



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.5.2006
COM(2006) 218 final

Proposal for a

COUNCIL DECISION

on a Community Position regarding Decision No. [2/2006] of the Community/Switzerland Air Transport Committee established under the Agreement between the European Community and the Swiss Confederation on Air Transport, amending the Annex to the Agreement

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 1 June 2002 the Agreement between the European Community and the Swiss Confederation on Air Transport entered into force. Article 21 of the Agreement establishes a Community/Switzerland Air Transport Committee which is responsible for the administration and proper implementation of the Agreement.

NEW COMMUNITY LEGISLATION TO BE INCLUDED IN THE ANNEX TO THE AGREEMENT

Article 1, Paragraph 2 of the Agreement provides for the application in Switzerland of Community legislation specified in the Annex to the Agreement. Article 23, paragraph 4 of the Agreement stipulates that the Community/Switzerland Air Transport Committee shall either adopt a decision revising the Annex or, if necessary, propose a revision of the provisions of the Agreement, so as to integrate therein, if necessary on a basis of reciprocity, the amendments made to the legislation in question.

Since the signature of the Agreement in 1999, a range of new legislation has been introduced within the Community in the sector of air traffic management. On the occasion of the fourth meeting of the Community/Switzerland Air Transport Committee, which was held in Brussels on 25 November 2005, it was agreed in principle that Switzerland would incorporate the *acquis* related to the Single European Sky (SES): Regulation 549/2004 (the framework Regulation), Regulation 550/2004 (the service provision Regulation), Regulation 551/2004 (the airspace Regulation) and Regulation 552/2004 (the interoperability Regulation), as well as the first SES implementing acts: Regulation 2096/2005 (common requirements for the provision of air navigation services) and Regulation 2150/2005 (flexible use of airspace).

Because Switzerland accepted that in relation to the SES legislation Community Institutions will have direct authority on its territory ("single pillar approach") Switzerland can participate, as an observer, in the Single European Sky Committee, through a unilateral Declaration of the Council (similar to the unilateral declaration adopted by the Council in 2002 on Swiss participation in the aviation competition Committee and in the market access Committee, and similar to the solution found for the EASA Regulation 1592/2002).

COMMUNITY POSITION ON DECISION 2/2006

Decision (2002/309/EC, Euratom) of the Council and of the Commission as regards the Agreement on Scientific and Technological Cooperation of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation, provides in its Article 3 that the position to be taken by the Community as regards decisions of the Community/Switzerland Air Transport Committee which simply extend acts of Community legislation to Switzerland, subject to any technical adjustment needed, shall be adopted by the Commission¹.

¹ See, for an earlier example, Decision No 1/2004 of the Community/Switzerland Air transport Committee of 6 April 2004 amending the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, OJ L 151, 30.04.2004, p. 1, with corrigendum, OJ L 208, 10.06.2004, p. 1.

For other Community/Switzerland Air Transport Committee decisions, the Community's position shall be adopted by the Council, acting by qualified majority, on a proposal from the Commission².

As the solution which has been found cannot be defined as mere technical adjustments, it is for the Council to adopt the Community position on this Joint Aviation Committee Decision, on the basis of this Commission Proposal.

Once this Community Position is adopted, the Community/Switzerland Air Transport Committee will adopt the Joint Committee Decision through the written procedure which is foreseen in its Rules of Procedure.

The Council is invited to adopt the attached Decision.

² See, for an earlier example, Decision No 3/2004 of the Community/Switzerland Air transport Committee of 22 April 2004 amending the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, OJ L 151, 30.04.2004, p. 9, with corrigendum, OJ L 208, 10.06.2004, p. 7.

Proposal for a

COUNCIL DECISION

on a Community Position regarding Decision No. [2/2006] of the Community/Switzerland Air Transport Committee established under the Agreement between the European Community and the Swiss Confederation on Air Transport, amending the Annex to the Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological Cooperation, of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation (2002/309/EC, Euratom), and in particular Article 3 thereof,

Whereas:

- (1) The Agreement between the European Community and the Swiss Confederation on Air Transport (hereinafter referred as “The Agreement”) entered into force on 1 June 2002.
- (2) Article 21 of the Agreement creates a Community/Switzerland Air Transport Committee with responsibility for the administration and proper implementation of the Agreement.
- (3) New Community legislation relevant to the implementation of the Agreement has been adopted since the signature of the Agreement.
- (4) Article 23, Paragraph 4 of the Agreement requires the Community/Switzerland Air Transport Committee to adopt decisions revising the Annex to the Agreement.
- (5) Article 3, Paragraph 3 of the Decision of the Council and of the Commission as regards the Agreement on Scientific and Technological Cooperation of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation (2002/309/EC, Euratom) provides that the Community’s position with regard to the adoption of decisions by the Community/Switzerland Air Transport Committee not mentioned in Paragraph 2 thereof (incorporation of new acquis subject to mere technical adjustments) shall be adopted by the Council, acting by qualified majority, on a proposal from the Commission. As the adaptations with which the new legislation will be incorporated into the Agreement go beyond mere technical adjustments, it is for the Council to adopt the Community’s position on this draft Joint Committee Decision

HAS DECIDED AS FOLLOWS:

Article 1

The position of the European Community in the Community/Switzerland Air Transport Committee, created by Article 21 of the Agreement between the European Community and the Swiss Confederation on Air Transport, with regard to the amendment of the annex to the Agreement, shall be based on the annex to this decision.

Article 2

The Declaration on Swiss attendance of committees contained in the Final Act of the Agreement between the European Community and the Swiss Confederation signed on 21 June 1999 and adopted by the Council on 4 April 2002, is supplemented by a Declaration on Swiss participation in the Single Sky Committee. This Declaration will be published together with the Joint Committee Decision in the annex to this decision.

Done at Brussels,

*For the Council
The President*

Proposal for a

COUNCIL DECLARATION

Accompanying the adoption of the Community Position regarding Decision No. [2/2006] of the Community/Switzerland Air Transport Committee established under the Agreement between the European Community and the Swiss Confederation on Air Transport, amending the Annex to the Agreement

The Council of the European Union agrees that the Declaration on Swiss attendance of committees, contained in the final act of the Agreement between the European Community and the Swiss Confederation on Air Transport, signed on 21 June 1999 and adopted by the Council on 4 April 2002, can henceforth be read as containing an additional indent stating “ - *The Committee established under Regulation 549/2004 (the Single European Sky Committee)* ”

ANNEX

DECISION OF THE COMMUNITY/SWITZERLAND AIR TRANSPORT COMMITTEE

No [2/2006]

of [...] 2006

amending the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport

THE COMMUNITY/SWITZERLAND AIR TRANSPORT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on Air Transport, hereinafter referred to as ‘the Agreement’, and in particular Article 23(4) thereof,

HAS DECIDED AS FOLLOWS:

Article 1

1. The following shall be inserted after the end of point 5 (Aviation Security) of the Annex to the Agreement, as inserted by Article 1(1) of Decision No 1/2005 of the Community/Switzerland Air Transport Committee of 12 July 2005³:

“6. Air Traffic Management”

2. The numbering of point 6 (Others) of the Annex to the Agreement shall be changed to 7.

Article 2

1. The following shall be inserted after the inclusion referred to in Article 1(1) of the present Decision:

“No 549/2004

Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation)

The Commission shall enjoy in Switzerland the powers granted to it according to Article 6, 8 (1), 10, 11 and 12.

³ OJ L 210, 12.08.2005, p. 46.

Notwithstanding the horizontal adaptation provided in the first indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air transport, the references to the “Member States” made in article 5 of Regulation 549/2004 or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.”

2. The following shall be inserted after the inclusion referred to in Article 2(1) of the present Decision:

“No 550/2004

Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation)

The Commission shall enjoy towards Switzerland the powers granted to it according to Article 16 as modified hereinafter.

The text of the Regulation shall, for the purposes of the Agreement, be read with the following adaptations

- a) Article 3 shall be amended as follows:

In paragraph 2, the words "and Switzerland" shall be inserted after the words "the Community".

- b) Article 7 shall be amended as follows:

In paragraph 1 and paragraph 6, the words "and Switzerland" shall be inserted after the words "the Community".

- c) Article 8 shall be amended as follows:

In paragraph 1, the words "and Switzerland" shall be inserted after the words "the Community".

- d) Article 10 shall be amended as follows:

In paragraph 1, the words "and Switzerland" shall be inserted after the words "the Community".

- e) Article 16 paragraph 3 shall be replaced by the following wording:

“3. The Commission shall address its decision to the Member States and inform the service provider thereof, in so far as it is legally concerned.“

3. The following shall be inserted after the inclusion referred to in Article 2(2) of the present Decision:

“No 551/2004

Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation)”

The Commission shall enjoy in Switzerland the powers granted to it according to Article 2, 3(5) and 10.”

4. The following shall be inserted after the inclusion referred to in Article 2(3) of the present Decision:

“No 552/2004

Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation”

The Commission shall enjoy in Switzerland the powers granted to it according to Article 4, 7 and 10(3).

The text of the Regulation shall, for the purposes of the Agreement, be read with the following adaptations

- a) Article 5 shall be amended as follows:

In paragraph 2, the words "or Switzerland" shall be inserted after the words "the Community".

- b) Article 7 shall be amended as follows:

In paragraph 4, the words "or Switzerland" shall be inserted after the words "the Community".

- c) Annex III shall be amended as follows:

In section 3, second and last indent, the words "or Switzerland" shall be inserted after the words "the Community".”

5. The following shall be inserted after the inclusion referred to in Article 2(4) of the present Decision:

“No 2096/2005

Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services”

The Commission shall enjoy in Switzerland the powers granted to it according to Article 9.”

6. The following shall be inserted after the inclusion referred to in Article 2(5) of the present Decision:

“No 2150/2005

Commission Regulation (EC) No 2150/2005 of 23 December laying down common rules for the flexible use of airspace.”

Article 3

1. In point 3 (Technical Harmonisation) of the Annex to the Agreement, the following shall be deleted:

“No 65/93

Council Directive (EC) No 65/93 of 19 July 1993 on the definition and the use of compatible technical and operating specifications for the procurement of air traffic management equipment and systems

(Articles 1-5, 7-10)

No 15/97

Commission Directive (EC) of 25 March 1997 adopting Eurocontrol standards and amending Council Directive 93/65 on the definition and use of compatible technical specifications for the procurement of air traffic management equipment and systems

(Articles 1-4, 6)”

Article 4

This Decision shall be published in the *Official Journal of the European Union*, and the *Official Compendium of Swiss Federal Law*. It will enter into force on the first day of the second month following its adoption.

Done at Brussels,

*For the Joint Committee
The Head of the Community Delegation*

The Head of the Swiss Delegation