

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 265 final

Brussels, 9 June 1993

Recommendation for a

COUNCIL DECISION

The opening of negotiations between the EEC  
the Kingdom of Norway and the Kingdom of Sweden  
on a modification of their Agreement on civil aviation

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Proposal for a

COUNCIL DECISION

Concerning the amendment of the Agreement between the European Economic  
Community, the Kingdom of Norway and the Kingdom of Sweden on civil  
aviation

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(presented by the Commission)

Recommendation for a Council Decision

The opening of negotiations between the EEC  
the Kingdom of Norway and the Kingdom of Sweden  
on a modification of their Agreement on civil aviation

1. In Council Decision 92/384/EEC concerning the conclusion of an Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden the Community has approved the Agreement between these three Parties on civil aviation. The Agreement creates a uniform system of rules governing civil aviation by extending the scope of all relevant Community legislation to Norway and Sweden.
  
2. Since this agreement should not prejudice the outcome of the negotiations between the Community and the EFTA countries on the European Economic Area (EEA agreement) it was agreed that the Agreement shall be terminated on the date on which the EEA agreement enters into force.
  
3. According to the Agreement new legislation adopted in each Contracting Party should be integrated in the Agreement. Since the conclusion of the negotiations on the Agreement, the Community has adopted new legislation among which the so-called third package of air transport policy creating the internal market for civil aviation in the Community.
  
4. The Agreement contains in Article 12 the principle that new (Community) legislation is to be integrated in the Agreement. This is of particular importance for Community air carriers, because it allows them to operate under one regulatory regime in the Community, Norway and Sweden. The decision in this respect by the Joint Committee requires confirmation by the Council.

5. However, the entry into force of the EEA agreement could give rise to a backwards change in the arrangement between EC and Norway and Sweden by virtue of the present Agreement, since the new legislation mentioned above will not immediately be part of the EEA agreement but will become applicable in the EFTA States only when the necessary procedures to supplement the legislation in the EEA agreement have been completed.
  
6. In these exceptional circumstances it is in the interest of all three Parties to make the necessary provision which allows application of the new legislation in Norway and Sweden after the entry into force of the EEA agreement until the necessary procedures have been completed.
  
7. The Council is therefore asked to decide:
  - to authorize the Commission to open negotiations with the Kingdom of Norway and the Kingdom of Sweden with a view to amend the Agreement between these parties and the Community on civil aviation so as to ensure:
    - \* integration of new legislation in the Agreement
    - \* application of this legislation in Norway and Sweden after the entry into force of the EEA agreement until the necessary procedures to supplement the legislation in the EEA agreement have been completed.

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Proposal for a Council Decision

Concerning the amendment of the Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden on civil aviation.

Explanatory Memorandum

1. In Council Decision 92/384/EEC concerning the conclusion of an Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden the Community has approved the Agreement between these three Parties on civil aviation. The Agreement creates a uniform system of rules governing civil aviation by extending the scope of all relevant Community legislation to Norway and Sweden. It entered into force 6 July 1992.
2. According to the Agreement new legislation adopted in each Contracting Party should be integrated in the Agreement. Since the conclusion of the negotiations on the Agreement, the Community has adopted new Regulations and Directives among which the so-called third package of air transport policy creating the internal market for civil aviation in the Community.
3. Integration of this new Community legislation in the Agreement is of particular importance for Community air carriers, because it allows them to operate under one regulatory regime in the Community, Norway and Sweden. The Joint Committee established by the Agreement has decided on 26 March 1993 to integrate eight Regulations and one Decision in the Agreement, subject, of course, to approval or ratification by each contracting party. In the Community the decision of the Joint Committee requires confirmation by the Council. It is envisaged that the decision enters into force on 1 July 1993, or on the date on which the last instrument of ratification has been deposited, whichever date is the later.
4. The Agreement between the Community, Norway and Sweden has a direct relationship with the agreement negotiated between the Community and EFTA countries on the European Economic Area (EEA agreement). It will cease to be in force on the date on which the EEA agreement enters into force.

5. However, the new legislation to be integrated in the Agreement can only become applicable under the EEA agreement after its entry into force and when the procedures for inclusion of new legislation in the EEA agreement have been completed.
  
6. It is, therefore, in the interest of all Contracting Party's to ensure that the objectives of the Agreement, a uniform system of rules throughout the Community, Norway and Sweden, will be met also after the entry into force of the EEA agreement. It is, therefore, important that the Agreement remains in force for a limited period of time, until the procedures to supplement the legislation in the EEA agreement have been completed.
  
7. A decision to continue the application of the Agreement for a limited period of time after the entry into force of the EEA agreement is justified in this exceptional situation, but does not prejudice in any way the provisions of the EEA agreement. However, unless the Joint Committee decides otherwise, the Agreement shall cease to be in force two years after the entry into force of the EEA agreement.
  
8. The Council is therefore asked to :
  - confirm the incorporation of relevant new Community legislation in the Agreement between the EEC, the Kingdom of Norway and the Kingdom of Sweden on civil aviation,
  
  - adopt the annexed proposal for a Council Decision to amend the text of the Agreement as approved by Council Decision 92/384/EEC concerning the conclusion of an Agreement between the EEC, the Kingdom of Norway and the Kingdom of Sweden.

Proposal for a Council Decision

Concerning the amendment of the Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden on civil aviation.

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing that the European Economic Community and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas Council Decision 92/384/EEC concerning the conclusion of an Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden on civil aviation establishes a uniform system of rules concerning market access, airline capacity as well as price setting in the field of civil aviation,

Whereas since the conclusion of this Agreement new legislation in the field of civil aviation has been adopted in the Community and whereas Article 12 of the agreement provides for the integration in the Agreement of amendments made to the legislation of each Party,

Whereas in these exceptional circumstances it is appropriate to amend Article 19 of the agreement to ensure that the objective of the Agreement, a uniform system of rules throughout the Community, Norway and Sweden, will be met also after the entry into force of an Agreement between the Community and EFTA countries on the European Economic Area,



Whereas the Council has decided at its meeting of ..... that these modifications should be made and has authorized the Commission to open negotiations with Norway and Sweden with a view to make the necessary amendments to the Agreement.

Whereas the Commission has conducted the negotiations in coordination and close cooperation with the Member States throughout the negotiating process.

HAS DECIDED AS FOLLOWS :

**Article 1**

The decision of the Joint Committee to integrate in the Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden on civil aviation legislation adopted in the Community after the negotiations of that agreement is hereby approved on behalf of the Community.

The decision of the Joint Committee is attached to this decision.

**Article 2**

The Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden to modify article 19.3 of the Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden on civil aviation is hereby approved on behalf of the Community.

The text of the Agreement is attached to this decision.

**Article 3**

The President of the Council shall carry out the necessary formalities as provided for in Article 23 of the agreement.

**Article 4**

This decision shall enter into force on the day following its' publication in the Official Journal of the European Communities.

Done at Brussels,

For the Council

AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY, THE KINGDOM OF NORWAY  
AND THE KINGDOM OF SWEDEN ON CIVIL AVIATION

DECISION OF THE JOINT COMMITTEE 26 MARCH 1993

I

Pursuant to article 12.3 in the Agreement between the European Economic Community, the Kingdom of Norway and the Kingdom of Sweden on civil aviation the Joint Committee has decided that the following regulations and Directive shall be integrated into the Agreement and be added to the list in Annex I.

21. 2407/92  
Council Regulation of 23 July 1992 on licensing of air carriers

Articles 1-18

22. 2408/92  
Council Regulation of 23 July 1992 on access for Community air carriers to intra-Community air routes

Articles 1-15

The list of category 1 airports set out in Annex I of the Regulation shall be supplemented as follows :

Norway : Oslo Airport System

Sweden : Stockholm Airport System

The list of airport systems set out in Annex II of the Regulation shall be supplemented as follows :

Norway : Oslo - Fornebu/Gardermoen

Sweden : Stockholm - Arlanda/Bromma

23. 2409/92

Council Regulation of 23 July 1992 on fares and rates for air carriers

Articles 1-11

24. 1284/91

Council Regulation of 14 May 1991 amending Regulation No. 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector

Article 1

Any reference to Articles 85 and 86 in this Regulation shall be understood to mean Articles 4 or 5 of this Agreement respectively.

25. 2410/92

Council Regulation of 23 July 1992 amending Regulation No. 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector

Article 1

Any reference to Articles 85 or 86 in this Regulation shall be understood to mean Articles 4 or 5 of this Agreement respectively

26. 2411/92

Council Regulation of 23 July 1992 amending Regulation No. 3976/87 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector

Article 1

Any reference to Articles 85 or 86 in this Regulation shall be understood to mean Articles 4 or 5 of this Agreement respectively

27. 3922/91

Council Regulation of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation

Articles 1-3, 5-11, 13

28. 91/670

Council Directive of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

Articles 1-7

29. 95/93

Council Regulation of 18 January 1993 on common rules for the allocation of slots at Community airports

Articles 1-13

The territory of Svalbard shall be exempted from the application of the Regulations and Directive listed above.

- II -

In order to safeguard the proper functioning of the Agreement, the Joint Committee in accordance with Article 12.3 recommends the Contracting Parties to amend the Agreement as set out in the Annex to this decision.

- III -

Pursuant to Article 14.3 of the Agreement, the decision in I above is subject to approval or ratification by the Contracting Parties in accordance with their own procedures.

This decision shall enter into force on 1 July 1993 or on the date on which the last instrument of ratification has been deposited in accordance with Article 23.3 of the Agreement whichever date is the later.

For the European  
Economic Community

For the Kingdom  
of Norway

For the Kingdom  
of Sweden

Annex

AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY, THE  
KINGDOM OF NORWAY AND THE KINGDOM OF SWEDEN

Whereas the Agreement between the European Economic Community, the Kingdom of Norway and the kingdom of Sweden on civil aviation, hereinafter referred to as the Agreement, entered into force on 6 July 1992;

Whereas the Agreement establishes a uniform system of rules in the field of civil aviation;

Whereas since the conclusion of this Agreement new legislation in the field of civil aviation has been adopted in the Community and whereas Article 12 of the Agreement provides for the integration in the Agreement of amendments made to the legislation of each Party;

Whereas the Joint Committee, in accordance with Article 12 of the Agreement, decided on 26 March 1993 to integrate this new legislation in the Agreement;

Whereas this new legislation anticipates legislation that will be applicable under the EEA Agreement at the moment the internal procedures for its inclusion in the EEA Agreement are completed;

Whereas Article 19.3 of the Agreement provides that the Agreement shall cease to be in force from the date an agreement between the Community and EFTA countries on the European Economic Area enters into force;

Whereas, in order to ensure that the objective of the Agreement, a uniform system of rules throughout the Community, Norway and Sweden, will be met also after the entry into force of the EEA agreement for the time required to complete the procedures to supplement the legislation in the EEA Agreement, it is important that the Agreement remains in force for a limited period of time;

Whereas in view of these exceptional circumstances this agreement does not prejudice in any way the provisions of the EEA agreement and in particular not the application of article 120 of the EEA agreement;

HAVE AGREED AS FOLLOWS :

#### ARTICLE 1

Article 19.3 of the Agreement will be replaced by the following :

This Agreement shall cease to be in force from the date an agreement between the EC and EFTA countries on the European Economic Area enters into force.

However, as far as legislation mentioned in Annex 1 and adopted in accordance with Article 12.3 is concerned, this Agreement shall continue to apply to the extent that the same subject matter is not governed by the EEA agreement.

If this Agreement has continued to apply in part for 18 months after the entry into force of the EEA agreement, the Joint Committee shall meet to decide upon the continued application of this Agreement. If the Joint Committee does not decide otherwise, this Agreement shall cease to be in force two years after the entry into force of the EEA agreement.

In a case where the application of this Article conflicts with provisions of the EEA agreement, the latter shall prevail.



ARTICLE 2

This agreement shall be subject to approval or ratification in accordance with the Contracting parties' own procedures and the Parties shall notify each other of the completion of the procedures necessary for that purpose.

This Agreement shall enter into force on the date on which the last instrument of ratification has been deposited. It shall be published in the Official Journal of the European Communities.

This Agreement and the instruments of ratification shall be deposited in the archives of the Secretariat of the Council of the European Communities, which shall deliver a certified copy thereof to each Contracting Party.

ARTICLE 3

This agreement is drawn up in all the official languages : Danish, Dutch, English, French, German, Greek, Italian, Portuguese, Spanish of the Community as well as in the Norwegian and Swedish languages, all texts beings equally authentic.

For the European  
Economic Community

For the Kingdom  
of Norway

For the kingdom  
of Sweden

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# DOCUMENTS

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