



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.9.2007
COM(2007) 497 final

2007/0183 (CNS)

Proposal for a

COUNCIL DECISION

on the conclusion of a Protocol amending the Agreement between the European Community and the Kingdom of Morocco on certain aspects of air services in order to take account of the accession to the European Union of the Republic of Bulgaria and Romania

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

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 by a Community Agreement (the “horizontal mandate”).¹ The objectives of such Agreements are to give all Community 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 into line with Community law.

- **General context**

The European Community and Morocco signed a horizontal Air Service Agreement on 12 December 2006 which amends certain provisions of the Aviation Agreements between the Member States and Morocco.

Bulgaria and Romania each have an Aviation Agreement with the Kingdom of Morocco, signed in 1966 and 1971 respectively. To bring these Agreements into line with Community law and to enable these two new Member States to become Parties to the horizontal Agreement, it is necessary to amend the Annexes thereto in order to include the corresponding references to the bilateral Agreements concerned.

Article 7 of the horizontal Agreement (amendment procedure) specifies that "the Parties may, at any time, revise or amend this Agreement by mutual consent". It is therefore necessary for a Protocol to be concluded between the European Community and Morocco for the purpose of revising the Agreement.

The Protocol provides for the necessary technical and linguistic adaptations of the Agreement.

- **Existing provisions in the area covered by the proposal**

The provisions of the Agreement supersede or complement the existing provisions in the bilateral Aviation Agreements concluded between the Republic of Bulgaria and Romania and Morocco.

- **Consistency with other policies and objectives of the Union**

The Agreement will serve a fundamental objective of the Community's external aviation policy by bringing existing bilateral Air Service Agreements into line with Community law.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

¹ Council Decision 11323/03 of 5 June 2003 (restricted document).

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

Not applicable

Summary of responses and how they have been taken into account

Not applicable

3) **LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

In accordance with the mechanisms and directives in the Annex to the "horizontal mandate", the Commission has signed with Morocco the Agreement that replaces certain provisions in the existing bilateral Air Service Agreements between Member States and that third country. The Protocol provides for the necessary replacements to be made in the bilateral Air Service Agreements concluded between the Kingdom of Morocco and the Republic of Bulgaria and Romania following their accession to the European Union on 1 January 2007. The relevant provisions will be added to the Annex.

- **Legal basis**

Article 80(2) of the EC Treaty in conjunction with Article 300(2), (3) and (4).

- **Subsidiarity principle**

The proposal is entirely based on the "horizontal mandate" granted by the Council taking into account the issues covered by Community law and bilateral Air Service Agreements.

- **Proportionality principle**

The Protocol will amend or complement the provisions of the bilateral Air Service Agreements only to the extent necessary to ensure compliance with Community law.

- **Choice of instruments**

The Protocol amending the Agreement between the Community and Morocco is the most efficient instrument to bring the existing bilateral Air Service Agreements between the Republic of Bulgaria and Romania with Morocco into line with Community law.

4) **BUDGETARY IMPLICATIONS**

The proposal has no implications for the Community budget.

5) **ADDITIONAL INFORMATION**

- **Simplification**

The proposal provides for the simplification of legislation.

The provisions of a single Community Agreement will supersede or complement the corresponding provisions of the bilateral Air Service Agreements concluded between the Republic of Bulgaria and Romania respectively with the Kingdom of Morocco.

- **Detailed explanation of the proposal**

In accordance with the standard procedure for amending international agreements, the Council is requested to approve the Protocol amending the Agreement concluded between the European Community and the Kingdom of Morocco on certain aspects of air services.

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on the conclusion of a Protocol amending the Agreement between the European Community and the Kingdom of Morocco on certain aspects of air services in order to take account of the accession to the European Union of the Republic of Bulgaria and Romania

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 80 thereof in conjunction with Article 300(2), the first subparagraph of Article 300(3) and Article 300(4),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) Bulgaria and Romania signed bilateral Air Service Agreements with the Kingdom of Morocco on 14 October 1966 and 6 December 1971 respectively.
- (2) The Agreement between the European Community and the Kingdom of Morocco on certain aspects of air services ("the horizontal Agreement") was signed in Brussels on 12 December 2006.
- (3) The Act of Accession of the Republic of Bulgaria and Romania to the European Union was signed in Luxembourg on 25 April 2005 and entered into force on 1 January 2007.
- (4) A Protocol amending Annexes I and II to the horizontal Agreement is necessary in order to take account of the accession of the two new Member States.
- (5) The negotiations are based on the negotiating mandate granted to the Commission by the Council on 5 June 2003.
- (6) The Protocol was negotiated by the two Parties on [].
- (7) The Protocol should therefore be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol amending Annexes I and II to the Agreement between the European Community and the Kingdom of Morocco on certain aspects of air services in order to take account of the

accession of the Republic of Bulgaria and Romania to the European Union is hereby adopted on behalf of the European Community. The text of the Protocol is attached to this Decision.

Article 2

The President of the Council shall be authorised to give the notification provided for in Article 3 of the Protocol.

Done at Brussels,

For the Council
The President

ANNEX

DRAFT

PROTOCOL AMENDING

**ANNEXES I AND II TO THE AGREEMENT
BETWEEN THE EUROPEAN COMMUNITY
AND THE KINGDOM OF MOROCCO
ON CERTAIN ASPECTS OF AIR SERVICES**

THE EUROPEAN COMMUNITY

of the one part, and

THE KINGDOM OF MOROCCO,

of the other part,

hereinafter referred to as "the Parties",

Having regard to the Agreements between Bulgaria and Romania and the Kingdom of Morocco, signed on 14 October 1966 at Rabat and 6 December 1971 at Bucharest respectively,

Having regard to the Agreement between the European Community and the Republic of Morocco on certain aspects of air services signed at Brussels on 12 December 2006 ("the horizontal Agreement");

Having regard to the accession of the Republic of Bulgaria and Romania to the European Union and hence to the Community on 1 January 2007,

HAVE AGREED AS FOLLOWS:

Article 1

The following provisions are added to Annex 1(a) of the horizontal Agreement:

"- Aviation Agreement between the People's Republic of Bulgaria and the Kingdom of Morocco signed at Rabat on 14 October 1966;

- Civil Aviation Agreement between the Socialist Republic of Romania and the Government of the Kingdom of Morocco signed at Bucharest on 6 December 1971,

as amended by the Memorandum of Understanding signed at Rabat on 29 February 1996."

Article 2

The following provisions are added to Annex II(a) of the horizontal Agreement:

In point (a) (Designation by a Member State):

"- Article 3 of the Morocco-Romania Agreement;

In point b (Refusal, revocation, suspension or limitation of authorisations or permissions):

"- Article 7 of the Morocco-Bulgaria Agreement;

- Article 3 of the Morocco-Romania Agreement."

In point c (Regulatory control):

"- Article 8 of the Morocco – Bulgaria Agreement;

In point (d) (Taxation of aviation fuel):

"- Article 3 of the Morocco – Bulgaria Agreement;

- Article 8 of the Morocco-Romania Agreement."

In point e (Tariffs for carriage within the European Community):

"- Article 16 of the Morocco – Bulgaria Agreement;

Article 7 of the Morocco-Romania Agreement."

Article 3

This Protocol shall enter into force on the date on which the Parties notify each other of the completion of their respective internal approval procedures.

Article 4

Done at [...] in duplicate, on this [...] day of [..., ...], the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Dutch, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish and Arabic languages, each text being equally authentic.

FOR THE EUROPEAN COMMUNITY FOR THE KINGDOM OF MOROCCO