



Council of the  
European Union

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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: DECISION OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL on the conclusion, on behalf of the European Union, 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

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

**of ...**

**on the conclusion, on behalf of the European Union,  
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, 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 Parliament<sup>1</sup>,

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<sup>1</sup> OJ C 81 E, 15.03.2011, p. 1.

Whereas:

- (1) The Commission has negotiated on behalf of the Union and of the Member States a Euro-Mediterranean Aviation Agreement with the Kingdom of Morocco (hereinafter “the Agreement”).
- (2) The Agreement was signed on 12 December 2006 pursuant to Decision 2006/959/EC of the Council and of the Representatives of the Governments of the Member States, meeting within the Council<sup>1</sup>.
- (3) 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 for 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.
- (4) 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. This Decision should also ensure a uniform application in respect of the Joint Committee set up under Article 22 of the Agreement.

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<sup>1</sup> Decision 2006/959/EC of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 4 December 2006 on the signature and provisional application 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 (OJ L 386, 29.12.2006, p. 55).

- (5) 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.
- (6) The Agreement should be approved,

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 shall deliver to the Kingdom of Morocco the diplomatic notes provided for 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 the 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 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 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 by the Commission, on its own initiative or upon a request from a Member State. The Commission 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 with the information needed to justify its request. The Commission shall take a decision on such a 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) of this Article, a Member State may take safeguard measures where the non-compliance with safety or security provisions set out in Articles 14 and 15 of the Agreement or with the laws and regulations of that Member State set out in Article 6 of the Agreement requires immediate action.



*Article 5*  
*Informing 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 Article 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 of the Agreement.
3. Member States shall inform the Commission promptly of any requests or notifications made or received by them under Article 15 of the Agreement.

*Article 6*  
*Entry into force*

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

Done at,

*For the Council*  
*The President*

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