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AVIATION 15

## DECLASSIFICATION

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

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

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AVIATION 15

## OUTCOME OF PROCEEDINGS

from : the "AVIATION" Group

dated: 15 November 1995

No. prev. doc.: 7237/95 AVIATION 6

Subject: Relations with third countries

### I. INTRODUCTION

1. At its meeting on 15 November 1995, the "AVIATION" Group discussed the following items:

- (i) State of play of the negotiations between the Community and Switzerland
- (ii) Recommendation for a Council Decision authorizing the Commission to open negotiations with the United States in the field of air transport <sup>(1)</sup>
  - doc. 6940/95 AVIATION 5 [SEC(95) 646 final]
- (iii) Relations with the Countries of Central and Eastern Europe (CCEES)
  - doc. 5506/95 AVIATION 3 PECOS 12
- (iv) Overflying Siberian territory
  - doc. 6584/95 AVIATION 4
- (v) Committee on Aviation Environmental Protection (CAEP) of the International Civil Aviation Organisation (ICAO)
  - doc. 11407/95 AER 50 ENV 277

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<sup>(1)</sup> The outcome of proceedings on this item is contained in doc. 11756/95 AVIATION 14.

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Sections II, III, IV and V below contain a summary of the discussions on items (i), (iii), (iv) and (v) respectively.

## II. STATE OF PLAY OF NEGOTIATIONS BETWEEN THE COMMUNITY AND SWITZERLAND (Surface and air transport)

The Commission representative indicated that Mr. Neil KINNOCK, Member of the Commission, had visited Bern for conversations with the Swiss authorities. He underlined that, during such conversations, Mr. KINNOCK pointed out that any attempt to conclude negotiations before the end of the year was unrealistic, stressing that within the overall context the Community wanted a good agreement and not a quick one. In regard to road transport, Mr. KINNOCK got the impression that the Swiss authorities could agree to make a concession on the 28 tonnes limit.

As far as aviation is concerned, the Commission representative informed the Group that at the different meetings held until now the Commission had made clear that it was impossible to establish an automatic extension of rights. On inter-institutional items the Commission representative declared that Switzerland had accepted the principle of the single pillar and the Community legislation on state aids. The Commission representative said that further meetings would be held before the end of the year with the Swiss authorities.

The Commission representative informed the Group that two documents were examined during the last meeting on 8 November 1995 (see doc. TRANS/INFO/23/95). The Commission representative declared that a drafting committee would be convened in the near future. However, this committee will not address any items where provisional agreement has not yet been reached by the two parties.

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The Italian delegation suggested that before any drafting exercise on air transport a new meeting should be held with the Swiss. The Netherlands delegation raised the problem of taking into account the evaluation of the agreement between the United States and Switzerland (doc. 10107/95 TRANS 147 AVIATION 13 AELE 33 RESTREINT).

Regarding the balance of advantages as between the air and surface transport agreements, the Netherlands delegation considered that a modification on the 28 tonnes limitation is very important as well as the road taxes issue.

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It should be recalled that during this meeting, and regarding the agreement with the United States, two delegations (DK,S) raised what they considered as a problem of a practical nature but important in political terms. They asked that the case of Norway should be taken into consideration, advocating an extension of any agreement to Norway without the need to apply the EEA mechanism. The United Kingdom delegation supported this request not only vis-à-vis Norway but also vis-à-vis Iceland.

### III. RELATIONS WITH THE COUNTRIES OF CENTRAL AND EASTERN EUROPE (CCEEs)

On 8 March 1995 the Commission presented to the Council (doc. 5506/95 AVIATION 3 PECOS 32) a Recommendation for a Council Decision authorizing the Commission to open negotiations on air transport agreements between the Community and Bulgaria, the Czech Republic, Hungary, Poland, Rumania and Slovakia.

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In presenting this Recommendation, hereafter referred to as the draft negotiating mandate, the Commission representative indicated that after the disintegration of the Soviet Union the countries of Central and Eastern Europe established a movement towards democracy and the Commission put forward a draft mandate with all those countries with which the European Union had signed association agreements. The Commission representative emphasized that the objective of the air transport agreement or agreements in question was the creation of a common aviation area based on the "third package" and associated legislation. However, he pointed out that the objective was not to give market access directly but to try at first to see if those countries could achieve the same level of technical harmonisation as the Community. The Commission representative considered that this exercise could not be comparable with the agreements with Norway and Sweden and with the creation of AEA since the CCEEs are at a different stage of development of their aviation sector.

The Commission representative stressed that the European Council already addressed the need for better market access from the CCEEs.

The Chairman, commenting on the draft negotiating mandate reiterated that it corresponds to the pragmatic approach vis-à-vis the CCEEs reached by the summits of Essen and Corfu, and that it was his intention to have a general discussion by the delegations to allow further work by the "Aviation" Group under the Italian Presidency.

The French delegation indicated that in general, they agreed with the mandate, though it was important to consider whether a bilateral or multilateral approach would be more appropriate. The French delegation emphasized the need for a precise calendar for this exercise and were of the view that, at this stage, it was premature to extend this mandate to the Baltic countries.

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The Greek delegation declared that this agreement should be considered as a medium term objective and underlined that the CCEEs have also agreements between them. They were in favour of starting discussions but in view of the different existing situations, the question was to know whether six different agreements or a sole agreement should be implemented.

The United Kingdom delegation indicated support for such a mandate but the extension of the third package should be followed carefully because it could be good for the consumer and could assist the economic integration, on condition that the CCEEs carry through technical harmonisation. The United Kingdom delegation did not favour any protectionist approach, by means of including social clauses. As regards the phasing of this exercise the United Kingdom delegation saw some difficulties with the problem of whether there should be six or one single agreement and considered that a structure with reciprocal derogations might be a better solution. The United Kingdom delegation endorsed the French suggestion that it was necessary to have a factual report on how the CCEEs are tackling the different items raised. In a phased approach, the United Kingdom delegation indicated that it might be found that more liberal situations existed at present, and that such situations should be safeguarded in the agreement or agreements. Protection should also be envisaged to avoid letting third countries operators circumvent such agreements.

The Netherlands delegation declared that, from the report by the Commission, it was very clear that enlargement is a very good direction but many questions arise. The Netherlands delegation indicated that this exercise should be achieved in different phases and that the European Union should be able to find a way to proceed, linked with safety and trade aspects in a balanced approach, in which the ensuring of security and safety should be a priority. The Netherlands delegation pointed out that there is a need to monitor the whole exercise

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throughout its implementation, establishing criteria and taking the discussions step by step. The Netherlands delegation indicated that further comments will be submitted at a later phase of the discussion.

The German delegation indicated that, as the French delegation previously declared, it is important to know if one will follow the multilateral or the bilateral approach. The German delegation emphasized the need to be very careful on matters such as environment, technical standards and establishing a balance between commercial and social elements. In this respect, the German delegation said that the EEA agreement was a good example as regards the social issues when it covers leasing. Another way could be the approach followed in the resolution about relocation <sup>(1)</sup>.

The Finnish delegation fully agreed with the long term aim of this agreement and emphasized that the EEA agreement should be remembered. As regards the Baltic countries, the Finnish delegation pointed out that these states had initialled association agreements with the European Union and for that reason they should be included in this exercise. As regards the bilateral or the multilateral approach, the Finnish delegation was more inclined to the latter, while recognising that even in a bilateral approach there could be common elements like institutional aspects. The Finnish delegation indicated that further discussion is needed on the different stages of this exercise and about the relationship between the CCEEs and the existing bilateral agreements, particularly, when State participation is more developed in their aviation sector. The Finnish delegation pointed out that speedy agreement on regimes for individual countries should not be ruled out and that when concluded, the agreements will need a monitoring system where security, safety and environment should be considered as a priority.

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<sup>(1)</sup> Council Resolution 95/C 169/02 on relocation in air transport. O.J. n° C 169 of 5.7.1995, p. 3.



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The Danish delegation supported the Finnish delegation and declared that the mandate was still under scrutiny by their authorities in Copenhagen. The Danish delegation indicated that they were in favour of a multilateral approach which should include the Baltic countries. Recalling the evolution of liberalisation by means of the first, second and third packages, the Danish delegation suggested to begin with the first one and then to continue until the third. The Danish delegation underlined that the present bilateral agreements should remain.

The Belgian delegation said that, in principle, they could agree with the mandate but recalled that the EEA agreement should be taken into account. The Belgian delegation indicated that a multilateral approach beyond a certain threshold based on the third package would be the best direction. However, the Belgian delegation pointed out the need to know the level of security and safety of the CCEEs and to get more information from these countries to that end.

The Spanish delegation was in agreement with the aim of broadening the market in this way and said that, as with the association agreements it implies the application of the same rules by the Community and the CCEEs. However, the question of which degree of technical harmonisation this exercise should impose was also raised by the Spanish delegation. This delegation said that an agreement based on the third package would be more practical than a phasing exercise covering the three packages, which seems very complex. A minimum of two phases could be envisaged. The Spanish delegation raised the question of contemplating non regular air transport and asked for more information about the CCEEs, in particular about the degree of technical harmonisation. In the context of broadening the market, the Spanish delegation asked for information about the attitude of the CCEEs concerning this agreement.

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The Swedish delegation pointed out that this exercise is considered as a political priority and said that they were in agreement with the general orientations. However, as regards the scope, the Swedish delegation indicated that it should include the Baltic countries. They manifested a preference for the multilateral approach, based on the present legislation and along the lines suggested by the French delegation, that is to say a multilateral approach with flexibility to differentiate between some CCEEs according to their development and taking into account the preservation of existing bilateral agreements between Member States and some CCEEs.

The Italian delegation said that they were in agreement with the aim of this exercise, which could result in an agreement different from the one between the European Union and Norway and Sweden, since the political environment and the level of technical harmonisation of these countries is not equivalent to the CCEEs position. As regards the question of a bilateral or a multilateral approach, the Italian delegation agreed with the other delegations that suggested a common base. This delegation supported the phasing scheme suggested by the Spanish delegation but more information is needed because it is not a very simple system when it comes to identifying the different phases, especially where they begin and how to pass from one phase to another.

The Austrian delegation supported the aims of the mandate but expressed some concerns regarding the standards that prevail in the CCEEs and indicated that more information is needed on this matter. The Austrian delegation indicated that they were more inclined to a multilateral approach, provided that antidumping clauses on fares will be included.

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The Irish delegation supported, in general, the mandate as a political consequence of the association agreements and favoured a multilateral approach. The Irish delegation was of the view that, like the United Kingdom delegation, the third package on aviation could be a good basis for an agreement accompanied with safeguards requiring that the CCEEs should achieve a certain standard.

In responding to the comments by delegations, the Commission representative pointed out that the Commission's recommendation is not very far from their positions and indeed it was essential to know the situation of the CCEEs in order to implement a transitional mechanism inspired by but not imitating, the first, second and third packages. The Commission representative added that:

- all the information available was included in the Annex to the recommendation and that the CCEEs recognize the need to apply the Community legislation;
- as regards safety issues, the CCEEs are moving in the direction of participating in the J.A.A. <sup>(1)</sup>;
- the questions of a bilateral or a multilateral agreement, or various bilateral agreements with a minimum base need to be discussed further;
- it is the intention of this exercise not to leave a back door open for other third countries;
- the case of the Baltic countries should be considered since the association agreements are near ratification;

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<sup>(1)</sup> J.A.A. (Joint Aviation Authorities).

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- the industry should be involved in the discussions concerning the mandate, and not only the air carriers but also the airports;
- the discussion should be intensified at the level of the "AVIATION" Group, under the Italian Presidency.

## IV. OVERFLYING SIBERIA

In introducing this question the Commission representative informed the Group about the contents of the file note n° 5359 of the Commission Department (DG VII) and pointed out that he was informed of some action by Finland that the Commission wishes Member States not to take. Since there would be, very soon, a meeting of experts at the level of the ECAC, the Commission representative underlined that Member States should be well briefed beforehand on the matter.

The Chairman reiterated the need to maintain the pressure on the Russian authorities since he was informed that Japanese air carriers are not paying such overflight rights.

The Finnish delegation confirmed that Finland had discussions with their Russian counterpart regarding the flights between Western Europe and Japan in order to reduce the flight by 20 minutes to Osaka and Tokyo. The Finnish delegation indicated that on 1st February 1996, an international instrument could be signed on this matter.

The United Kingdom delegation commended the work of the Commission Department. They stressed the need to maintain the momentum. The United Kingdom delegation recalled that the ECAC Resolution on this matter had asked for a common approach and not for bilateral actions.

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The Netherlands delegation commented that little progress had been made while recognizing that the present system is contradictory and that the Commission gave a good explanation on what is at stake. Like the United Kingdom delegation, the Netherlands delegation said that it was necessary to reach a common approach and that the Commission is right in looking for better transparency and for the providing of more information.

The Commission representative recognized that there is a time factor and that Russia wants to solve the matter as soon as possible.

The Commission representative said that during the next visits of Commissioners KINNOCK and VAN DEN BROEK to Moscow the issue concerning overflying Siberia will be raised, in order to make the Russian side fully aware of this matter, so as to reach a solution.

## V. MEETING OF THE ICAO'S COMMITTEE ON AVIATION ENVIRONMENTAL PROTECTION (CAEP)

After an exchange of views on this meeting, which is due to discuss, at expert level, the items on noise and NO<sub>x</sub> emissions from aircraft (see doc. 11407/95 AER 50 ENV 277) from the 5th to 15th December 1995, in Montreal, the Chairman concluded that Member States should present written suggestions to the Commission Department which could be conveyed to the CAEP meeting.

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