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REPORT

on the proposal for a Council Decision concerning the signing of the Memorandum of Understanding between the European Community and the National Tourism Administration of the People's Republic of China on visa and related issues concerning tourist groups from the People's Republic of China (ADS)
(COM(2003) 790 – C5-0029/2004 – 2003/0299(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Sérgio Sousa Pinto

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Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 14 January 2004 the Council consulted Parliament, pursuant to Article 67 of the EC Treaty, on the proposal for a Council Decision concerning the signing of the Memorandum of Understanding between the European Community and the National Tourism Administration of the People's Republic of China on visa and related issues concerning tourist groups from the People's Republic of China (ADS) (COM(2003) 790 – 2003/0299(CNS)).

At the sitting of 15 January 2004 the President of Parliament announced that he had referred the proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible (C5-0029/2004).

The committee appointed Sérgio Sousa Pinto rapporteur at its meeting of 21 January 2004.

The committee considered the Commission proposal and draft report at its meetings of 18 and 19 February 2004.

At the latter meeting it adopted the draft legislative resolution by 23 votes to 3.

The following were present for the vote: Johanna L.A. Boogerd-Quaak (acting chairman), Giacomo Santini (vice-chairman), Sérgio Sousa Pinto (rapporteur), Mary Elizabeth Banotti, Kathalijne Maria Buitenweg (for Patsy Sörensen), Michael Cashman, Carmen Cerdeira Morterero, Gérard M.J. Deprez, Adeline Hazan, Marie-Thérèse Hermange (for Thierry Cornillet), Margot Keßler, Timothy Kirkhope, Eva Klamt, Lucio Manisco (for Giuseppe Di Lello Finuoli), Luís Marinho (for Ozan Ceyhun), Marjo Matikainen-Kallström (for Charlotte Cederschiöld), Erik Meijer (for Ilka Schröder, pursuant to Rule 153(2)), Elena Ornella Paciotti, Paolo Pastorelli (for Giuseppe Brienza), Hubert Pirker, Bernd Posselt, Olle Schmidt (for Baroness Ludford), Joke Swiebel, Anna Terrón i Cusí, Maurizio Turco and Christian Ulrik von Boetticher.

The report was tabled on 23 February 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council Decision concerning the signing of the Memorandum of Understanding between the European Community and the National Tourism Administration of the People's Republic of China on visa and related issues concerning tourist groups from the People's Republic of China (ADS)
(COM(2003) 790 – C5-0029/2004 – 2003/0299(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2003) 790),¹
 - having regard to Article 62(2)(b)(ii) and (iv) and Article 63(3)(b) in conjunction with the second sentence of the first subparagraph of Article 300(2) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0029/2004),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0101/2004),
1. Approves the Commission proposal;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 4. Instructs its President to forward its position to the Council and Commission and to the Government of the People's Republic of China.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

Political and legal background to the Memorandum of Understanding concluded with China

The agreement on which Parliament has been consulted is not a genuine readmission agreement like the ones which have been concluded with Hong Kong and Macau.

The Commission had been instructed by the Council to negotiate a re-admission agreement but it met with resistance on the part of the Chinese authorities.

Hence attention was focused on concluding a broader, more general agreement which would enable Chinese citizens to visit the European Union as tourists. The agreement also incorporates a re-admission clause.

Hitherto, Chinese citizens were able to visit only specific locations determined on the basis of bilateral tourism agreements concluded between China and individual EU Member States, pursuant to which Approved Destination Status (ADS) is awarded.

After lengthy, laborious negotiations the Commission has reached an understanding with the Chinese authorities with a view to concluding an ADS agreement between the European Community and China which will enable Chinese tourists to travel freely within the EU.

The difficulty of the negotiations lay mainly in the fact that the European side wished to incorporate a re-admission clause into a 'tourism' agreement. Concluding the agreement - including a re-admission clause - took nearly a year.

Pursuant to that clause, travel agencies responsible for dealing with visa applications in connection with the ADS tourism agreement will be required to report without delay to the visa-issuing Member State and to the Chinese authorities any ADS tourists who are missing from the group or who have not returned to China.

Those agencies will be required to work immediately with the competent departments of the Contracting Parties in the case of an illegal overstayer to help send back and receive the tourist, 'who shall be readmitted by the Government of the People's Republic of China'.

This unprecedented acceptance by the Chinese authorities of a re-admission clause could open the way to the conclusion, at some stage in the future, of a genuine re-admission agreement with China, which the Commission regards as a priority.

At the informal Council meeting held in Dublin on 22-23 January 2004 the Commission stated that the priority countries for the conclusion of re-admission agreements are currently Morocco, Ukraine, Russia and Turkey, with Moldova, Belarus and the Balkan and North African countries as longer-term prospects.

Parliament's position

The rapporteur recommends that Parliament should endorse the conclusion of the Memorandum of Understanding between the European Community and the National Tourism Administration of the People's Republic of China.

He considers that Chinese citizens should be encouraged to visit Europe, in view of the fact that, over the next ten years, China seems likely to become one of the world's main sources of tourists.

He notes how difficult it is for the Commission to conclude re-admission agreements with third countries in cases in which (as with this agreement) there is no reward to be offered to third countries in exchange for the signing of agreements which mainly benefit the European Union.

He calls upon the Commission to devise new forms of aid or more comprehensive arrangements with a view to incorporating re-admission agreements into an overall scheme for managing flows of migrants, thereby counterbalancing the repressive function of such agreements by introducing more innovative ways of taking in workers from third countries.

He refers to the report on the re-admission agreement with Macau for a political assessment of Parliament's involvement in the drawing up of such agreements.

MINORITY OPINION

pursuant to Rule 161(3) of the Rules of Procedure

Erik Meijer, Ilka Schröder

As the rapporteur eloquently explains and the Commission has officially denied but implicitly admitted, the proposed agreement is nothing else than the first step to reach a full-blown expulsion agreement with China which the EU continues to pursue. The Commission clearly recognises that the EU has difficulties in pressurising third countries to sign expulsion agreements if they don't get anything back in return. China has not only complained about the intolerable treatment of its citizens by European immigration officials, but also effectively stalled the EU's efforts to deport people to China so far as long as the EU does not open legal channels for immigration.

This is why the EU tries to get closer to its expulsion dreams by signing a broader agreement that also includes a clause on returns now.

Therefore, even if slight improvements on visa policy might be granted by the European side, the proposed agreement is nothing else than a further step towards forced returns of people to places where they clearly don't want to return to.

On top of all this, the question has to be raised if the human rights situation in China is positive enough to even think about negotiating a following expulsion agreement.