

**Notice pursuant to Article 16(3) of Regulation (EEC) No 3975/87 of 14 December 1987 concerning case COMP/A.38.284/D2**

**Société Air France/Alitalia Linee Italiane SpA**

(2003/C 297/04)

**I. STATE OF THE PROCEDURE**

1. On 13 November 2001, Alitalia and Air France notified to the Commission a co-operation agreement and applied for negative clearance under Article 3(2) or exemption under Article 5 of Council Regulation (EEC) No 3975/87<sup>(1)</sup>.

2. According to Article 5(2) of Regulation (EEC) No 3975/87, the Commission published a summary of the application in the *Official Journal of the European Communities* on 8 May 2002<sup>(2)</sup>. The notice also summarised the reasons given by the parties for granting an exemption under Article 81(3).

3. On 1 July 2002, the Commission informed the Parties that, in respect to Article 5(3) of Regulation (EEC) 3975/87, it has serious doubts with regard to the applicability of Article 81(3) of the Treaty.

4. Overall, the Commission recognises that the alliance agreement contributes to technical and economic progress, given the improvements in connectivity and the cost savings and synergies achieved by the parties. However, the agreement raises competition concerns on key routes between France and Italy (Paris–Rome, Paris–Milan, Paris–Venice, Paris–Florence, Paris–Bologna, Paris–Naples, and Milan–Lyon).

5. Consequently, the Commission services entered into discussions with the parties with a view to finding appropriate and effective remedies to these concerns. In order to be effective, such remedies should remove existing entry barriers for competitors and thus favour the emergence of competing services on the routes concerned, failing which passengers would have little or no choice and potentially higher prices.

6. As a result of these discussions, the parties have submitted proposed commitments which are set out in what follows. The Commission services have received indications that there are a number of competitors which are interested in entering the markets concerned or re-enforcing their presence on these markets. Under these circumstances, the Commission encourages interested third parties to comment on the proposed remedies, and notably on their effectiveness.

**II. PROPOSED COMMITMENTS**

7. Société Air France ('Air France' or 'AF') and Alitalia Linee Italiane SpA ('Alitalia' or 'AZ'), collectively the 'Parties', hereby

<sup>(1)</sup> Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition in the air transport sector (OJ L 374, 31.12.1987, p. 1).

<sup>(2)</sup> OJ C 111, 8.5.2002, p. 7.

offer the Commitments set out below to resolve the competition concerns identified by the European Commission in the course of proceedings in Case COMP/38.284 concerning the cooperation agreement between the Parties in particular in relation to air transport on certain routes between France and Italy.

**1. General and Definitions**

8. These Commitments shall be annexed to and form an integral part of the Commission's exemption decision.

9. These Commitments shall be binding on the Parties, their subsidiaries, successors and assigns and the Parties commit to cause their subsidiaries, successors and assigns to comply with these Commitments.

10. For the purposes of these Commitments, each of the following city pairs is considered to be an 'Affected Route':

— Paris–Milan;

— Paris–Rome;

— Paris–Venice;

— Paris–Bologna;

— Lyon–Milan;

— Paris–Naples;

— Paris–Florence.

11. For the purpose of these Commitments, references to:

— Paris shall cover Paris-Charles de Gaulle and Paris-Orly airports;

— Milan shall cover Milan-Linate and Milan-Malpensa airports;

— Rome shall cover Rome-Fiumicino and Rome-Ciampino airports.

12. For the purpose of these Commitments, the term 'New Entrant' shall mean any airline independent of and unconnected to the Parties wishing to commence a new non-stop service on an Affected Route or to increase the number of frequencies it operates on an Affected Route after the exemption becomes effective.

A non-stop service includes a multi-stop service using a single aircraft that begins and/or terminates in France, Italy or a third country and has at least one non-stop segment between France and Italy.

13. For the purpose of these Commitments, an airline shall not be deemed to be independent of and unconnected to the Parties when, in particular:

- the effective control<sup>(1)</sup> of the airline is held solely or in conjunction by the Parties; or
- it is an associated carrier belonging to the same holding company as one of the Parties; or
- it is a member of the SkyTeam alliance; or
- the airline co-operates with the Parties on at least one of the Affected Routes in the provision of passenger air transport services, except if this co-operation is limited to agreements concerning servicing, deliveries, lounge usage or other secondary activities entered into on an arm's length basis.

## 2. Take-off and landing slots release

14. If a New Entrant wishes to commence a new non-stop service on one or more Affected Routes (each a 'New Entrant City Pair'), the Parties shall make slots available subject to the conditions set out in this Section 2.

### 2.1. The maximum number of slots to be released

15. The Parties shall be obliged to make available to a New Entrant the number of take-off and landing slots needed to support:

- for flights between Paris and Milan: either (i) up to six (6) frequencies per day in case these frequencies are operated by more than one New Entrant, or (ii) up to five (5) frequencies per day in case these frequencies are operated by a single New Entrant;

<sup>(1)</sup> Within the meaning of Article 2(g) of Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers.

- for flights between Paris and Rome: up to five (5) frequencies per day;

- for flights between Paris and Venice: up to three (3) frequencies per day;

- for flights between Paris and Bologna: up to two (2) frequencies per day;

- for flights between Paris and Naples: up to one (1) frequency per day;

- for flights between Lyon and Milan: up to two (2) frequencies per day;

- for flights between Paris and Florence: up to two (2) frequencies per day.

### 2.2. Conditions applicable to all Commitments in Section 2.1

16. The obligation to make slots available as described in Section 2.1 shall only be triggered in the circumstances set out in this Section 2.2.

17. All slots made available pursuant to these Commitments set out in Section 2.1 are to be used on the Affected Route for which the slots were made available.

#### 2.2.1. Frequencies operated by competitors

18. All frequencies operated by airlines independent of and unconnected to the Parties on the Affected Routes ('Competing Frequencies') shall be counted against the number of slots to be released by the Parties under Section 2.1.

19. The Commission may at any time examine whether the airline(s) operating on the Affected Routes is independent of and unconnected to the Parties. Any frequency operated on the affected routes by an airline which is not independent of and unconnected to the Parties shall not be counted against the number of slots to be released by the Parties under Section 2.1.

20. In case the number of Competing Frequencies on an Affected Route decreases (e.g., because a competitor (i) ceases operating the route, (ii) decreases the number of frequencies operated on the route or (iii) can no longer be considered as being independent of and unconnected to the Parties), the Parties' potential slot surrender obligations shall increase by a corresponding number, subject to the limitations in Section 2.1.

21. In case the number of Competing Frequencies on an Affected Route increases as a result of new competing services (because a competitor (i) increases the number of frequencies it already operates on an Affected Route or (ii) enters the market), the Parties' potential slot surrender obligations shall decrease by a corresponding number.

22. In case new Competing Frequencies are added on an Affected route by a competitor without using slots obtained from the Parties and if it leads to a situation where the total number of competing frequencies operated on the route exceeds the number of frequencies specified in Section 2.1:

- (i) the Parties' slot surrender obligations shall decrease by a corresponding number; and
- (ii) slots previously surrendered by the parties which exceed their potential slot surrender obligations shall only be withdrawn after the new Competing Frequencies have been operated for two IATA seasons.

23. Subject to the conditions above, the Parties shall not be required to make a slot available to the New Entrant for an Affected Route insofar that this would result in the Parties' operating less than 60 % of the frequencies or capacity on that Affected Route as measured at the time of the New Entrant's request.

24. The New Entrant which has to return slots to the Parties as a consequence of the last two paragraphs, is entitled to choose which slots to return.

#### 2.2.2. No slots available via the Standard Slot Allocation Procedure

25. At least six (6) weeks prior to the IATA slot conference for the traffic season in which the New Entrant intends to commence a new service or increase the number of services it currently operates, the New Entrant shall notify the Parties of its intention to request for slots pursuant to the Commitments. A New Entrant shall be eligible to receive slots pursuant to the Commitments described in this Section 2 only if it can demonstrate that all reasonable efforts to obtain slots for the New Entrant City Pair through the normal workings of the slot allocation procedure before the beginning of the concerned IATA traffic season (the 'Standard Slot Allocation Procedure') have failed.

26. To this end, the New Entrant shall apply for these slots at the forthcoming IATA slot conference through the normal Slot Allocation Procedure and maintain an 'open book' policy

for the airports concerned during the entire period between the notification of its intention to apply for slots in order to operate services on an Affected Route and the end of the respective IATA scheduling period, including the final allocation of slots by the coordinator following the Slot Return Date <sup>(1)</sup>.

27. The New Entrant will be deemed not to have exhausted all reasonable efforts if (i) slots were obtained through the Standard Slot Allocation Procedure within forty-five (45) minutes of the times requested but not accepted by the New Entrant and/or (ii) slots were obtained through the Standard Slot Allocation Procedure more than forty-five (45) minutes from the times requested and the New Entrant did not give the Parties the opportunity to exchange those slots for slots within forty-five (45) minutes of the times requested.

28. The slots released by the Parties shall be within forty-five (45) minutes of the time requested by the New Entrant if the Parties have slots available within this time-window. In the event that the Parties do not have slots available within this time-window, they shall propose to the New Entrant to release the slots closest in time to its request.

#### 2.2.3. Ongoing obligation to apply for slots every subsequent season

29. Requests for slots to the slot coordinator and to the parties shall be renewed by the New Entrant for each subsequent IATA scheduling season.

30. If the New Entrant has obtained slots from the Parties pursuant to these Commitments for a particular IATA season and requests some or all of the slots at the same times for the following season, the Parties shall make slots available as close as possible to the slots granted in the preceding season, and in any event within 45 minutes of the time requested, provided that (i) the Parties are still required to surrender slots pursuant to Sections 2.1 and 2.2.1 and hold slots within the relevant time period and, (ii) the New Entrant has complied with the conditions and procedure described above.

#### 2.2.4. Minimum capacity

31. On the Paris–Milan and Paris–Rome city pairs, New Entrant slots shall be used exclusively to operate services with aircraft having a capacity of forty-six (46) or more seats. This condition shall not apply where a New Entrant has commenced service prior to the date on which the Commission's exemption decision becomes effective.

<sup>(1)</sup> The Slot Return Date shall be the deadline for returning unwanted slots, as defined in Appendix 2 of IATA's Worldwide Scheduling Guidelines (7th Edition, effective 1 December 2002).

### 2.2.5. Efficient use of the New Entrant slots portfolio

32. Where a New Entrant already operates a service to, from or through one of the airports included in an Affected Route (a 'Prior Service') and reduces frequencies on or ceases to operate the Prior Service, it shall be required to use the slots previously assigned to the Prior Service for service on the New Entrant City Pair if these slots are within forty five (45) minutes of the slots released by the Parties. It shall return to the Parties the same number of New Entrant slots as were previously assigned to the Prior Service.

### 2.2.6. Non-use of slots released by the Parties

33. Where a New Entrant which has obtained slots pursuant to this Section 2 decides not to commence services on the Affected Route, decides to operate a lower number of frequencies or to cease operating on an Affected Route, it shall inform the Parties in writing and return the unused slots to them immediately.

34. In such cases, the obligation of the Parties to make these slots or the same number of other slots available to New Entrants pursuant to Section 2.1 above continues, subject to the provisions of Section 2.2.1.

35. For the purposes of this Section 2.2.6, a New Entrant will be deemed to have ceased operating on an Affected Route where it has not used at least 80 % of its slots during the scheduling season for which they had been allocated for the city pair in question, unless this non-use of the slots is justified on one of the grounds referred to in Article 10(5) of Regulation (EEC) No 95/93 or in any other regulation that amends or supersedes it. Should the New Entrant be considered to have ceased operating the Affected Route pursuant to this paragraph, the Parties may refuse to surrender slots to the said New Entrant for the next IATA season on this Affected Route.

36. Should a New Entrant which has obtained slots pursuant to this section, decide not to commence services on an Affected Route in two (2) subsequent IATA seasons, the Parties may refuse to surrender slots to the said New Entrant for the next two (2) IATA seasons on this Affected Route.

37. Should the New Entrant notify the Parties too late in a scheduling season for them to use the returned slots pursuant to Article 10(3) of Regulation (EEC) No 95/93, either with immediate effect or after the deadline provided for in Article

10(4) of that Regulation and before the effective start of the scheduling season, the Parties shall be entitled to require the New Entrant to transfer to the Parties a comparable slot as compensation in case the slot is lost. If, for any reason, the New Entrant is unable to transfer to the Parties a comparable slot, they may justify the non-use of the surrendered slot on the basis of Article 10(5) of Regulation (EEC) No 95/93 in order to recover and retain the unused slot.

38. To ensure that the slots provided by the Parties are used in a manner consistent with these conditions, a mechanism shall be agreed between the Parties and the New Entrant that will allow the Parties to monitor how the slots are being used. The Parties shall inform the Commission about the agreed mechanism.

### 2.2.7. Slot releases shall not be remunerated

39. Slots made available by the Parties under these Commitments shall be offered without any compensation.

### 2.2.8. Slot releases on a preferential basis

40. All slots made available pursuant to these Commitments shall be released by the Parties on a preferential basis to the New Entrant whose request would allow it to operate the highest number of frequencies compatible with the number of slots which can be obtained from the Parties on the Affected Route in question, pursuant to the Commitments<sup>(1)</sup>.

41. Subject to the provisions of Section 2.2.1, if the number of slots surrendered is lower than the maximum number of slots to be surrendered pursuant to Section 2.1, the remaining slots shall be allocated to other potential New Entrants on the same basis, until there are no slots left to be surrendered.

42. The slots shall be provided to the New Entrant selected by the Parties subject to the Commission's review as described in Section 2.2.9 below.

### 2.2.9. Selection of New Entrants

43. A New Entrant wishing to obtain slots from the Parties pursuant to these Commitments shall notify the Parties of its intention to apply for these slots at the forthcoming IATA slot conference within the time period specified in Section 2.2.2.

<sup>(1)</sup> Number of slots already operated by the New Entrant on the route in question + number of slots requested to the parties capped to the maximum number of slots which remain to be surrendered by the parties pursuant to paragraphs 2.1 and 2.2.1 above.

44. A copy of this notification shall be sent at the same time by the New Entrant to the Commission, at the following address:

European Commission  
Directorate-General Competition  
Antitrust Registry  
Case COMP/A.38.284/D2  
B-1049 Brussels  
Fax (32-2) 295 01 28

45. Should a potential New Entrant be unable to obtain slots through the Standard Slot Allocation Procedure at the IATA slot conference for the traffic season in which services are intended to commence, it shall apply to the Parties for slot releases no more than two (2) weeks following the end of that slot conference. The application shall take into account the slots obtained at the slot conference within 45 minutes of the times requested and give the Parties the opportunity to exchange slots obtained beyond 45 minutes from the times requested, for slots of the Parties within 45 minutes of the times requested pursuant to Section 2.2.2.

46. A copy of this application shall be sent at the same time by the New Entrant to the Commission.

47. No more than four (4) weeks following the end of the IATA slot conference for the traffic season in which services are intended to commence, based on the current expectation as to the allocation of slots for the forthcoming season, the Parties shall submit to the Commission a proposal for the selection of the New Entrant on the Affected Route and a proposal for slot releases to be made to the New Entrant in question.

48. The Commission shall decide whether or not to approve this proposal pursuant to the following criteria:

- the New Entrant is independent of and unconnected to the Parties within the meaning of paragraph 13 above and;
- the New Entrant is a viable existing or potential competitor, with the ability, resources and commitment to operate the Affected Route in the long term as a viable and active competitive force.

49. With this aim in view, the Commission might request the New Entrant to provide a detailed business plan. This plan shall contain a general presentation of the company including its history, its legal status, the list and a description of its shareholders and the two most recent yearly audited financial

reports. The detailed business plan shall provide information on the projects of the company in terms of development of its network, fleet etc, and detailed information on its projects regarding the route on which it wants to operate. The latter should specify in detail the planned operations on the route over a period of 3 years (size of aircraft, number of frequencies operated, planned time-schedule of the flights) and the expected financial results (expected traffic, revenues, profits). The Commission might also request a copy of all co-operation agreements the New Entrant may have with other airlines. Business secrets and confidential information will remain in the Commission confidential file and will not become accessible to other undertakings or to the public.

50. The Parties' proposal and the Commission's approval thereof shall remain subject to adjustment in case of subsequent changes in the anticipated allocation of slots by the slot coordinator that affect the Parties' slot surrender obligations.

51. In the event of any conflicting requests between New Entrants, the New Entrant offering the highest capacity may be favoured.

52. If the Commission does not oppose the Parties' proposal within 6 weeks following the end of the IATA slot conference, this proposal will be deemed accepted.

53. In case the Commission does not approve the proposal submitted by the Parties, if other carriers have applied to the Parties for slots, the Parties shall propose without delay to the Commission other carriers to be selected as New Entrants.

54. Within one (1) week after the approval by the Commission of the selection of the New Entrant on the Affected Route, the Parties shall submit their written proposal for slot releases to this New Entrant.

### 2.3. Spread of slots at Paris CDG airport

55. To ensure that customers of the Parties enjoy the full benefits of flight connectivity, and without prejudice to Section 2.1, the slots released by the Parties at Paris CDG airport shall be spread as follows.

56. For the purposes of this paragraph, 'Morning Peak Time' shall mean Daily Periods 1 and 2 while 'Evening Peak Time' shall mean Daily Periods 4 and 5.

57. The number of slots released by the Parties at Paris CDG airport for each of the Affected Routes Paris–Milan and Paris–Rome shall not exceed two (2) pairs of slots per ‘Morning Peak Time’ and two (2) pairs of slots per ‘Evening Peak Time’.

58. For each of the other Affected Routes, the number of slots released by the Parties at Paris CDG airport shall not exceed one (1) pair of slots per ‘Morning Peak Time’ and one (1) pair of slots per ‘Evening Peak Time’. Furthermore, for these routes in aggregate, the Parties shall be under no obligation to release more than a total of two (2) pairs of slots during Daily Period 2.

Local Time	Daily Period
6:00	1
7:00	
8:00	
9:00	2
10:00	
11:00	
12:00	3
13:00	
14:00	
15:00	4
16:00	
17:00	
18:00	5
19:00	
20:00	
21:00	6
22:00	
23:00	

#### 2.4. Slot releases at Paris and Milan airports

##### 2.4.1. Slot releases at Paris airports

59. Paris CDG and ORY airports being substitutable, any slots to be made available at Paris airports pursuant to these Commitments may be released from either CDG or ORY at the Parties' discretion.

60. However, the Parties shall be required, upon specific request from a New Entrant, to release slots at ORY airport for operations on an Affected Route in a situation where:

- at the date of the exemption, there is no competing offer in CDG comparable to the one in ORY on this Affected Route;
- such New Entrant already operates services on this Affected Route from ORY at the date of the exemption and wishes to add additional frequencies on this route from this airport;
- the New Entrant has all its scheduled flights serving Paris operated from or to ORY airport, and;
- the New Entrant cannot obtain slots at ORY airport through the Standard Slot Allocation Procedure.

61. In such case, the Parties will make available at ORY airport up to a total of four (4) daily pairs of slots.

62. If all conditions above are fulfilled except the third one, the New Entrant might consider transferring its services currently operated out of ORY on the Affected Route concerned to CDG. In this case, it might apply for slots in CDG pursuant to Section 2.2.2. Its request will then cover all the frequencies it wants to operate on the Affected Route out of CDG, including the frequencies transferred from ORY.

##### 2.4.2. Slot releases at LIN airport

63. The Parties shall be required, upon specific request from a New Entrant, to release slots at LIN airport only if such New Entrant already operates services on an Affected Route from LIN and wishes to add additional frequencies on the route from LIN. In that case, upon fulfilment of the other conditions in these Commitments, the Parties will make slots available within the context of regulatory limits and constraints existing at LIN at the time of the request.

##### 2.5. Slots made available prior to the exemption decision

64. The Parties are ready to anticipate the release of slots to a New Entrant on an Affected Route for the IATA Summer Season 2004 on a voluntary basis. In the event that the Parties have made slots available to a potential New Entrant in the period prior to the adoption of the Commission's exemption decision, those slots shall count towards the number of slots to be released pursuant to these Commitments.

65. A new entrant wishing to obtain slots from the Parties pursuant to this section shall notify its request to the Parties by January 15, 2004.

66. A copy of this request shall be sent at the same time by the New Entrant to the Commission.

67. The New Entrant shall be selected by the Parties according to the criteria set out in Sections 2.2.8 and 2.2.9. The Parties shall submit to the Commission their proposal for the selection of the New Entrant on the Affected Route.

68. If the Commission does not oppose the Parties' proposal within 2 weeks from receipt of the proposal, it will be deemed accepted.

### 3. Interlining commitment

#### 3.1. Conclusion of Interlining agreements

69. At the request of a New Entrant, the Parties shall enter into an interline agreement concerning any New Entrant City Pair operated by the New Entrant (if it does not have an existing interline agreement with the Parties).

70. Any such interline agreement shall be subject to the following restrictions:

- it shall apply to the first class, business class and leisure travel categories only;
- it shall provide for interlining on the basis of the Parties' published one-way fares when a one-way ticket is issued or half of the Parties' published round-trip fares when a round-trip ticket is issued;
- it shall be limited to true origin and destination traffic operated by the New Entrant;
- it shall be subject to the MITA rules and/or normal commercial conditions;
- it shall include the possibility for the New Entrant, or travel agents, to offer a return trip comprising services provided one-way by the Parties and one-way by the New Entrant.

71. Subject to seat availability in the relevant fare category, the Parties shall carry a passenger holding a coupon issued by a New Entrant for travel on a New Entrant City Pair. However, to avoid abuse, the Parties may require that the New Entrant or the passenger, where appropriate, pay the (positive) difference between the fare charged by the Parties and the fare charged by the New Entrant. In cases where the New Entrant's fare is lower than the value of the coupon issued by them, the Parties may endorse their coupon only up to the value of the fare charged by the New Entrant. A New Entrant shall enjoy the same

protection in cases where the Parties' fare is lower than the value of the coupon issued by it.

72. All interline agreements entered into pursuant to this Section 3 for a particular New Entrant City Pair shall lapse automatically in the event that the New Entrant ceases to operate that city pair.

#### 3.2. Special prorated agreements

73. At the request of a New Entrant, the Parties shall enter into a special prorated agreement with it for traffic with a true origin and destination in either France and/or Italy provided part of the journey involves one of the Affected Routes. The conditions shall be comparable to those entered into with third non-alliance/other alliance carriers in connection with the Affected Route in question.

### 4. Frequent flyer programme (FFPs)

74. If a New Entrant does not participate in one of the Parties' FFPs or does not have its own comparable FFP, the Parties shall allow it, on request, to be hosted in their joint FFP for the New Entrant City Pairs operated by the New Entrant. The agreement with the New Entrant shall be concluded at market competitive rates for the route(s) it operates.

75. Any agreement relating to a particular New Entrant City Pair and entered into pursuant to this Section 4 shall lapse automatically in the event that the New Entrant ceases to operate that city pair.

### 5. Commitment to facilitate intermodal passenger transport services

76. At the request of a railway or other surface transport company or sea company operating between France and Italy (an 'Intermodal Partner'), the Parties shall enter into an intermodal agreement whereby they provide passenger air transport on their services on any Affected Route as part of an itinerary that includes surface or sea transportation by the Intermodal Partner.

77. Any intermodal agreement entered into pursuant to this Section 5 shall be based on the MITA principles (including the Intermodal Interline Traffic Agreement — Passenger and IATA Recommended Practice 1780e) and normal commercial conditions.

78. The Parties shall accept full pro-rating according to the terms applied by MITA members, including on routes where only rail services are provided. Where the Intermodal Partner requires notification of a sector mileage, a location identifier or an add-on fare, the Parties shall make such a request to IATA under normal IATA procedures.

79. At the request of a potential Intermodal Partner, the Parties shall make efforts in good faith to reach an agreement on conditions comparable to those granted to other Intermodal Partners, provided that the necessary requirements are met especially with regard to safety, quality of service, insurance coverage and liability limits. The conditions of such an agreement shall override the general obligations arising pursuant to this Section 5.

#### 6. Regulation of frequency increases

80. The Parties shall not add frequencies on an Affected Route, for a period starting when a New Entrant has received slots from the Parties for operations on this Affected Route and covering at least two full consecutive IATA seasons, save in the case of exceptional events requiring additional flights on short term basis.

#### 7. Duration of exemption and conditions

81. The Commitments offered by the Parties shall apply from the date on which the Commission has adopted an exemption decision under Article 5(4) of Regulation (EEC) No 3975/87.

82. The Commitments shall lapse on the date on which the Article 81(3) exemption no longer applies.

83. Should the Commission revoke the Article 81(3) exemption of the cooperation agreement pursuant to Article 6 of Regulation (EEC) No 3975/87 or an equivalent provision in any subsequent regulation, should the Article 81(3)

exemption be annulled, or should the Parties terminate the notified cooperation agreements, the conditions shall be null and void as from the date of revocation, the date of the annulment or the date of termination. In such a case, the Parties shall have the right to demand the return of and to recover any slots provided under these Commitments to an airline which, at the time of the revocation, annulment or termination, is operating services on routes between France and Italy using those slots. The Parties shall also have the right to terminate any interlining, special prorate, FFP or intermodal agreements entered into pursuant to these Commitments.

#### 8. Review clause

84. The Commission may in response to a request from the Parties showing good cause, waive, modify, or substitute any of the Parties' obligations under these Commitments.

### III. CONCLUSION

85. In accordance with Article 16 (3) of Regulation (EEC) 3975/87, the Commission invites interested parties to submit their observations on the above notice, and notably the proposed Commitments, within 45 days of the date of publication of this notice, to:

European Commission  
Directorate-General for Competition  
To the attention of Michel Lamalle or Christine Tomboy  
Case COMP/A.38.284/D2  
Unit COMP/D2,  
Office J-70 02/5  
B-1049 Brussels  
Rue de la Loi/Wetstraat 200  
Fax (32-2) 296 98 12  
E-mail: michel.lamalle@cec.eu.int or  
christine.tomboy@cec.eu.int