



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 31 March 2008 (01.04)  
(OR. fr)**

---

---

**Interinstitutional File:  
2006/0130 (COD)**

---

---

**7627/08  
ADD 1**

**CODEC 371  
AVIATION 75**

**ADDENDUM TO "I/A" ITEM NOTE**

---

from : General Secretariat of the Council  
to : Coreper/COUNCIL

---

No. Cion prop. : 11829/06 AVIATION 109 CODEC 784

---

Subject : Proposal for a Regulation of the European Parliament and of the Council on common rules for the operation of air services in the Community (recast) [**first reading**]

- Adoption (**LA + S**)
- (a) of the common position
- (b) of the statement of the Council's reasons
- Statements

---

**UNILATERAL STATEMENT BY THE COMMISSION**

Re: Article 3 (3) –  
"Air operator certificate requirements for local flights"

In the context of the revision of Regulation (EC) No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, the European Commission, assisted by the European Aviation Safety Agency, has consulted all the stakeholders in general aviation with a view to drawing up implementing rules for the new Regulation.

The Commission undertakes to develop rules adapted to this activity, in particular to take properly into account circular flights in light aircraft, such as maiden flights, and as regards both the maintenance and operation of aircraft, as well as licences.

**JOINT STATEMENT**  
**BY THE MEMBER STATES AND THE COMMISSION**  
Re: Article 15 "Cooperation with respect to access by third countries  
to the internal air transport market"

The so-called "Third Aviation Package", adopted in 1992, established a truly open internal air transport market for Community air carriers, which has been subsequently developed and now includes common rules in matters such as aviation safety, security, state aid and competition.

Without prejudice to the obligations of Member States under the Convention on International Civil Aviation and the International Air Services Transit Agreement and taking into account air services agreements with third countries, cooperation is important between Member States and with the Commission regarding the issue of the right of third-country carriers to fly over the Community and to provide intra-Community air services.

For that purpose, and without prejudice to country-specific negotiating mandates granted in accordance with the Council conclusions of June 2005 on external aviation policy, the Member States and the Commission confirm, to the fullest possible extent and in a coordinated approach, their use of the existing mechanisms and framework of Regulation (EC) No 847/2004 on the negotiation and implementation of air service agreements between Member States and third countries.

## **JOINT STATEMENT BY THE COMMISSION AND THE COUNCIL**

Re: Article 15 – "social effects of Community aviation legislation"

Since 1992, the creation of an Air Transport Single Market has led to important benefits to consumers, operators and employees. It saw a significant increase in activities (in traffic, number of routes and new entrants). Community air carriers can establish themselves anywhere in the Community and operate air services from bases in Member States, other than the one where they have their principal place of business. This implies an increased mobility of employees in civil aviation throughout the EU.

Member States should ensure the proper application of terms and conditions of employment, including maximum work periods and minimum rest periods, minimum paid annual holidays, minimum rates of pay, as well as health, safety and hygiene at work, which they apply in compliance with Community law, with respect to employees of a Community air carrier operating air services from an operational base outside the territory of the Member State where that Community air carrier has its principal place of business.

The Council takes note that the European Commission is assessing comprehensively the interactions between the internal market, employment and working conditions in an increasingly globalised sector. To this end, the European Commission has launched a study to have a clear picture of the situation in air transport and its evolutions since 1997. The results will be available in due course.

The Council also takes note of the intention of the European Commission to assess, as a result of this study, what action if any is appropriate. The Commission will inform the European Parliament and the Council on the outcome.

**UNILATERAL STATEMENT BY THE COMMISSION**  
Re: Article 15(5) – "restrictions on code share arrangements  
between Community air carriers and carriers of third countries"

Paragraphs 4 and 5 of Article 15 of the draft Regulation on common rules for the operation of air transport services in the Community provide as the general rule that all restrictions on the freedom of Community air carriers to code-share with third country air carriers arising from bilateral agreements between Member States shall be eliminated.

However, in order to maintain the negotiating leverage towards third countries which do not allow equal opportunities to Community air carriers in terms of code-sharing, Member States may, as an exception, impose restrictions on code-sharing between Community and third country air carriers in the framework of the respective air services agreements with third countries and subject to strict conditions set out in Article 15. These conditions include non-discrimination, unrestricted competition and the proportionality of the measures introduced.

The Commission underlines the exceptional nature of restrictions imposed by Member States on free code-sharing, and will closely monitor any such restrictions to ensure that they fully comply with the abovementioned conditions.

**UNILATERAL STATEMENT BY FRANCE**

Re: Article 15(4) and (5) – "restrictions on code share arrangements between Community air carriers and carriers of third countries"

The provisions of existing bilateral agreements between Member States and third countries governing code share arrangements between air carriers shall continue to apply as long as this does not create any discrimination between Community carriers. Only those provisions of existing bilateral agreements between the Member States which concern code sharing shall come to an end under this draft text.

In the absence of a specific mandate being given to the European Commission, negotiations concerning existing provisions of air transport agreements with third countries which relate to code sharing shall remain entirely under the competence of the Member States.

This draft Regulation in no way modifies the existing division of competences between the Member States and the European Community as regards external relations.

**UNILATERAL STATEMENT BY THE PORTUGUESE REPUBLIC**

Re: Article 22 – "pricing freedom"

Further to Article 22, "reciprocity" on the free establishment of air fares and rates for intra-Community air services on a specified route for a third country airline shall be taken as meaning that an airline, designated by one of the Member States concerned, is authorised by that third country to freely set fares and rates on specified routes involving that third country, and exercises equivalent traffic rights.

**UNILATERAL STATEMENT BY AUSTRIA**

Re: Article 23 – "price information and non-discrimination"

Austria takes it that the proposed wording in Article 23 (in particular the word "foreseeable") can be broadly construed, so as to be consistent with the relevant Austrian legal situation regarding indication of prices.

=====