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DECLASSIFICATION

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Subject: Recommandation 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): Revised Presidency Paper

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

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

RESTREINT UE



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THE EUROPEAN UNION**

Brussels, 28 June 2002

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COVER NOTE

from : The Presidency
to : Delegations

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): Revised Presidency Paper

1. The Commission's recommendation was further considered by the Asia Oceania Working Group (AOWG) on 27 June.
2. The Presidency, in agreement with the future Presidency, attaches some revised draft negotiating directives, taking into account comments made by Delegations at the Group (Annex I) as well as a draft statement by the Council and Commission (Annex II) and a draft Council decision (Annex III). The Presidency has taken note of the general scrutiny reserves expressed by the German, Dutch and UK delegations on 27 June.

NEGOTIATING DIRECTIVES

1. NEGOTIATING OBJECTIVES

The Commission shall undertake negotiations with China to conclude an agreement between the EC, Member States¹ 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 citizens² to the EC conducted in the form of tour groups, meaning that the Chinese tourists depart and return from/to the country in group.

¹ Portuguese scrutiny reserve on the nature of the agreement. The Council Legal Service suggests that 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 (see Annex II). The Commission suggests adding a declaration by itself stating that, in its view, the essential part of the agreement falls within Community competence

² French scrutiny reserve

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4. SPECIFIC ISSUES TO BE ADDRESSED 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 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.

The special position of the UK, Ireland, and Denmark² 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.

¹ These procedures should also apply to documentation

² 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 agreement covering those parts of the agreement to which Denmark is not a party because of the special position of Denmark under its protocol annexed to the Treaty of Amsterdam

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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.

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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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ANNEX II

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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DRAFT COUNCIL DECISION

The Commission has made a recommendation for a Council decision authorising a recommendation by the Commission 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.

Following agreement at the Asia Oceania Working Group, Coreper is invited to recommend to the Council that it:

- (i) Authorise the Commission to open negotiations on the basis of the negotiating directives set out in annex I;
 - (ii) To enter the statement(s) set out in annex II into its minutes;
 - (iii) To 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.
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