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THE EUROPEAN UNION**

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From: General Secretariat of the Council
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Subject: Proposal for a decision of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council on the conclusion of the Euro-Mediterranean Aviation Agreement between the European Community and its Member States, on the one hand, and the Kingdom of Morocco, on the other hand

Further to the ratification by all Member States party to the Euro-Mediterranean Aviation Agreement between the European Community and its Member States, on the one hand, and the Kingdom of Morocco, on the other hand, delegations will find attached a revised version of the above-mentioned Commission proposal. The proposal has been adapted to the new provisions of the Treaty on the Functioning of the European Union, and to the Decision on the signature of the Agreement (Decision 2006/959/EC).

2006/0048 (CNS)

Proposal for a

DECISION OF THE COUNCIL AND THE REPRESENTATIVES OF THE GOVERNMENTS
OF THE MEMBER STATES OF THE EUROPEAN UNION, MEETING WITHIN THE
COUNCIL

On the conclusion of the Euro-Mediterranean Aviation Agreement between the European
Community and its Member States, on the one hand, and the Kingdom of Morocco, on the other
hand

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE
GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL,

Having regard to the Treaty **on the Functioning of the European Union** ~~establishing the European
Community~~ and in particular Article ~~80(2)~~, **100 (2)**, in conjunction with ~~the first sentence of the first
subparagraph of Article 300(2), the first subparagraph of Article 300(3) and Article 300(4) thereof~~
Article 218 (6)(a) and 218 (8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the ~~opinion~~ **consent** of the European Parliament,¹

¹ OJ C 081 E, 15.03.2011.

Whereas

- (1) The Commission has negotiated on behalf of the ~~Community~~ **Union** and of the Member States an Euro-Mediterranean Aviation Agreement with the Kingdom of Morocco (hereinafter “the Agreement”);
- (2) ~~An~~ **The Agreement was signed on ~~....~~12 December 2006², in accordance with Decision 2006/959/EC of the Council and of the Representatives of the Governments of the Member States, meeting within the Council;**
- (3) The Agreement should be approved ~~by the Community and the Member States~~ **on behalf of the Union;**
- (4) It is necessary to lay down procedural arrangements for the participation of the ~~Community~~ **Union** and the Member States in the Joint Committee set up under Article ~~21~~ **22** of the Agreement and in the arbitration procedures provided in Article ~~22~~ **23** of the Agreement, as well as for implementing certain provisions of the Agreement, including those concerning the adoption of safeguard measures, the granting and revocation of traffic rights and certain safety and security matters.

HAVE ~~DECIDED AS FOLLOWS~~ **ADOPTED THIS DECISION:**

Article 1 (Approval)

1. The Euro-Mediterranean Aviation Agreement between the European Community and its Member States, on the one part, and the Kingdom of Morocco, of the other part is hereby approved on behalf of the ~~Community~~ **Union**. ~~The text of the Agreement is attached to this decision.~~

² OJ L 386, 29.12.2006.

- ~~2. Upon completion of its internal procedures for entry into force of the Agreement, each Member State shall transmit to the Secretariat of the Council the diplomatic note provided for in Article 29 of the Agreement.~~
3. The president of the Council is hereby authorised to designate the person(s) empowered to deliver to the Kingdom of Morocco the diplomatic notes provided in Article ~~29~~ **30** of the Agreement on behalf of the **Community Union** and of the Member States. ~~*based on Article 25 of the agreement with the US, which the Legal Service suggests to insert in Article 29*~~

Article 2 (Joint Committee)

1. The **Community Union** and the Member States shall be represented in the Joint Committee established under Article ~~21~~ **22** of the Agreement by representatives of the Commission and of the Member States.
2. The position to be taken by the ~~Community~~ **Community Union** and the Member States within the Joint Committee as regards the amendment of the Annexes of the Agreement **others than Annex I (Agreed Services and Specific Routes) and Annex IV (Transitional Provisions), and** any matters falling within Article ~~6 or 7~~ **7 or 8** of the Agreement ~~or any other matter of exclusive Community competence~~ shall be established **adopted** by the Commission, following consultation with a Special Committee of the Representatives of the Member States appointed by the Council. ~~In all other instances, the Community position shall be established by the Council, acting by qualified majority on a proposal from the Commission.~~
3. **For other Joint Committee decisions concerning matters that fall within Union competence, the position of the Union and its Member States shall be adopted by the Council, acting by qualified majority, on a proposal from the Commission.**

4. **For other Joint Committee decisions concerning matters that fall within Member States' competence, the position to be presented shall be adopted by the Council, acting by unanimity, on a proposal from the Commission or from Member States.**
5. The position of the ~~Community~~ **Union** and of the Member States within the Joint Committee shall be presented by the Commission, **except in areas that fall exclusively within Member States' competence, in which case it shall be presented by the Presidency of the Council or, if the Council so decides, by the Commission.**

Article 3 (Arbitration)

1. The Commission shall represent the ~~Community~~ **Union** and the Member States in arbitration proceedings under Article ~~22~~ **23** of the Agreement.
2. A decision to suspend ~~the application of benefits~~ **or revoke the application of rights or privileges** pursuant to Article ~~22~~**23**(6) of the Agreement shall be taken by the Council on the basis of a Commission proposal. The Council shall decide by qualified majority.
3. Any other appropriate action to be taken under Article ~~22~~ **23** of the Agreement on matters of ~~exclusive~~ **which fall within Union** competence of the ~~Community~~ shall be decided by the Commission, with the assistance of a Special Committee of representatives of the Member States appointed by the Council.

Article 4 (Safeguard measures)

1. A decision to take safeguard measures pursuant to Article ~~23~~ **24** of the Agreement shall be taken, on its own initiative or upon a request from a Member State, by the Commission, which shall be assisted by a special Committee of representatives of the Member States appointed by the Council.
2. Where a Member State requests the Commission to apply safeguard measures, it shall provide the Commission, in support of its request, with the information needed to justify it. The Commission shall take a decision on such request within one month or, in cases of urgency, within 10 working days, and inform the Council and the Member States of its decision. Any Member State may refer the decision of the Commission to the Council within 10 working days of its notification. The Council may take a different decision within one month of the referral. The Council shall decide by qualified majority.

*Article 5 (~~Traffic rights~~) **Information to the Commission***

1. Member States shall **promptly** inform ~~in advance~~ the Commission of any **decision to refuse, revoke, suspend or limit the authorisations of an air carrier of Morocco** that they ~~intend to~~ **have adopted** under Articles 3 or 4 of the Agreement.
- ~~2. If the Commission determines at any time that a decision which a Member State has adopted, or intends to adopt, under Articles 3 or 4 of the Agreement is incompatible with the Agreement it shall address a decision to that Member State requiring it to take appropriate action in order to comply with the Agreement. The Commission shall inform the Council and the other Member States of such decision. Any Member State may refer the decision of the Commission to the Council within 10 working days from its notification. The Council may take a different decision within one month of the referral. The Council shall decide by qualified majority.~~

Article 6 (Safety)

- 2a.** Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article ~~13~~ **14 (Aviation Safety)** of the Agreement.

Article 7 (Security)

- 3.** Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article ~~14~~ **15 (Aviation Security)** of the Agreement.

Article 5
Entry into force

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President