



Council of the
European Union

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DECLASSIFICATION

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dated: 30 August 2002

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Subject: Recommendation by the Commission for a Council Decision authorising the Commission to open negotiations for an agreement with the People's Republic of China on Authorised Destination Status (ADS)

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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NOTE

from :	The Presidency
to :	COREPER
Subject :	Recommendation by the Commission for a Council Decision authorising the Commission to open negotiations for an agreement with the People's Republic of China on Authorised Destination Status (ADS)

The Commission has made a recommendation for a Council decision authorising it to open negotiations for an agreement with the People's Republic of China on Authorised Destination Status (ADS). (SEC(2002) 430, circulated under cover of 9044/02).

The Commission's recommendation has been considered by the Asia Oceania Working Group and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA). The Council Legal Service has provided a legal opinion set out in document 11083/02.

At the meeting of the Asia Oceania Working Group on 23 July there was broad support for the revised negotiation directives as set out in Annex I. However, the German delegation indicated that it needed more time to examine the proposal. Subsequently, the German delegation has informed the Presidency that for the time being it maintains reservations to the proposal.

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The Presidency considers it opportune to launch the negotiations at the EU-China Summit on 24 September 2002, which may greatly facilitate the quickest and most successful outcome for the EU. Therefore, Coreper is invited to recommend to the Council that, by written procedure, it:

- (i) Authorise the Commission to open negotiations on the basis of the negotiating directives set out in annex I;
- (ii) Appoint the Asia Oceania Working Group, in consultation with the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) and the Visa Working Group, as the special committee to assist the Commission in its negotiations;
- (iii) Enter the Statement set out in annex II into its minutes.

Delegations are invited to take note that Denmark, in accordance with Articles 1 and 2 of the Protocol annexed to the Treaty on the European Union and the Treaty establishing the European Community, will not participate in the adoption of this decision and will not be bound by or subject to the application of the decision. Delegations are invited to agree to insert in the text of the draft Council Decision a provision whereby the ADS agreement should take account of the special position of Denmark under its Protocol annexed to the Treaty of Amsterdam. This provision lays out that - if necessary - a declaration should be inserted in the Final Act whereby China would state its willingness to conclude with Denmark a parallel agreement that is equivalent to the Community agreement.

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NEGOTIATING DIRECTIVES

1. NEGOTIATING OBJECTIVES

The Commission shall undertake negotiations with China to conclude an agreement between the EC, Member States and China giving the EC area Authorised Destination Status for Chinese group tourist visits. The agreement will help facilitate the visit of Chinese group tourists to the EC in compliance with the existing rules. The agreement will provide a framework for co-operation between EC and Chinese tourism service providers fully compatible with internal market disciplines and WTO obligations. The agreement will include a readmission clause ensuring the quick return of Chinese tourists who overstay.

2. PURPOSE AND SCOPE OF THE AGREEMENT

The agreement will contain the necessary provisions allowing for Chinese group tourist visits to the EC, helping to strengthen EU-China cultural ties and tourism sectors in both the EC and China. It will include a readmission clause to ease the return of Chinese tourists who overstay. It will cover Chinese group and not individual tourism.

3. SERVICES AND PERSONS COVERED BY THE AGREEMENT

The agreement will cover outbound travel by Chinese citizens to the EC conducted in the form of tour groups, meaning that the Chinese tourists depart and return from/to the country in group.

4. SPECIFIC ISSUES TO BE ADRESSED IN THE AGREEMENT

– Visa and immigration issues

This agreement will be compatible with the Community acquis concerning the visa issues and controls at the EU's external borders.

The agreement will stipulate that Chinese tourists to the EC will abide by the visa regulations of the EC and apply for visas according to established procedures¹ while facilitating the travel of Chinese tourists to the EC (including possibly the use of group visas and provisions concerning *bona fide* travellers) in the framework of the ADS agreement. Nothing in the agreement shall preclude the

¹ These procedures should also apply to documentation

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continued granting of visas by Member States to individual Chinese travellers. Nor should anything in the agreement oblige any Member State to grant visas to each and every prospective Chinese tourist listed in the tour groups.

A readmission clause will be included in the agreement. This clause should be applicable to any Chinese national entering the territory of the EU Member States under this agreement. It will be modelled upon the text the EU Presidency transmitted to the Chinese authorities by letter of 20 November 2001 and will take account the ASEM conference concerning the management of migration flows between Asia-Europe (Lanzarote, April 2002) and the conclusions of the Sevilla European Council.

The special position of the UK, Ireland, and Denmark¹ in relation to visa and immigration issues, which are covered by Title IV of the EC Treaty, will be taken into account.

In order to take account of the close relationship between the European Union and Iceland and Norway, a declaration should be inserted in the Final Act whereby China would state its willingness to conclude with Iceland and Norway parallel agreements that are equivalent to the present agreement. Should agreement be reached between the European Union and Switzerland and Liechtenstein on their participation in the Schengen acquis while the present agreement is being negotiated, China should make a similar commitment in regard to Switzerland and Liechtenstein.

– Trade and internal market issues

The agreement will establish the principles and procedures whereby Chinese and EU tourism service providers co-operate to prepare Chinese group tourist visits, including selection of tour programmes, etc.

All provisions of the agreement will be in strict conformity with the EC's and China's WTO commitments and the EU's internal market disciplines.

5. TERRITORIAL APPLICATION, ENTRY INTO FORCE, DURATION, SUSPENSION AND TERMINATION OF THE AGREEMENT

The agreement should contain provisions relating to its territorial application, entry into force and duration. It should be concluded for an indefinite period and should contain provisions, which give both Contracting Parties a possibility to suspend and/or to terminate the agreement. If considered appropriate, the provisional application of the Agreement for the time between signature and entry into force should be foreseen.

¹ In case of a Community agreement, a declaration should be inserted in the Final Act whereby China states its willingness to conclude with Denmark a parallel that is equivalent to the Community agreement

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6. MONITORING

The agreement should provide for a consultative mechanism by which the parties may oversee the implementation of the agreement. This mechanism should include the possibility to bring to the attention of the other party information suggesting that a tourism service provider is facilitating illegal immigration, with a view to taking the necessary measures against such a provider.

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Draft statement of the Council and Commission

"The nature of the agreement as well as the legal basis for the decision on signature and conclusion will be determined on the basis of the outcome of the negotiations and in the light of its contents".

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