



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 25 April 2014
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**Interinstitutional File:
2006/0048 (APP)**

**AVIATION 92
RELEX 294
MA 7**

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	7167/14 AVIATION 75 RELEX 185 MA 6
No. Cion doc.:	6755/14 AVIATION 52 RELEX 150 MA 4
Subject:	Draft 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

Following its examination at the Aviation Working Party on 19 March 2014, delegations will find attached a revised version of the draft Decision on the conclusion of the above Agreement. This latest version takes into account delegations' comments, notably FR comments, after consultation of the Council's legal service. Changes with regard to doc. 7167/14 are marked in **bold underline**. Delegations are invited to indicate to the Council General Secretariat at avia-mar@consilium.europa.eu by **12:00 Wednesday 14 May 2014** if they have further comments on the draft Decision.

In the absence of comments, the text as set out in this document will be deemed to have been accepted by the delegations and will be submitted to legal-linguistic revision. Further to that stage and following the advice of the Council's legal service, the above mentioned text will be inscribed as a "I/A" item at a forthcoming meeting of Coreper and Council for deciding to request European Parliament's consent and Council for adoption.

2006/0048 (APP)

Amended proposal for a

**DECISION OF THE COUNCIL AND OF 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, of the one part, and the Kingdom of Morocco, of the
other part**

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

Having regard to the Treaty on the Functioning of the European Union, and in particular Article
100(2), in conjunction with Article 218(6)(a) and the first subparagraph of Article 218 (8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) The Commission has negotiated on behalf of the Union and of the Member States an Euro-Mediterranean Aviation Agreement with the Kingdom of Morocco (hereinafter “the Agreement”).
- (2) 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.

¹ OJ C 081 E, 15.03.2011.

² OJ L 386, 29.12.2006.

- (2a) It is necessary to lay down procedural arrangements for the coordination between and representation of the Union and the Member States in the Joint Committee set up under Article 22 of the Agreement and in the arbitration procedures provided in Article 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.
- (2b) Since the Agreement contains elements of both Union and Member States' competence, in order to ensure close cooperation and unity in international relations, this Decision should be adopted jointly by the Council and the Member States. In addition, this Decision also aims to ensure a uniform application in respect of the Joint Committee set up under Article 22 of the Agreement.
- (2c) The rules envisaged to ensure such close cooperation and unity should include clear guidance for representation "on the spot", *inter alia* by confirming the necessity of a joint and common approach. In the context of a mixed agreement, these rules should still fully respect Union procedures also as regards the establishment of the Union position and the representation of the Union within the Joint Committee,
- (3) The Agreement should be approved on behalf of the Union,

HAVE ADOPTED THIS DECISION:

Article 1 (Approval)

1. The Euro-Mediterranean Aviation Agreement between the European Community and its Member States, of the one part, and the Kingdom of Morocco, of the other part is hereby approved on behalf of the Union.
2. The president of the Council is hereby authorised to designate the person(s) empowered to deliver to the Kingdom of Morocco the diplomatic notes **from the European Union and its Member States** provided in Article 30(2) of the Agreement on behalf of the Union **and its Member States** to make the following notification:

‘As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to “the European Community” in the text of the Agreement are, where appropriate, to be read as “the European Union”.’

Article 2 (Joint Committee)

1. The Union and the Member States shall be represented in the Joint Committee established under Article 22 of the Agreement by representatives of the Commission and of the Member States, respectively.
2. The position to be taken by the Union and supported by its Member States within the Joint Committee with respect to matters of exclusive Union competence that do not require the adoption of a decision having legal effect shall be established by the Commission and shall be notified in advance to the Council and its Member States.
3. The position to be taken by the Union and its Member States within the Joint Committee with respect to matters other than those referred to in paragraph 2 that do not require the adoption of a decision having legal effects shall be established jointly by the Commission and the Member States.

4. For Joint Committee decisions having legal effect concerning matters that fall within the exclusive competence of the Union, the position to be taken by the Union and supported by its Member States shall be adopted by the Council, acting by qualified majority on a proposal from the Commission, unless the applicable voting procedures set down in the Treaty on the European Union and the Treaty on the Functioning of the European Union provide otherwise.
5. For Joint Committee decisions having legal effect, other than those referred to in paragraph 4, the position to be taken by the Union and its Member States shall be adopted by the Council, acting by qualified majority, on a proposal by the Commission, unless the applicable voting procedures set down in the Treaty on the European Union and the Treaty on the Functioning of the European Union provide otherwise, and by the Member States.

Article 3 (Arbitration)

1. The Commission shall represent the Union and the Member States in arbitration proceedings under Article 23 of the Agreement.
2. A decision to limit, suspend or revoke the application of rights or privileges pursuant to Article 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 23 of the Agreement on matters which fall within Union competence 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 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.
3. **Without prejudice to paragraphs (1) and (2) above, a Member State may take safeguard measures where the non-compliance with safety or security provisions set forth in Article 14 and 15 or with the laws and regulations set forth in Article 6 of a Member State requires an immediate action.**

Article 5 (Information to the Commission)

1. Member States shall **promptly** inform the Commission of any decision to refuse, revoke, suspend or limit the authorisations of an air carrier of Morocco that they have adopted under Articles 3 or 4 of the Agreement.
2. Member States shall inform the Commission **promptly** of any requests or notifications made or received by them under Article 14 (Aviation Safety) of the Agreement.
3. Member States shall inform the Commission **promptly** of any requests or notifications made or received by them under Article 15 (Aviation Security) of the Agreement.

Article 6

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

Done at Brussels,

For the Council

The President
