



**COUNCIL OF
THE EUROPEAN UNION**

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**AVIATION 1
RELEX 3
NT 1**

"I/A" ITEM NOTE

from:	General Secretariat
to:	COREPER/Council

No. Cion prop.:	13024/11 AVIATION 191 RELEX 798 NT 14
Subject:	Proposal for a Council Decision on the signature of the Agreement on certain aspects of air services between the European Union and the Republic of Turkey - Adoption

1. The above Agreement is the result of the Commission's negotiating activities under the so-called "horizontal mandate" (granted by the Council in June 2003) according to which the Commission can negotiate with any third country with a view to bringing Member States' existing bilateral aviation agreements with that country into line with Union law.
2. The Agreement was initialled on 25 March 2010 and the Commission presented the above-mentioned proposal to the Council on 13 July 2011. The text of the proposal was examined by the Aviation Working Party, and the text has been prepared by the Legal Linguist Services¹.

¹ 18231/11 (Decision on the signature)
18268/11 (Agreement)

3. Following the examination of the above text, COREPER could invite the Council to:

- adopt the modified text so that the signature of the Agreement can proceed;
- take note of the joint Council/Commission statements set out in Annex I and Annex II to this Note;
- take note of the declaration on behalf of the European Union to be made at the time of the signature of the Agreement, set out in the Annex III to this Note;
- take note of the statement by France set out in the Annex IV to this Note.

Joint Statement by the Council and the Commission

"Inter alia for pragmatic reasons, it is preferable that the Union alone should conclude the Agreement with the Republic of Turkey on certain aspects of air services. The same considerations would apply in respect of similar agreements as long as they are concluded in accordance with and within the limits of the mandate on the replacement of certain provisions in existing bilateral agreements adopted by the Council Decision of 5 June 2003.

This Decision does not constitute a precedent as to the exercise of the respective competencies of the Union and its Member States in respect of agreements other than those referred to above, such as, for example, agreements of the type envisaged by the Council Decision of 5 June 2003 authorising the Commission to open negotiations with the United States in the field of air transport, which shall be concluded as mixed agreements.

This Decision does not create any new Union competences as far as external agreements on air services are concerned, nor does it affect the division of competences between the Union and its Member States."

Joint Statement by the Council and the Commission

"The decision on signature and provisional application of the agreement between the European Union and the Government of the Republic of Turkey on certain aspects of air services (the "Horizontal Agreement with Turkey") is without prejudice to the current state of aviation relations between the Republic of Turkey and the Republic of Cyprus, including the lack of application of the bilateral air service agreement initialled by the Republic of Cyprus and Turkey in 1963 (the "1963 Initialled Text").

The Council and the Commission are convinced that signing and concluding the Horizontal Agreement with Turkey will help facilitate resolving challenges and difficulties in the aviation relations between the Union and its Member States and Turkey, thereby contributing to the overall improvement of cooperation in the aviation sector including in areas such as overflight and safety.

The European Union recalls that, in accordance with the principle of "EU designation" (itself a consequence of European Union law), air carriers established in a Member State of the European Union, have the right to non-discriminatory access to air routes under bilateral air services agreements between that Member State and third countries, including Turkey.

The European Union and its Member States expect Turkey to fulfil her obligation of full, non-discriminatory implementation of the Additional Protocol to the Association Agreement, to urgently remove all restrictions on means of transport and make progress towards the normalization of relations with the Republic of Cyprus."

Declaration on behalf of the European Union to be made at the time of the signature of the Agreement on certain aspects of air services between the European Union and the Republic of Turkey

"The European Union welcomes the signing of this Agreement as a first step for further improving and developing the aviation relations between the European Union and all of its Member States, on the one side, and the Republic of Turkey, on the other side. In this respect, the EU also recalls the Declaration of the European Community and its Member-States of 21 September 2005."

Statement by France

"Conformément à sa déclaration annexée au procès-verbal du Coreper du 7 mai 2008 (document 9339/08), la France considère que cet accord n'emporte aucune conséquence quant à la nature et à l'issue du processus de négociations en cours entre la Turquie et l'Union européenne. La France rappelle que sa position sur ce sujet est bien connue et a été prise en compte par les conclusions du Conseil européen de décembre 2007, 2008, 2009, et 2010."
