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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 April 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 156 final
Subject:	Proposal for a COUNCIL DECISION on the conclusion, on behalf of the Union, of the Air Transport Agreement between the State of Qatar, of the one part, and the European Union and its Member States, of the other part.

Delegations will find attached document COM(2021) 156 final.

Encl.: COM(2021) 156 final

EUROPEAN
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Brussels, 8.4.2021
COM(2021) 156 final

2021/0082 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Air Transport Agreement between the State of Qatar, of the one part, and the European Union and its Member States, of the other part.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Agreement on Air Transport between the State of Qatar (hereinafter "Qatar") and the European Union and its Member States (hereinafter the Agreement) has been negotiated by the Commission as authorised by the Council on 7 June 2016. On [xx] the European Union and its Member States, of the one part, and Qatar, of the other part, signed the Agreement that was intended, inter alia, to facilitate the expansion of international air transport opportunities, ensuring high standards to avoid abuses of open markets and thereby maximising benefits for consumers, the entire aviation value chain and workers.

• General context

The negotiating directives set out the general objective of negotiating a comprehensive air transport agreement with the aim of gradually and reciprocally opening market access, enhancing regulatory co-operation and convergence and ensuring fair competition and transparency.

• Consistency with existing policy provisions in the policy area

The conclusion of an EU air transport agreements is a key element in the development of the EU external aviation policy, as described in the Commission Communications COM (2012) 556 final on the "EU's External Aviation Policy - Addressing Future Challenges" and COM (2015) 598 final on "An Aviation Strategy for Europe": Qatar is one of the fastest growing extra-EU markets. Nearly all Member States have already granted full market access through their existing bilateral air services agreements with Qatar prior to the signing of the Agreement. Yet, these bilateral agreements lacked adequate provisions on essential elements to avoid abuses of a liberalised marketplace such as fair competition, transparency or social matters, all of which are included in the Agreement.

• Consistency with existing provisions in the area of the proposal

The provisions of the Agreement prevail over the relevant provisions of the existing bilateral air services agreements between Member States and Qatar. 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 and their nationals.

Regulation (EU) 2019/712 on safeguarding competition in air transport ensures that any measures adopted on its basis must respect international obligations, including those of this Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 100 (2) of the Treaty on the Functioning of the European Union ("TFEU")in conjunction with Article 218 (6) (a) thereof.

- **Subsidiarity (for non-exclusive competence)**

The provisions of the Agreement will prevail over the relevant provisions of the existing arrangements made by individual Member States. The Agreement creates simultaneously for all European Union air carriers' equal and uniform conditions for market access, and establishes new arrangements for regulatory co-operation and convergence between the European Union and Qatar in fields essential for the safe, secure, and efficient operation of air services. These arrangements can only be achieved at Union level.

Union action will better achieve the objectives of the proposal for the following reasons.

The Agreement allows for the simultaneous extension of its terms to the 28 Member States, applying the same rules without discrimination and benefiting all Union air carriers regardless of their nationality. It includes comprehensive provisions on subsidies, anticompetitive practices and transparency and robust mechanisms to enforce them, thereby contributing to a level playing field for air services between the EU and Qatar, and between the EU and other destinations, for example in Asia, operated via Qatar. None of the existing bilateral air services agreements of Member States includes comparable provisions.

The Agreement further secures for all Union air carriers access to commercial opportunities, such as the ones relating to ground-handling, code-sharing, inter-modality, the possibility to freely establish prices and removes the requirement for Union air carriers to work with a local sponsor to establish local offices in Qatar. It also includes provisions on social matters in line with those included in EU international trade agreements, committing the Parties to improve the social and labour policies as per their international commitments, notably the in the context of the International Labour Organization (ILO). None of the existing bilateral air services agreements of Member States includes comparable provisions.

- **Proportionality**

A Joint Committee, composed of representatives of the Commission and the Member States and of Qatar, has been established to discuss matters related to the implementation of the Agreement. The Joint Committee thereby fosters expert-level exchanges and may consider potential areas for further development of the Agreement.

Furthermore, Member States 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 the instrument**

International agreement.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

In line with Article 218(4) TFEU, the Commission has conducted the negotiations in consultation with a special committee. Stakeholders from the entire aviation value chain and social partners, including notably trade unions, have equally been consulted during the negotiations. Comments made in this process have been taken into account.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposal has no implication for the budget of the Union.

5. OTHER ELEMENTS

- **Summary of the proposed agreement**

The Agreement consists of the main body including the core principles and two annexes: Annex I on transitional provisions and Annex II on the geographic applicability of 5th freedom traffic rights for all-cargo services.

2021/0082 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Air Transport Agreement between the State of Qatar, of the one part, and the European Union and its Member States, of the other part.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 100 (2), in conjunction with Article 218 (6)(a) and Article 218 (7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament.

Whereas:

(1) In accordance with Council Decision XXXX/XX the Agreement on Air Transport between the State of Qatar, of the one part, and the European Union and its Member States, of the other part was signed on XX, subject to its conclusion at a later date.

(2) The Agreement has been ratified by all Member States.

(3) The Agreement should be approved on behalf of the Union.

HAS ADOPTED THIS DECISION:

Article 1

The Air Transport Agreement between the State of Qatar, of the one part, and the European Union and its Member States, of the other part (hereinafter, the "Agreement"), is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, to the deposit of the instrument of approval provided for in Article 29 of the Agreement, in order to express the consent of the Union to be bound by the Agreement

Article 3

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

Done at Brussels,

For the Council
The President