



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**The repercussions of the terrorist attacks in the United States on the air transport
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1. INTRODUCTION

1. The European air transport industry has been hard hit by the terrorist attacks of 11 September in New York and Washington. The European Union immediately mobilised to tackle the most pressing problems and also to adapt the rules in force as necessary to the new situation. Apart from the measures to improve air transport security that were discussed by the European Council of 21 September 2001 and by the Council of Transport Ministers on 14 September 2001, the question arises as to the impact the attacks will have on an air transport sector already in need of consolidation.
2. Mrs de Palacio met representatives of the Association of European Airlines (AEA) on 20 September. While accepting that airlines are currently facing an exceptional situation, she pointed out that the Commission could not accept measures that would create distortions between countries and between companies, nor could it allow the present situation to be used as a pretext for delaying essential restructuring. On the other hand, she confirmed that certain measures could be taken to deal with this special situation and also accepted the legitimacy of the reinforcement of certain security measures being borne by the public authorities.
3. In view of the substantial increase in insurance premiums to cover the risks of acts of terrorism and war, some Member States announced, from the end of the week of 17 September, their intention of granting aid to their national airlines. The Commission immediately referred the matter to the Ministers of Finance at their meeting of 22 September in order to have a coordinated response. The Ministers considered that Member States could exceptionally provide cover for these risks or assume the cost of the increase in premiums on condition that such aid was strictly regulated and duly notified to the Commission.
4. At the same time, the United States government adopted a package of measures to support its airlines. These measures must be examined to verify whether they could have an effect on markets where American and European airlines are in intense competition, i.e. primarily the transatlantic routes. This issue is difficult to assess for the time being.
5. In its analysis of support for the industry, the Community must ensure that any measures are avoided if they are liable to distort competition, or to hinder or put into question the essential moves towards consolidation and restructuring in the sector that were already in progress before the events of 11 September.

2. PRELIMINARY EVALUATION

6. The impact of the attacks was severely felt in the United States: the terrorists' targets were situated on American territory, the aircraft involved operated on US domestic routes, the

American authorities closed their airspace for several days and the American public immediately reacted by cancelling most of their travel plans. Even though the European industry was less directly affected, it was forced to cancel flights to the United States during this period and the psychological effect on the travelling public is also being felt in Europe.

2.1. The situation in Europe

7. The European air transport industry suffers from chronic under-capitalisation and excessive fragmentation, it is heavily in debt and has permanent cash-flow problems. The slowdown in economic growth that was already apparent was already posing severe problems. The crisis is hurting European airlines at a time when they were already feeling the effects of last year's increase in the price of aviation fuel. Some had embarked on restructuring plans, but there is still a long way to go in this area. The current crisis is compounding problems that existed before the attacks, in an industry which had already begun to restructure.
8. In the days immediately following the events of 11 September, demand plummeted. This phenomenon was particularly marked in the United States, where demand fell by around 75%, including on the transatlantic routes served by European airlines. In Europe, the fall in traffic has been much less severe so far, but nevertheless demand is down by 15-30%; the passenger load factor has declined particularly sharply on secondary routes (by about 20-30%), with consequences for regional airlines in particular.
9. Forecasts by the AEA based on a sample of 13 airlines indicate that, by the end of the year, revenue losses will amount to €3.6 billion as a result of an estimated reduction in traffic of 7.7% and a 4.7% reduction in capacity.
10. According to the AEA, the airlines have grounded 108 aircraft or the equivalent of 5.6% of the fleet, and the jobs of 17 000 employees (5%) in the airlines themselves are under threat. British Airways, for example, has announced it is cutting 5 200 jobs, in addition to the 1 800 redundancies already scheduled until March 2002. Further job cuts are expected which could affect a total of 30-40 000 employees.
11. Some, in particular American, airlines are taking this opportunity to dispose of their oldest aircraft. Many airlines have announced they are suspending all recruitment of staff; some have already gone ahead with major redundancies. The industry expects further layoffs, which will doubtless be more extensive than those envisaged in the event of a cyclical downturn.
12. There have also been changes to the networks, not only on routes to the United States but also the Middle East and even in Europe; some destinations, particularly on "thin" routes, are no longer served. To take the example of one airline, Lufthansa has not only had to cancel some long-haul services from Frankfurt to Rio de Janeiro and Bogota and on the Berlin-Washington route, but also to reduce the number of services from Frankfurt to Washington and New York. Lufthansa has also announced the cancellation of services from Frankfurt to Paris Orly and Valencia as well as the Hamburg-London, Dusseldorf-Moscow and Dortmund-Copenhagen services.
13. Despite these measures, some costs are showing a sharp increase, making the crisis even more difficult to manage. The AEA estimates that the additional security measures could

cost as much as €145 million. The same applies to insurance premiums: all insurance costs have practically doubled, resulting in additional costs to the European industry.

14. Finally, the current uncertainty is placing a heavy burden on the industry. In view of the risk of future attacks, insurers initially announced that they were limiting policy cover to a level far below the current practice. The value of airline shares on the stock exchange was halved in two weeks, reflecting investors' lack of confidence and making it more difficult to finance the airlines' operations. The Commission is unable at this stage to give a precise assessment of the magnitude of the crisis and its impact on the European industry. It will therefore continue to monitor developments in order to be able to react and to coordinate the reactions of Member States over and above the measures presented in this Communication.

2.2. The situation in the United States

15. In comparing the situation of the American and European airlines, it must be borne in mind that each of the three largest American airlines, as pointed out in the White Paper on the common transport policy, carries an average of 90 million passengers every year compared with between 30 and 40 million for each of the largest European carriers (i.e. a ratio of 1 to 3).

16. As a result of the terrorist attacks, the American airlines have announced losses of about \$10 billion for 2001. ATA, the American Air Transport Association, has announced job cuts of the order of 100 000 in the US air transport industry, while the airlines expect losses of \$18-33 billion for 2002 linked to the attacks.

17. Congress adopted an emergency package of measures on 21 September as part of an overall programme that may amount to \$18 billion, consisting primarily of:

- **direct and immediate aid of \$5 billion** to compensate the American airlines for direct losses resulting from the closure of airspace, and the consequences of the attacks on air traffic for the period 11 September to 31 December 2001. This aid is likely to be distributed in proportion to the capacity of each airline prior to 11 September (available seats-miles);
- **the allocation, according to criteria fixed by the President, of "federal credit instruments"** in the form of subsidised Treasury loans or loan guarantees, worth a potential \$10 billion;
- **the creation of an Air Transportation Stabilisation Board to monitor allocation of the above financial instruments.** It is composed of: the Secretary of Transportation or his Deputy, the Chairman of the Board of Governors of the Federal Reserve, who chairs the board, the Secretary of the Treasury and the Comptroller General;
- **definition of the compensation principles:** each airline must produce proof of the losses suffered as a result of the terrorist attacks, and in particular provide all the economic and financial justification, under the supervision of the Secretary of Transportation and the Comptroller General, who may order financial and accounting audits of the applicants;
- **\$3 billion will be allocated to the safety and security** of air transport from the victims compensation fund totalling 40 billion.

18. The aid is subject to certain conditions; a freeze on salaries above a certain level until 11 September 2003 and an obligation on the carriers to maintain essential air services. The Commission will verify whether the package of measures for American airlines can have an impact on the markets where these companies are in fierce competition with European ones, that is, mainly on trans-atlantic routes.

3. THE SPECIFIC PROBLEM OF INSURANCE

19. Air carriers have traditionally been well covered against the loss of their aircraft and liability *vis-à-vis* passengers and third parties. The terrorist attacks have exposed the vulnerability of the air transport sector, with damage exceeding all rational estimates. A few days after the events, insurers announced the withdrawal or drastic reduction in “liability” cover for war and terrorism risks. This led many Member States to question the traffic rights of companies unable to show they had adequate cover. Insurers also announced huge increases in premiums for the cover they continued to provide. They then proceeded to notify other undertakings in the sector that they were withdrawing or reducing cover: airports, groundhandling providers, air navigation services, etc.

20. All Member States¹ introduced temporary mechanisms providing liability insurance for airlines for a period of 30 days pending the restoration of an acceptable level of cover by commercial insurers (see in particular point 5.2 below). These measures must of course be notified to the Commission for examination of their compatibility with the Treaty. Member States are currently notifying their measures, which the Commission will examine on the basis of the rules on State aid.

21. The Commission, while recognising the considerable financial burden on insurers, must nevertheless examine whether their behaviour is compatible with the competition rules of the Treaty. To this end, it has launched own-initiative proceedings to verify the compatibility with the competition rules of the conditions under which the increases in premiums were decided.

22. The airlines’ cover is being restored, although the financial conditions are extremely onerous. In practice, airlines would have to pay surcharges on their existing insurance premiums corresponding to about \$3.10 per passenger without profit. However, the other operators are still without cover: airports, suppliers of groundhandling services and providers of air navigation services. This is highly prejudicial to the functioning of air transport and is liable to cause serious economic and social disruption. According to the information received from insurers and national authorities, cover for other operators will be introduced in the very near future, enabling them to respond better to the current situation.

23. In view of the uncertainty surrounding the return to the market at the end of the 30-day period, and in order to take account of the measures taken in the United States which are providing cover for 180 days, it is hard to envisage the removal of the cover guarantees given by Governments after the initial 30-day period. This crisis has shown that similar events in future could lead to renewed withdrawal of cover from aviation industry operators. The Member States have asked the Commission to draw up guidelines to ensure an efficient and coherent response in such cases. In addition, in order to maintain equal

¹ See Annex (1).

conditions of competition with third country airlines and to avoid diverging responses by Member States, the Commission considers that all Member States must verify whether third country airlines produce proof of minimum risk cover on the basis of the European Civil Aviation Conference (ECAC) recommendations. In the absence of such cover, Member States would be obliged to take appropriate, coordinated action, i.e. to withdraw traffic rights and prohibit overflight in accordance with the Community's international obligations.

4. SECURITY MEASURES

24. The Extraordinary European Council of 21 September called on the Transport Council to take measures concerning the classification of weapons, technical training for crew, checking and monitoring of hold baggage, protection of cockpit access and quality control of security measures applied by Member States.
25. The Commission has already sent several proposals to the Council enabling it to introduce some of these measures:
- the amendment of the Regulation on the harmonisation of technical requirements (JAR-OPS) and administrative procedures in the field of civil aviation², which will enable the necessary measures to be taken to strengthen cockpit doors;
 - the proposal for a directive on occurrence reporting in civil aviation³ provides for monitoring compliance with security measures;
 - the Commission proposal on safety requirements and attestation of professional competence for cabin crews in civil aviation⁴ will harmonise training for this category of personnel. The Council should be able to adopt a common position on this proposal on 15 October.
26. The Commission is also proposing a Regulation establishing common rules for the security of civil aviation. Adoption of this proposal will enable common rules to be established on baggage inspection and passenger checks and to organise monitoring of compliance with the common rules. In the interim, the Commission has proposed to Member States that inspections should be organised at airports, reinforcing the measures initiated by the European Civil Aviation Conference (ECAC) some months ago. The *ad hoc* working group set up by the Council will present a preliminary report to the Transport Council on 15-16 October, which can serve as a basis for strengthening the ECAC recommendations. There will be parallel consultation of the relevant professional organisations and by the sectoral dialogue committee in civil aviation.
27. The air transport industry has itself traditionally borne the bulk of security costs. The reinforcement of certain security measures by the public authorities in the wake of attacks directed against society as a whole and not at the industry players must, in the Commission's opinion, be borne by the State. It goes without saying that, if certain measures are imposed directly on airlines and other operators in the sector such as airports, suppliers of groundhandling services and providers of air navigation services, the

² COM(00) 121 final, 24.03.2000 COD (2000/0069)

³ COM(00) 847 final, 19.12.2000 COD (2000/0343) and amended proposal of 25.09.2001: COM(01) 532

⁴ COM(97) 382 final, 22.07.1997 and amended proposal of 05.03.1999: COM(99) 68 final.

financing of such measures by the public authorities must not give rise to operating aid incompatible with the Treaty.

5. APPLICATION OF THE RULES ON STATE AID

28. In examining State aid measures compatible with the Treaty, the Commission gives priority to those least likely to distort competition between Community airlines, i.e. measures applicable to all Community undertakings on a uniform basis. The airlines have themselves requested that the support measures they are seeking should not lead to unequal conditions of competition and for that reason they favour measures at Community level.
29. In this regard, the Commission stresses that the events of 11 September 2001 must not undermine the Commission's policy on State aid to restructuring based in particular on the "one-time, last-time" principle. They must not be used as a pretext for bypassing the existing framework for aid to restructuring in order to remedy the serious problems which for months and sometimes years have dogged certain Community airlines attempting to restructure.
30. The Commission would also point out that any State aid measure adopted by Member States must be notified to allow the Commission to examine its impact quickly and ascertain its compatibility with the Treaty. The informal Ecofin Council which met in Liege on 22 September also stressed this obligation.
31. During the Gulf crisis, the Commission took a number of measures for a limited period of three months to help airlines cope with the short-term problems. In particular, it declared its intention of examining favourably certain types of State aid intended to offset the additional costs of security and insurance and to postpone collection of some of the fees for air traffic control, as well as to authorise under the competition rules applicable to air transport certain agreements between airlines on capacity reduction, joint operations and slot allocation at airports. The industry reacted well to the situation and traffic resumed shortly afterwards. Since then, the regulatory framework in the sector has changed: the air transport market is now organised according to the principle of free access, enabling carriers to develop their activities in a competitive environment, to adapt their operations, capacity and schedules more flexibly to demand and to weather crisis situations better.
32. The *ad hoc* working group appointed by the Extraordinary Transport Council of 14 September, which met three times on 25 September, 2 and 5 October respectively, has gathered information on the main support measures designed to offset the increase in insurance costs and the additional costs of tighter security requirements. This also showed that there is a risk of competition being distorted as a result of the aid granted to American airlines to compensate for their loss of revenue in the days when all air traffic in the United States was grounded.
33. As operating aid is in principle prohibited, the Commission considers that the provisions of Article 87(2)(b) of the Treaty fit the problems currently facing the airlines. It is of the opinion that, given their unforeseeable nature, the number of victims and the impact on the world economy, the events of 11 September 2001 were exceptional occurrences within the meaning of Article 87(2)(b). However, the temporary measures to support airlines taken by Member States should not result in over-compensation for the damage suffered.

34. At this juncture, the Commission considers that the provisions of Article 87(2)(b) of the Treaty may apply to two types of damage resulting from the events of 11 September 2001.

5.1. Measures to compensate for the costs to airlines of American airspace being closed for four days

35. The Commission considers that the costs arising directly from the closure of American airspace between 11 and 14 September 2001 are a direct consequence of the events of 11 September. They may therefore give rise to compensation by Member States in accordance with Article 87(2)(b) of the Treaty on the following conditions:

- compensation is paid in a non-discriminatory manner to all airlines in a given Member State;
- it concerns only the costs incurred during the days 11 to 14 September 2001 following the grounding of air traffic decided by the American authorities;
- the amount of compensation is calculated accurately and objectively by comparing the traffic recorded by each airline during the four days in question with that recorded by the same airline in the preceding week, adjusted to take account of the development in the corresponding period of 2000. The maximum amount of compensation, which must take account in particular both of the actual costs incurred and those avoided, is equal to the loss of revenue duly recorded during these four days. It must of course be less than four 365th of the airline's turnover.

36. The possible distortions of competition caused by direct aid to the American airlines cannot be addressed in the absence of a contractual framework for relations between the Community and the United States. Member States have opted for a framework of bilateral agreements which deprives them of any capacity to react. In keeping with the 1994 guidelines on State aid to the aviation sector, the Commission considers that, if State aid provided by third countries leads to very low fares, such practices must be examined in the context of the Community's external policy. Should the policy be found to be predatory, the Commission reserves the right to make proposals to offset the loss the Community airlines might suffer as a result. In addition, the Commission will propose a Code of Conduct in this area to the United States.

5.2. Assumption of the extra cost of insurance

37. On 22 September the Ecofin Council discussed emergency measures Member States could take to help airlines meet the extra costs of insurance in the next few months under certain conditions. It concluded in particular that:

- support must be limited to addressing a failure in the commercial insurance market in order to ensure that third party cover for war and terrorism risks remains available;
- governments must charge a reasonable premium which as far as possible reflects the risks covered by the schemes introduced, although this condition may be waived in the short term;
- the schemes will be introduced for one month while work will continue on finding a lasting solution and to encourage the industry to return to the market as soon as possible.

The Council also drew attention to the obligation to notify these measures to the Commission for the purposes of verifying their compatibility with the State aid rules.

38. In taking the necessary decisions on the measures notified to it in the framework of the State aid rules, the Commission will take account of all pertinent circumstances and in particular whether the public intervention concerned:

- applies uniformly without restriction to all companies in a given Member State;
- is limited to a period of one month;
- is exclusively intended to compensate for the extra cost of insurance resulting from the events of 11 September 2001 and in no way places the airlines in a more favourable situation than that prior to 11 September 2001.

39. Developments in the insurance market suggest it is unlikely that the measures can be terminated after one month. However, the Commission considers that there are no grounds for insurance companies withdrawing cover from other operators in the air transport industry, such as airports, groundhandling providers and air navigation services; the risks associated with these activities are not of the same nature as those resulting from the suicide attacks of 11 September.

40. If the situation should continue beyond the initial 30-day period, the Member State concerned may decide either to continue providing a supplementary guarantee to the insurance companies, or to underwrite the risk directly itself. At any event, Member States must follow common guidelines with regard to the following:

- duration;
- level of cover;
- methods of setting premiums;
- players covered ;
- treatment of third countries.

The Commission will examine any government aid notified to it by virtue of Article 87(2)(b) in line with the above principles. Moreover, the cost of this supplementary cover must be terminated by 31 December 2001 at the latest and passed on to the airlines in order to restore equal conditions of competition between Community carriers.

41. This crisis has nevertheless shown that similar events in future could lead to a renewed loss of cover for air transport operators. The Member States have asked the Commission to draw up guidelines to guarantee an effective and coherent response in such cases. Such possible responses could include the establishment of a "mutual fund" for risks in order to avoid the cost of national measures in the case of a common challenge. The alternative possibility of the airlines themselves establishing insurance pools specialised in the cover of risks relating to air transport also merits consideration. A compensation fund might be another possible option. In addition, the Commission proposes harmonising the amounts and conditions of insurance required for the issue of operating licences (Council Regulation 2407/92) and will present proposals to this effect.

6. OTHER COMMUNITY MEASURES

42. The Commission has to monitor application of the competition rules and of the rules on slot allocation at Community airports. The impact of the drop in demand must be assessed in the light of the application of these rules.

6.1. Slots

43. The reference point of the Regulation on slot allocation (Council Regulation 95/93) is the situation during a coordination season. Article 10(3) of the Regulation provides that carriers are not entitled to the same series of slots for the next equivalent period unless they can demonstrate to the satisfaction of the coordinator that they have used these slots, as cleared by the coordinator, for at least 80% of the period for which they were attributed.

44. However, the Regulation also accepts that exceptional circumstances, namely unforeseeable and irresistible cases outside the air carrier's control, may affect the use of slots. Article 10(5)(a) and (e) allows carriers to cite circumstances such as the grounding of aircraft or the closure of an airport or airspace, or the interruption of a series of services due to action intended to affect these services making it practically or technically impossible to carry them out, in order to avoid losing their slots with established historical precedence (grandfather rights) during the season and the next equivalent season.

45. The Commission considers that the closure of American airspace between 11 and 14 September and the subsequent changes to services (suspension, reduced frequencies) constitute exceptional circumstances that impact negatively both on the transatlantic network of the airlines and on the intra-Community feeder routes. It considers that coordinators should interpret the provisions of the above Regulation in such a way that airlines do not risk losing their unused slots as a consequence of the terrorist attacks.

Carriers should therefore be able to keep their slots with grandfather status during the next coordination season in summer 2002. In this way the slots unused during the current season can be reallocated as "*ad hoc*" slots by the coordinators for the remainder of the season and used by other air carriers without conferring grandfather rights.

46. If the current situation continues and impacts significantly on the 2001/2002 winter season which commences on 26 October, the Commission will examine whether it should continue these arrangements in the light of the justification provided by the airlines at that time.

6.2. Coordination of schedules and capacities

47. The sharp fall in demand and the increase in costs resulting from the current crisis might lead airlines to cut back significantly on capacity, the number of links and frequencies of certain services. It must therefore be examined whether the current situation could affect the application of the competition rules to airlines.

48. The Commission stresses that the application of the competition rules enables account to be taken of changes in the economic situation of the market due to unforeseen events or the normal business cycle. Furthermore, airlines are at all times free to reduce their capacities, adjust their schedules or decide to discontinue certain services. Under certain conditions they may also decide to act in concert.

49. At the moment, however, it does not appear essential to adopt *ad hoc* legislative measures such as a block exemption. The applicable rules currently⁵ permit certain types of coordination, such as consultations on slots and on passenger tariffs in order to facilitate "interline" connections. Schedule and capacity coordination already takes place in the framework of alliances. In any event, other more specific forms of cooperation may benefit from an individual exemption under Article 81(3) of the Treaty if their advantages outweigh any restrictive effects on competition. The Commission will therefore give favourable consideration, for example, to capacity coordination agreements intended exclusively to maintain a regular service on "thinner" routes or at off-peak times.

7. STRENGTHENING THE CAPACITY OF THE INDUSTRY AND OF THE COMMUNITY TO REACT

7.1. Consolidation of the air transport industry

50. The European aviation market remains fragmented despite the consolidation efforts in progress. The results of this fragmentation of industry and market are plain to see: the European airlines and their customers do not benefit from the full potential of the internal market. Many European carriers are small compared to their international competitors. Some are facing serious financial problems and can continue operations only with partners. The Community has little influence in the absence of a common approach by the commercial partners and in international negotiations. The moves to restructure and consolidate Community airlines must therefore be continued and even speeded up in some cases. This will require social dialogue to be stepped up.

7.2. A coherent policy *vis-à-vis* third countries

51. The question of ownership and control must also be urgently addressed: the restrictions imposed on airlines by the traditional ownership and control rules in the bilateral agreements make mergers and takeovers difficult. In this context, the Commission would emphasise the need to establish a dynamic, coherent policy in the field of external relations as quickly as possible.

52. The current crisis demonstrates the urgent need to take account of developments in North America, to coordinate actions with the American authorities and to ensure equal conditions of competition on the Atlantic routes. An agreement of this nature would also have to make provision for crisis mechanisms and preclude unilateral measures which could unduly prejudice the interests of the other party. Subject to the adoption by the Council of negotiating directives, a full EC-USA agreement could be negotiated at short notice to provide the framework and the necessary structures ensuring safe, reliable operating conditions in a competitive environment for airlines on both sides.

53. More generally, the role of ICAO must be reinforced in the area of security, as has already been done on safety, to ensure that aircraft flying into European airports or transiting Community airspace comply with certain minimum rules. In order to ward off this new type of attack, compliance with these rules must be ensured on domestic as well as on international flights.

⁵ Commission Regulation (EEC) No 1617/93 of 25 June 1993 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports, as amended by Commission Regulation 1324/2001 of 29 June 2001.

This need for international cooperation also applies to insurance: in the absence of cover for terrorist risks or war, the Community must act to prohibit access to its airports and its airspace. As this could have considerable implications above all for developing countries, the Commission will mobilise the resources allowed under the agreements concluded by the Community in order to provide the necessary assistance.

The Commission is particularly favourable towards a better coverage of the air transport sector by the WTO.

7.3. The Single Sky

54. The airlines have emphasised the importance of speedily creating the Single European Sky in order to improve the safety of air transport. The Commission shares this concern, as it is crucial to the safety and competitiveness of the industry. The proposals are ready. The Commission has called on the Member States to move this dossier forward and takes note of the agreement reached on the application of the legislation to Gibraltar airport. In order to get this vital project off the ground as of 2004, the Commission will present a major package of legislative proposals which will help reduce the costs relating to the organisation of airspace and enhance the efficiency of cooperation to make this space safe.

8. CONCLUSIONS

55. The Commission therefore considers that the situation created by the terrorist attacks of 11 September justifies the adoption of emergency measures in the framework of the current rules and policies:

- The Commission will examine favourably in the framework of State aid and in the light of the criteria described, measures to compensate airlines for losses resulting directly from the four-day closure of American airspace:
- It will examine in the framework of State aid and in the light of the criteria described:
 - a) the assumption of the additional costs of insurance for a maximum period of one month;
 - b) the temporary continuation of intervention by Member States until the end of the year should the need for cover persist, on condition that it does not place the airlines in a more favourable position than that prior to the withdrawal of their insurance cover.

- With regard to security,

The Commission considers that the reinforcement of certain security measures must be borne by the public authorities.

- With regard to the competition rules applicable to air transport:

The Commission will examine on a case-by-case basis whether the conditions for an exemption under Article 81(3) of the Treaty are met. It will give favourable consideration to the capacity coordination agreements designed to maintain a regular service on less frequented routes or to coordinate schedules during off-peak periods of the day.

– With regard to slots:

The Commission considers that the airlines may retain their slots with grandfather status in Community airports during the summer 2002 season. If the current situation continues into the winter 2001 season, which begins on 26 October, the Commission will examine whether measures should be introduced for the corresponding 2002/03 season.

– With regard to relations with third countries:

Should there appear to be predatory pricing, the Commission reserves the right to make proposals to offset the loss Community airlines might suffer as a result. The Commission will propose a code of good conduct to the United States authorities in order to avoid distortions of competition resulting from the aid received by American airlines.

The Commission notes that it has always defended Community competence in the framework of international negotiations on air transport. As regards transatlantic relations in particular, the Commission considers that the Council should as soon as possible agree the draft negotiating mandate as a basis for negotiating an agreement with the United States in order to create the necessary framework and structures to ensure safe and reliable operating conditions in a competitive environment for airlines on both sides. This would make it possible to adapt the regulatory framework of the undertakings and in particular the ownership rules.

In the absence of such an agreement and pending the negotiating mandate, it is up to the Member States to proceed with a minimum of Community coordination in the framework of the bilateral agreements.

56. The Commission will also examine:

- a) the possibility of "mutualisation" of insurance risks at European level;
- b) the revision of the amounts and conditions of insurance required for the issue of operating licences (Council Regulation 2407/92) in order to ensure a harmonised approach.

57. The Commission will continue to monitor closely developments in the air transport sector and to act quickly should the situation deteriorate.

Depending on how the current situation evolves, the Commission reserves the right to review the measures taken or announced in this Communication.

In addition, the Commission will examine the implications with all the industrial players and social partners.

58. It is up to the Council and the European Parliament to adopt the security measures required by the present situation when they consider the proposals pending. The Commission proposes common rules on aviation security which it asks the two institutions to examine as a priority.

ANNEX

Measures planned or taken by Member States to cover the additional costs of insurance

Member State	Insurance - own Airlines	Requirement - foreign airlines	Insurance - service providers	Duration	Premium
Belgium	Up to former level	ECAC	Up to former level	30 days	Former level plus surcharge
Denmark	Up to former level	Set out in air navigation act	Up to former level	1 month	\$0.25 for \$50-750 m \$0.50 for \$750m - \$1bn
Germany	Up to former level	Former level	Up to former level	1 month	Not yet decided
Greece	Up to former level	-	Not yet decided	30 days	Not yet decided
Spain	Up to former level	Rome Treaty Air navigation act-royal decree no. 37/2001	AENA included and other services providers not yet decided	30 days	\$0.25 up to \$750 m \$0.50 up to \$2 bn
France	Up to former level	No change	Up to former level	30 days	Not yet decided
Ireland	Up to former level	Not covered by Ireland	Up to former level	30 days	Not yet decided
Italy	Up to a maximum of €2.2 bn for each aircraft	Not covered	Not covered for the moment	30 days	Free (no premiums required)
Luxembourg	Former level - up to \$2 bn		No notification of cancellation received	1 month	Waived
Netherlands	Up to former level	ECAC	Up to former level	30 days	Premium waived for first 30 days
Austria	Up to \$700m	-	-	30 days	Market conditions - premiums not yet decided
Portugal	Up to former level	Former level	Up to former level	1 month	Not yet decided
Finland	Up to \$1bn	-	-	Max 30 days, subject to cancellation at any time	Theoretically same as previous premium - waived initially for legal reasons
Sweden	Up to former level	-	-	30 days	"Premium reflects as far as possible the risks associated with the guarantee"
United Kingdom	Up to former level	Not covered	Up to former level for providers	30 days (7 days notice of	\$0.25 per passenger flight up to \$750m.

			whose cover withdrawn	cancellation)	\$0.50 per passenger flight above \$750m (waived for first 30 days) 25% of former premium for service providers.
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