COMMISSION OF THE EUROPEAN COMMUNITIES

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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 signature and provisional application 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

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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

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

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

The Euro-Mediterranean Aviation Agreement between the European Community and the Kingdom of Morocco has been negotiated under a mandate received from the Council in December 2004.

- **General context**

Based on the negotiating directives of the mandate, the text of the Morocco agreement was agreed ad referendum at the final negotiating round on 14 December 2005 and initialled by Vice-president Barrot and Mr. Ghellab, Minister for equipment and transport of Morocco, on the occasion of the first Euromed conference of Transport Ministers held in Marrakech on 15 December 2005. The signature of the agreement is foreseen for the first half of 2006.

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

There are no existing provisions in the area of the proposal.

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

The Morocco agreement is the very first step in the process of strengthening the aviation relations between the European Community and the countries neighbouring the EU, as set out in Commission Communication COM(2005) 79 final "Developing the agenda for the Community's external aviation policy".

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

All throughout the negotiating process, the Commission has been assisted by a Consultative Forum representing the industry that has been involved actively.

Summary of responses and how they have been taken into account

More than 6 meetings have been held with the Consultative forum, where the then current draft of the agreement was provided. All comments have been duly taken into consideration.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The agreement shall be instrumental in achieving the highest possible degree of

convergence between Morocco and the European Union on matters of economic, social and environmental relevance in the aviation sector:

Economic: the agreement provides for the adoption by Moroccan carriers of the same standards applied by Community carriers on matters of safety, security and competition;

Environment: all environmental regulations applicable to the aviation sector will be also adopted by Morocco;

Social: Morocco will also adopt European standards on social matters pertaining to aviation.

Safeguard provisions are foreseen in the agreement to allow for quick action should any deviation happen.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

Due to the advance status of the relationship between Morocco and the European Union, the Morocco agreement will result in the seamless integration of the Moroccan transport market into the single European market through a two-stage approach, always based on the three pillars of the aviation external policy: regulatory convergence (integration of the EC aviation regulations, participation in the Single European Sky) assorted with targeted technical assistance (through instruments such as the PAST), leading to the highest possible degree of market opening. This would result in an unrestricted commercial environment where operators are free to take commercial decisions, and where they operate under the highest standards in the areas of aviation safety, aviation security, environmental and consumer protection.

- **Legal basis**

Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) and Article 300(4) thereof

- **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 the Member States for the following reason(s).

The Euro-Mediterranean agreement in the field of aviation between the Community and the Kingdom of Morocco is not merely an agreement to open markets between the two parties but also includes an extensive alignment of aviation legislation with key parts of the Community rules and regulations, including on safety, economic regulation and in particular competition laws, air traffic management and consumer protection. The agreement would also offer a gradual opening of market access between Morocco and the EU, providing substantial opportunities for passengers and industry on both sides. Finally, this agreement provides a concrete example of what can be achieved

within the Euro-Mediterranean partnership

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

The agreement allows for the simultaneous extension of its terms to the 25 Member States, applying the same rules without discrimination and benefiting all Community air-carriers regardless of their nationality. These carriers can now operate freely from any point in the European Union to any point in Morocco.

Market opportunities will also increase: with a Moroccan population of around 31 million and an EU population of 450 million, current annual growth of air traffic is already around 7%. Removal of all capacity limitations between Morocco and the EU may also attract new entrants to the market and create opportunities to operate to underserved airports. New rights in code-sharing and wet-lease will provide further opportunities to the carriers and develop the market.

Furthermore, the alignment of aviation legislation can only be achieved at Community level, since Community rules and regulations are included in the scope of the agreement.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

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

From Phase 1, a joint body is established to discuss matters related to the implementation of the Agreement as well as decide the integration of new legislation into it. The Joint Committee will seek for the evolution of the Agreement, address social issues and economic proposals on ownership and control. The Joint Committee will be composed of representatives of the Commission and the Member States.

Furthermore, Member States will continue to carry out the traditional administrative tasks they execute in the context of international air transport, but under common rules applied uniformly.

- **Choice of instruments**

Proposed instruments: other.

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

Bilateral aviation relations can only be instrumented in international agreements.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5) ADDITIONAL INFORMATION

- **Simulation, pilot phase and transitory period**

There was or there will be a transitory period for the proposal.

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

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(Text with EEA relevance)

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

Having regard to the Treaty establishing the European Community and in particular Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) and Article 300(4) thereof

Whereas

(1) The Commission has negotiated on behalf of the Community and of the Member States an Euro-Mediterranean Aviation Agreement with the Kingdom of Morocco (hereinafter, "the Agreement");

(2) An agreement was initialled on at Marrakech on 14 December 2005;

(3) the Agreement should be signed and applied provisionally by the Community and the Member States, subject to its possible conclusion at a later date;

(4) It is necessary to lay down procedural arrangements for the participation of the Community and the Member States in the Joint Committee set up under Article 21 of the Agreement and in the arbitration procedures provided in Article 22 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

Article 1 (Signature)

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the Community, 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 text of the Agreement is attached to this decision.

Article 2 (Provisional application)

Pending its entry into force, the Agreement shall be applied on a provisional basis by the Community and by the Member States from the date of signature.

Article 3 (Joint Committee)

1. The Community and the Member States shall be represented in the Joint Committee established under Article 21 of the Agreement by representatives of the Commission and of the Member States.

2. The position to be taken by the Community and the Member States within the Joint Committee as regards the amendment of the Annexes of the Agreement, any matters falling within Article 6 or 7 of the Agreement or any other matter of exclusive Community competence shall be established by the Commission. In all other instances, the Community position shall be established by the Council, acting by qualified majority on a proposal from the Commission.

3. The position of the Community and of the Member States within the Joint Committee shall be presented by the Commission.

Article 4 (Arbitration)

1. The Commission shall represent the Community and the Member States in arbitration proceedings under Article 22 of the Agreement.

2. A decision to suspend the application of benefits pursuant to Article 22(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 of the Agreement on matters of exclusive 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 5 (Safeguard measures)

1. A decision to take safeguard measures pursuant to Article 23 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 6 (Traffic rights)

1. Member States shall inform in advance the Commission of any decision that they intend to adopt 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 7 (Safety)

Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 13 of the Agreement.

Article 8 (Security)

Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 14 of the Agreement.

Done at Brussels,

For the Council
The President

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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 establishing the European Community and in particular Article 80(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

Having regard to the opinion of the European Parliament

Whereas

(1) The Commission has negotiated on behalf of the Community and of the Member States an Euro-Mediterranean Aviation Agreement with the Kingdom of Morocco (hereinafter "the Agreement");

(2) An agreement was signed on ….;

(3) The Agreement should be approved by the Community and the Member States;

(4) It is necessary to lay down procedural arrangements for the participation of the Community and the Member States in the Joint Committee set up under Article 21 of the Agreement and in the arbitration procedures provided in Article 22 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

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. The text of the Agreement is attached to this decision.

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 empowered to deliver to the Kingdom of Morocco the diplomatic notes provided in Article 29 of the Agreement on behalf of the Community 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 and the Member States shall be represented in the Joint Committee established under Article 21 of the Agreement by representatives of the Commission and of the Member States.

2. The position to be taken by the Community and the Member States within the Joint Committee as regards the amendment of the Annexes of the Agreement, any matters falling within Article 6 or 7 of the Agreement or any other matter of exclusive Community competence shall be established by the Commission. In all other instances, the Community position shall be established by the Council, acting by qualified majority on a proposal from the Commission.

3. The position of the Community and of the Member States within the Joint Committee shall be presented by the Commission.

Article 3 (Arbitration)

1. The Commission shall represent the Community and the Member States in arbitration proceedings under Article 22 of the Agreement.

2. A decision to suspend the application of benefits pursuant to Article 22(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 of the Agreement on matters of exclusive 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 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)

1. Member States shall inform in advance the Commission of any decision that they intend to adopt 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)

Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 13 of the Agreement.

Article 7 (Security)

Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 14 of the Agreement.

Done at Brussels,

For the Council
The President

ANNEX

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 KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE REPUBLIC OF SLOVAKIA,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community, hereinafter referred to as the "Member States", and

THE EUROPEAN COMMUNITY,

hereinafter referred to as "the Community", of the one part, and

THE KINGDOM OF MOROCCO,

hereinafter referred to as "Morocco", of the other part,

Desiring to promote an international aviation system based on fair competition among air carriers in the marketplace with minimum government interference and regulation;

Desiring to facilitate the expansion of international air transport opportunities, including through the development of air transport networks to meet the needs of passengers and shippers for convenient air transport services;

Desiring to make it possible for air carriers to offer the travelling and shipping public competitive prices and services in open markets;

Desiring to have all sectors of the air transport industry, including air carrier workers, benefit in a liberalized agreement;

Desiring to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air transport, and undermine public confidence in the safety of civil aviation;

Noting the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944;

Desiring to ensure a level playing field for air carriers;

Recognizing that government subsidies may adversely affect air carrier competition and may jeopardize the basic objectives of this Agreement;

Affirming the importance of protecting the environment in developing and implementing international aviation policy and recognizing the rights of sovereign States to take appropriate measures to this effect;

Noting the importance of protecting consumers, including the protections afforded by the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal May 28, 1999, in so far as both Parties are parties to this Convention;

Intending to build upon the framework of existing air transport agreements with the goal of opening access to markets and maximizing benefits for consumers, air carriers, labour, and communities on both sides;

Considering that an agreement between the European Community and Morocco can constitute a reference in Euro-Mediterranean aviation relations in order to fully promote the benefits of liberalization in this crucial economic sector;

Noting that such an agreement has the objective to be applied in a progressive but integral way, and that a suitable mechanism can ensure ever-closer harmonisation with Community legislation,

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement, unless otherwise stated, the term:

1. the terms ‘‘agreed service’’ and ‘‘specified route’’ mean international air transport pursuant to Article 2 and Annex 1 to this Agreement;

2. “Agreement” means this Agreement, its Annexes, and any amendments thereto;

3. “Air Transport” means the carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, held out to the public for remuneration or hire, which, for the avoidance of doubt, shall include scheduled and non-scheduled (charter) air transport, and full cargo services;

4. “Association Agreement” means the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, done at Brussels on 26th February 1996;

5. “Community Operating Licence” means an operating licence in relation to air carriers established in the European Community granted and maintained in accordance with Council Regulation (EEC) No. 2407/92 of 23 July 1992 on licensing of air carriers.

6. "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944, and includes:

   (a) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Morocco and the Member State or Member States of the European Community as is relevant to the issue in question, and

   (b) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both Morocco and the Member State or Member States of the European Community as is relevant to the issue in question;

7. "Full Cost" means the cost of providing service plus a reasonable charge for administrative overhead and where relevant any applicable charges aimed at reflecting environmental costs and applied without distinction as to nationality;

8. "Parties" shall mean, on the one hand, the Community or the Member States, or the Community and its Member States, in accordance with their respective powers, and, on the other hand, Morocco;

9. "Nationals": any person or entity having Moroccan nationality for the Moroccan Party, or the nationality of a Member State for the European Party, in so far as, in the case of a legal entity, it is at all times under the effective control, be it directly or by majority participation, of persons or entities having Moroccan nationality for the Moroccan Party, or persons or entities having the nationality of a Member State or one of the third countries identified in Annex 5 for the European Party;

10. "Subsidies": any financial contribution granted by the authorities or a regional organisation or another public organisation, i.e. when:

   (a) a practice of a government or regional body or other public organisation involves a direct transfer of funds such as grants, loans or equity infusion, potential direct transfer of funds to the company or the assumption of liabilities of the company such as loan guarantees;

   (b) revenue of a government or regional body or other public organisation that is otherwise due is foregone or not collected;

   (c) a government or regional body or other public organisation provides goods or services other than general infrastructure, or purchases goods or services;

   (d) a government or regional body or other public organisation makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions illustrated under (i), (ii) and (iii) which would normally be vested in the government and, in practice, in no real sense differs from practices normally followed by governments;

and where a benefit is thereby conferred.

11. “International Air Transport” means air transport that passes through the airspace over the territory of more than one state;

12. “Price” means tariffs applied by air carriers or their agents for the carriage of passengers, baggage and/or cargo (excluding mail) in air transport, including, where applicable, the surface transportation in connection with international air transport, and the conditions to which their application is subjected;

13. “SESAR” means the technical implementation of the Single European Sky which provides a co-ordinated, synchronised development and deployment of the new generations of air traffic management systems; and

14. “Territory” means, for The Kingdom of Morocco, the land areas (mainland and islands), internal waters and territorial sea under its sovereignty or jurisdiction, and, for the European Community, the land areas (mainland and islands), internal waters and territorial sea in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and any successor instrument; application of this Agreement to Gibraltar airport is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated; application of this Agreement to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on December 2, 1987, enter into operation.

TITLE I

ECONOMIC PROVISIONS

Article 2

Traffic Rights

1. Each Party grants to the other Party except as otherwise specified in the Annex 1 the following rights for the conduct of international air transport by the air carriers of the other Party:

   a) the right to fly across its territory without landing;

   b) the right to make stops in its territory for any purpose other than taking on or discharging passengers, baggage, cargo and/or mail in air transport (non-traffic purposes);

   c) while operating an agreed service on a specified route, the right to make stops in its territory for the purpose of taking up and discharging international traffic in passengers, cargo and/ or mail, separately or in combination; and

   d) the rights otherwise specified in this Agreement.

2. Nothing in this Agreement shall be deemed to confer on the air carriers of:

   a) Morocco the right to take on board, in the territory of any Member State of the European Community, passengers, baggage, cargo, and/ or mail carried for compensation and destined for another point in the territory of that Member State of the European Community;

   b) the European Community the right to take on board, in the territory of Morocco, passengers, baggage, cargo, and/ or mail carried for compensation and destined for another point in the territory of Morocco.

Article 3

Authorisation

On receipt of applications for operating authorisation from an air carrier of one Party, the competent authorities of the other Party shall grant appropriate authorisations with minimum procedural delay, provided that:

a) for an air carrier of Morocco:

– the air carrier has its principal place of business and, if any, its registered office in Morocco, and received its license, and any other corresponding document in accordance with the law of the Kingdom of Morocco;

– effective regulatory control of the air carrier is exercised and maintained by Morocco; and

– the air carrier is owned and continues to be owned, directly or by majority participation, by Morocco and/or by nationals of Morocco and that it is always effectively controlled by Morocco and/or by nationals of Morocco, or it is owned and continued to be owned, directly or by majority participation by the Member States and/ or nationals of Member States, and it is always effectively controlled by the Member States and or nationals of Member States;

b) for an air carrier of the European Community:

– the air carrier has its principal place of business and, if any, its registered office in the territory of a Member State of the European Community under the Treaty establishing the European Community, and has received a Community Operating Licence; and

– effective regulatory control of the air carrier is exercised and maintained by the European Community Member State responsible for issuing its Air Operators Certificate and the relevant Aeronautical Authority is clearly identified;

– the air carrier is owned and continues to be owned, directly or by majority participation, by Member States and/or by nationals of the Member States, or by other States listed in Annex 5, and/or of the nationals of these other States;

c) the air carrier is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of International Air Transport by the Party considering the application or applications; and

d) the provisions set forth in Article 13 (Aviation Safety) and Article 14 (Aviation Security) are being maintained and administered.

Article 4

Revocation of Authorisation

1. The competent authorities of either Party may revoke, suspend or limit the operating authorisations or otherwise suspend or limit the operations of an air carrier of the other Party where:

a) for an air carrier of Morocco:

– the air carrier does not have its principal place of business or, if any, its registered office in Morocco, or has not received its operating license and any other corresponding document in accordance with the applicable law of Morocco;

– effective regulatory control of the air carrier is not exercised and maintained by Morocco; or

– the air carrier is not owned and effectively controlled, directly or by majority participation, by Morocco and/ or nationals of Morocco or by Member States and/ or nationals of Member States;

b) for an air carrier of the European Community:

– the air carrier does not have its principal place of business or, if any, its registered office in the territory of a Member State of the European Community under the Treaty establishing the European Community, or has not received a Community Operating Licence; - effective regulatory control of the air carrier is not exercised and maintained by the European Community Member State responsible for issuing its Air Operators Certificate or the competent aeronautical authority is not clearly identified; or

– the air carrier is not owned and effectively controlled, directly or by majority participation, by Member States and/ or nationals of Member States, or by the other States listed in Annex 5, and/ or nationals of these other States;

c) the air carrier has failed to comply with the laws and regulations referred to in Article 5 (Application of Laws) of this Agreement; or

d) the provisions set forth in Article 13 (Aviation Safety) and Article 14 (Aviation Security) are not being maintained or administered.

2. Unless immediate action is essential to prevent further non-compliance with subparagraphs 1.(c) or 1.(d) of this Article, the rights established by this Article shall be exercised only after consultation with the competent authorities of the other Party.

Article 4 bis

Investment

The majority ownership or the effective control of an air carrier of Morocco by a Member State or their nationals, or of an air carrier of the European Community by Morocco or its nationals, is subject to a preliminary decision of the Joint Committee established by this Agreement.

This decision shall specify the conditions associated with the operation of the agreed services under this Agreement and with the services between third countries and the Parties.

The provisions of Article 21, paragraph 9 of this Agreement do not apply to this type of decisions.

Article 5

Application of laws

1. While entering, within, or leaving the territory of one Party, the laws and regulations applicable within that territory relating to the admission to or departure from its territory of aircraft engaged in international air transport, or to the operation and navigation of aircraft shall be complied with by the other Party's air carriers.

2. While entering, within, or leaving the territory of one Party, the laws and regulations applicable within that territory relating to the admission to or departure from its territory of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the other Party's air carriers.

Article 6

Competition

Within the scope of this Agreement, the provisions of Chapter II ("Competition and other Economic Provisions") of Title IV of the Association Agreement shall apply, except where more specific rules are contained in this Agreement.

Article 7

Subsidies

1. The Parties recognise that public subsidies to air carriers distort or threaten to distort competition by favouring certain undertakings in the provision of air transport services, that they jeopardize the basic objectives of the Agreement and that they are incompatible with the principle of an open aviation area.

2. When it is deemed essential to grant public subsidies to an air carrier or air carriers operating under this Agreement in order to achieve a legitimate objective, such subsidies shall be proportionate to the objective, transparent and shall be designed to minimize, to the extent feasible, its adverse impact on the air carriers of the other Party. The Party granting any such subsidy shall inform promptly the other Party of its intention to grant any such subsidy and its consistency with the criteria laid down in this Agreement.

3. If one Party believes that a subsidy provided by the other Party, or, as the case may be, by a public or governmental body of a country other than the Parties, is inconsistent with the criteria laid down in paragraph 2, it may request a meeting of the Joint Committee, as provided in Article 21 to consider the issue and develop appropriate responses to concerns found to be legitimate.

4. When a dispute can not be settled by the Joint Committee, the Parties retain the possibility of applying their respective anti-subsidy measures.

5. Provisions in the present article are without prejudice to the Parties' laws and regulations regarding essential air services and public service obligations in the territories of the Parties.

Article 8

Commercial Opportunities

1. The air carriers of each Party shall have the right to establish offices in the territory of the other Party for the promotion and sale of Air Transport and related activities.

2. The air carriers of each Party shall be entitled, in accordance with the laws and regulations of the other Party relating to entry, residence, and employment, to bring in and maintain in the territory of the other Party managerial, sales, technical, operational, and other specialist staff who are required to support the provision of Air Transport.

3. a) Without prejudice to sub-paragraph (b) below, each air carrier shall have in relation to groundhandling in the territory of the other Party:

(i) the right to perform its own groundhandling ("self-handling") or, at its option

(ii) the right to select among competing suppliers that provide groundhandling services in whole or in part where such suppliers are allowed market access on the basis of the laws and regulations of each Party, and where such suppliers are present in the market.

b) For the following categories of groundhandling services i.e. baggage handling, ramp handling, fuel and oil handling, freight and mail handling as regards the physical handling of freight and mail between the air terminal and the aircraft, the rights under (i) and (ii) in sub-paragraph (a) above shall be subject only to specific constraints of available space or capacity arising from the need to maintain safe operation of the airport. Where such constraints preclude self-handling and where there is no effective competition between suppliers that provide groundhandling services, all such services shall be available on both an equal and an adequate basis to all air carriers; prices of such services shall not exceed their Full Cost including a reasonable return on assets, after depreciation.

4. Any air carrier of each Party may engage in the sale of Air Transport in the territory of the other Party directly and/or, at the air carrier's discretion, through its sales agents or other intermediaries appointed by the air carrier. Each air carrier shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies.

5. Each air carrier shall have the right to convert and remit from the territory of the other Party to its home territory and, except where inconsistent with generally applicable law or regulation, to the country or countries of its choice, on demand, local revenues. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance on the date the carrier makes the initial application for remittance.

6. The air carriers of each Party shall be permitted to pay for local expenses, including purchases of fuel, in the territory of the other Party in local currency. At their discretion, the air carriers of each Party may pay for such expenses in the territory of the other Party in freely convertible currencies according to local currency regulation.

7. In operating or holding out services under the Agreement, any air carrier of a Party may enter into co-operative marketing arrangements, such as blocked-space agreements or code-sharing arrangements, with:

   a) any air carrier or carriers of the Parties; and

   b) any air carrier or carriers of a third country; and

   c) any surface, land or maritime carriers;

   provided that (i) all participants in such arrangements hold the appropriate authority and (ii) the arrangements meet the requirements relating to safety and competition normally applied to such arrangements. In respect of passenger transport sold involving code-shares, the purchaser shall be informed at the point of sale, or in any case before boarding, which transportation providers will operate each sector of the service.

8. (a) In relation to the transport of passengers, surface transportation providers shall not be subject to laws and regulations governing air transport on the sole basis that such surface transportation is held out by an air carrier under its own name. Surface transportation providers have the discretion to decide whether to enter into cooperative arrangements. In deciding on any particular arrangement, surface transportation providers may consider, among other things, consumer interests and technical, economic, space, and capacity constraints.

   (b) Moreover, and notwithstanding any other provision of this Agreement, air carriers and indirect providers of cargo transportation of the Parties shall be permitted, without restriction, to employ in connection with International Air Transport any surface transportation for cargo to or from any points in the territories of Morocco and the European Community, or in third countries, including transport to and from all airports with customs facilities, and

including, where applicable, the right[s] to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Air carriers may elect to perform their own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other air carriers and indirect providers of cargo air transport. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

Article 9

Customs Duties and Changes

1. On arriving in the territory of one Party, aircraft operated in international air transport by the air carriers of the other Party, their regular equipment, fuel, lubricants, consumable technical supplies, ground equipment, spare parts (including engines), aircraft stores (including but not limited to such items of food, beverages and liquor, tobacco and other products destined for sale to or use by passengers in limited quantities during flight), and other items intended for or used solely in connection with the operation or servicing of aircraft engaged in international air transport shall be exempt, on the basis of reciprocity, from all import restrictions, property taxes and capital levies, customs duties, excise taxes, and similar fees and charges that are (a) imposed by the national or local authorities or the European Community, and (b) not based on the cost of services provided, provided that such equipment and supplies remain on board the aircraft.

2. There shall also be exempt, on the basis of reciprocity, from the taxes, levies, duties, fees and charges referred to in paragraph 1 of this Article, with the exception of charges based on the cost of the service provided:

   a) aircraft stores introduced into or supplied in the territory of a Party and taken on board, within reasonable limits, for use on outbound aircraft of an air carrier of the other Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the territory of the Party in which they are taken on board;

   b) ground equipment and spare parts (including engines) introduced into the territory of a Party for the servicing, maintenance, or repair of aircraft of an air carrier of the other Party used in international air transport;

   c) lubricants and consumable technical supplies introduced into or supplied in the territory of a Party for use in an aircraft of an air carrier of the other Party engaged in international air transport, even when these supplies are to be used on a part of the journey performed over the territory of the Party in which they are taken on board; and

   d) printed matter, as provided for by the customs legislation of each Party, introduced into or supplied in the territory of one Party and taken on board for

use on outbound aircraft of an air carrier of the other Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the territory of the Party in which they are taken on board;

e) safety and security equipment for use at airports or cargo terminals.

3. This Agreement does not exempt fuel supplied by a Party to air carriers within its territory from taxes, levies, duties, fees, and charges similar to those referred to in paragraph 1. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the sale, supply, and use of aircraft fuel shall be complied with by the other Party's air carriers.

4. Equipment and supplies referred to in paragraphs 1 and 2 of this Article may be required to be kept under the supervision or control of the appropriate authorities.

5. The exemptions provided by this Article shall also be available where the air carriers of one Party have contracted with another air carrier, which similarly enjoys such exemptions from the other Party, for the loan or transfer in the territory of the other Party of the items specified in paragraphs 1 and 2 of this Article.

6. Nothing in this Agreement shall prevent either Party from imposing taxes, levies, duties, fees or charges on goods sold other than for consumption on board to passengers during a sector of an air service between two points within its territory at which embarkation or disembarkation is permitted.

Article 10

User Charges

1. Party shall not impose or permit to be imposed on the air carriers of the other Party user charges higher than those imposed on its own air carriers operating similar international air services.

2. Increased or new charges should only follow adequate consultation between the competent charging authorities and the air carriers of each Party. Reasonable notice of any proposals for changes in user charges should be given to users to enable them to express their views before changes are made. The Parties shall also encourage the exchange of such information as may be necessary to permit an accurate assessment of the reasonableness of, justification for and apportionment of the charges in accordance with the principles of this Article.

Article 11

Pricing

Prices for air transport services operated pursuant to this Agreement shall be established freely and shall not be subject to approval, but they may be required to be filed for information purposes only. Prices to be charged for carriage wholly within the European Community shall be subject to European Community law.

Article 12

Statistics

The competent authorities of either Party shall supply to the competent authorities of the other Party, at their request, the information and statistics related to the traffic carried by the air carriers authorised by one Party on the agreed services to or from the territory of the other Party in the same form as they have been prepared and submitted by the authorised air carriers to their national competent authorities. Any additional statistical data related to traffic which the competent authorities of one Party may request from the authorities of the other Party shall be subject to discussions by the Joint Committee, at the request of either Party.

TITLE II

REGULATORY COOPERATION

Article 13

Aviation Safety

1. The Parties shall act in conformity with the provisions of the European Community's aviation safety legislation specified in Annex 6.A, under the conditions set out hereafter.

2. The Parties shall ensure that aircraft registered in one Party suspected of non-compliance with international aviation safety standards established pursuant to the Convention landing at airports open to international air traffic in the territory of the other Party shall be subject to ramp inspections by the competent authorities of that other Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment.

3. Either Party may request consultations at any time concerning the safety standards maintained by the other Party.

4. Nothing in this Agreement shall be construed to limit the authority of the competent authorities of a Party to take all appropriate and immediate measures whenever they ascertain that an aircraft, a product or an operation may:

   a) Fail to satisfy the minimum standards established pursuant to the Convention or the legislation specified in Annex 6.A, whichever is applicable, or

   b) Give rise to serious concerns – established through an inspection referred to in paragraph 2 – that an aircraft or the operation of an aircraft does not comply with the minimum standards established pursuant to the Convention or the legislation specified in Annex 6.A, whichever is applicable, or

   c) Give rise to serious concerns that there is a lack of effective maintenance and administration of minimum standards established pursuant to the Convention or the legislation specified in Annex 6.A, whichever is applicable.

5. Where the competent authorities of one Party take action under paragraph 4, they shall promptly inform the competent authorities of the other Party of taking such action, providing reasons for its action.

6. Where measures taken in application of paragraph 4 are not discontinued even though the basis for taking them has ceased to exist, either Party may refer the matter to the Joint Committee.

7. For the purpose of this Article, the term "Competent Authorities" means the government agencies or entities identified in Annex 3. Any amendments to national law with respect to the status of the competent authorities shall be notified by the Party concerned to the other Party.

Article 14

Aviation Security

1. The assurance of safety for civil aircraft, their passengers and crew being a fundamental pre-condition for the operation of international air services, the Parties reaffirm that their obligations to each other to provide for the security of civil aviation against acts of unlawful interference (and in particular their obligations under the Chicago Convention, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 and the Convention on the marking of plastic explosives for purpose of detection signed at Montreal on 1 March 1991, in so far as both contracting Parts are parties to these conventions as well as all other conventions and protocols relating to civil aviation safety of which both Parties are members).

2. The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

3. The Parties shall, in their mutual relations, act in conformity with the aviation security Standards and, so far as they are applied by them, the Recommended Practices established by the International Civil Aviation Organisation and designated as Annexes to the Chicago Convention, to the extent that such security provisions are applicable to the Parties. Both Parties shall require that operators of aircraft of their registry, operators who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory, act in conformity with such aviation security provisions.

4. Each Party shall ensure that effective measures are taken within its territory to protect aircraft, to screen passengers and their carry-on items, and to carry out appropriate checks on crew, cargo (including hold baggage) and aircraft stores prior to and during boarding or loading and that those measures are adjusted to meet increases in the threat. Each Party agrees that their air carriers may be required to observe the aviation security provisions referred to in paragraph (3) required by the other Party, for entrance into, departure from, or while within, the territory of that other Party. Each Party shall also act favourably upon any request from the other Party for reasonable special security measures to meet a particular threat

5. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

6. When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of this Article, that Party may request immediate consultations with the other Party.

7. Without prejudice to Article 4 (Revocation of Authorisations) of this Agreement, failure to reach a satisfactory agreement within fifteen (15) days from the date of such request will constitute grounds to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of the air carriers of both Parties.

8. When required by an immediate and extraordinary threat, a Party may take interim action prior to the expiry of fifteen (15) days.

9. Any action taken in accordance with the paragraph 7 above shall be discontinued upon compliance by the other Party with the provisions of this Article.

Article 15

Air Traffic Management

1. The Parties shall act in conformity with the provisions of the legislation specified in Annex 6.B, under the conditions set out hereafter.

2. The Parties commit themselves to the highest degree of cooperation in the field of air traffic management with a view to extending the Single European Sky to Morocco in order to enhance current safety standards and overall efficiency for general air traffic standards in Europe, to optimise capacities and to minimise delays.

3. With a view to facilitating the application of the Single European Sky legislation in their territories:

   a) Morocco shall take the necessary measures to adjust their air traffic management institutional structures to the Single European Sky, in particular by establishing pertinent national supervisory bodies at least functionally independent of air traffic management service providers; and

   b) The European Community shall associate Morocco with relevant operational initiatives in the fields of air navigation services, airspace and interoperability that stem from the Single European Sky, in particular through the early involvement of Morocco's efforts to establish functional airspace blocks, or through appropriate coordination on SESAR.

Article 16

Environment

1. The Parties shall act in conformity with Community legislation relating to air transport specified in Annex 6.C, under the conditions set out hereafter.

2. Nothing in this Agreement shall be construed to limit the authority of the competent authorities of a Party to take all appropriate measures to prevent or otherwise address the environmental impacts of the international air transport performed under the Agreement provided that such measures are applied without distinction as to nationality.

Article 17

Consumer Protection

The Parties shall act in conformity with Community legislation relating to air transport specified in Annex 6.D.

Article 18

Computer Reservation Systems

The Parties shall act in conformity with Community legislation relating to air transport specified in Annex 6.E.

Article 19

Social Aspects

The Parties shall act in conformity with Community legislation relating to air transport specified in Annex 6.F.

TITLE III

INSTITUTIONAL PROVISIONS

Article 20

Interpretation and Enforcement

1. The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement and shall refrain from any measures which would jeopardise attainment of the objectives of this Agreement.

2. Each Party shall be responsible in its own territory for the proper enforcement of this Agreement and, in particular, the regulations and directives related to air transport listed in Annex 6.

3. Each Party shall give the other Party all necessary information and assistance in the case of investigations on possible infringements which that other Party carries out under its respective competences as provided in this Agreement.

4. Whenever the Parties act under the powers granted to them by this Agreement on matters which are of interest to the other Party and which concern the authorities or undertakings of the other Party, the competent authorities of the other Party shall be fully informed and given the opportunity to comment before a final decision is taken.

Article 21

The Joint Committee

1. A committee composed of representatives of the Parties (hereinafter referred to as the Joint Committee) is hereby established, which shall be responsible for the administration of this Agreement and shall ensure its proper implementation. For this purpose it shall make recommendations and take decisions in the cases provided for in this Agreement.

2. The decisions of the Joint Committee shall be jointly adopted and shall be binding upon the Parties. They will be put into effect by the Parties in accordance with their own rules.

3. The Joint Committee shall meet as and when necessary and at least once a year. Either Party may request the convening of a meeting.

4. A Party may also request a meeting of the Joint Committee to seek to resolve any question relating to the interpretation or application of this Agreement. Such a meeting shall begin at the earliest possible date, but not later than two months from the date of receipt of the request, unless otherwise agreed.

5. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of either Party, shall hold consultations within the Joint Committee.

6. The Joint Committee shall adopt, by a decision, its rules of procedure.

7. If, in the view of one of the Parties, a decision of the Joint Committee is not properly implemented by the other Party, the former may request that the issue be discussed by the Joint Committee. If the Joint Committee cannot solve the issue within two months of its referral, the requesting Party may take appropriate temporary safeguard measures under Article 23.

8. The decisions of the Joint Committee shall state the date of its implementation in the Parties and any other information likely to concern economic operators.

9. Without prejudice to paragraph 2, if the Joint Committee does not take a decision on an issue which has been referred to it within six months of the date of referral, the Parties may take appropriate temporary safeguard measures under Article 23.

10. The Joint Committee shall examine questions relating to bilateral investments of majority participation, or changes in the effective control of air carriers of the Parties.

11. The Joint Committee shall also develop cooperation by:

(a) fostering expert-level exchanges on new legislative or regulatory initiatives and developments, including in the fields of security, safety, the environment, aviation infrastructure (including slots), and consumer protection;

(b) regularly examining the social effects of the Agreement as it is implemented, notably in the area of employment and developing appropriate responses to concerns found to be legitimate;

(c) considering potential areas for the further development of the Agreement, including the recommendation of amendments to the Agreement.

Article 22

Dispute Resolution and Arbitration

1. Either Party may refer to the Joint Committee any dispute relating to the application or interpretation of this Agreement, having not been resolved in accordance with Article 21. For the purposes of this Article, the Association Council established under the Association Agreement shall act as Joint Committee.

2. The Joint Committee may settle the dispute by means of a decision.

3. The Parties shall take the necessary measures to implement the decision referred to in paragraph 2.

4. If it is not possible to settle the dispute in accordance with paragraph 2, the dispute shall, at the request of either party, be submitted to an arbitration panel of three arbitrators in accordance with the procedure laid down hereafter:

   a) each Party shall appoint an arbitrator within sixty (60) days from the date of reception of the notification for the request for arbitration by the arbitration court addressed by the other Party through diplomatic channels; the third arbitrator should be appointed within sixty (60) additional days. If one of Parties has not appointed an arbitrator within the agreed period, or if the third arbitrator is not appointed within the agreed period, each Party can request the President of the Council of the International Civil Aviation Organization to appoint an arbitrator or arbitrators, whichever is applicable;

   b) the third arbitrator appointed under the terms of paragraph a) above should be a national of a third State and shall act as a President of the arbitration court;

   c) the arbitration court shall agree its rules of procedure; and

   d) subject to the final decision of the arbitration court, the initial expenses of the arbitration shall be shared equally by the Parties.

5. Any provisional decision or final decision of the arbitration court shall be binding upon the Parties.

6. If one of the Parties does not act in conformity with a decision of the arbitration court taken under the terms of this Article within thirty (30) days from the notification of the aforementioned decision, the other Party can, for as long as this failure endures, limit, suspend or revoke the rights or privileges which it had granted under the terms of this Agreement from the Party at fault.

Article 23

Safeguard measures

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation or maintain the balance of this Agreement. Priority shall be given to such measures as will least disturb the functioning of this Agreement.

3. A Party which is considering taking safeguard measures shall notify the other Parties through the Joint Committee and shall provide all relevant information.

4. The Parties shall immediately enter into consultations in the Joint Committee with a view to finding a commonly acceptable solution.

5. Without prejudice to Articles 3(d), Article 4(d) and Articles 13 and 14, the Party concerned may not take safeguard measures until one month has elapsed after the date of notification under paragraph 1, unless the consultation procedure under paragraph 2 has been concluded before the expiration of the stated time limit.

6. The Party concerned shall, without delay, notify the measures taken to the Joint Committee and shall provide all relevant information.

7. Any action taken under the terms of the present Article shall be suspended, as soon as the Party at fault satisfies the provisions of this Agreement.

Article 24

Geographic Extension of the Agreement

The Parties, although recognising the bilateral nature of this Agreement, note that it lies within the scope of the Euro-Mediterranean partnership envisaged in the declaration of Barcelona of November 28, 1995. The Parties commit to conduct a continuous dialogue to ensure the coherence of this Agreement with the Barcelona process, and in particular with regard to the possibility of mutually agreeing amendments to take into account similar air transport agreements.

Article 25

Relationship to Other Agreements

1. The provisions of this Agreement supersede the relevant provisions of existing bilateral agreements between Morocco and the Member States. However, existing traffic rights which originate from these bilateral agreements and which are not covered under this Agreement can continue to be exercised, provided that there is no discrimination between the Member States of the European Community and their nationals.

2. If the Parties become parties to a multilateral agreement, or endorse a decision adopted by the International Civil Aviation Organization or another international organization, that addresses matters covered by this Agreement, they shall consult in the Joint Committee to determine whether this Agreement should be revised to take into account such developments.

3. This Agreement is without prejudice to any decision by the two Parties to implement future recommendations that may be made by the International Civil Aviation Organization. The Parties shall not cite this Agreement, or any part of it, as the basis for opposing consideration in the International Civil Aviation Organization of alternative policies on any matter covered by this Agreement.

Article 26

Amendments

1. If one of the Parties wishes to revise the provisions of this Agreement, it shall notify the Joint Committee accordingly. The agreed amendment to this Agreement shall enter into force after completion of the respective internal procedures.

2. The Joint Committee may, upon the proposal of one Party and in accordance with this Article, decide to modify the Annexes of this Agreement.

3. This Agreement shall be without prejudice to the right of each Party, subject to compliance with the principle of non-discrimination and the provisions of this Agreement to unilaterally adopt new legislation or amend its existing legislation in the field of air transport or an associated area mentioned in Annex 6, with respect to the principle of non-discrimination and in accordance with the provisions of this Agreement.

4. As soon as new legislation is being drawn up by one of the Parties, it shall inform and consult the other Party as closely as possible. At the request of one of the Parties, a preliminary exchange of views may take place in the Joint Committee.

5. As soon as a Party has adopted new legislation or an amendment to its legislation in the field of air transport or an associated area mentioned in Annex 6, it shall inform the other Party not later than thirty days after its adoption. Upon the request of any Party, the Joint Committee shall within sixty days thereafter hold an exchange of views on the implications of such new legislation or amendment for the proper functioning of this Agreement.

6. The Joint Committee:

   a) adopts a decision revising Annex 6 of this Agreement so as to integrate therein, if necessary on a basis of reciprocity, the new legislation or amendment in question;

   b) adopts a decision to the effect that the new legislation or amendment in question shall be regarded as in accordance with this Agreement; or

   c) decides any other measures, to be adopted within a reasonable period of time, to safeguard the proper functioning of this Agreement.

Article 27

Termination

1. This Agreement is concluded for an unlimited period.

2. Either Party may, at any time, give notice in writing through diplomatic channels to the other Party of its decision to terminate this Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate twelve months after the date of receipt of the notice by the other Party, unless the notice to terminate is withdrawn before the expiry of this period.

3. This Agreement shall cease to be in force or be suspended if the Association Agreement ceases to be in force or is suspended, respectively.

Article 28

Registration with ICAO

This Agreement and all amendments thereto shall be registered with the International Civil Aviation Organization.

Article 29

Entry into Force

This Agreement shall be applied provisionally from the date of signature and shall enter into force after both Parties have enacted the necessary internal procedures required for entry into force.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Agreement.

DONE at _____, this _____day of _____, 20__, in [duplicate], in the Arab and _____ languages, each text being equally authentic

FOR THE KINGDOM OF MOROCCO, FOR THE EUROPEAN COMMUNITY,

ANNEXE 1

Agreed Services and Specified Routes

1. This Annex is subject to the transitional provisions contained in Annex 4 of this Agreement.

2. Each Party grants to the air carriers of the other Party the rights to operate air services on the routes specified hereunder:

   a) for air carriers of the European Community:

   Points in the European Community – one or more points in Morocco – points beyond,

   b) for air carriers of Morocco:

   Points in Morocco – one or more points in the European Community,

3. Air carriers of Morocco are authorised to exercise the traffic rights in Article 2 of this Agreement between more than one point located in the territory of the Community provided that these services originate or terminate in the territory of Morocco.

   Air carriers of the Community are authorised to exercise the traffic rights in Article 2 of this Agreement between Morocco and points located beyond, provided that these services originate or terminate in the territory of the Community and that, in relation to passenger services, these points are located in the countries of the European Neighbourhood policy.

   Air carriers of the European Community are authorised, for the services to/ from Morocco, to serve more than one point on the same service (co-terminalisation) and to exercise the right of stop-over between these points.

   The countries of the European Neighbourhood policy are: Algeria, Armenia, Palestinian Authority, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldavia, Morocco, Syria, Tunisia and Ukraine. The points located in the countries of the Neighbourhood policy can also be used as intermediate points.

4. The specified routes may be operated in either direction. Each point, intermediate or beyond point, of the specified routes may, at the discretion of each undertaking, be omitted for some or all of the services, provided that the service originates or terminates in the territory of Morocco for air carriers of Morocco, or in the territory of a Member State of the European Community for air carriers of the European Community.

5. Each Party shall allow each air carrier to determine the frequency and capacity of the international air transport it offers based upon commercial considerations in the marketplace. Consistent with this right, neither Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the air carriers of the other Party, except for customs, technical, operational, environmental or protection of health reasons.

6. Any air carrier may perform international air transport without any limitation as to change, on all points of the specified routes, in the type of aircraft operated.

7. The leasing with crew (wet-leasing) by a Moroccan air carrier of an aircraft of an airline company of a third country, or, by an air carrier of the European Community, of an aircraft of an airline company of a third country other that those mentioned in Annex 5, in order to exploit the rights envisaged in this Agreement, must remain exceptional or meet temporary needs. It shall be submitted for prior approval of the authority having delivered the licence of this leasing air carrier and to the competent authority of the other Party.

ANNEXE 2

Bilateral agreements between Morocco and the Member States of the European Community

As provided in Article 25 of this Agreement, the relevant provisions of the following bilateral air transport agreements between Morocco and the Member States shall be superseded by this Agreement:

– Air Transport Agreement between **the Government of the Kingdom of Belgium and the Government of His Majesty the King of Morocco** done at Rabat on 20 January 1958;

Supplemented by the Exchange of Notes dated 20 January 1958;

Last amended by the Memorandum of Understanding done at Rabat on 11 June 2002;

– Air Transport Agreement between **the Government of the Czechoslovak Socialist Republic and the Government of His Majesty the King of Morocco** done at Rabat on 8 May 1961, in respect of which the Czech Republic has deposited a declaration of succession;

– Air Services Agreement between **the Government of the Kingdom of Denmark and the Government of the Kingdom of Morocco** done at Rabat on 14 November 1977;

Supplemented by the Exchange of Notes dated 14 November 1977;

– Air Transport Agreement between **the Federal Republic of Germany and the Kingdom of Morocco** done at Bonn on 12 October 1961;

Amended by the Memorandum of Understanding done at Bonn on 12 December 1991;

Amended by the Exchange of Notes dated 9 April 1997 and 16 February 1998;

Last amended by the Memorandum of Understanding done at Rabat on 15 July 1998;

– Air Transport Agreement between **the Government of the Hellenic Republic and the Government of the Kingdom of Morocco** done at Athens on 6 October 1998;

To be read together with the Memorandum of Understanding done at Athens on 6 October 1998;

– Air Transport Agreement between **the Government of the Spain and the Government of the Kingdom of Morocco** done at Madrid on 7 July 1970;

Last supplemented by the Exchange of Letters dated 12 August 2003 and 25 August 2003;

– Air Transport Agreement between **the Government of the French Republic and the Government of His Majesty the King of Morocco** done at Rabat on 25 October 1957;

Amended by the Exchange of Letters dated 22 March 1961;

Amended by the Agreed Minutes dated 2 and 5 December 1968;

Amended by the Memorandum of Consultations of 17-18 May 1976;

Amended by the Memorandum of Consultations dated 15 March 1977;

Last amended by the Memorandum of Consultations of 22-23 March 1984 and Exchange of letters of 14 March 1984;

– Air Transport Agreement between **the Government of the Republic of Italy and the Government of His Majesty the King of Morocco** done at Rome on 8 July 1967;

Amended by the Memorandum of Understanding done at Rome on 13 July 2000;

Last amended by the Exchange of Notes dated 17 October 2001 and 3 January 2002;

– Air Transport Agreement between **the Government of the Republic of Latvia and the Government of the Kingdom of Morocco** done at Warsaw on 19 May 1999;

– Air Transport Agreement between **the Government of the Grand-Duchy of Luxembourg and the Government of His Majesty the King of Morocco** done at Bonn on 5 July 1961;

– Air Transport Agreement between **the Hungarian People's Republic and the Kingdom of Morocco** done at Rabat on 21 March 1967;

– Air Transport Agreement between the Government of **the Republic of Malta and the Government of His Majesty the King of Morocco** done at Rabat on 26 May 1983;

– Air Transport Agreement between **the Government of Her Majesty the Queen of the Netherlands and the Government of His Majesty the King of Morocco** done at Rabat on 20 May 1959;

– Air Transport Agreement between **the Federal Government of Austria and the Government of the Kingdom of Morocco** done at Rabat on 27 February 2002;

– Air Transport Agreement between **the Government of the People's Republic of Poland and the Government of the Kingdom of Morocco** done at Rabat on 29 November 1969;

– Air Transport Agreement between **Portugal and the Government of the Kingdom of Morocco** done at Rabat on 3 April 1958;

Supplemented by the Minutes done at Lisbon on 19 December 1975;

Last supplemented by the Minutes done at Lisbon on 17 November 2003;

– Air Transport Agreement between **the Government of the Kingdom of Sweden and the Government of the Kingdom of Morocco** done at Rabat on 14 November 1977;

– Supplemented by the Exchange of Notes dated 14 November 1977;

– Air Services Agreement between **the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Morocco** done at London on 22 October 1965;

Amended by the Exchange of Notes dated 10 and 14 October 1968;

Amended by the Minutes done at London on 14 March 1997;

Last amended by the Minutes done at Rabat on 17 October 1997;

Air services agreements and other arrangements initialled or signed between the Kingdom of Morocco and Member States of the European Community which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally

– Air Services Agreement between **the Government of the Kingdom of the Netherlands and the Government of the Kingdom of Morocco** as attached, as Annex 1, to the Memorandum of Understanding done at The Hague on 20 June 2001.

ANNEXE 3

Procedures for operating authorisations and technical permissions: competent authorities

1. The European Community

Germany

Directorate General of Civil Aviation, Aero-Spatial affairs and Maritime

Federal Ministry of Transport, Public Works and Buildings

Austria

Civil Aviation Administration

Federal Ministry of Transport, Innovation and Technology

Belgium

Air Transport Directorate General

Federal Office for Mobility and Transport

Cyprus

Department of Civil Aviation

Ministry of Communications and Works

Denmark

Civil Aviation Administration

Spain

Directorate General of Civil Aviation

Ministry of Promotions

Estonia

Civil Aviation Administration

Finland

Civil Aviation Administration

France

Directorate General for Civil Aviation (DGAC)

Greece

Hellenic Civil Aviation Authority

Ministry of Transport and Communications

Hungary

General Directorate of Civil Aviation

Ministry of Economy and Transport

Ireland

Directorate General of Civil Aviation

Department of Transport

Italy

National Agency for Civil Aviation (ENAC)

Latvia

Civil Aviation Administration

Ministry of Transport

Lithuania

Civil Aviation Administration

Luxembourg

Directorate of Civil Aviation

Malta

Department of Civil Aviation

Netherlands

Aviation Policy Directorate

Ministry of Transport, Public Works and Water Management

Poland

Civil Aviation Office

Portugal

National Institute for Civil Aviation (INAC)

Ministry for Equipment, Planning and Administration of the Territories

Czech Republic

Civil Aviation Department

United Kingdom

Aviation Directorate

Department for Transport (DfT)

Slovakia

Directorate General of Civil Aviation

Ministry of Transport, Posts and Telecommunications

Slovenia

Civil Aviation Office

Ministry of Transport

Sweden

Directorate General of Civil Aviation

2. Kingdom of Morocco

Civil Aviation Directorate

Ministry of Equipment and Transport

ANNEXE 4

Transitional Provisions

1. The implementation and application by the Moroccan Party of all the provisions of the Community legislation relating to air transport indicated in Annex 6 shall be the subject of an evaluation under the responsibility of the European Community which should be validated by the Joint Committee. This decision of the Joint Committee should be adopted two years after the entry into force of the Agreement at the latest.

2. Until the moment of the adoption of this decision, the agreed services and specified routes in Annex 1, shall not include the right for air carriers of the European Community to uplift traffic in Morocco and discharge traffic on points beyond and vice versa and, the right for Moroccan air carriers to uplift traffic at a point in the European Community to be discharged in another point of the European Community and vice versa. However, all 5th freedom traffic rights granted by one of the bilateral agreements between Morocco and the Member States of the European Community, listed in Annex 2, can continue to be exercised insofar as there is no discrimination on the basis of nationality.

ANNEXE 5

List of other States referred to in Article 3 and 4 of this Agreement

1. The Republic of Iceland (under the Agreement on the European Economic Area)

2. The Principality of Liechtenstein (under the Agreement on the European Economic Area)

3. The Kingdom of Norway (under the Agreement on the European Economic Area)

4. The Swiss Confederation (under the Air Transport Agreement between the European Community and the Swiss Confederation)

ANNEXE 6

Rules applicable to Civil Aviation

The "*Applicable provisions*" of the following acts shall be applicable in accordance with the Agreement unless otherwise specified in this Annex or in Annex 4 on Transitional Provisions. Where necessary, specific adaptations for each individual act are set out hereafter:

A. AVIATION SAFETY

Note: The precise conditions with regard to the participation as observer of Morocco to EASA will need to be discussed at a later stage.

No. 3922/91

Council Regulation 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

as amended by:

- Commission Regulation (EC) No 2176/96 of 13 November 1996 amending to scientific and technical progress Council Regulation (EEC) No 3922/91
- Commission Regulation 1069/1999 of 25 May 1999 adapting to scientific and technical progress Council Regulation 3922/91
- Commission Regulation 2871/2000 of 28 December 2000 adapting to scientific and technical progress Council Regulation (EEC) 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation
- Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

Applicable provisions: Articles 1 to 10, 12 to13 with the exception of Article 4, paragraph 1 and Article 8 paragraph 2, sentence 2, Annexes I, II and III

As regards the application of Article 12 "Member States" shall read "EC Member States".

No. 94/56/EC

Council Directive 94/56 of 21 November 1994 establishing the fundamental principles governing the investigations of civil aviation accidents and incidents

Applicable provisions: Articles 1 to 12

No. 1592/2002

Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

as amended by:

– Regulation (EC) No 1643/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

– Commission Regulation (EC) No 1701/2003 of 24 September 2003 adapting Article 6 of Regulation (EC) No 1592/2002

Applicable provisions: Articles 1 to 57, Annexes I and II

No. 2003/42

Directive 2003/42/EC of the European Parliament and the Council of 13 June 2003 on occurrence reporting in civil aviation

Applicable provisions: Articles 1 to 11, Annexes I and II

No. 1702/2003

Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations

Applicable provisions: Articles 1 to 4 Annex

No. 2042/2003

Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

Applicable provisions: Articles 1 to 6, Annexes I to IV

No. 104/2004

Commission Regulation (EC) No 104/2004 of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency

Applicable provisions: Articles 1 to 7 and Annex

B. AIR TRAFFIC MANAGEMENT

No. 93/65

Council Directive 93/65 of 19 July 1993 on the definition and the use of compatible technical and operating specifications for the procurement of air traffic management equipment and systems

as amended by

– Commission Directive 97/15 of 25 March 1997 adopting Eurocontrol standards and amending Council Directive 93/65 on the definition and use of compatible technical specifications for the procurement of air - traffic - management and systems, as amended by Commission Regulation 2082/2000 of 6 September 2000 adopting Eurocontrol standards and amending Directive 97/15, adopting Eurocontrol standards and amending Council Directive 93/65, as amended by Commission Regulation (EC) No 980/2002 of 4 June 2002 amending Regulation (EC) No 2082/2000, adopting Eurocontrol standards

Applicable provisions: Articles 1 to 9, Annexes I and II

Reference to Council Directive 93/65 shall be deleted as of 20 October 2005.

No. 2082/2000

Commission Regulation 2082/2000 of 6 September 2000 adopting Eurocontrol standards and amending Directive 97/15, adopting Eurocontrol standards and amending Council Directive 93/65

as amended by

– Commission Regulation (EC) No 980/2002 of 4 June 2002 amending Regulation (EC) No 2082/2000, adopting Eurocontrol standards

Applicable provisions: Articles 1 to 3, Annexes I to III

No. 549/2004

Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation)

Applicable provisions: Articles 1 to 4, 6, and 9 to 14.

No. 550/2004

Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation)

Applicable provisions: Articles 1 to 19

No. 551/2004

Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation)

Applicable provisions: Articles 1 to 11

No. 552/2004

Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation)

Applicable provisions: Articles 1 to 12

C. ENVIRONMENT

No. 89/629

Council Directive 89/629 of 4 December 1989 on the limitation of noise emission from civil subsonic jet aeroplanes.

Applicable provisions: Articles 1 to 8

No. 92/14

Council Directive 92/14 of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 of the Convention of International Civil Aviation, second edition (1988)

as amended by:

– Council Directive 98/20/EC of 30 March 1998 amending Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

– Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

– Commission Regulation (EC) No 991/2001 of 21 May 2001 amending the Annex to Council Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

Applicable provisions: Articles 1 to 11 and Annex

No. 2002/30

Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports

Applicable provisions: Articles 1 to 15, Annexes I and II

No. 2002/49

Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise

Applicable provisions: Articles 1 to 16, Annexes I to IV

D. CONSUMER PROTECTION

No. 90/314

Council Directive 90/314 of 13 June 1990 on package travel, package holidays and package tours

Applicable provisions: Articles 1 to 10

No. 92/59

Council Directive 92/59 of 29 June 1992 on general product safety

Applicable provisions: Articles 1 to 19

No. 93/13

Council Directive 93/13 of 5 April 1993 on unfair terms in consumer contracts

Applicable provisions: Articles 1 to 10 and Annex

No. 95/46

Directive 95/46 of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Applicable provisions: Articles 1 to 34

No. 2027/97

Council Regulation 2027/97 of 9 October 1997 on air carrier liability in the event of accidents

as amended by:

– Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents

Applicable provisions: Articles 1 to 8

No. 261/2004

Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91

Applicable provisions: Articles 1 to 17

E. COMPUTER RESERVATION SYSTEMS

No. 2299/1989

Council Regulation No. 2299/1989 of 24 July 1989 introducing a code of conduct for computer reservation systems

as amended by:

– Council Regulation (EEC) No 3089/93 of 29 October 1993 amending Regulation (EEC) No 2299/89 on a code of conduct for computerized reservation systems

– Council Regulation (EC) No 323/1999 of 8 February 1999 amending Regulation (EEC) No 2299/89 on a code of conduct for computer reservation systems (CRSs)

Applicable provisions: Articles 1 to 22 and Annex

F. SOCIAL ASPECTS

No. 1989/391

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work

Applicable provisions: Articles 1 to 16, and 18-19

No. 2003/88

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time

Applicable provisions: Articles 1 to 19, 21 to 24 and 26 to 29

No. 2000/79

Council Directive 2000/79 of 27 November 2000 concerning the European agreement on the organisation of working time of mobile workers in civil aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA)

Applicable provisions: Articles 1 to 5

G. OTHER LEGISLATION

No. 91/670

Council Directive No. 91/670 of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

Applicable provisions: Articles 1 to 8 and Annex