



**COUNCIL OF
THE EUROPEAN UNION**

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INFORMATION NOTE

from: Commission

to: Council

Subject: EU-Brazil comprehensive air transport agreement
– Information from the Commission

Delegations will find in Annex an information note from the Commission on the above-mentioned subject, which will be dealt with under "Any other business" at the meeting of the Council (Transport, Telecommunications and Energy) on 11 March 2013.

Information Note from the Commission
EU-Brazil Air Transport Agreement - State of Play

1. In early 2010, the Brazilian government requested negotiation of a comprehensive Brazil-EU air transport agreement following which the European Commission requested and obtained an authorisation to negotiate from the Council of EU Transport Ministers in October 2010.
2. A comprehensive air transport agreement was subsequently negotiated, agreed and initialled by the two sides on 17 March 2011.
3. As of today, nearly two years later, the agreement has still not been signed by Brazil.
4. President Barroso and President Rousseff exchanged letters on the delayed signature in the course of 2012. In a letter dated 9 July 2012, President Rousseff raised three issues she would like to see modified in the agreement before signing it:
 - To delete the reference in the agreement allowing the two sides to own and control up to 49% of airlines of the other side.
 - To revise the chapter of the agreement relating to environment (including emissions/ETS).
 - To include the deadline/date in the agreement as from when there will no longer be any restrictions on frequencies.
5. At the EU-Brazil Summit on 24 January 2013, the Presidents reviewed the situation regarding the air transport agreement and "*confirmed their interest in concluding the negotiations as soon as possible*", in view of the significant economic benefits that it will generate for both sides.
6. Following the Summit, the Brazilian authorities sent a note to the European Commission in which they described in detail the modifications that Brazil would propose to be made to the initialled text of the agreement. The Brazilian demands included President Rousseff's initial three points but two new ones. Firstly, 5th freedom rights for passenger services (i.e. allowing services also through intermediate points between the EU and Brazil and to points beyond the respective territories). And secondly, interchange of aircraft (also referred to as "leasing by hours").

7. The Commission obviously regrets the Brazilian demand for reopening negotiations and would have preferred to leave the agreed text as it is, but it is now clear that a renegotiation is unavoidable.
8. All the proposed modifications, with one exception, could be renegotiated within the negotiating directives given by the Council in October 2010. The exception concerns the 5th freedom rights for passenger services.
9. It is the Commission's view that without an extended authorisation allowing the Commission also to negotiate 5th freedom rights for passenger services it will not be possible to conclude the agreement with Brazil. The Commission therefore intends to present to the Council a request for an extension of existing authorisation that would allow negotiating also 5th freedom rights for passengers.
- 10 It is the Commission's view that concluding an agreement with Brazil, would represent significant benefits for the EU, EU carriers and consumers as well as for Brazil.
11. The Commission therefore urges the Ministers to support the Commission's efforts to bring this agreement to a positive conclusion and to this effect, in due course, support a necessary extension of the authorisation to negotiate to also include 5th freedom rights for passenger services.
