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## DECLASSIFICATION

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Subject: Council Conclusions relating to the position of the Community and Member States during the International Conference on Air Law for the Unification of Certain Rules for International Carriage by Air (10 to 29 May 1999, Montreal)

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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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**EUROPEAN UNION  
THE COUNCIL**

**Brussels, 14 April 1999 (14.04)  
(OR. en)**

**7329/99**

**RESTREINT**

**AVIATION 8**

**CONCLUSIONS**

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Of :	The Council (Transport)
On :	29 March 1999
No. prev. doc.:	6785/99 AVIATION 7 RESTREINT
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Subject :	Council Conclusions relating to the position of the Community and Member States during the International Conference on Air Law for the Unification of Certain Rules for International Carriage by Air (10 to 29 May 1999, Montreal)

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At its meeting on 29 March 1999, the Council adopted conclusions concerning the subject mentioned above as set out in the Annex to this document.

**Council Conclusions relating to the position of  
the Community and Member States during  
the International Conference on Air Law for the Unification of Certain Rules  
for International Carriage by Air (10 to 29 May 1999, Montreal)**

1. The "Convention for the Unification of Certain Rules for International Carriage by Air" in view consolidates, harmonises and modernises international private law in the field of aviation in the interests both of consumers and of air carriers. The Member States and the Community welcome and support this objective.

2. Establishing rules for personal injury, as the Convention seeks to do, affects areas which in the light of Regulation (EC) No 2027/97 fall within the competence of the Community. The Member States and the Community must therefore seek to incorporate the basic principles of that Regulation in the future Convention.

Furthermore, the new Convention should introduce rules which are in harmony with Community rules, so that a satisfactory level of protection is guaranteed throughout the world for the citizens of the Union, and Community air carriers are not disadvantaged vis-à-vis competitors.

3. In matters of Community competence, the Commission will exercise the rights which are granted to observers in the draft rules of procedure for the Diplomatic Conference. Bearing in mind the limitations of observer status, the Member States and the Commission shall co-operate fully in the raising of points of order (rule 11), in the presentation and seconding of amendments (rule 13) and in the moving of suspension or adjournment of debate (rule 14).

4. In matters of Community competence, the Commission and the Member States will conduct the negotiations together on the basis of those aims – which are specified in more detail by the general directives in the Annex.

5. During the negotiations the Member States and the Commission will coordinate with one another and among themselves on all other aspects of the future Convention, so that they participate in the negotiations as far as possible on the basis of common positions. They will keep one another regularly informed of the results and development of the negotiations so that close cooperation in the negotiating process is guaranteed.

6. The Member States agree that their taking part in negotiations for and signing of such a Convention in no way affects the Community's competence in certain areas covered by the Convention and will make a statement to this effect in the final act of the Diplomatic Conference.

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## GENERAL DIRECTIVES

The aim of the negotiations shall be as a matter of priority to ensure that the basic principles established by Council Regulation (EC) 2027/97 are fully taken into account and not undermined.

The Community will ensure that the scope of the Convention is, to the extent necessary, in line with the scope and definitions set out in Council Regulation (EC) 2027/97. Furthermore, in order to ensure satisfactory conditions for Community citizens where they might travel in the world and in order to ensure equitable conditions of competition in this respect for Community air carriers, the negotiations shall aim to introduce similar rules in the new Convention as are applicable in the Community. If this is not possible, appropriate derogation may be agreed where specific difficulties exist in order to ensure ratification of the new Convention by as many parties as possible.

The negotiations by the Community shall concern Article 1 and the provisions of the following Articles of the draft Convention as it stood in draft form on 9 December 1998 (Annex to doc. 14052/98 AVIATION 54 RESTREINT) in so far as they relate to the carriage of passengers:

- Articles 3 and 46 In reference to these Articles, the Community objective shall be to ensure that requirements covering the information to be provided to passengers on the air carrier's liability in case of death or injury are covered in an appropriate manner. The Community will take into account the practicalities of providing information, including via new technologies, and shall consider any proposals which would assist with the ongoing standardisation of ticketing stock, as long as the same basic level of information is provided to passengers as set out in the Community legislation.

- Articles 16(1), 19, 20, 21B, 21C, 21D and 22, 30, 31, 33, 34, 41 and 42 The Community shall seek, in the first instance, to bring the limits of liability in the new Convention into line with those set out in Article 3 of Council Regulation (EC) 2027/97, and to ensure that all signatories and parties to the new Convention apply the same common set of rules in this respect. To this end, the Community shall support the case for a uniform two-tier liability regime in the case of the accidental death or injury of passengers, with a first tier providing for strict liability up to 100 000 SDR and a second tier for claims above that level in which a regime of presumed fault-based liability applies without numerical liability limits and with the 'burden of proof' placed on the air carrier. In considering other options, the Community shall nonetheless seek considerable improvements over and above the regime set out in the current Warsaw Convention and ensuring that any solution contains a 'burden of proof' regime which guarantees passengers an effective right of compensation.
- Article 22(a) and Article 45 The Community shall concern itself with ensuring that air carriers are properly insured and with the provisions on advance payments to the families of air accident victims. It shall seek to include in the new Convention the principle of advance payments as set out in Article 5 of Council Regulation (EC) 2027/97, and to ensure that advance payments are a standard requirement. In any case, the Community shall ensure that its current practice of requiring advance payments at the level set out in Council Regulation (EC) 2027/97 is not compromised by the text of the new Convention.
- Final clauses to be inserted: The Community shall seek to ensure the fastest possible entry into force of the new Convention in order to advance global conformity with the principles of the Community system. Having regard to this and if the outcome is acceptable for the Community and Member States, the Community should become a signatory and party to the new Convention.