



Brussels, 17.4.2023
COM(2023) 195 final

2023/0094 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be taken on behalf of the European Union in the Joint Committee
under the Agreement on civil aviation safety between the European Union and Japan,
with regard to the adoption of the rules of procedure of the Joint Committee**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Reasons for and objectives of the proposal

In 22 June 2020, the European Union and Japan signed an agreement on civil aviation safety ('the Agreement'), in order to foster bilateral cooperation on civil aviation safety and facilitate trade and investment in aeronautical products between the Union and Japan. The Agreement entered into force on 1 June 2021.

In Article 11 (1) and (3) of the Agreement, it is stated that a Joint Committee of the Parties is established for the effective functioning of the Agreement and that the Joint Committee shall draw up and adopt its rules of procedure. This proposal is about the rules of procedure.

For the Union, to adopt the rules of procedure at the Joint Committee, a Council Decision is required to authorise the Commission (representing the Union at the Joint Committee meetings) to adopt the rules of procedure on behalf of the Union within the Joint Committee.

1.2. Consistency with existing policy provisions in the policy area

The cooperation between the EU and Japan on aviation safety is part of the Aviation Strategy for Europe. The proposed draft rules of procedure are similar to those adopted for Joint Committees of other bilateral aviation safety agreements between the EU and third countries.

1.3. Consistency with other Union policies

The Agreement serves a fundamental objective of the external aviation policy of the Union by enhancing civil aviation safety and facilitate trade and investment in aeronautical products.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

2.1. Legal basis

Treaty on the Functioning of the European Union, in particular Article 100(2) in conjunction with Article 218(9) thereof.

2.2. Subsidiarity (for non-exclusive competence)

Not applicable.

2.3. Proportionality

Not applicable.

2.4. Choice of instrument

Not applicable.

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

3.1. Ex-post evaluations/fitness checks of existing legislation

Not applicable.

3.2. Stakeholder consultations

Not applicable.

3.3. Collection and use of expertise

Not applicable.

3.4. Impact assessment

Not applicable.

3.5. Regulatory fitness and simplification

Not applicable.

3.6. Fundamental rights

Not applicable.

4. BUDGETARY IMPLICATIONS

No impact on the EU budget.

5. OTHER ELEMENTS

5.1. Implementation plans and monitoring, evaluation and reporting arrangements

In the Joint Committee, established by Article 11 of the Agreement, the Union will be represented by the European Commission, assisted by the European Union Aviation Safety Agency ('EASA') and accompanied by the aviation authorities of the Member States.

5.2. Explanatory documents (for directives)

Not applicable.

5.3. Detailed explanation of the specific provisions of the proposal

The draft rules of procedure consist of ten items.

Item 1 provides for definitions of the term "Party"

Item 2 specifies that the Joint Committee shall be chaired jointly by a representative of the European Union and by a representative of Japan. This Item also defines that the European Union shall be represented in the Joint Committee by the European Commission, assisted by the European Union Aviation Safety Agency (EASA) and accompanied by the aviation authorities of the Member States of the European Union. Finally, Item 2 states that Japan is represented in the Joint Committee by the Ministry of Foreign Affairs and/or the Mission of Japan to the European Union and accompanied by the Ministry of Land, Infrastructure, Transport and Tourism.

Item 3 sets out that the Joint Committee shall meet at regular intervals and that the meeting locations will alternate, as much as possible, between Brussels and Tokyo. As an alternative, discussions via videoconference could be organised, whereby decisions and recommendations adopted during videoconferences will have the same value as those adopted in physical meetings. Further, except as otherwise agreed by the chairpersons, the meetings of the Joint Committee shall not be open to public participation. A press release may, by mutual consent of the chairpersons, be issued after the meetings. Meetings and documents will be in English. Costs of interpretation or translation into another language will be borne by the Party requesting it.

Item 4 specifies that prior to each meeting, the Parties will inform each other of the intended composition of their respective delegations, nominating their respective chairperson. The chairpersons may, on an ad-hoc basis, decide to invite external participants to attend the meetings to provide information on particular subjects or as observers.

Item 5, specifies that an official of the European Commission and an official of the Ministry of Foreign Affairs of Japan shall act jointly as secretaries of the Joint Committee.

Item 6 specifies that the chairpersons shall establish the provisional agenda of each meeting by mutual consent. This provisional agenda and any relevant meeting documents shall be transmitted by the secretaries to the participants at the latest fifteen working days before the date of the meeting. Further, the agenda shall be adopted by the Joint Committee at the beginning of each meeting, with items other than those appearing on the provisional agenda may be included in the agenda if the Parties so decide. The chairpersons may modify, by consent, the time limit for transmitting documents, referred to in paragraph 1, including the provisional agenda, in order to take into account the requirements of a Party's internal procedures or the urgency of a particular matter.

Item 7 specifies that draft minutes of each Joint Committee meeting shall be drawn up after the meeting. They will indicate the decisions and recommendations adopted and the conclusions made. When approved, the minutes will be signed by the chairpersons, and one original or scanned copy will be filed by each Party. Electronic signature and archiving is possible.

Item 8 is about defining the written procedure, to allow, where necessary and justified that recommendations and decisions of the Joint Committee may be adopted through written procedure. To that end, the chairpersons will exchange the draft measures on which the opinion of the Joint Committee is sought, which may then be confirmed by exchange of correspondence. Any Party may, however, request that the Joint Committee be convened to discuss the matter.

Item 9 specifies the decision making process in the Joint Committee. The Joint Committee will adopt its decisions and recommendations by consensus between the Parties. The decisions and recommendations of the Joint Committee will be entitled respectively "Decision" and "Recommendation" and will be followed by a serial number, by the date of their adoption and by a description of their subject. The decisions and recommendations of the Joint Committee will be signed by the chairpersons. The decisions adopted by the Joint Committee will be implemented by the Parties in line with their own internal procedures. The decisions adopted by the Joint Committee may be published by the Parties in their respective official publications. Recommendations or any other act adopted by the Joint Committee may be published if the Parties so decide. One original or scanned copy of the decisions and recommendations will be retained by each Party.

Item 10 is about the expenses. The Parties will be in charge of paying their own expenses incurred by reason of their participation in the meetings of the Joint Committee and meetings in line with the decisions and recommendations of the Joint Committee, including staff, travelling and subsistence expenditures and postal and telecommunications costs. Expenditure relating to the material organisation of meetings will be borne by the Party hosting the meeting.

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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(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on civil aviation safety between the European Union and Japan¹ ('the Agreement') was approved on behalf of the Union by COUNCIL DECISION (EU) 2021/112 of 25 January 2021² and entered into force on 1 June 2021.³
- (2) Article 11 (1) of the Agreement, provides for a Joint Committee of the Parties to be established for the effective functioning of the Agreement.
- (3) Article 11 (3) of the Agreement further provides that the Joint Committee shall draw up and adopt its rules of procedure.
- (4) The Commission and the Ministry of Foreign Affairs of Japan have cooperated in drawing up draft rules of procedure.
- (5) It is appropriate to establish the position to be taken on behalf of the Union within the Joint Committee as regards the adoption of the rules of procedure of the Joint Committee, as they will be binding on the Union. The position of the Union within the Joint Committee should be based on the draft Joint Committee Decision,

HAS ADOPTED THIS DECISION:

Article 1

- (1) The position to be taken on behalf of the Union at the first meeting of the Joint Committee established by the Agreement on civil aviation safety between the European Union and Japan as regards the adoption of the rules of procedure of the Joint Committee shall be based on the draft Decision of the Joint Committee⁴.
- (2) The representative of the Union within the Joint Committee may agree to minor changes to the draft Decision of the Joint Committee without a further decision of the Council.

¹ OJ L 229, 16.7.2020, p. 4-25

² OJ L 36, 2.2.2021, p. 1-2

³ OJ L 230, 30.6.2021, p. 4

⁴ See document ST...../23 on <http://register.consilium.europa.eu>

Article 2

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

Done at Brussels,

*For the Council
The President*