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European Union

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Subject:	Recommendation from the Commission to the Council to authorise the Commission to negotiate on behalf of the Community a multilateral agreement on compensation to third party victims for damage caused by aircraft and arising from acts of unlawful interference or from general risks - Comments by the Hungarian delegation
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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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NOTE

from :	Hungarian delegation
to :	Committee on Civil Law Matters (General Questions)
No. prev. doc. :	17312/08 AVIATION 304 JUSTCIV 267 RESTREINT UE
Subject :	Recommendation from the Commission to the Council to authorise the Commission to negotiate on behalf of the Community a multilateral agreement on compensation to third party victims for damage caused by aircraft and arising from acts of unlawful interference or from general risks - Comments by the Hungarian delegation

Hungary has two major concerns regarding the recommendation proposed by the Commission, one of them relates to the method of work, the other to the content of the proposed negotiating mandate.

With regard to the specific position of the European Community fulfilled in the *International Civil Aviation Organization*, Hungary is not convinced that the chosen way of presenting the coordinated view of the Member States of the EU (authorization of the COM for negotiating) is justified enough. We should rather stick to the coordinating method used during the earlier works within the ICAO, i.e.: issues involving matters of exclusive Community competence should be discussed by

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the Member States and presented as coordinated position in the ICAO by the Member State in charge of the EU Presidency. Our problem is that the present recommendation aims at the authorization of the COM to negotiate directly on behalf of the Community, and this entails some uncertainty, because – according to our knowledge – the European Community participates in the ICAO only as an observer and not as a Contracting Party.

As far as the content of the proposed recommendation is concerned, Hungary shares the opinion that the negotiating mandate is broad and more generally formulated than one may expect. It does not clarify exactly the room for maneuver, i.e. which position the COM shall take in the questions belonging to exclusive community competence (are the hands of the COM tied by the legal framework set out in the community *acquis* or can it deviate or excess this regime if the interest of the EC requires so?). The proposed recommendation does not even states the evident rule that the authorization relates only to questions belonging to exclusive community competence. It is not clear from the recommendation either how the EC could sign or conclude the future convention if it is not a Contracting Party of the ICAO.