



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 December 2012**

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**Interinstitutional File:  
2012/0323 (NLE)**

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**17247/12  
ADD 1**

**AVIATION 189  
RELEX 1113  
ISR 23  
OC 712**

**ADDENDUM TO REPORT**

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From : General Secretariat

To : COREPER / Council

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No. Cion prop. : 16502/12 AVIATION 176 ISR 17

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Subject : Proposal for a COUNCIL DECISION on the signature, on behalf of the European Union, and provisional application of the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the State of Israel, of the other part  
- Adoption

**COMMON GUIDELINES**

**Consultation deadline for Croatia: 10 December 2012**

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Delegations will find attached statements by the Commission, FI and HU on the above-mentioned subject, to be added to the Council's minutes.

**Statement by the Commission**

"In accordance with Article 218 (5) TFEU, the Commission has submitted a proposal for a Council decision authorising the signing and the provisional application of an aviation agreement with the Government of the State of Israel.

The Commission takes note of the Council's unanimous decision to adopt a "hybrid" act consisting concurrently of a decision of the Council and of the Representatives of Governments of the Member States meeting within the Council.

The Commission is of the opinion that this "hybrid" act violates the Treaties in that it, among other reasons, distorts the procedure and voting rules set out in 218 (5) TFEU and (8) first subparagraph TFEU.

The Commission also notes that under Article 218 (9) TFEU Member States have no competences in establishing the positions to be adopted on the Union's behalf in a body set-up by an agreement when that body is called upon to adopt acts having legal effects, irrespective of the nature of the Union's competence concerned.

Under these circumstances, the Commission considers that the procedure for establishing the EU position in the Joint Committee set up under Article 22 of the Agreement is contrary to the Treaties. The Commission recalls its application in the Case C-28/12 Commission v Council which is pending before the Court of Justice and, reserves the right to make use of all the legal means at its disposal to ensure the respect of the provisions of the Treaties."

### **Statement by Finland**

"Finland declares that it can apply this Agreement provisionally pursuant to Article 30 only from the date on which it has given its respective notification of the completion of its internal procedures necessary for the entry into force of this Agreement."

### **Statement by Hungary**

"Hungary hereby declares that it can provisionally apply this Agreement pursuant to Paragraph 1 of Article 30 only from the date on which it has notified the European Union as the Depository of this Agreement the completion of its internal procedures necessary for the provisional application of this Agreement."

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