



COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION

A Community aviation policy towards its neighbours

1. INTRODUCTION

1. In its Communication “Wider Europe - Neighbourhood: A new framework for Relations with our Eastern and Southern Neighbours”¹, the Commission argued that "enhanced interdependence -both political and economic- can itself be a means to promote stability, security and sustainable development both within and outside the EU. (...) the EU should aim to develop a zone of prosperity and a friendly neighbourhood (...) with whom the EU enjoys close, peaceful and co-operative relations".
2. It is obvious that transport in general, and aviation in particular is a key factor in promoting productive co-operation between countries. The establishment of an aviation policy towards all of the neighbours of the Community should thus be considered to be an important policy objective.
3. Given the diversity of the countries neighbouring the enlarged Community, it would however not be wise to impose a “one negotiating model fits all”-approach, nor would it be efficient to seek comprehensive agreements with everybody at the same time. The current Communication therefore advocates flexible coherence: negotiations, on the basis of a Single Aviation Market-model, with all of the countries with which the Community is already involved in pan-European aviation co-operation, as well as negotiations, on the basis of Euro-Mediterranean Aviation Agreements, with the Mediterranean Partners involved in the Barcelona Process, for which Morocco, Lebanon and Jordan would be the starting point. The final chapter of this Communication succinctly lists the operational proposals stemming from the advocated approach.
4. This Communication builds on recent developments with regard to the Community’s role in external aviation. These developments are a catalyst for the establishment of fully-fledged aviation relations with the enlarged Community’s neighbouring countries. Indeed, in parallel with the aviation negotiations with the US, as well as with negotiations with a view to bringing Member States’ current bilateral aviation agreements in line with the EC Treaty, the Commission intends to negotiate comprehensive Community aviation agreements with its major partners. In this respect this Communication is a first step: further steps will follow, including also proposals for negotiating mandates with countries in the Far-East and South Pacific area (Australia, New Zealand, Singapore, Japan, China).

2. TOWARDS AVIATION NEGOTIATIONS WITH ALL OF THE NEIGHBOURS OF THE ENLARGED COMMUNITY

2.1. Recent developments and the need for a coherent answer

¹ COM(2003) 104 of 11 March 2003.

5. Following the Court of Justice judgements² recognising exclusive Community competences with regard to important aspects of external aviation, the Commission indicated that it intended to submit proposals for further mandates to allow it to enter into negotiations covering a broad range of air transport issues with selected non-EU countries.
6. For the Commission, for political as well as for economic reasons, it is evident that as a priority, the Community should define a coherent aviation policy towards the countries neighbouring the enlarged Community.
7. Politically, this area contains future members and/or participants in the Stabilisation and Association Process, partners in pan-European aviation co-operation, as well as Mediterranean Partners involved in the Barcelona Process and having signed with the Community a Euro-Mediterranean Association Agreement³. These countries are involved in close co-operation with the EU through bilateral agreements and, for some of them, through their involvement in the European aviation organisations. Furthermore, the EU hosts large groups of immigrants originating from these countries, justifying more efficient and competitive aviation-networks in stringent safety and security conditions.
8. Economically, most of the countries neighbouring the enlarged Community are important trading partners for the Community. The Community is the most important trading partner for all of them, as well as the main focus of their economic policy. Given the fact that the impact of air transport on the overall economy has never ceased to increase (the total economic impact of air transport on gross world output is thought to amount to at least € 850 billion⁴), it can safely be assumed that also between the enlarged Community and its neighbours better aviation relations will contribute to reciprocal economic growth, notably through such sectors as tourism or trade in goods and services.
9. However, it is clear that economic growth based on aviation is consistent with sustainable development only on certain conditions. In this context the Commission has already raised concerns about the practice of exempting aircraft fuel from taxes through bilateral air service agreements. The recent Council decision⁵ to lift the mandatory tax exemption for flights within the Community has enhanced the relevance of putting an end to it, as otherwise Community carriers operating within Member States that decide to make use of the options offered by the new Directive

² Judgements of the Court of Justice of November 5th 2002, ("Open skies") Nrs. C-466/98 Commission vs. United Kingdom, C-467/98 Commission vs. Denmark, C-468/98 Commission vs. Sweden, C-469/98 Commission vs. Finland, C-471/98 Commission vs. Belgium, C-472/98 Commission vs. Luxembourg, C-475/98 Commission vs. Austria, C-476/98 Commission vs. Germany. See also the Communication from the Commission "on the consequences of the Court judgements of 5 November 2002" (COM(2002)649 of 19 November 2002), as well as the Communication from the Commission "on relations between the Community and third countries in the field of air transport" (COM(2003)94 of 26 February 2003).

³ Apart from Malta and Cyprus, the Barcelona Process encompasses Morocco, Algeria, Tunisia, Egypt, the Palestine Authority, Israel, Jordan, Lebanon, Syria and Turkey. Since its participation in the April 1999 Stuttgart conference as a special guest of the EU Presidency, Libya takes part as an observer in some of the meetings of the Barcelona Process.

⁴ Air Transport Action Group (ATAG) - Facts and Figures.

⁵ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.

would face a risk of unfair competition from third country carriers enjoying exemptions under air transport agreements.

10. It should also be noted that the Commission has in the past years met with a growing interest from neighbouring countries that have so far not been involved in any air transport negotiations with the EU to establish closer aviation relations. It seems logical that following the June 2003 adoption of the external-relations package, such interest will grow, both in intensity and in scope.
11. Moreover, and in accordance with the “horizontal” mandate of the Commission to negotiate the adaptation of the Member States’ bilateral agreements to the Treaty following the November 5th 2002 Court of Justice judgements, contacts have been made with the neighbouring countries involved: most have indicated their interest to find an alternative response to this legal problem via a Community agreement.
12. Therefore, in parallel with the negotiations to bring the existing bilateral agreements in line with the Treaty, the Commission thinks it necessary to allow for a more comprehensive approach, through the Community negotiating a series of aviation agreements with those countries that are ready for such negotiations.

2.2. Geographical scope

13. The envisaged partners for such an approach are first of all those countries that are engaged in a pan-European co-operation with regard to aviation, and which share the same rules with regard to such fundamental aspects of aviation as safety, security or Air Traffic Management, through participation in the European Common Aviation Organisation (ECAC), the Joint Aviation Authorities (JAA) or Eurocontrol. In addition there are the Community's southern and south-eastern neighbours of which most take part in the Barcelona Process.
14. The potential partners for the external aviation policy which is advocated in this Communication thus are: Morocco, Algeria, Tunisia, Egypt, the Palestine Authority, Israel, Jordan, Lebanon, Syria, Turkey, Bulgaria, Romania, Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Montenegro, the United Nations Interim Administration Mission in Kosovo (UNMIK)⁶, Moldova, Ukraine and Belarus.
15. It is evident however that first and foremost all of these countries will need to demonstrate that they meet Community requirements in the security and safety fields if an aviation agreement with the Community is to be concluded, a necessary condition which for the moment is not yet met by all of them.
16. As Libya is not yet a Partner in the Barcelona Process, it is deemed too early to usefully conceive a formal Community-Libya aviation framework.
17. As for Ukraine and Moldova, the Commission will monitor closely legislative, economic and industrial developments in the aviation field, in the context of their gradual integration into pan-European aviation structures, with a view to making concrete proposals at the appropriate time. In this respect, the appropriate

⁶ Pursuant to UN Security Council Resolution 1244 of 10 June 1999.

Subcommittees under the respective Partnership and Cooperation Agreements with Ukraine and Moldova would be the logical fora to formalise such monitoring.

18. With regard to Belarus, the current political situation does not allow to include it in the present exercise.

3. COUNTRIES FOR WHICH A "SINGLE AVIATION MARKET"-MODEL REMAINS VALID

3.1. Experiences drawn from negotiations on an ECAA

19. On October 3rd, 1996, the Council authorised the Commission to enter into negotiations with a view to conclude one or more agreements on access to the air transport markets, between the European Community and the Republic of Bulgaria, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, Romania, the Slovak Republic, the Republic of Slovenia and the Czech Republic. This mandate was subsequently enlarged to encompass the Republic of Cyprus. The Kingdom of Norway and the Republic of Iceland equally expressed their desire to be fully involved in the negotiations, which aimed at creating what became known as the European Common Aviation Area (ECAA).
20. On the basis of this mandate a draft Agreement was reached in 2000. Given the institutional aspects this Agreement included, the Commission lodged a request for an Opinion of the Court of Justice, pursuant to Article 300(6) of the EC Treaty, in October 2000. The ECJ rendered its opinion on April 18th, 2002⁷. However, by that time the process of enlargement had progressed to an extent which rendered the Commission's mandate obsolete with regard to the 10 countries that have signed the Athens accession treaty.
21. Nevertheless, the "Single Aviation Market"-model which is the essence of a European Common Aviation Area remains a valid option for handling aviation relations with a number of countries. Indeed, the creation of a Common Aviation Area which could eventually encompass, in addition to the enlarged Community, Norway, Iceland and Switzerland, also Bulgaria, Romania, and the Western Balkan countries (Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Montenegro and the United Nations Interim Administration Mission in Kosovo (UNMIK)⁸), would considerably increase the critical mass of the Community's aviation market, add to the Community's aviation weight in political and economical terms, and create more operational certainty, including in relation to such sensitive sectors as safety (membership of JAA is a prerequisite for ECAA membership) and security.

3.2. Bulgaria and Romania

22. The Commission intends to continue the negotiation process with Bulgaria and Romania in order to implement the ECAA-mandate, taking into account the planned

⁷ Opinion 1/00 of the European Court of Justice of 18.04.2002. In its Opinion, the Court of Justice stated in essence that the system of legal supervision proposed by the Agreement was indeed compatible with the EC Treaty.

⁸ Pursuant to UN Security Council Resolution 1244 of 10 June 1999.

date for their accession. Indeed, the Commission remains convinced that the speedy integration of these countries into a liberalised single aviation market will benefit their citizens and economies.

3.3. The Western Balkan countries

23. The Stabilisation and Association Process (SAP), the EU's policy for relations with the Western Balkans, aims to help the participant countries to progress towards the requirements of EU membership. The Commission's Communication "Western Balkans and European Integration"⁹ suggests ways and means for intensifying this SA process on the basis of the experience from the current enlargement process, while its Communication "Preparing for the participation of the Western Balkan countries in Community programmes and agencies"¹⁰ outlines identifies some practical tools for such intensification. The Community is also, by and large, the most important trade partner of each of the countries involved. Lastly, the geographical position of the Western Balkan countries makes it even more appropriate to define a fully-fledged Community policy with regard to aviation towards these countries.
24. Therefore, the Commission envisages eventual membership to the European Common Aviation Agreement of Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Montenegro and the United Nations Interim Administration Mission in Kosovo (UNMIK)¹¹.
25. Eventually, these negotiations could benefit from the regional approach of the Stabilisation and Association Process, given the limited size of the Western Balkan countries' domestic markets. It can indeed be expected that their air links with third countries are to depend largely on the level of co-operation they establish with the Community, and the capacities attributed, through this co-operation, to Community carriers operating from or in these countries. It can equally be hoped that the declared prospect of ECAA-negotiations with the countries on the Western Balkans can by itself contribute to the positive momentum towards a legal, political and aviation situation that allows the effective start of such negotiations.
26. Nevertheless, it is clear that the countries concerned differ considerably, not only with regard to macro-factors such as political stability and economical development, but also with regard to the development of their aviation sectors. This is important, as opting for an ECAA-model necessitates in essence that the country concerned is capable of applying the Community's aviation legislation and standards. Through intensive contacts in the immediate future with the countries involved, as well as through proper factual assessments, the order in which these negotiations are to be started and eventually concluded will need to be established.
27. From an aviation point of view, it seems that the Croatian aviation sector has to date evolved further than that of any other Western Balkan country. Its aviation market is quickly growing¹², and should continue to do so through tourism development. As

⁹ COM(2003) 285 of 21 May 2003.

¹⁰ COM(2003) 748 of 3 December 2003.

¹¹ Pursuant to UN Security Council Resolution 1244 of 10 June 1999.

¹² According to OAG 2002 figures, available yearly scheduled seats between the Community and Croatia amounted to approx. 1.6 million seats.

Croatia has developed into a mature aviation market, additional opportunities for Community carriers exist. Lastly, according to JAA, Croatia is closest to Full JAA Membership¹³.

28. However, the declared prospect of ECAA-negotiations with the other countries on the Western Balkans can by itself contribute to the positive momentum towards a legal, political and aviation situation that allows the effective start of such negotiations.
29. Consequently, the Commission recommends to the Council that its 1996 mandate for negotiations on a European Common Aviation Area be adapted to include the Western Balkan countries.

4. MEDITERRANEAN COUNTRIES

4.1. The need for a Community aviation policy towards the Mediterranean

30. Another group of countries which need to be addressed in a framework for external aviation relations between the enlarged Community and its neighbours, are the neighbouring countries involved in the Barcelona Process.
31. The Community is by far the most important aviation partner for Tunisia (77,5% of all passenger traffic in 2000 had a Community arrival/departure) and for Israel (52,2%). Although the countries of the Near and Middle East are collectively more important, the Community is still a major aviation partner for Lebanon (31%), Jordan (30%) and Syria (22%)¹⁴.
32. Therefore, comprehensive aviation agreements with the countries involved in the Barcelona Process could create reciprocal economic growth. This is most notably the case through the positive effects such agreements can have on the development of tourism¹⁵.
33. Additional legal, administrative and economical know-how will need to be compiled in order to make the assessments necessary for a move towards comprehensive aviation agreements with all of the countries concerned. Nevertheless, as stated above, several countries within the Euro-Mediterranean Partnership have already signalled their readiness to discuss market opening.
34. It is the aim of the Commission to arrive at (largely similar) aviation agreements with all of its Mediterranean Partners. The experience which will be gained through these negotiations and the functioning of these agreements could then lay the basis for a (sub)regional¹⁶ approach. In the long run, even the creation of a common Euro-Mediterranean aviation area could be considered, as already suggested in the

¹³ Croatia having become JAA Candidate Member in June 2001 is the subject of a JAA Fact Finding Mission in August 2003, the results of which determine its eventual accession as Full Member.

¹⁴ Source: Eurostat, series Statistics in Brief, Theme 7, 10/2002 "Transport by Air in the MED countries, 1998-2000". Data available from Eurostat's New Chronos database.

¹⁵ According to the same source, EU tourists represented in 2000 45% or more of all tourists in Morocco, Turkey, Egypt, Israel and Tunisia. The vast majority of them arrived by air.

¹⁶ It is to be noted that Morocco, Egypt, Jordan and Tunisia are involved in the so-called "Agadir Process", in order to create a free trade area between them.

Commission's recent Communication on the development of a Euro-Mediterranean Transport Network¹⁷.

4.2. Conceiving the right tool for such a policy: Euro-Mediterranean aviation agreements

4.2.1. The need for a specific instrument

35. As stated above, via the European Common Aviation Area, the Community intends to create, by the end of the applicable transitional periods, a fully-fledged single aviation market for all of its signatories. In essence, this single market is created via the extension of the Community aviation acquis to all of the countries concerned. Such an extension implies particular roles for Community Institutions (such as the Commission, with regard to competition issues, or the Court of Justice) as well as for a Joint Committee (in particular with regard to Community aviation legislation adopted after the ECAA Agreement has entered into force).

36. However, the differences in the legal, administrative and economical frameworks under which aviation is organised in each of the Mediterranean Partners potentially involved, undeniably surpass the differences which are met in the framework of ECAA. Secondly, aviation negotiations with Mediterranean Partners will not be conducted against the background of accession by a set date. Thirdly, the management of a "single Euro-Mediterranean aviation market", with the "single-pillar"-structures it entails, would create an administrative burden which the Commission at present is unable to assume properly. Lastly, and maybe most of all, it should be noted that the Community does not share, through the pan-European aviation co-operation mentioned above, the same rules in such areas as safety, security or ATM. With regard to these areas, only ICAO provisions are relevant for the Community's relations with the Mediterranean Partners, as is the case for all other third countries in the world.

37. For all of these reasons, to start negotiations towards aviation agreements with Mediterranean countries on the basis of an extension of Community aviation law and making use of Community Institutions is not the best available basis for such negotiations. Here the Commission advocates an approach of more classical aviation agreements, with a regional focus if possible, and without excluding more far-fledged co-operation in areas of common interest.

4.2.2. The need for flexible coherence

38. In its Communication on "Wider Europe", cited in the Introduction to this Communication, it was noted that "different stages of reform and economic development also means that different rates of progress can be expected from the neighbouring countries over the coming decade". With this in mind, the Commission is of the opinion that the Community aviation policy towards its Mediterranean Partners should be characterised by a certain flexibility, in particular with regard to transitional periods.

¹⁷ Communication of the Commission to the Council and to the European Parliament on the development of a Euro-Mediterranean Transport Network of 24 June 2003 (COM (2003)376).

39. The Commission is of the opinion that it would not be desirable if the Community's ambition would be limited to the establishment of a mere network of differing Community-third country relations. Only the conclusion with all partners involved of eventually open aviation agreements could prevent that aviation relations are fragmented. In addition, it could also lead to easier operations between different Mediterranean Partners, and thus enhance the chances for (sub)regional integration. Therefore, negotiations with different countries should lead to a certain coherence.

4.2.3. *The need for "Euro-Mediterranean Aviation Agreements" – Basic Features*

40. The Commission is of the opinion that a new type of agreement will need to form the basis of its Mediterranean aviation policy : Euro-Mediterranean Aviation Agreements. These Agreements are based on the traditional approach of Open Aviation Agreements (OAA), covering a range of issues which aim essentially at a reciprocal opening up of markets and removal of economic barriers to trade and investment. According to this approach, each party will be essentially responsible for enforcement on its territory and with regard to its nationals. In addition, the agreement would allow for a degree of control to guarantee fulfilment of the obligations entered into, including information on and control of each other's systems to avoid distortion of competition.

41. Stringent air safety provisions, fully taking into account the procedures and standards applicable on the territory of the Community, as well as ongoing developments within the Community (including through the creation of the European Air Safety Agency) will need to form an integral part of any agreement. The same applies with regard to security.

42. In relation to Air Traffic Management, the agreement should make sure that once the envisaged Community legislation on the creation of a Single European Sky is adopted, a maximum drive towards harmonisation and integration is made possible.

43. A particular chapter can be included regarding aviation development and/or (technical) assistance, for which reference could be made to existing funds (MEDA,...), as well as the overall framework of relations between the EU and Mediterranean Partners¹⁸.

44. Lastly, the Commission proposes the inclusion of a "most favoured nation-clause", limited to its Mediterranean Partners. Via such a clause, the Community and a Mediterranean Partner would endeavour to offer the liberalising measures they agree between each other to any other Mediterranean Partner with which a similar Euro-Mediterranean Aviation Agreement already exists. If the latter country wants to accept this offer, it is self-evidently obliged to offer the same to the Community and the former country. If it refuses the offer, there will be no reciprocity and the "extension" dies. This approach would on the one hand respect the difficult bilateral relations that exist between some Mediterranean Partners, while it would create an important dynamic towards more "multilateral aviation openness".

¹⁸ See in particular the chapter on "funding" in the Communication on the development of a Euro-Mediterranean Transport Network.

4.2.4. *Negotiations on a Euro-Mediterranean Aviation Agreement with Morocco*

45. Because of its overall political and economical situation, the importance of its aviation market, the level of development of its aviation sector, as well as the expressed will to enter into aviation negotiations with the Community¹⁹, the Commission is of the opinion that among the Community's Maghreb neighbours, Morocco currently offers the best chances for fruitful negotiations on a comprehensive Aviation Agreement.
46. With more than 70% of its exports destined to, and more than 65% of its imports stemming from the Community, the Community is by far Morocco's main trading partner²⁰. With regard to aviation, Community-Moroccan aviation has seen a consistent growth for the last 5 years²¹. Tourism-driven traffic evidently plays a crucial role in these relations : in 2000 49,8% of all tourists in Morocco came from the EU, and these tourists were responsible for more than 80 % of the nights spent by non-residents²³. By far the most part of these Community tourists arrived by air. In addition, immigration-related ("visiting friends and relatives") traffic guarantees additional flows of traffic²⁴.

The three main actors in Moroccan aviation

The Ministry of Infrastructure and Transport

The Moroccan Ministry of Infrastructure and Transport is responsible for the main aspects of aviation in Morocco. It is the licensing, designating and authorising body for air transport, as well as the main responsible for legislative and regulatory action within aviation, including with regard to Air Traffic management (ATM), security and safety (where it also performs the function of Accident Investigator). The Ministry equally represents Moroccan aviation on the international level, including with regard to negotiations on Air Service Agreements.

The National Airport Authority

The National Airports Authority (NAA) is the state-owned agency that manages Morocco's main airports (17, of which 7 have an international status, with three airports serving more than 1 million passengers per year), which served over 7 million passengers in 2001 (including some 200.000 transit passengers and 90.000 general aviation passengers)²⁵.

¹⁹ Statement made by the Ministry of Infrastructure and Transport on the occasion of the 3rd meeting of the EU-Morocco Association Committee (Rabat, 21 October 2003).

²⁰ Eurostat and IMF 2000 figures.

²¹ According to Eurostat figures, the number of available yearly seats, scheduled and non-scheduled, has crossed for the first time the 4 million threshold in 2000.

²² Of the nearly 7 million air passengers arriving or departing in Morocco in 2001 (transit and general aviation not included), some 1,7 million were passengers on internal flights, the remaining 5 million international. 80 % of the latter originated from the EU-25, of which half originated from France (data from the Moroccan Ministry of transport website).

²³ World Bank Technical Paper n°527 "Transport Policies for the Euro-Mediterranean Free-Trade Area".

²⁴ With more than 1 million nationals residing abroad who arrive yearly at Moroccan airports, this phenomenon is at present responsible for more than a third of all arrivals in Moroccan airports (Eurostat 2001 figures - Tourism in the Mediterranean Countries).

²⁵ Casablanca (3.515.189), Marrakech (1.393.015) and Agadir (1.098.618), all 2001 Moroccan Ministry of Transport figures. According to the same source, over the 1991-2001 period especially Casablanca airport has seen an important growth, more than doubling its passenger turn-over over the same period.

Royal Air Maroc

Royal Air Maroc (RAM), Morocco's flag-carrier, is operating scheduled international flights from Morocco to destinations in Africa, Europe and North America, as well as a domestic and a charter network. In 2002 the company served 3,3 million passengers on 44 destinations, with a fleet of 30 aircraft and almost 6.000 employees. While for some years the privatisation (up till 25%) of the company has been high on the political agenda, RAM is largely government-owned, with limited stakes by Air France (4%) and Iberia (1,3%)²⁶. According to recent statements by RAM's CEO, a strategic aim of the company is to turn its Casablanca basis into a regional hub between West Africa and the rest of the world, a niche which is currently being served by Community airports in general, and Paris in particular. Since 2000 the company is the majority stakeholder (51%) of Air Senegal, while RAM has been tacking up routes from defunct West Africa carrier Air Afrique²⁷.

The particular importance of Air Traffic Management in Community-Morocco aviation

From a strategic point of view, the need for close Air Traffic Management (ATM) relations between the Community and Morocco stem from Morocco's geographical position. Flights between Spain and its Madeira and Canary islands, as well as most flights between the Community and destinations in Latin American pass via the Casablanca Flight Information Region (FIR).

In this respect it has to be noted that Morocco was the first North African state which concluded a bilateral agreement with Eurocontrol, through which Eurocontrol already calculates, bills, collects and manages en-route charges.

It is evident that the need for ATM-relations which are as close as possible can only grow, in view of the creation of the Single European Sky and the implementation of Reduced Vertical Separation-flow management. Equally, the Community together with Morocco will need to evaluate the participation of Morocco in the European Upper Flight Information Region (EUR), as an important aspect of the Single Sky Initiative.

Both with regard to safety as with regard to efficiency Community carriers stand to gain from ever closer relations in the field of ATM, which, it would seem, would benefit most from an application of Community standards which is as broad as possible.

47. Therefore, the Commission recommends to the Council that it be authorised to start negotiations on a Euro-Mediterranean Aviation Agreement between the European Community and the Kingdom of Morocco.

4.2.5. Negotiations on a Euro-Mediterranean Aviation Agreement with Lebanon and Jordan

48. Because of the quickly growing importance of its aviation market, the particularly open aviation policy it is pursuing towards third countries in general and the Community in particular²⁸, as well as the expressed will to enter into aviation negotiations with the Community, the Commission is of the opinion that among the

²⁶ Data from the Royal Air Maroc website.

²⁷ *Flight International*, April 2002.

²⁸ See "Lebanon's Experience in Air Transport Liberalisation in the Middle East", ATConf/5 2003, ICAO Montreal.

Community's Mashrek neighbours, Lebanon currently offers good chances for fruitful negotiations on a comprehensive Aviation Agreement.

49. With around 20% of its exports destined to, and more than 44% of its imports stemming from the Community (with the value in both import and export incessantly increasing), the Community is Lebanon's main trading partner²⁹. Passenger traffic at Beirut International Airport has seen an uninterrupted annual growth between 1988 and 2000, reaching at least 10 % in almost every year during that period³⁰.

Recent aviation developments in Lebanon

The Lebanese government decided in 2000 to implement an open sky policy, which included fifth freedom rights without reciprocity. An autonomous Civil Aviation Authority will be established as a pure regulator replacing the Directorate-General of Civil Aviation which is answerable to the Ministry of Public Works and transport. The institution building of the Civil Aviation Authority will receive technical assistance from MEDA funds.

The Lebanese flag carrier, Middle East Airlines, has so far benefited from the open sky policy. After having lost more than \$400 million in 1994-2001, in the financial year 2002 Middle East Airlines could report the first profit since the mid-1970s. The other international Lebanon-based airline is the cargo-only carrier Trans Mediterranean Airways.

Beirut International Airport offers substantial potential for air traffic growth since the airport capacity of six million yearly passengers is the double of the current passenger volume.

50. Generally speaking, Jordan is following a policy of economic and trade liberalisation, for which its relations with the Community become ever more important, also in view of the EU-Jordan Association Agreement which entered into force in 2002.
51. In particular, the Government is seeking to establish an open aviation policy, also in view of encouraging the further development of tourism. In this respect it is important to note that an important MEDA project is being established with the aim of assisting the Jordanian Civil Aviation Authority in implementing the Government's policy of liberalisation of the markets and of introduction of a comprehensive regulatory framework in the civil aviation sector.
52. Although in absolute terms air traffic between the Community and Jordan is rather limited (around half the size of Lebanon's), it has seen an uninterrupted growth totalling 250% between 1991 and 2001, when the overall Jordan economy was hit particularly hard by the events following September 11th, 2001. In 2003, two thirds of all scheduled traffic between the Community and Jordan was operated by Jordan's flag carrier Royal Jordanian³¹, the privatisation of which was put on hold following September 11th, 2001, and which continues to profit from considerable support of the

²⁹ Eurostat and IMF 2001 figures.

³⁰ Compiled OAG figures. For 1998, 5 out of the 8 main Beirut city pairs involved enlarged-Community airports.

³¹ Compiled OAG 2003 figures.

Jordan government³². Most interesting however is the desire of the Jordan Government to develop Queen Alia Amman airport into a important (cargo) hub on the Mediterranean side of the Middle East.

53. Therefore, the Commission recommends to the Council that it be authorised to start negotiations on a Euro-Mediterranean Aviation Agreement between the European Community and the Republic of Lebanon on the one hand, and between the European Community and the Kingdom of Jordan on the other hand.

5. TURKEY

54. The definition of a Community external aviation policy towards its neighbouring countries necessitates a careful assessment of aviation relations with Turkey.

55. The Commission invites the Turkish authorities to start negotiations on the basis of its “horizontal” mandate with a view to conclude a Community agreement which brings the bilateral agreements of the Member States with Turkey fully in line with Community law. As the Commission already disposes of this mandate, such negotiations could start as soon as possible.

56. However, even closer aviation relations, through a comprehensive aviation agreement between an enlarged Community and Turkey, are desirable, both in view of Turkey’s status as a candidate country as well as from an economic point of view. The Community is by far Turkey’s most important trade partner, in terms of export as well as in terms of import, while Turkey currently ranks as the Community’s 10th largest customer and its 11th biggest supplier³³. With regard to aviation, Turkey is the prime Community tourism destination in the Mediterranean basin, it is an important market for visiting family and relatives-driven traffic. Indeed, of all passenger traffic between the Community and all of the countries falling within the geographical scope of this Communication, Community-Turkey traffic represents more than one third, both with regard to scheduled as with regard to non-scheduled traffic³⁴. Due to its geographical location, Turkey is also a promising cargo-partner.

57. In addition, close aviation relations between the European Community and Turkey are justified by the fact that Turkey is indisputably a member of the European aviation family, and as such a full member of all inter-governmental aviation co-operation structures in Europe (ECAC, JAA, Eurocontrol).

58. For the Commission, these arguments suffice to consider that whilst future aviation relations with Turkey could share some of the principles of a Euro-Mediterranean Aviation Agreement (such as the free aviation market it encompasses) Community-Turkey aviation co-operation in such fields as safety, security and Air Traffic

³² In 2002 the Jordan Civil Aviation Authority and Royal Jordanian even signed an agreement granting the latter the exclusive right to operate regular flights from and to the Kingdom for a four-year term, allowing other Jordanian airline companies only to operate charter flights during the same period.

³³ Eurostat, 2002 figures.

³⁴ OAG 2003 figures. As to scheduled services, Turkish carriers have traditionally carried up to two thirds of this market. Since 2001 however, the market seems to become more equally divided between Community and Turkish carriers.

Management could go further. Also, Turkey's eventual integration into a European Common Aviation Area remains an option.

59. Therefore, the Commission intends to engage actively in exploratory contacts with the Turkish authorities, in order to assess the possibilities for a Community-Turkey Aviation Agreement, with a view to an aviation co-operation which is to be as comprehensive as possible.

6. CONCLUSIONS

- 1.1 On the basis of the horizontal mandate conferred upon it by the Council on June 5th 2003, the Commission systematically opens negotiations with all of its neighbouring countries, in order to replace, via Community agreements, those provisions in the bilateral aviation agreements between Member States and neighbouring countries which are contrary to Community-law, following the ECJ's November 5th 2002 judgements.
- 1.2 The Commission envisages the conclusion of comprehensive aviation agreements, of a "single market"-model, with neighbouring countries that are engaged in pan-European aviation co-operation. To this end the Commission recommends that its existing negotiating mandate for a European Common Aviation Area be extended to include all of the five Western-Balkan countries.
- 1.3 The Commission envisages the conclusion of Euro-Mediterranean Aviation Agreements with its Mediterranean Partners. The Commission recommends that these negotiations start with Morocco, with Lebanon and with Jordan.
- 1.4 With regard to Turkey the Commission will enter into preliminary discussions, with a view to arriving at aviation co-operation which is as comprehensive as possible, through an Community-Turkey Aviation Agreement for which a negotiating mandate will be asked for based on the outcome of said preliminary discussions.