

COMMISSION OF THE EUROPEAN COMMUNITIES

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DEVELOPMENT OF CIVIL AVIATION IN THE COMMUNITY

(Communication by the Commission)

Proposal for a
COUNCIL REGULATION (EEC)

on fares for scheduled air services

Proposal for a
COUNCIL REGULATION (EEC)

on access for air carriers to scheduled intra-Community
air service routes and on the sharing of passenger capacity
between air carriers on scheduled air services
between Member States

Proposal for a
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amending Regulation (EEC) No 3976/87 on the application
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air transport sector

(presented by the Commission)

DEVELOPMENT OF CIVIL AVIATION IN THE COMMUNITY

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DEVELOPMENT OF CIVIL AVIATION IN THE COMMUNITY

1. INTRODUCTION

The elaboration of a comprehensive Community policy on air transport which will encourage the development of a strong, healthy and competitive civil aviation sector capable of making its full contribution to the economic growth of the Community and the attainment of its objectives, must encompass more than a package of liberalisation measures covering fares, capacity, market access and competition.

The Commission and Council have, up to now, concentrated mainly on such liberalisation measures of which the December 1987 aviation package is, perhaps, the most significant achievement, although action has, of course, also been taken in other areas e.g. aircraft noise, air traffic congestion and Computerised Reservation Systems. The Commission now wishes to take the opportunity of presenting the wider issues which are necessary for the proper consideration of what is undoubtedly a complex and far-reaching subject.

The formulation of a common air transport policy for the Community requires not only the creation of the necessary conditions for the development and expansion of the Community's air transport network unhampered by national barriers but also for

- users to have a wide choice of services at as low a cost as possible consistent with maintaining satisfactory safety standards
- air carriers to operate in a sound financial environment by a reduction in operating costs and an increase in productivity
- airline staff to have improved working conditions and access to their profession
- airports to be able to attract and maintain the services they can handle consistent with their infrastructure facilities
- the aeronautical industry to benefit from a wider market and lower costs through harmonised technical standards and requirements

and,

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- the general public to benefit in terms of environmental protection (improvement of acoustic conditions around airports by removal of noisier aircraft), and by a reduction in their bill as taxpayers through the elimination of State aids. The measures should also add to the common good by the economic development of regions.

Clearly it is a question of striking a balance between the general public interest on the one hand and the interests of users and those involved in the provision of air services on the other hand - in other words the development of a Community air transport regime which is a reasonable balance between economic, safety, environmental and social factors.

The Commission has, over the years, taken several initiatives aimed at securing the re-organisation and adaptation of the air transport sector in Europe so that the Community can realise the advantages which its important position in world-wide civil aviation - in terms of size of fleet, potential market and commercially strategic hubs - should command.

In its first Memorandum (1) the Commission set out to stimulate dialogue in the Community and among its institutions by proposing ideas for possible action aimed at the harmonious development of civil aviation in the whole of the Community. This was followed in 1980 by a Commission proposal on inter-regional air services which was adopted by the Council in 1983 (2). Although this Directive had limited effect, it was nevertheless important since, for the first time, air traffic rights were created at Community level, in addition to those agreed bilaterally between governments by way of Air Services Agreements (ASAs).

The Commission presented a second Memorandum on Civil Aviation in March 1984 (3). The purpose of this Memorandum was to develop and expand on the objectives of the Commission's 1979 memorandum in the light of developments which had occurred and to make specific proposals situated within an overall framework for a Community air transport policy.

In December 1987, the Council took the first important step towards the creation of a common air transport policy for the EEC with the adoption of a package of legislative measures on aviation (4). These measures were based on the Commission's proposals in Civil Aviation Memorandum N° 2.

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- (1) "Air Transport : A Community approach", Bulletin of the European Communities, supplement 5/79
 - (2) OJ No C 343, 31.12.81, p. 13.
 - (3) OJ No C 182, 9.7.84, p. 2.
 - (4) OJ No L 374, 31.12.87, p. 1.

The Council did not adopt all the proposals made by the Commission but it is significant that it chose to go beyond what had been proposed by the Commission in one respect, viz. the inclusion of provisions on market access. The result was a package which dealt with air fares, capacity control and market access for scheduled air passenger services and which, furthermore, by the adoption of two competition regulations, ensured that the competition rules of the Treaty would be applied effectively to aviation.

Although the package of December 1987 constitutes a sound foundation on which to build a comprehensive common air transport policy, it has to be regarded only as a first phase. It was specifically stated in both the directive on fares and the decision on capacity sharing and market access that the Council would decide on their revision by 30 June 1990, on the basis of Commission proposals to be submitted by 1 November 1989. It was also stated that, in view of the completion of the internal market in air transport by 1992, the Council would adopt further measures of liberalisation at the end of the three year period covered by the first package.

The purpose of this communication is to introduce the second phase of measures which the Commission is now proposing to the Council and to set out the considerations underlying these proposals.

The proposals put forward by the Commission involve a decisive step towards the establishment of a common air transport policy. The Commission will regularly review the performance of the sector with a view to determining what further measures may be required in order to create a genuine Community system in the air transport sector.

The proposals have been prepared following extensive consultations with a large number of interested parties, including government experts, airlines, airports, trade unions, consumers, shippers, travel agents, freight forwarders, manufacturers etc. The Commission has also benefitted from the very useful discussions in ECAC.

The Commission has also prepared a report on the effects of the first phase as required by the December 1987 package. This has also been taken into account by the Commission in formulating its proposals. The Commission is grateful to the Member States for their co-operation in its preparation.

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2. SECOND PHASE OF LIBERALISATION

2.1 Air Fares

On air fares, it is clear that a balance needs to be struck between giving airlines complete freedom to set their own air fares while guarding against too high or too low prices. This is, of course, an area which is covered by article 86 of the Treaty. However, the Commission believes that further action is necessary to complement these rules so that appropriate action can be taken whether the airline involved occupies a dominant position or not. The Commission therefore proposes to strengthen the criteria in art. 3 of the Directive on air fares with a view to avoiding too high and too low prices while ensuring that sufficient safety standards are maintained.

The Commission has given considerable thought to the question of what should be the system for approval of fares. The existing system of double approval plus zones in which fares are automatically approved, has the merit that it is generally accepted and known not only within the Community, but in the wider context of ECAC. These zones could be improved (there is already agreement in ECAC to improve upon their existing zonal scheme) and would constitute an evolutionary approach to liberalisation of air fares. However, experience of the first phase indicates that airlines do not appear to have used the zonal system to obtain automatic approval (see report).

A double disapproval system, on the other hand, is not only potentially more liberal, but also fits well with the philosophy of letting airlines decide which fares to offer on the basis of their commercial judgment and in response to consumer demand. However, with such a system, safeguards are necessary to guard against non commercial pricing. Against this background, the Commission has decided to propose a system of double disapproval but has inserted two important safeguard clauses. The first is contained in Article 3 which requires Member States to examine in detail a fare which is 20 % higher or lower than the corresponding fare in the previous corresponding season.

The second safeguard is a provision which allows a Member State concerned or a carrier on the route in question to ask the Commission to decide whether a proposed air fare is in conformity with the criteria for air fares. During the period when this is under examination, which period may not exceed two months, a cease and desist provision would apply, i.e. the Commission may order that the proposed air fare should not be applied.

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The Commission has also considered the question of whether Community carriers should be entitled to act as price leaders. The Commission is aware of the argument that for as long as fifth-freedom is intended to be only a supplementary activity of air carriers they should not be able to be price leaders, since their marginal costs would not reflect a completely normal operation. However, the Commission believes that it would be against the spirit of the Treaty and the movement towards the completion of the internal market to deprive Community fifth-freedom carriers of the ability to set their own prices. In this context it should also be recognised that it may be difficult for some fifth-freedom carriers to attract passengers in competition with the third- and fourth-freedom air carriers which are already operating on the routes, are known to the public in the two States concerned and may enjoy a certain "brand loyalty". Taking all these points into consideration, the Commission proposes that Community air carriers carrying out fifth-freedom operations should also be allowed to act as price leaders.

2.2 Market Access

The Decision of December 1987 on capacity and market access stated specifically that its provisions did not affect the relationship between a Member State and its own carriers. This meant, in other words, that a Member State was free to refuse the granting of rights to operate a service to its own airlines, even if the service met the requirements of the decision and even though it was required to give such rights to carriers of other Member States. This would be, in effect, reverse discrimination. Member States remained, naturally, subject to the rules of the Treaty itself in their licensing decisions. It would now seem appropriate, in view of the aims for a common air transport policy, to modify this situation and to grant airlines that meet the necessary technical and economic requirements the right to operate the services covered by the market access provisions.

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2.3 Third- and fourth-freedom traffic rights

Since the coming into effect of the first phase of air transport liberalisation in the Community there has been a significant increase in new routes operated. In 1988, 65 new routes could be identified and in 1989 another 62 new services were established. However in 1989 13 of the newly introduced routes also disappeared. The Commission now proposes the creation of traffic rights between any airport open for transport within the Community of one Member State to any airport open for transport within the Community in another Member State. It also proposes that an air carrier may combine these traffic rights if it finds this commercially justified. This would in fact mean the creation of the so-called "sixth-freedom" traffic rights and it would imply that an air carrier can continue the flight through its own airport with or without the same aircraft or with or without the same flight number.

2.4 Multiple designation

The number of routes with multiple designation has increased since the introduction of the December 1987 package. In 1987 there were 22 such routes, in 1988 there were 27 whereas by 1989 this had increased to 33 routes. The Commission has decided to lower the thresholds for multiple designation in such a way that they would constitute a certain protection during the period when services are being developed, while on the other hand ensuring that when a route has become mature, it would be possible for other airlines to get into the market as well. The thresholds which will apply when the December 1987 aviation package expires next year will have the effect that multiple designation will be possible when three round trips are being operated per day. The Commission's proposals would reduce the thresholds so that the route would be open for multiple designation when two round trips per day have been reached. The passenger figures have been adjusted accordingly.

2.5 Fifth-Freedom

Fifth freedom operations did not increase significantly during the first phase, although for some operators, particularly on the periphery, these provisions seemed more interesting than for others. The Commission has decided to gradually expand the scope of fifth-freedom in 1991 and 1992.

The Commission proposes that fifth-freedom should be possible between any category airport and that the share of the capacity which can be sold for fifth-freedom purposes should be increased to 50%. In this way fifth-freedom will retain its supplementary character, at least in the run-up to 1993.

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In order to give further possibilities to Community air carriers, the Commission also proposes that Member States can not oppose the operation of a fifth freedom service between the Community and a third country, provided that the third country in question agrees to the service.

2.6 Cabotage

The European Council in Madrid on 26/27 June 1989 called on the Council to intensify its work in the transport sector, particularly on the question of cabotage. In the aviation sector the Commission proposes the gradual introduction of cabotage within the Community for Community scheduled air carriers and proposes that this should be done along the lines that were adopted by the Council for fifth-freedom in the aviation package of December 1987. This should ensure that cabotage will be a supplementary operation and that disruption of traffic will not occur.

2.7 Derogations

A limiting element of the present aviation rules has been the existence of a certain number of derogations. The derogations were introduced to avoid disruption of the market in certain Member States and in order to take care of certain capacity problems. The Commission has followed the development to and from these airports and has observed that new services have been established at these airports (see report). A certain discrimination has therefore taken place because it would seem that while allowing certain services, other services have been refused. This is not a satisfactory situation and the Commission therefore proposes that derogations should be deleted. It remains possible for Member States to claim a derogation where specific criteria are met and subject to verification and control by the Commission in each case.

On the other hand, capacity problems must be taken into account. The Commission has therefore strengthened the existing art. 9 (new Article 11) to make certain that safety problems will be avoided. The proposed changes will ensure that traffic rights cannot be refused when they exist in Community law. However, traffic rights can only be exercised when satisfactory infrastructure exists. A decision on whether capacity exists will be taken by the Commission on the basis of criteria defined at Community level. This provision will be supplemented by a code of conduct on slot allocation at airports which the Commission intends to present.

2.8 Capacity

The December 1987 package sought to change the power of governments to insist on a rigid 50/50 sharing of traffic in services between their country and other members of the Community by providing that Governments could only intervene if their airline(s) share of the total capacity in a bilateral relationship fell below 45 % in the period up to 1 October 1989 and below 40 % thereafter. An analysis of bilateral capacity shares since the implementation of the first phase shows that the gradual relaxation of the capacity-sharing regime did not lead to dramatic changes (see report). The Commission has now sought the most appropriate way to give effect to the commitment by the Community to further liberalisation in this area, bearing in mind the need to complete the internal market in air transport.

The possibilities considered ranged from doing nothing further between now and 1992 but in 1992 removing all bilateral capacity controls and substituting common rules to avoid disruption and capacity dumping, to going directly to this final situation where all bilateral capacity controls would be removed. In between were various arithmetical formulae for gradually reducing capacity controls, while another possibility was to retain the 60/40 capacity sharing ratio but to allow any country which had reached the upper limit to increase its capacity share by a certain number of percentage points.

The Commission has decided to propose the further gradual reduction of capacity controls by way of a two-step change in the capacity sharing ratio so that by 1 April 1992 it would stand at 75 % : 25 %.

In addition, the Commission proposes to allow further flexibility for a Member State whose airline(s) have come up against the upper limit.

The Commission also proposes the strengthening of existing safeguards to avoid undesirable effects for individual Member States' air carriers (Article 13) and individual airports (Article 11).

In order to encourage the development of services between regional airports and to relieve the pressure on the large congested airports, the Commission proposes to exclude all interregional air services from capacity control. In addition it retains the exclusion of services operated by small aircraft from the capacity controls but increases the limit on the size of aircraft to 100 seats.

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At the Council meeting in June 1989, the modification of the Directive on interregional air services was discussed and approved. During the discussion of the Commission's proposal, it was suggested that a temporary protection for new interregional air services with small aircraft should be provided. The Commission finds that this idea merits consideration by the Council and has therefore introduced a proposal to this effect. In practical terms it would mean that new interregional air services would enjoy a certain protection for three years by way of a ban on the introduction of competing services with large aircraft on the same route.

2.9 Freight

Given its particular characteristics, the Commission will this autumn put forward proposals on freight only services.

2.10 Non-scheduled services

The Commission has decided not to put forward at the present time any specific proposals on non-scheduled air services since this is a sector which has demonstrated its ability to act in a flexible manner in response to market demand. The Commission will, however, keep the situation under review.

3. COMPETITION

- 3.1. As part of the first package of liberalisation measures in the air transport sector Council Regulation (EEC) N° 3976/87 empowered the Commission to adopt for a limited period a number of group exemptions to the competition rules in order to enable the changes required to bilateral and multilateral agreements between air carriers to be effected gradually so that air carriers could adapt progressively to a more competitive environment.

The Commission on that basis adopted three Regulations (1):

- Regulation N° 2671/88 concerning joint planning and coordination of capacity, sharing of revenue and consultations on tariffs on scheduled air services and slot allocation at airports,
- Regulation N° 2762/88 relating to computer reservation systems for air transport services and
- Regulation N° 2763/88 of 26 July 1988 concerning ground handling services.

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(1) OJ N° L 239, 30 August 1988.

- 3.2. The Commission's general experience with these group exemptions is that they satisfy a genuine need for legal certainty among air carriers and other market operators, while providing an incentive to abandon previous more restrictive agreements.
- 3.3. In view of the further liberalisation now proposed, the Commission is of the opinion that the same objectives can be pursued after 31 January 1991. This would imply that the group exemptions will be renewed subject to some tightening of conditions (as set out below) which is made desirable by progress attained in creating a more competitive environment since 1 January 1988. The possibilities for cooperation to be left to the airlines will depend on the extent to which the new regulatory framework creates room for increased competition.
- 3.4. The following specific areas are being considered by the Commission for possible change:
- the exemption for agreements on joint planning and coordination of capacity could be extended to coordination of schedules;
 - the exemption of revenue sharing does not appear to benefit a large number of agreements, and so is no longer necessary or justified and should be deleted;
 - the exemption of tariff consultations would be confined to fares normally sold to the public and be more closely related to the purpose of fixing the terms of interlining agreements; reporting duties could be made more specific and easier to comply with;
 - The exemption of slot allocation and airport scheduling should provide for increased transparency of procedures and should seek to reduce the difficulties of new entrants at congested airports;
 - the exemption of agreements relating to computer reservation systems for air transport services should be aligned on Council Regulation 89/....

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The ground handling exemption would be extended without any substantive modification.

Further changes may be made to eliminate any ambiguities in the present Regulation, and in the light of the new regulatory framework when it is adopted by the Council.

In the first instance the block exemptions on the above bases would be granted for the period up to 31 December 1992. The Commission would then reexamine the position in order to decide whether any of the block exemptions should be given a more permanent status.

3.5. The Commission accordingly proposes that the Council adopt a regulation modifying Regulation (EEC) 3976/87 in the following ways:

- (i) the regulation is given an indefinite validity;
- (ii) a standard clause (new Article 3) is included on the duration and review of the Commission's implementing regulations; and
- (iii) the conditions contained in Article 2(2) of the Regulation are deleted as is appropriate in a regulation of more permanent validity.

4. INITIATIVES IN OTHER AREAS

The Commission considers that minimum safety and social measures should be applied on a Community-wide basis and that airlines should not be able to exploit unacceptable differences in standards in these areas so as to gain a market advantage over their competitors. The Commission therefore intends, as quickly as possible, to introduce proposals to give legal backing to appropriate international norms and standards where these exist. Such action would have not only a safety and social dimension but also an economic dimension resulting from a reduction in those costs which arise from non-compatible national provisions.

Aviation personnel licences is one such area. As a first step, the Commission intends putting forward proposals which would establish procedures where a Member State is required to recognise a licence issued in another Member State. This should be particularly important in the area of pilots licences and those of air traffic controllers where the shortage of personnel is often a local or regional problem. Further Community action will address the need for harmonised requirements for licences and training programmes.

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Airworthiness requirements is another important area falling in this category of measures. The Commission intends to propose legislation which will transform the substantial work already accomplished by specialised international bodies into Community rules thus ensuring their common and consistent interpretation. This will facilitate the free exchange of aircraft, parts and components as well as of the maintenance work and training.

In other areas where no international rules exist, the Commission intends to develop such rules and propose them to the Council.

Flight time limitations is such an area where important differences exist among national regulations of Member States regarding the duty and rest time of flying crews. The fact that the various national regulations cover a variety of elements/factors the definition of which also vary from one Member State to another make even the comparison of the relevant rules a very difficult exercise.

The obvious consequences that these disparities in national regulations have on the safety standards and the competitiveness of airlines has led the Commission to the conclusion that urgent action is now required in this field.

Already the Commission has proposed and the Council has adopted a mandatory code of conduct for computerised reservation systems (CRS) used for scheduled passenger services. This should benefit consumers while ensuring fair and equal opportunities for airlines in the Community in this vital area. The Council has also invited the Commission to examine in detail the situation concerning CRSs used for non-scheduled air services and air freight and to present by 31 December 1990 at the latest, any necessary proposals for bringing such systems under an analogous regime.

The consumer will also benefit from proposals which the Commission is currently preparing in order to ensure common minimum standards of denied boarding compensation. The need for Community action in this field results from widely differing practices of air carriers in the case of overbooked flights and from the lack of transparency in respect of the rights of passengers who are denied boarding. Furthermore, the increasing use of non-fully flexible tickets has created additional problems which should be overcome by the establishment of clear-cut common criteria on boarding practices and the level of compensation.

An area of growing concern where Community action is urgently required is air congestion: it causes inconvenience to passengers, unnecessary extra costs to airlines, overcrowding at airports, deterioration of air traffic controllers' working conditions and morale and can be a threat to air safety. The Commission has already proposed a first set of measures in this sector (1). These proposals are still before the Council. The Council at its meeting on 5 June 1989 passed only a Resolution on this subject. The Commission therefore urges the Council to approve its proposals urgently. But more needs to be done. The capacity problems

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are not going to disappear overnight, in particular for airports, and it is necessary to examine the role which landing fees and airport charges may play in easing congestion. It is therefore necessary to ensure that air carriers, as well as consumers, are given a fair deal. Thus, the Commission intends to examine as soon as possible a proposal for a code of conduct for slot allocation at airports, aimed at avoiding discrimination against airlines and/or wastage of scarce resources.

The Commission is also carrying out a study concerning airports, capacity and planning of airport infrastructure with particular regard to the completion of the internal market. Results of this study should become available later this year. The Commission intends to review the situation concerning congestion regularly and as indicated in the abovementioned Resolution to take the necessary measures to ensure coordination between the efforts of various organisations to find solutions to the congestion problems.

The Commission also intends in the very near future to take action on the basis of Article 93.1 of the EEC Treaty in respect of State Aid enjoyed by certain Community air carriers. This follows an examination carried out by the Commission in accordance with the State Aid rules of the EEC Treaty and the guidelines set out in Memorandum No 2. This action is, in the Commission's view necessary as unless the State aid rules are properly applied in relation to air transport, any increase in competition between airlines could merely result in the financing of such competition out of State aid and thereby undermine the liberalisation process.

5. EXTERNAL POLICY

The creation of a common air transport policy for the Community has, of course, important implications for relationships between Member States and third countries. The Commission in its statement "Europe - World Partner" in October 1988 (1) emphasised

- the need for relations between the Community and third countries to be based on the principle of reciprocity (reciprocity being defined as a guarantee of equivalent, or at least non-discriminatory, opportunities)

and

- the potential loopholes which bilateral transport agreements between individual Member States and third countries could create in the context of a single market guaranteeing freedom to provide services.

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The full implications of these considerations in an aviation context will need to be worked out in detail. The creation of a common air transport policy and the completion of the internal market must necessarily lead to a situation where the Community is regarded as a whole or in other words as a cabotage area. It is also in many instances true that concessions, if traded collectively, could secure greater returns for the Community than the sum of the individual benefit for the Member States. It does not seem to the Commission that existing concessions to third countries in respect of fifth freedom between Member States (Community cabotage) are balanced by similar advantages abroad for Community air carriers.

The instances where it is legally and commercially appropriate to negotiate as a Community with third countries will be considered in detail by the Commission which will seek from the Council a directive for a negotiating mandate in appropriate individual cases. The Commission intends taking action to ensure the early examination of these matters. It will, in the first instance, ask the Council to consider the question of negotiations with the EFTA countries and to approve an improvement to the existing consultation procedure on negotiations with third countries so that the Commission will receive prior notification of consultations leading to the conclusion of bilateral agreements with third countries.

As a result of the Ahmed Saaed judgement of the European Court, it appears appropriate to include domestic and third country fares within the scope of the fares regulation. A proposal is being made by the Commission on the competition aspects.

Another area where the Commission is now proposing specific action in relation to third countries is in the market access provisions where there is an entitlement for a Community air carrier to operate a fifth freedom service between a Member State other than its state of registration and a third country, provided the third country in question has authorised the service (see paragraph 2.5).

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6. COMMUNITY OWNERSHIP OF AIR CARRIERS

The Commission has initiated Community action aimed at clarifying the obligations of Member States in the field of restrictions to foreign ownership and control of air carriers at Community level. The objective of this initiative is to ensure full respect of the relevant Treaty rules in relation to the free movement of persons, capital and the right of establishment.

7. CONCLUSIONS

In this Communication the Commission has sought to set out the considerations underlying its proposals, which it considers to be reasonable and balanced. It has also sought to present the wider context of a Community air transport policy and the supplementary measures which it proposes submitting to the Council or which are under consideration by the Commission.

The Commission therefore proposes the adoption by the Council of the Regulations in Annexes I, II and III.

Proposal for a
COUNCIL REGULATION (EEC)

on fares for scheduled air services

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Art. 84 (2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the Opinion of the European Parliament²,

Having regard to the Opinion of the Economic and Social Committee³,

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whereas it is important to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992 as provided for in Article 8a of the Treaty; whereas the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

whereas Council Directive 87/601/EEC⁴ made a first step towards the liberalisation in respect of air fares, necessary to achieve the internal market in air transport; whereas the Council agreed to take further measures of liberalisation at the end of a three year initial period;

whereas a system of double disapproval of air fares is an important element in achieving further liberalisation;

whereas it is appropriate to establish clear criteria according to which the Member States' authorities have to evaluate proposed air fares;

whereas certain of these criteria should be applied not only to fares on routes within the Community but also to fares on routes to and from the Community;

whereas it is appropriate to provide for a procedure according to which Member States may ask the Commission's opinion on the conformity of a proposed air fare with the criteria laid down;

⁴OJ No L 374, 31.12.1987, p.12.

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Whereas in case of excessively high or low air fares the Commission must be able to suspend the application of an air fare;

Whereas Member States in accordance with the provisions of the Treaty may not approve fares which are contrary to the competition rules;

Whereas this Regulation replaces Directive 87/601/EEC; whereas it is therefore necessary to revoke that Directive;

HAS ADOPTED THIS REGULATION:

Scope and definitions

Article 1

This Regulation shall apply to criteria and procedures to be applied with respect to the establishment of scheduled air fares charged on routes within the Community and between the Community and third countries.

Article 2

For the purposes of this Regulation:

- (a) scheduled air fares means the prices to be paid in the applicable national currency for the carriage of passengers and baggage on scheduled air services and the conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;

- (b) scheduled air service means a series of flights each possessing all the following characteristics:
 - (i) it is performed by aircraft for the transport of passengers or passengers and cargo and/or mail for remuneration, in such a manner that on each flight seats are available for purchase by members of the public (either directly from the air carrier or from its authorised agents);
 - (ii) it is operated so as to serve traffic between the same two or more points, either:
 - (1) according to a published timetable, or
 - (2) with flights so regular or frequent that they constitute a recognisably systematic series;
- (c) flight means a departure from a specified airport towards a specified destination airport.
- (d) air carrier means an air transport enterprise with a valid operating licence to operate scheduled air services;

(e) Community air carrier means :

(i) an air carrier which has its central administration and principal place of business in the Community, the majority of whose shares are owned by nationals of Member States and/or Member States and which is effectively controlled by such persons or States, or .

(ii) an air carrier which, although it does not meet the definition set out in (i), at the time of adoption of this Regulation :

(1) either has its central administration and principal place of business in the Community and has been providing scheduled or non-scheduled air services in the Community during the 12 months prior to adoption of this Regulation.

(2) or has been providing scheduled air services between Member States on the basis of third- and fourth-freedom traffic rights during the 12 months prior to adoption of this Regulation.

The air carriers which meet the above criteria are listed in the Annex;

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(f) a third freedom traffic right means the right for an air carrier established in one State to put down, in the territory of another State, passengers, freight and mail taken up in the State in which it is registered;

a fourth-freedom traffic right means the right for an air carrier established in one State to take on, in the territory of another State, passengers, freight and mail for off-loading in the State in which it is registered;

(g) States concerned mean the States between which a scheduled air service is operated;

CRITERIA

Article 3

1. Member States shall approve scheduled air fares of Community air carriers if they are reasonably related to the long-term fully allocated relevant costs of the applicant air carrier, including the need for a satisfactory return on capital and for an adequate cost margin to ensure a satisfactory technical and safety standard.
2. In approving air fares under paragraph 1 Member States shall consider the needs of consumers and the competitive market situation.
3. The fact that a proposed air fare is lower than that offered by another air carrier operating on the route concerned shall not be sufficient reason for withholding approval.
4. Member States shall, in particular, examine in detail a proposed air fare which is 20% higher or lower than the corresponding fare in force during the previous corresponding season. A Member State may in this respect for an air fare within the Community initiate the procedure laid down in Art. 5.
5. Without prejudice to Art. 5 paragraph 1, a Member State shall permit a Community air carrier operating a direct or indirect scheduled air service within the Community, having given due notice to the States concerned, to match an air fare already approved between the same city pairs. This provision shall not apply to indirect air services which exceed the length of the shortest direct service by more than 20 %.
6. Only Community air carriers shall be entitled to introduce lower air fares than the existing ones on routes within the Community.

PROCEDURES

Article 4

1. Scheduled air fares shall be subject to approval by the aeronautical authorities of the State(s) concerned. To this end, an air carrier shall submit its proposed air fares in the form prescribed by those authorities.
2. Aeronautical authorities shall not require air carriers to submit their fares in respect of routes within the Community more than 60 days before they come into effect.
3. A fare for a route within the Community shall be considered as approved unless, within 30 days of the date of its submission, both authorities have notified in writing their disapproval to the applicant air carrier, stating their reasons. The authorities shall also inform each other.
4. An air fare for a route within the Community, once approved, shall remain in force until it expires or is replaced. It may however be prolonged after its original date of expiry for a period not exceeding 12 months.

Article 5

1. A Member State concerned or an air carrier on the same route may request the Commission to give an opinion on whether a scheduled air fare conforms with paragraph 1 of Article 3. The Commission shall forthwith inform the other Member State and the air carrier concerned and give them the opportunity to submit their observations.

2. The Commission shall give an opinion within 2 months of having received the request. This period may be prolonged to the extent necessary in order to obtain sufficient further information from the applicant air carrier. During its examination of the request and until seven days thereafter the Commission may suspend the application of an air fare which is 20 % higher or lower than the corresponding fare in force during the previous corresponding season.

GENERAL PROVISIONS

Article 6

At least once a year, the Commission shall consult on scheduled air fares and related matters with representatives of air transport user organizations in the Community, for which purpose the Commission shall supply appropriate information to the participants.

Article 7

In carrying out the duties assigned to it under this Regulation, the Commission may obtain all necessary information from the Member States and air carriers concerned.

Article 8

1. The Commission shall publish a report on the application of this Regulation by 1 October 1992 and every second year thereafter.
2. Member States and the Commission shall cooperate in implementing this Regulation, particularly as regards collection of information for the report referred to in paragraph 1.

3. Confidential information obtained in application of this Regulation shall be covered by professional secrecy.

Article 9

Where a Member State has concluded an agreement with one or more third countries which contains provisions which are incompatible with this Regulation, the Member State shall, at the first opportunity, take all appropriate steps to eliminate such incompatibilities. Until such time as the incompatibilities have been eliminated, this Regulation shall not affect the rights and obligations vis-à-vis third countries arising from such an agreement.

Article 10

Directive 87/601/EEC is hereby revoked.

Article 11

This Regulation shall enter into force on 1 January 1991.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

ANNEX

Air carriers referred to in Article 2(e) (ii)

The following air carriers meet the criteria referred to in Article 2(e)(ii) as long as they are recognized as a national carrier by the Member State which so recognizes them at the time of the adoption of this Regulation.

- Scandinavian Airlines System,
 - Britannia Airways,
 - Monarch Airlines.
-

Proposal for a
COUNCIL REGULATION (EEC)

on access for air carriers to scheduled intra-Community air
service routes and on the sharing of passenger capacity between
air carriers on scheduled air services between Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinions of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas it is important to adopt measures with the aim of
progressively establishing the internal market over a period
expiring on 31 December 1992 as provided for in Article 8a of the
Treaty; whereas the internal market shall comprise an area without
internal frontiers in which the free movement of goods, persons,
services and capital is ensured;

Whereas Council Decision 87/602/EEC⁴ made a first
step towards the liberalisation in respect of sharing of passenger
capacity and access to the market, necessary to achieve the
internal market in air transport; whereas the Council agreed to
take further measures of liberalisation at the end of a three year
initial period;

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OJ No L 374, 31.12.1987, p.19.

Whereas in order to provide better possibilities for air carriers it is timely to introduce a first set of measures concerning the relations between States of registration and air carriers established in their territory;

Whereas increased market access will stimulate the development of the Community air transport sector and give rise to improved services for users; whereas as a consequence it is necessary to introduce more liberal provisions concerning multiple designation, third, fourth and fifth freedom traffic rights and to adopt the first provisions with respect to cabotage;

Whereas, taking into account airport infrastructure, navigational aids and a lack of slots, it is necessary to include certain limitations concerning the use of traffic rights;

Whereas arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the ministers of Foreign Affairs of the two countries, and such arrangements have yet to come into operation;

Whereas the development of the air traffic system in the Greek Islands is at present inadequate and for this reason airports situated on those islands should be temporarily exempted from the application of this Regulation;

Whereas bilateral rules concerning capacity shares are not compatible with the principles of the internal market which should be completed by 1993 in the air transport sector; whereas therefore the bilateral restrictions must be diminished gradually;

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Whereas it is especially important to encourage the development of interregional services in order to develop the Community network and to contribute to a solution to the problem of congestion at certain large airports; whereas, therefore, it is appropriate to have more liberal rules with respect of capacity sharing for these services;

Whereas, taking into account the competitive market situation, provision should be made to prevent unjustifiable economic effects on air carriers;

Whereas this Regulation replaces Directive 83/416/EEC⁵, as last amended by and Decision 87/602; whereas it is therefore necessary to revoke that Directive and that Decision;

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⁵ OJ No L 237, 26.8.1983, p.19.

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HAS ADOPTED THIS REGULATION:

Scope and Definitions

Article 1

1. This Regulation concerns:
 - (a) access to the market for Community air carriers;
 - (b) the sharing of passenger capacity between the air carrier(s) established in one Member State and the air carrier(s) established in another Member State on scheduled air services between these States.
2. The application of this Regulation to the airport of Gibraltar 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.
3. Application of the provisions of this Regulation 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 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will so inform the Council on that date. During this suspension the provisions of Directive 83/416, as amended by Directive 86/216/EEC⁷, shall apply with respect to scheduled air services to and from Gibraltar.
4. Airports in the Greek islands shall be exempted from the application of this Regulation until 1 July 1993. Unless otherwise decided by the Council, on a proposal of the Commission, this exemption shall apply for a further period of five years and may be continued for five years thereafter.

⁷OJ No L 152, 6.6.1986, p.74.

Article 2

For the purpose of this Regulation:

- (a) air carrier means an air transport enterprise with a valid operating licence to operate scheduled air services;
- (b) a third-freedom traffic right means the right for an air carrier established in one State to put down, in the territory of another State, passengers, freight and mail taken up in the State in which it is registered;

a fourth-freedom traffic right means the right for an air carrier established in one State to take on, in the territory of another State, passengers, freight and mail, for off-loading in the State in which it is registered;

a fifth-freedom traffic right means the right for an air carrier to undertake the commercial air transport of passengers, freight and mail between two States other than the State in which it is registered;

cabotage means the right for an air carrier to undertake the commercial air transport of passengers, freight and mail between two points within a Member State other than the State in which it is registered;

- (c) States concerned mean the States between which a scheduled air service is operated;
- (d) State of registration means the Member State in which the Community air carrier is registered;

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(e) Community air carrier means:

- (i) an air carrier which has its central administration and principal place of business in the Community, the majority of whose shares are owned by nationals of Member States and/or Member States and which is effectively controlled by such persons or States, or
- (ii) an air carrier which, although it does not meet the definition set out in (i) at the time of adoption of this Regulation;
 - (1) either has its central administration and principal place of business in the Community and has been providing scheduled or non-scheduled air services in the Community during the 12 months prior to adoption of this Regulation,
 - (2) or has been providing scheduled air services between Member States on the basis of the third and fourth freedom traffic rights during the 12 months prior to adoption of this Regulation.

The air carriers which meet the above criteria are listed in Annex I.

(f) scheduled air service means a series of flights each possessing all the following characteristics:

- (i) it is performed by aircraft for the transport of passengers or passengers and cargo and/or mail for remuneration, in such a manner that on each flight seats are available for purchase by members of the public (either directly from the air carrier or from its authorized agents);

- (ii) it is operated so as to serve traffic between the same two or more points, either:
 - (1) according to a published timetable, or
 - (2) with flights so regular or frequent that they constitute a recognizably systematic series;
- (g) flight means a departure from a specified airport towards a specified destination airport;
- (h) multiple designation on a country—pair basis means the designation by a State of registration of two or more of the air carriers established in its territory to operate scheduled air services between its territory and that of another Member State;
- (i) multiple designation on a city—pair basis means the designation by a State of registration of two or more of the air carriers established in its territory to operate a scheduled air service between an airport or airport system in its territory and an airport or airport system in the territory of another Member State;
- (j) regional airport means any airport other than one listed in Annex II as a category 1 airport;
- (k) airport system means two or more airports grouped together as serving the same city, as indicated in Annex II;

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- (l) capacity shall be expressed as the number of seats offered to the general public on a scheduled air service over a given period;
- (m) capacity share means the share of a Member State expressed as a percentage of the total capacity calculated according to Article 12 in a bilateral relationship with another Member State.

Relations between the States of registration
and their air carriers

Article 3

1. Member States shall grant, on a non-discriminatory basis, an operating licence as an air carrier to undertakings established on their territory when they comply with a set of requirements including technical and economic standards. A Member State which has not defined such a set of requirements shall do so within three months from the entry into force of this Regulation. Member States shall publish these requirements and communicate them forthwith to the Commission.
- 2(a) The State of registration shall authorise, on a non-discriminatory basis, applicant Community air carriers, which are established on its territory and which meet the set of requirements referred to in paragraph 1, to operate air services within the Community.

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- (b) The State of registration may refuse its authorization or attach conditions thereto if the service applied for is not economically viable. Each Member State shall publish the criteria which it uses for its assessments on economic viability and communicate them forthwith to the Commission.
3. Any decision to refuse a licence or authorization or to attach conditions shall be accompanied by the reasons therefor in writing.

Relations between a State of destination and Community air carriers.

Article 4

1. Subject to Article 6, a Member State of destination shall authorise Community air carriers, which according to Article 3 has been authorised by the State of registration, to :
- operate third and fourth freedom air services;
 - combine these air services in the airports or airport systems located in the State of registration. . . Combined through services may have the same flight number.
2. A Member State, which has approved one of the air carriers established in its territory to operate a service on a new route between regional airports with aircraft of no more than 100 seats, is not obliged to authorise a reciprocal air service operated with aircraft larger than 100 seats for a period of 3 years from the date of authorisation.

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Third and fourth freedom traffic rights

Article 5

Third and fourth freedom traffic rights shall exist between airports or airport systems in one Member State to airports or airport systems in another Member State when these airports or airport systems are open for intra-Community air services.

Multiple Designation

Article 6

1. A Member State of destination shall accept multiple designation on a country-pair basis.
2. It shall also accept multiple designation on a city-pair basis:
 - from 1 January 1991, on routes on which more than 140,000 passengers were carried in the preceding year, or on which there are more than 800 return flights per annum,
 - from 1 January 1992, on routes on which more than 100,000 passengers were carried in the preceding year or on which there are more than 600 return flights per annum.

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Combination of points

Article 7

In operating scheduled air services to or from two or more points in another Member State or States other than its state of registration, a Community air carrier shall be permitted by the States concerned to combine scheduled air services. Traffic rights between the combined points may be exercised according to Articles 8 and 9.

Fifth freedom rights

Article 8

1. Community air carriers shall be permitted to exercise fifth freedom traffic rights between combined points in two different Member States on the following conditions :
 - (a) the traffic rights are exercised on a service which constitutes an extension of a service from, or as a preliminary of a service to, its State of registration;
 - (b) the air carrier can not use more than 50 % of its annual seat capacity on the service concerned for the carriage of fifth freedom passengers. This limitation does not apply to aircraft with no more than 100 seats.

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2. Member States shall not oppose the operation by Community air carriers of a scheduled fifth freedom air service between an airport within the Community and an airport in a third country, provided that the authorities of the third country concerned agree to the service in question.

3. The air carrier may, for the fifth freedom service, use an aircraft which is different but not bigger than the aircraft which it uses for the third and fourth freedom service of which the fifth freedom service constitutes the extension or the preliminary.

CABOTAGE

Article 9

Community air carriers shall be permitted to exercise cabotage traffic rights between combined points within the same Member State on the following conditions;

- (a) the cabotage traffic rights are exercised on an air service which constitutes an extension of an air service from or a preliminary of an air service to its State of registration.

- (b) it is operated between two airports at least one of which is a regional airport;

- (c) the air carrier may not use more than 30% of its annual seat capacity on the air service concerned for the carriage of cabotage passengers.

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Conditions for the exercise of traffic rights

Article 10

This Regulation shall not affect a Member States' right to regulate in a non-discriminatory way the distribution of traffic between the airports within an airport system.

Article 11

1. The exercise of traffic rights is subject to national, regional or local rules relating to the protection of the environment, social conditions and safety and, in particular, to the following conditions :
 - (a) the airport or airport system concerned must have sufficient facilities to accommodate the service;
 - (b) navigational aids must be sufficient to accommodate the service;
 - (c) there must be available slots;
 - (d) the service shall comply with published national, regional or local operational rules.

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2. When the conditions in paragraph 1 are not met, a Member State may, on a non-discriminatory basis, impose conditions on, limit or refuse the exercise of those traffic rights. Before taking such a measure it shall inform the Commission and provide it with all the necessary elements of information. The Commission shall examine the situation and within 2 months decide whether the Member State may take the measure.

Shares of capacity

Article 12

1. From 1 October 1990, a Member State shall allow any air carrier operating third and fourth freedom traffic rights and authorized by the States concerned under this Regulation or more flexible arrangements in force between them to operate routes between their territories to increase capacity provided that the resulting capacity shares are not outside the range 67,5 : 32,5.
2. The range within which a Member State shall allow another Member State to increase its capacity share shall be extended to 75%: 25% from 1 April 1992.
3. Paragraphs 1 and 2 shall not apply to a service between a category 1 airport as listed in Annex II and a regional airport which is provided by aircraft with not more than 100 seats nor to a service between regional airports irrespective of aircraft capacity.

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4. In applying the provisions of paragraph 1 and 2, unilateral cut-backs in capacity shall not be taken into account. In such cases, the basis for the calculation of capacity shares shall be the capacity offered in the previous corresponding seasons by the air carrier(s) of the Member State which has (have) reduced its (their) capacity.
5. Notwithstanding the application of paragraphs 1 and 2, a Member State shall permit another Member State to increase its capacity share by 5 percentage points compared to the capacity share during the previous corresponding season.

Article 13

1. At the request of any Member State for which the application of Article 12(1) and (2) has led to serious financial damage for the air carrier(s) established in its territory, the Commission will carry out a review and, on the basis of all relevant factors, including the market situation, the financial position of the air carrier(s) concerned and the capacity utilisation achieved, will take a decision on whether the capacity sharing on the routes to or from that State should be stabilised for a limited period.
2. The Commission shall communicate its decision to the Council and to the Member States. Any Member State may refer the Commission's decision to the Council within a time limit of one month. The Council, acting by qualified majority, may take a different decision within a period of one month.

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General provisions

Article 14

1. This Regulation shall not prevent Member States from concluding between them arrangements which are more flexible than the provisions of Articles 6, 8, 9 and 12 or from maintaining such arrangements in force.
2. The provisions of this Regulation shall not be used to make existing capacity or market access arrangements more restrictive.

Article 15

1. The Commission shall publish a report on the implementation of this Regulation every two years and for the first time by 1 June 1992.

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2. Member States and the Commission shall cooperate in implementing this Regulation, particularly as regards collection of information for the report referred to in paragraph 1.
3. Confidential information obtained in application of this Regulation shall be covered by professional secrecy.

Article 16

The Council shall decide on the revision of this Regulation by 31 December 1992 at the latest, on the basis of a Commission proposal to be submitted by 1 June 1992.

Article 17

1. Decision 87/602 is revoked.
2. Without prejudice to Article 1, Directive 83/416 is revoked.

Article 18

This Regulation shall enter into force on 1 October 1990.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President

ANNEX I

Air carriers referred to in Article 2 (e) (ii)

The following air carriers meet the criteria referred to in Article 2(e)(ii) as long as they are recognised as national carriers by the Member State which so recognises them at the time of the adoption of this Regulation:

- Scandinavian Airlines System,
 - Britannia Airways,
 - Monarch Airlines
-

ANNEX II

List of category 1 airports

BELGIUM:	Brussels-Zaventem
DENMARK:	Copenhagen-Kastrup/Roskilde
GERMANY:	Frankfurt-Rhein-Main; Düsseldorf-Lohausen, Munich-Riem
SPAIN:	Palma-Mallorca, Madrid-Barajas, Malaga, Las Palmas
GREECE:	Athens-Hellinikon, Salonica-Micra
FRANCE:	Paris-Charles de Gaulle/Orly
IRELAND:	Dublin
ITALY:	Rome-Fiumicino/Ciampino, Milan-Linate/Malpensa
NETHERLANDS:	Amsterdam-Schiphol
PORTUGAL:	Lisbon, Faro
UNITED KINGDOM:	London-Heathrow/Gatwick/Stansted, Luton

Proposal for a
COUNCIL REGULATION (EEC)
amending Regulation (EEC) No 3976/87
on the application of Article 85(3) of the Treaty to certain
categories of agreements and concerted practices
in the air transport sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 87 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Regulation (EEC) No 3976/87¹ empowers the Commission to declare by way of Regulation that the provisions of Article 85(1) do not apply to certain categories of agreements between undertakings, decisions by associations of undertakings and concerted practices;

Whereas these block exemptions have been granted for a limited period, expiring on 31 January 1991, during which air carriers can adapt to the more competitive environment introduced by changes in the regulatory system applicable to intra-Community international air transport;

¹OJ No L 374, 31.12.1987, p.9.

whereas a continuation of block exemptions after that date is justified by the further measures to liberalise the air transport sector adopted by the Community; whereas the scope of these block exemptions and the conditions attached to them should be defined by the Commission, in close liaison with the Member States, taking into account changes to the competitive environment achieved since the entry into force of Regulation (EEC) No 3976/87,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3976/87 shall be modified as follows:

1. Article 2, paragraph 2 shall be replaced by the following:

"2. The Commission may, in particular, adopt such regulations in respect of agreements, decisions or concerted practices which have as their object any of the following:

- joint planning and coordination of the capacity to be provided on scheduled air services;
- consultations for common preparation of proposals on tariffs, fares and conditions for the carriage of passengers and baggage on scheduled air services;
- slot allocation at airports and airport scheduling;
- common purchase, development and operation of computer reservation systems relating to timetabling, reservations and ticketing by air transport undertakings;
- technical and operational ground handling at airports, such as aircraft push back, refuelling, cleaning and security;
- handling of passengers, mail, freight and baggage at airports;
- services for the provision of in-flight catering."

2. Article 3 shall be replaced by the following:

"1. A regulation pursuant to Article 2 shall be made for a specified period.

2. It may be repealed or amended where circumstances have changed with respect to any factor which was basic to its being made; in such case, a period shall be fixed for modification of the agreements and concerted practices to which the earlier Regulation applies."

3. Article 8 shall be deleted.

Article 2

This Regulation shall enter into force on 1 July 1990.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

Fiche d'impact de certains actes législatifs sur les PME et
l'emploi

1. OBLIGATIONS ADMINISTRATIVES DECOULANT DE L'APPLICATION DE LA LEGISLATION POUR LES ENTREPRISES

YES - certain procedures and criteria will need to be complied with by airlines e.g. on fares.

2. AVANTAGES POUR L'ENTREPRISE

YES - The market access opportunities should be of particular benefit to small and medium sized airline companies.

3. INCONVENIENTS POUR L'ENTREPRISE
(coût supplémentaires)

- NO

- CONSEQUENCES

4. EFFETS SUR L'EMPLOI

Positive - the further liberalisation of air transport should result in increased demand. Small and medium sized airlines should be able to benefit from this, particularly because of the measures on access to the market which in turn should have positive effects on employment.

5. Y A-T-IL EU CONCERTATION PREALABLE AVEC LES PARTENAIRES SOCIAUX?

YES - Consultation on principles for further liberalisation of air transport was held with airline companies (including non-flag carriers), trade unions and consumers.

AVIS DES PARTENAIRES SOCIAUX -

Favourable view on principle of further liberalisation. Trade union approval conditional on certain harmonisation measures being proposed (these are in hand).

6. Y A-T-IL UNE ALTERNATIVE MOINS CONTRAIGNANTE ?

NO

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