parties should take all efforts to try to solve technical issues at the lowest possible level before they become disputes.

Maintain a high degree of confidence in each other's system: the two Parties assume certain obligations:

- to notify the other party of the identity of "competent authority"; for the EU this entails a notification to the Brazilian side that a national aviation authority has been successfully audited (by EASA) and that this audit shows that this authority fully complies with the EU legislation, that it is familiar with the requirements of the Brazilian legislation in the relevant areas and that it is capable of carrying out the obligations affecting certification and maintenance stemming from the annexes;
- to ensure through regular audits that national aviation authorities which have been notified as "competent authorities" to the other side remain capable of fulfilling their obligations stemming from the agreement and its annexes;
- to cooperate in quality assurance and permit the participation of each other in standardisation inspections and conformity assessments of each other (authorities and undertakings);
- to exchange safety data – available information on accidents, incidents or occurrences and to ensure appropriate confidentiality when exchanging information;
- to notify each other all applicable requirements and to consult each other on regulatory and organisational changes at an early stage.

Strong safeguard measures: the text willafford the parties the necessary flexibility to react immediately to safety problems or to set up a higher level of protection they consider appropriate for safety. In order to enable the two sides to deal with such situations without putting at risk the validity of the agreement, specific procedures are provided for. However, should the parties be unable to remedy satisfactorily a specific situation, the text provides firstly for the possibility to suspend acceptance of the findings of the contested Competent Authority, and secondly for means and procedures to be followed for the termination of a part of the agreement or of its entirety.

BUDGETARY IMPLICATIONS: this proposal has no implications for the budget of the Union.

EU/Brazil Agreement: civil aviation safety

2010/0143(NLE) - 17/05/2011 - Legislative proposal

PURPOSE: to conclude an Agreement between the EU and Brazil on civil aviation safety.

PROPOSED ACT: Council Decision.

BACKGROUND: the Agreement between the EU and Brazil on civil aviation safety, negotiated by the Commission, was signed on 14 July 2010, subject to its conclusion at a later stage in accordance with Council Decision 2010/489/EU.

It is now necessary to approve the Agreement on behalf of the EU.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Articles 100(2) and 207(4) in conjunction with Article 218(6)(a) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: by this proposal, the Agreement between the European Union and Brazil on civil aviation safety is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision. For further details of the content of the Agreement, please refer to the previous initial legislative document dated 21/05/2010.

The draft Agreement lays down procedural arrangements for the participation of the Union in the joint bodies established by the Agreement, as well as for the adoption of certain decisions concerning, in particular, the amendment of the Agreement and its Annexes, the addition of new annexes, the termination of individual annexes, consultations and dispute resolution and the adoption of safeguard measures. The Member States should take the necessary measures in order to ensure that their bilateral agreements with Brazil on the same subject are terminated as of the date of the entry into force of the Agreement.

BUDGETARY IMPLICATIONS: the proposal has no implication for the Union budget.

EU/Brazil Agreement: civil aviation safety

2010/0143(NLE) - 29/06/2010 - Document attached to the procedure

This document outlines the content of the Agreement between the European Union and Brazil on civil aviation safety.

Its main provisions are as follows:

Purpose: the objectives of the agreement are:

- to establish, consistent with the legislation in force within each Party, principles and arrangements in order to enable the reciprocal acceptance of approvals issued by either Party's Competent Authorities in the field of civil aviation;
- to allow the Parties to adapt to the emerging trend toward multinational design, manufacture, maintenance, and interchange of civil aeronautical products, involving the common interests of the Parties concerning civil aviation safety and environmental quality;
- to promote cooperation toward sustaining safety and environmental quality objectives;
- to promote and facilitate the continuing exchange of civil aeronautical products and services.

General obligations: the Agreement lays down the general principle of acceptance and recognition of evaluation procedures of the conformity of aeronautical services detailed in the scope of the Agreement of each of the parties, by means of specified legislative, regulatory and administrative measures. However, the Agreement shall not be construed to entail reciprocal acceptance of standards or technical regulations of the Parties and **shall not entail the mutual recognition of the equivalence of standards or technical regulations**.

Scope: the Agreement applies to:

- the airworthiness approval and monitoring of civil aeronautical products;
- the continuing airworthiness of in-service aircraft;
- the approval and monitoring of production and manufacturing facilities;
- the approval and monitoring of maintenance facilities;
- the environmental approval and environmental testing of civil aeronautical products;
- related cooperative activities; and
- safety initiatives and exchange of relevant safety information.

Once the principle of acceptance of rules and standards of one or the other party is established, a procedure of notification and **information exchange** is foreseen to keep each of the parties aware of the acceptance of the rules and standards in question.

Safeguard measures: nothing in this Agreement shall be construed to limit the authority of a party to take all appropriate and immediate measures whenever there is a reasonable risk that a product or a service may compromise the health or safety of persons or not meet the applicable legislative, regulatory, or administrative measures of that party within the scope of this Agreement.

The Agreement also provides for:

- cooperation in the area of safety policy thanks to transparency and exchange of information regarding safety;
- regular consultation between the parties;
- the rapid resolution of differences.

EU/Brazil Agreement: civil aviation safety

2010/0143(NLE) - 05/10/2010 - Initial legislative proposal

PURPOSE: to conclude an Agreement between the EU and Brazil on civil aviation safety.

PROPOSED ACT: Council Decision.

BACKGROUND: the Commission negotiated, on behalf of the European Union, an Agreement on civil aviation safety with the Government of the Federative Republic of Brazil in accordance with the Council Decision of 9 October 2009 authorising the Commission to open negotiations.

The Agreement was signed on 14 July 2010, subject to its conclusion at a later stage.

It is now necessary to approve this Agreement on behalf of the European Union.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASES: Articles 100(2) and 207(4) in conjunction with Article 218(6)(a) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the EU (TFEU).

CONTENT: under this proposed Decision, the Agreement between the EU and Brazil on civil aviation safety is hereby approved on behalf of the Union.

This Agreement lays down procedural arrangements for the participation of the Union in the joint bodies established by the Agreement, as well as for the adoption of certain decisions concerning, in particular, the amendment of the Agreement and its Annexes, the addition of new annexes, the termination of individual annexes, consultations and dispute resolution and the adoption of safeguard measures.

The text of the Agreement is attached to the present Decision. For more details, please refer to the summary of the document annexed to the procedure dated 29 June 2010.

It should be noted that the Member States should take the necessary measures in order to ensure that their bilateral agreements with Brazil on the same subject are terminated as of the date of the entry into force of the Agreement.

BUDGETARY IMPLICATION: this proposal has no implications for the EU budget.