Basic information

2022/0419(NLE) NLE - Non-legislative enactments Decision	Procedure completed
EU/Japan Agreement: air services **Subject** 3.20.15.02 Air transport agreements and cooperation **Geographical area** Japan	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	TRAN Transport and Tourism	MONTEIRO DE AGUIAR Cláudia (EPP)	25/04/2023
		Shadow rapporteur VITANOV Petar (S&D) RIQUET Dominique (Renew) CUFFE Ciarán (Greens/EFA) ZĪLE Roberts (ECR) HAIDER Roman (ID) DALY Clare (The Left)	
Council of the European Union			
European Commission	**Commission DG**	**Commissioner**	
	Mobility and Transport	VĂLEAN Adina	

Key events

Date	Event	Reference	Summary
15/12/2022	Preparatory document	COM(2022)0725	Summary
29/03/2023	Legislative proposal published	07028/2023	Summary
17/04/2023	Committee referral announced in Parliament		

27/06/2023	Vote in committee		
29/06/2023	Committee report tabled for plenary, 1st reading/single reading	A9-0221/2023	Summary
11/07/2023	Decision by Parliament	T9-0257/2023	Summary
11/07/2023	Results of vote in Parliament		
18/09/2023	Act adopted by Council after consultation of Parliament		
29/09/2023	Final act published in Official Journal		

Technical information

Procedure reference	2022/0419(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
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/9/11029

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE746.986	04/05/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0221/2023	29/06/2023	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0257/2023	11/07/2023	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	07028/2023	29/03/2023	Summary

European Commission

Document type	Reference	Date	Summary
Preparatory document	COM(2022)0725	15/12/2022	Summary
Document attached to the procedure	COM(2022)0726	15/12/2022	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act
Decision 2023/2079 OJ L 241 29.09.2023, p. 0001

EU/Japan Agreement: air services

2022/0419(NLE) - 29/03/2023 - Legislative proposal

PURPOSE: to conclude, on behalf of the European Union, the agreement between the European Union and Japan on certain aspects of air services.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: in accordance with Council Decision (EU) 2023/362, the Agreement between the European Union and Japan on certain aspects of air services agreements between Member States of the European Union and Japan was signed on 20 February 2023, subject to its conclusion at a later date. The Agreement should be approved.

CONTENT: the purpose of the draft Council Decision is to approve, on behalf of the Union, the Agreement between the European Union and Japan on certain aspects of air services. The purpose of the Agreement is to bring the bilateral air services agreements between 13 Member States and Japan into line with EU law.

EU/Japan Agreement: air services

2022/0419(NLE) - 15/12/2022 - Preparatory document

PURPOSE: to conclude, on behalf of the European Union, the agreement between the European Union and Japan on certain aspects of air services.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: following the judgements of the Court of Justice in the so-called “Open Skies” cases, on 5 June 2003 the Council authorised the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral air services agreements with an agreement at Union level (the “horizontal authorisation”).

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

In accordance with the mechanisms and directives in the Annex to the “horizontal authorisation”, the Commission has negotiated an Agreement with Japan that supersedes certain provisions in the existing bilateral air services agreements between Member States and Japan. The negotiations on the Agreement having been successfully concluded, it is now necessary to approve the Agreement on behalf of the European Union.

CONTENT: The Commission proposes that the Council decide to approve on behalf of the Union the **Agreement between the European Union and Japan** on certain aspects of air services.

The purpose of this Agreement is to bring the bilateral air services agreements between 13 Member States and Japan in line with EU law.

However, traditional designation clauses in Member States’ bilateral air services agreements infringe Union 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 EU air carriers established in the territory of a Member State but owned and controlled by nationals of other Member States. This is contrary to Article 49 of the Treaty on the Functioning of the European Union 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.

Article 2 of the Agreement **replaces the traditional designation clauses with an EU designation clause**, permitting all EU carriers to benefit from the right of establishment.

EU/Japan Agreement: air services

2022/0419(NLE) - 11/07/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 626 votes to 5, with 5 abstentions, a legislative resolution on the draft Council decision on the conclusion on behalf of the Union of the Agreement between the European Union and Japan on certain provisions of the air service agreements between Member States of the European Union and Japan.

The European Parliament **gave its consent** to the conclusion of the agreement.

The Commission negotiated an agreement with Japan to replace certain provisions in the already existing bilateral air services agreements between Member States and Japan in order to bring the bilateral air services agreements in line with EU law, as requested by the Court of Justice in the so-called “Open Skies” cases of 2002.

The Agreement provides all EU air carriers non-discriminatory access to routes between the European Union and Japan. Article 2 of the Agreement replaces the traditional designation clauses with an EU designation clause, permitting all EU carriers to benefit from the right of establishment: any EU carrier can fly from any Member State that has a bilateral agreement with Japan where unused traffic rights are available.

EU/Japan Agreement: air services

2022/0419(NLE) - 29/06/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Cláudia MONTEIRO DE AGUIAR (EPP, PT) on the draft Council decision on the conclusion on behalf of the Union of the Agreement between the European Union and Japan on certain provisions of the air service agreements between Member States of the European Union and Japan.

The committee responsible recommended that the European Parliament **give its consent** to the conclusion of the agreement.

The Commission has negotiated an agreement with Japan to replace certain provisions in the already existing bilateral air services agreements between Member States and Japan in order to bring the bilateral air services agreements in line with EU law, as requested by the Court of Justice in the so-called “Open Skies” cases of 2002.

On this basis, the Agreement will bring the bilateral air services agreements between 13 Member States (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Spain, Sweden) and Japan in line with the EU law.

The Agreement provides all EU air carriers non-discriminatory access to routes between the European Union and Japan. Article 2 of the Agreement replaces the traditional designation clauses with an EU designation clause, permitting all EU carriers to benefit from the right of establishment: any EU carrier can fly from any Member State that has a bilateral agreement with Japan where unused traffic rights are available.