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DECLASSIFICATION¹

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Subject:	Recommendation from the Commission to the Council in order to authorise the Commission to open negotiations on a comprehensive air transport agreement with Israel

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

¹ Document declassified by the European Commission on 8 September 2023.

RESTREINT UE



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 November 2007

15540/07

RESTREINT UE

**AVIATION 207
ISR 17**

COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 22 November 2007

to: Mr Javier SOLANA, Secretary-General/High Representative

Subject: Recommendation from the Commission to the Council in order to authorise the
Commission to open negotiations on a comprehensive air transport agreement
with Israel

Delegations will find attached Commission document SEC(2007) 1536 final.

Encl.: SEC(2007) 1536 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.11.2007
SEC(2007)1536 final

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RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

in order to authorise the Commission to open negotiations on a comprehensive air transport agreement with Israel

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EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

Request for negotiation directives for a comprehensive aviation agreement with Israel to integrate the Israeli aviation sector into a wider Common Aviation Area.

- **General context**

In its Communication "Developing the agenda for the Community's external aviation policy" (COM(2005) 79 final), the Commission highlighted the importance to create a Common Aviation Area with its Eastern and Southern Neighbours. The final objective should be to bring the EC and its partners along its southern and eastern borders together with the aim to share the same market operation rules. The Council of the European Union on 27 June supported this objective in its "conclusions on developing the agenda for the Community's external aviation policy" in which it welcomed the progress in developing a wider Common Aviation Area by 2010 incorporating EU neighbouring countries.

- **Existing provisions in the area of the proposal**

The EU-Morocco Air Transport Agreement and the Agreement on the European Common Aviation Area (ECAA) between the EU, its Member States and the countries of the Western Balkans.

- **Consistency with the other policies and objectives of the Union**

The proposal is fully in line with the EU-Israel Association Agreement and the EU-Israel European Neighbourhood Action Plan.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

Aviation industry, associations and interest groups will be closely consulted before and during the discussion on the negotiating directives in the Council.

Summary of responses and how they have been taken into account

not applicable

- **Collection and use of expertise**

Scientific/expertise domains concerned

Aviation experts

Methodology used

Consultation of interest groups (meetings, paper exchange)

Main organisations/experts consulted

Consulting company Booz & Allen, independent experts

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

Means used to make the expert advice publicly available

Will be made available via CIRCA both to Member States and industry.

- **Impact assessment**

The only other option would be the continued existence of mostly outdated bilateral and partly anti-competitive aviation agreements between Member States and Israel, reducing benefits for the market and for consumers.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

Communication proposing negotiations on a comprehensive aviation agreement between the EU and Israel

- **Legal basis**

Article 300 EC Treaty

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by Member States for the following reason(s).

1) Regulatory aspects in the field of aviation (for example competition, state aid, safety, security) fall often under Community competence and cannot be dealt with by Member States. The Community alone can negotiate these important aspects including possible mutual recognition of aviation standards. 2) The political and economic weight of the EU will significantly widen the economic benefits for industry and

consumers.

Action by Member States alone creates imbalances in the internal aviation market.

Community action will better achieve the objectives of the proposal for the following reason(s).

The proposal is a logic step to expand the benefits of the internal aviation market to Israel.

The proposal is part of the neighbourhood policy with Israel.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

not relevant

- **Choice of instruments**

Proposed instruments: other.

Other means would not be adequate for the following reason(s).

The only other option would be the continued existence of mostly outdated bilateral aviation agreements between Member States and Israel.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5) ADDITIONAL INFORMATION

- **Detailed explanation of the proposal**

In its Communication "Developing a Common Aviation Area with Israel", which it adopted together with this Recommendation, the Commission set out its views on the need for strengthened co-operation with Israel in the air transport sector and the progressive integration of Israel into an European aviation area.

RECOMMENDATION

In the light of the above Communication the Commission recommends:

- that the Council authorise the Commission to negotiate a comprehensive air transport agreement with Israel;
- that, since in accordance with the Treaty, the Commission will conduct these negotiations on behalf of the Community, the Council appoint a special committee to assist it in this task, and;
- that the Council issue the appended negotiating directives.

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ANNEX

NEGOTIATING DIRECTIVES FOR A COMPREHENSIVE AIR TRANSPORT AGREEMENT WITH ISRAEL

1. Negotiating objectives

Based on the close political and economic relations between the European Community and its Member States, on the one hand, and Israel, on the other hand, and on the specific aviation-related objectives in the EU-Israel Action plan, the aim of the negotiations with Israel shall be to establish a Common Aviation Area between the European Community and its Member States and Israel where carriers of both sides can freely provide their services on the basis of commercial principles and be able to compete on a fair and equal basis and subject to equivalent or harmonised regulatory conditions based on mutual recognition.

2. Scope of the Agreement

A comprehensive air transport agreement would allow the parties to establish a clear and coherent framework in which to constructively develop their aviation relations in the coming years. The framework would be based on a global package of rights and obligations to ensure and promote, *inter alia*, the approximation of aviation laws to avoid conflicts of rules, establish joint mechanisms for co-operation on security, safety and environmental standards and foster co-operation in the industrial field. The agreement would cover a number of issues, with the aim of ensuring a phased, reciprocal and sustainable opening of markets with a view to establishing a fully open Common Aviation Area accompanied by a process of regulatory co-operation towards convergence, while providing for an appropriate level of flexibility (e.g. in relation to transitional periods). The agreement will not reduce the level of market access created by existing bilateral agreements. The Community will not grant any additional traffic rights between a point in the European Union and a point in a third country, without further reference to the Council.

- (1) The Commission shall ensure that the agreement is consistent with the Treaty and relevant Community legislation.
- (2) The agreement should provide for adequate mechanisms for verification and information exchange, with the aim of ensuring mutual confidence in the fulfilment of obligations entered into, in order to ensure a level playing field.
- (3) The agreement should provide for stringent air safety and security provisions, taking into account the procedures, standards and developments applicable on or taking place in the territory of the Community.
- (4) The agreement should include provisions on competition and state aids to ensure a level playing field for all market operators.
- (5) The agreement should aim at associating Israel in the implementation of the Single European Sky.

- (6) The agreement should cover intermodality aspects between different modes of transport.
- (7) The agreement should allow for safeguarding the flexibility to take action within the EU with respect to environmental issues, in particular in respect of measures to mitigate the impact of aviation on climate change, air quality and noise levels around airports.
- (8) The agreement should not prohibit taxation of aircraft fuel supplied to aircraft. It should make clear that rules relating to the taxation of fuel for aircrafts of one Party shall be complied with by the other Party's air carriers when operating to, from or within the territory of the first Party.
- (9) The agreement should aim at exploring the liberalisation of the investment regime subject to appropriate safeguards.
- (10) A particular chapter should be dedicated to technical and research cooperation.
- (11) In implementing these objectives, the agreement should provide for the necessary flexibility, in particular with regard to transition periods.

3. Structure of the agreement

The final agreement will progressively replace the relevant provisions of the existing bilateral air services agreements between Member States and Israel, taking into account the horizontal air transport agreement to be negotiated simultaneously between the Community and Israel. Provisions of the bilateral air services agreements will remain in force unless changed by the final agreement.

The Commission shall negotiate appropriate clauses in order to apply provisionally the agreement between its signature and its conclusion by the parties.

4. Management of the agreement

Each Party will be responsible for enforcement on its territory and with regard to its nationals and air carriers.

The agreement should provide for an appropriate dispute settlement mechanism and safeguard measures and a Joint Committee of representatives of the parties shall be established, which shall be responsible for the administration of the agreement and for its proper implementation.

5. Conduct of the Negotiations

The Commission shall be assisted, during the negotiations, by a Special Committee designated by the Council. The Commission will regularly inform the Council on the progress of the negotiations.

The Commission shall report to the Council on the outcome of the negotiations and, where appropriate, on any problem that may arise during the negotiations.