

COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a
COUNCIL REGULATION (EEC)
on common rules for the allocation of slots
at Community airports

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. There is growing concern over the imbalance between the expansion of the air transport system in Europe⁽¹⁾ and the lack of adequate airport infrastructure to meet that demand. Not only airlines, facing serious operational difficulties are affected, but also the policy adopted by the Council of Ministers of lowering barriers for market entry and of stimulating competition in Europe is frustrated.

2. At the time of the adoption of the second phase of airline liberalisation the Council of Ministers has given due regard to this discrepancy. Increased liberalisation in the areas of market access, capacity sharing and tariffs on the one hand and the decreasing number of available slots at airports on the other hand⁽²⁾ cannot be easily brought together.

The Council anticipated the coming into force of a Regulation on a code of conduct on slot allocation based on the general principle of non-discrimination on the grounds of nationality.

3. Many initiatives have been taken to increase the capacity of the system. Air traffic control developments include the ECAC (European Civil Aviation Conference) programme for the harmonization and integration of systems in the area, in close collaboration with Eurocontrol. In addition to a study aimed at the development

(1) $\pm 8\%$ increase per year of passenger kilometers over the last five years.

(2) Council regulation n° 2343/90 of 24 July 1990, Article 10.

of two Pan-European air traffic management systems for the longer term.

The capacity of terminal buildings is a responsibility of the airport authorities and the authorities of Member States. The Commission proposal to require regular consultations between airports and users aim to create a framework where also capacity problems can be closely examined and solutions can be discussed. Many airports have increased their handling capacity and measures are taken to speed up the passenger terminal throughput.

4. The capacity of an airport depends on the capacity of the subsystems. Since it is easier to rearrange terminal buildings and apron facilities, it is normally not parking positions, gates, immigrations, customs, luggage facilities etc., that constitute the limiting factors, but runway capacity.

Ideas have been put forward to make more efficient use of the existing runway capacity, e.g. introduction of mixed operations, reduction of the lateral separation of aircraft, construction of rapid exit turn-offs and other ideas. These suggestions merit thorough study and, depending on the specific situation at the airport, they may actually increase the capacity.

There is, however, an increasing number of airports where, despite all efforts, a serious congestion problem exists and will remain to exist and where it is for environmental and other reasons not possible to construct new runways at short notice.

5. It has been recognised by airlines that in those cases where expansion of capacity is genuinely impossible and demand for facilities exceeds availability, adjustments to the schedules of airlines are necessary to prevent undue delays, diversions or cancellations of flights. To this end the airlines organised in the International Air Transport Association (IATA) have developed scheduling proce-

dures guidelines⁽³⁾ aimed to provide governments, airport authorities and airlines with information on recommended methods to deal with congestion problems at airports on a fair and equitable basis.

6. The IATA procedures provide for bi-annual conferences which are open for attendance for all carriers where the schedules of airlines can be coordinated with the airport coordinator. The Scheduling Procedures Committee, the steering group for the conferences, establishes the rules of coordination; it reviews the capacity limitations, assists in establishing them and provides for a review or mediation in case problems should arise.

The airport coordinators play a key role in the total process, not only during conferences, but throughout the year. They decide on the actual allocation of slots and they monitor the whole process of scheduling and use of slots coordinated. Decisions on conflicting slot applications are generally taken on the basis of priority rules. These priorities are based on the following factors:

- Historical precedence - a slot that has been operated by an airline should entitle that airline to claim the same slot in the next equivalent season.
- New entrants - an airline's request for a slot at an airport receives new entrant status provided that the request, if accepted, would not result in the airline holding more than four slots on that day on that airport.
- Effective period of movement - the schedule effective for a longer period of operation in the same season receives priority.
- Emergencies.

(3) IATA - Scheduling Procedures Guide, eight edition July 1990

- Daylight saving time.

In the scheduling procedures these basic priority rules are further defined.

7. To meet the request of the Council the Commission has undertaken a review of the present system of slot allocation and has considered alternative solutions. To this end consultations have taken place with i.a. the following organisations and authorities on the basis of a questionnaire and two discussion papers :

- (a) the slot coordinators
- (b) ICAA (airports)
- (c) ACE (independant airlines)
- (d) EBAA (business aviation)
- (e) IATA and AEA
- (f) ERA (regional carriers)
- (g) FATUREC (users) and
- (h) with the US authorities and airline industry.

The brief results of these consultations were as follows :

(a) The coordinators of the congested airports stressed the point that the present system gives the necessary flexibility resulting in the optimal use of available slots. Coordinators must be knowledgeable airline people to do a proper job. There might be a reason to give coordinators a more formal neutral and independent position, although there have never been complaints on this point. There are ways and means to create more slots at the congested airports. Slot allocation is a global issue, not just in Europe, therefore IATA is a good forum.

(b) The airports recognise that the existing system in the congested airports is far from satisfactory and disadvantages new entrants to the market, the establishing of new routes and the optimal utilisation of airport capacity. They believe that the participation of airports as full members in the slot allo

cation process would be a first step in improving the situation.

(c) The independent airlines of ACE have also indicated that the present IATA system is an efficient way of dealing with the difficult subject of slot allocation. The equal treatment of charter and scheduled services was considered an important aspect. On the question of grandfather rights and new entrants it was accepted that the present system makes it difficult, but not impossible to get slots.

(d) Business aviation is a different market segment because these companies do not participate in the slot allocation process, but try to get the necessary slots when needed on an ad-hoc basis. Flexibility is the key word for this type of aviation, generally the IATA system works well, although airports could play a more important role.

(e) IATA and AEA were strong supporters of the present system. It was stressed that the rules develop gradually and will be developed further. The fact that the system is created and carried out by the industry itself has led to acceptance of the rules, even by those who face refusal of a slot. Community rules would create a massive amount of complaints and court procedures. IATA is willing to cooperate with the Commission and develop rules to better accommodate new entrants. Commission participation in the SPC (Scheduling Procedures Committee) was welcomed.

(f) ERA (European Regional Airlines) repeated the arguments used by the other organisations. A Commission regulation is unnecessary and may disturb the system. New entrants, member of ERA, have been able to obtain slots at the very congested airports.

(g) FATUREC stressed three points : slot allocation should not present a further increase in competition in Europe; existing dominant positions of national carriers at airports should not

be strengthened by the slot allocation rules; new entrants should have access to congested airports.

(h) The US authorities have shown a keen interest in the developments in Europe. They claim preferential treatment for US carriers, similar to the advantaged treatment international services have in the US. The US airline industry accepts the IATA procedure and they participate actively in the development of the rules.

8. On the basis of all the information received, it can be concluded that the scheduling procedures as developed among airlines provide for a reasonable system of schedule coordination. It is widely accepted among airlines as the best possible way to deal with the difficult issue of coordination in a non-political and reasonably neutral way. There are, however, also some deficiencies in the scheduling procedures. The fact that it concerns a set of guidelines creates the necessary flexibility, but it is also recognized that the procedures are not always applied.

The position of the airport coordinator is a very important one, therefore his neutrality should be beyond any doubt.

The fact that the coordinator is appointed by an airline ensures his knowledge but is not a guarantee for neutrality. Also the transparency of the system has been questioned. It is often difficult to control the allocation of slots during and after the scheduling conferences. The emphasis on historical precedence ensures a stable and undisrupted operation, but it also favours carriers established at the airport and discourages new initiatives.

9. The scheduling procedures are not the only set of rules governing the allocation of slots, also in the United States there is legislation in this area. The high density airport rule establishes limitations on the number of (IFR) operations per hour accepted at

four congested airports in the United States⁽⁴⁾. The total hourly limit of landing and take-off slots for each airport is divided into three categories, one for each class of users: air carriers, commuter airlines and other operators. It is very important for European carriers that international slots are allocated separately. In practice this means that if required by any bilateral agreements, slots are made available for international operations.

The allocation and transfer of air carrier and commuter slots are regulated in the "buy-sell" rule. This is the regulatory framework permitting (a) that the initial allocation created a historical precedence to the carrier holding them at the time and (b) that a relatively unrestricted secondary or aftermarket in slots is permitted. Slots for domestic operations can be bought and sold by any party, including non-carriers, with few restrictions.

- 10 "Although US FAA procedures are not identical to the IATA system, we have tried to the degree consistent with US regulations to interface with the IATA process. As congestion grows, a time may come when the voluntary system becomes inadequate, and we must be thinking ahead to what will be necessary to keep the air transport system functioning efficiently. However, a more transparent IATA process seem to us preferable in the near term".⁽⁵⁾

This citation indicates that, although internally the US has its own rules and regulations, on a worldwide scale the IATA process is considered as an efficient way of dealing with the problems.

(4) New York : Kennedy International, la Guardia

Chicago : O'Hara International

Washington : National

(5) Comments of the US government on discussion paper I on Slot

11. The Commission has carefully examined the advantages and disadvantages of the slot trading system as presently applied in the US and it has concluded that, although that such a system has certain merits in the US environment, on the European scene it would not meet the aims as set out above.

12. The Commission has also considered the introduction of a system of peak pricing, charging differential landing, parking and passenger charges in peak and off-peak hours. By adding costs to peak hour operations, airlines could be stimulated to change their operating patterns and schedule more services in the off-peak periods or to non-congested airports. The justification of peak hour pricing is that passengers will have to make a choice between the higher costs of a peak hour operations or to use the airport facilities when demand is lower. On the other hand a system of peak-hour pricing will undoubtedly increase the already high fares in Europe and there is evidence that the demand of peak slots is not very elastic. Therefore airlines react only when the differences in charges are very large. Finally peak-hour pricing does not meet the objective of lowering barriers for market entry. Based on these observations the Commission has considered that before a system of peak hours pricing can be introduced the pros and cons require further study. The Commission has, on the basis of the foregoing, decided to use the existing scheduling procedures as the basis for this Regulation, but to add conditions to the operation of these procedures.

13. One of the main objections against the existing scheduling procedures is the threat that due to the absolute priority given to grandfather rights (historical precedence) air traffic to and from congested airports will be a "closed shop". With the growing demand for slots at these airports the value of grandfather rights will increase. The airlines holding grandfather rights will do anything to preserve their rights, since giving up such a slot means that you will not be able to get it back.

Consequently the situation at congested airports will be more and more static. New, innovative, aggressive or low cost carriers will not be able to compete in these markets and the policy objectives cannot be met.

14. On the other hand it has to be recognized that the preference given to grandfather rights has many merits. The establishment of a service on a route is costly, these investments can only be made if there is certainty that the route can be operated for a longer period.

Also from a passenger perspective it is good that a certain continuity exists in the operations. Thirdly there is the aspect that to establish an integrated network of operations with good connections - also a recognized policy objective - airlines should be able to operate routes over a prolonged period of time.

15. In balancing the advantages and disadvantages it is felt that in certain cases the priority of grandfather rights should be superseded by the interest to promote competition on routes where there is presently a monopoly or duopoly. Subject to certain conditions this can mean that carriers holding grandfather rights will be required to give up these slots for reallocation to a new entrant. Only by accepting this farreaching consequence the risk of inflexibility at congested airports can be avoided.

16. Fortunately even the most congested European airports have not yet reached a level of saturation where new entry through the normal procedures is not possible. At Heathrow, Gatwick, DÜsseldorf and Munich there are each season a considerable number of slots released and redistributed. Therefore the provisions on the withdrawal of grandfather rights and allocation of these slots to new entrants may only be a safeguard clause, at least for the time being.

17. The Council of Ministers has indicated a second category of services where the scheduling procedures offer insufficient protection⁽⁶⁾. The Council decided that pending the coming into force of a Regulation on a code of conduct on slot allocation Member States shall not authorise an air carrier (a) to establish a new service; or (b) to increase the frequency of an existing service between a specific airport in its territory and another Member State for such time as an air carrier licensed by that other Member State is not permitted, on the basis of inter alia rules relating to the allocation of slots, to establish a new service or to increase frequencies on an existing service to the airport in question.

18. This decision of the Council acknowledges that the present scheduling procedures do not ensure availability of slots to reciprocate a new service or an increase of frequencies on an existing service. The fact that carriers holding many slots at the congested airports are free to change the use of that slot from one route to another creates the necessary flexibility, but also leads to the situation that such a carrier can respond to changes in market demand by changing the use of its slots, whereas another carrier, holding only few slots, cannot react in a flexible way.

19. The temporary solution adopted by the Council to refuse increase of frequency or introduction of new services unless reciprocal slots are available risks to lead to inflexibility, because it denies airlines the possibility to react to the market. A more positive approach is to give Community carriers the right for the slots necessary to reciprocate new services or increases of frequency. This, of course, can limit the number of slots available for allocation and it can even result in a limitation of the exercise of grandfather rights, but it avoids a freezing of the situation in certain bilateral relations due to a lack of available slots.

(6) Council Regulation 2343/90 of 24 July 1990, Article 10

Conclusion

20. A code of conduct for slot allocation is a necessary instrument to safeguard the policy objectives of the Council of Ministers. The scheduling procedures as presently applied create a reasonable framework, but it is the responsibility of Member States to intervene in the slot allocation process in certain situations, especially where new initiatives are blocked because of a lack of slots. This is the case where a new entrant intends to operate on a route where competition is limited and where new services or additional frequencies cannot be introduced because reciprocal slots are not available. In these cases, intervention by Member States is needed.

Proposal for a
COUNCIL REGULATION (EEC)
on common rules for the allocation of slots
at Community airports

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission, (1)

Having regard to the opinion of the European Parliament, (2)

Having regard to the opinion of the Economic and Social Committee, (3)

Whereas there is a growing imbalance between the expansion of the air transport system in Europe and the availability of adequate airport infrastructure to meet that demand; whereas there is, as a consequence, an increasing number of congested airports in the Community;

Whereas the allocation of slots at congested airports should be based on neutral, transparent and non-discriminatory rules;

(1)

(2)

(3)

Whereas the requirement of neutrality is best guaranteed when the decision to coordinate an airport is taken by the Member State responsible for that airport on the basis of objective criteria;

Whereas the Member State responsible for the coordinated airport should appoint a coordinator whose neutrality should be beyond any doubt;

Whereas transparency of information is an essential element for ensuring an objective procedure for slot allocation;

Whereas the principles governing the present system of slot allocations could be the basis of the present Regulation provided that this system evolves in harmony with the evolution of the new transport developments in the Community;

Whereas future evolution should allow for the entrance of new carriers into the Community market;

Whereas the present system gives preference to grandfather rights and does not always facilitate new entrants;

Whereas it is Community policy to lower barriers to competition and to encourage entrance into the market, as provided for in Council Regulation (EEC) No 2343/90 (1) and whereas these objectives require strong support for carriers who intend to start operations on intra-Community routes with limited competition;

Whereas it is necessary to require Member States or their appointees to ensure that a minimum number of slots are available for operations on intra-Community routes even where an airport is held to be congested;

(1) OJ No L 217, 11.8.1990, p. 8.

Whereas any withdrawal of grandfather rights should respect the principle of proportionality and should therefore be limited to the number of slots necessary to meet the needs of new entrants at the airport in question, while ensuring that all incumbent carriers at that airport are treated in a comparable manner, taking into account the number of slots used by each, and avoiding unnecessary disturbances of existing arrangements;

Whereas it is also necessary to avoid situations whereby one Community air carrier can introduce a service or increase frequency on an existing service and other Community air carriers cannot reciprocate these initiatives owing to a lack of available slots; whereas this could mean that the benefits of liberalization are unevenly spread and competition is impaired;

Whereas in the cases referred to in the eleventh and twelfth recitals, air carriers which have been granted new slots must use these slots for the purpose for which they were requested over a period of time considered to be sufficient;

Whereas it is appropriate for the Community to offer new entrant air carriers from third countries treatment comparable to that offered by those countries to Community air carriers;

Whereas the adoption of a regulation for the allocation of slots at Community airports should not have a negative effect on the operations of small air carriers,

HAS ADOPTED THIS REGULATION;

Article 1 : Scope of the regulation.

This Regulation shall apply to the allocation of slots at Community airports.

Article 2 : Definitions

For the purpose of this Regulation:

- (a) "slot" means the scheduled time of arrival or departure available or allocated to an aircraft movement on a specific date at an airport during periods which are coordinated;

- (b) "new entrant" means an air carrier
 - I. not holding more than three slots on any day at a coordinated airport and requesting further slots for services on that day, or

 - II. not holding more than 30% of slots held by all air carriers on a day at a coordinated airport or at another airport in the same airport system and requesting further slots at that airport during that day to commence services falling within the scope of Regulation (EEC) 2343/90 on a route on which at most two other air carriers are exercising third or fourth freedom traffic rights between the airports concerned during that day;

- (c) "congested airport" means an airport where the capacity for more than one hour on any day does not meet the demand or forecast demand;

- (d) "scheduling period" means either the summer or winter season as used in the schedules of air carriers;

- (e) "Community air carrier" means the air carriers defined in Article 2(e) of Regulation (EEC) No 2343/90;

- (f) "coordinated airport" means an airport where, in order to land or take off, it is necessary for an air carrier to have a slot allocated by an airport coordinator;

- (g) "airport system" means two or more airports grouped together as defined in Article 2(k) of Regulation (EEC) 2343/90;
- (h) "historical precedence" means a slot that has been operated by an air carrier as cleared by the coordinator and which entitles that airline to the same slot in the next equivalent season.

Article 3 : General rules

- 1) Member States shall permit air carriers with a valid route licence to freely schedule and operate their services to and from Community airports which are not coordinated in accordance with Article 4.
- 2) Member States may require air carriers to communicate their flight programs to national authorities in accordance with national rules and regulations.

Article 4 : Conditions for airport coordination

- 1) A Member State responsible for a congested airport shall consider designating it as coordinated for the periods that congestion problems occur.
- 2) When the airport congestion results in operational delays of more than one hour on any day to the published operating schedules of airlines, the Member State responsible for that airport shall, at its own initiative or at the request of the Commission, designate that airport as coordinated. Once this designation has taken place, the Member State shall inform the Commission thereof.
- 3) The decision to designate an airport as coordinated shall be taken by the Member State responsible for that airport after consultations with the air carriers using the airport repeatedly and/or their representative organisations, the airport authorities and representative organisations of passengers using the airport, where such organisations exist.

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- 4) When the decision to designate an airport as coordinated is taken, a thorough capacity analysis shall be carried out at the airport with the purpose of determining possibilities to increase the capacity in the short term through infrastructure or operational changes, and to determine the time frame envisaged to resolve the problems. The analysis shall be updated periodically and shall be made available to interested parties.
 - 5) This Regulation shall not affect a Member State's right to regulate, without discrimination, the distribution of traffic between the airports within an airport system.

Article 5 : The coordinator

- 1) The Member State shall appoint an airport coordinator upon the advice of the air carriers using the airport repeatedly and/or their representative organisations and of the airport authorities.
- 2) The coordinator shall be responsible for the allocation of slots at the coordinated airport(s) and shall act in accordance with this Regulation in a neutral, non-discriminatory and transparent way.
- 3) The coordinator is answerable only to the Member State that has appointed him.
- 4) The coordinator shall participate in such international scheduling conferences of air carriers as are permitted by Community law.
- 5) The coordinator shall at any time make available for review to all interested parties the following information :

- a) historical slots by airline, chronologically, for all air carriers at the airport,
 - b) requested slots (initial submissions), by air carriers and chronologically, for all air carriers,
 - c) all allocated slots, and outstanding slot requests, listed individually in chronological order, by air carrier, for all air carriers,
 - d) remaining available slots,
 - e) full details on the criteria being used in the allocation.
- 6) The coordinator shall permit slots to be freely exchanged between air carriers or by an air carrier from one route, or type of service, to another.

Article 6 : Scheduling committee

- 1) When a Member State has decided to designate an airport as coordinated according to Article 4(1) and (2), it may set up a scheduling committee that will assist, in a consultative capacity, the coordinator referred to in Article 5. Participation in this committee shall at least be open to the air carriers using the airport(s) repeatedly, the airport authorities concerned and representatives of the air traffic control.

The minimum tasks required of the scheduling committee shall be :

- to consider possibilities for increasing the capacity determined in accordance with Article 7 of this Regulation,
- to suggest improvements to traffic conditions prevailing at the airport in question, and
- to monitor the use of allocated slots.

Article 7 : Airport capacity

At a coordinated airport the airport authority in cooperation with representatives of the air traffic control, and, where applicable, subject to the approval of the Member State, shall determine the airport capacity twice yearly after consultation with customs and immigration authorities and the airlines using the airport and/or their representative associations following internationally established methods. The possibilities of accommodating the different types of aviation shall be examined individually.

This information shall be provided to the airport coordinator in good time before coordination takes place.

Article 8 : Process of coordination

- 1) Air carriers requesting slots at a coordinated airport shall submit to the airport coordinator all information requested by the airport coordinator.

- 2) a. Without prejudice to the application of Articles 85 and 86 of the Treaty and of Article 9 of this Regulation, a slot that has been operated by an air carrier as cleared by the coordinator shall entitle that air carrier to the same slot in the equivalent period and days of operation of the next equivalent season. This historical precedence shall apply only to scheduled services and programmed non-scheduled services.

b. In a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, the airport coordinator shall give preference to commercial air services and in particular scheduled services and programmed non-scheduled services.

- c. The airport coordinator shall also take into account the additional priority rules set out in the Annex to this Regulation.
- 3) If a requested slot cannot be accommodated the airport coordinator shall inform the requesting airline of the reasons therefor and shall indicate the nearest alternative slot.
 - 4) The airport coordinator shall, at all times, endeavour to accommodate ad hoc slot requests for any type of aviation including general aviation. To this end the slots available in the pool referred to in Article 9 of this Regulation but not yet allocated can be used as well as slots liberated at short notice.
 - 5) The Commission shall establish, after consultations with air carriers, airport coordinators, and airport authorities, minimum requirements for the automated systems to be used by the airport coordinators in order to ensure the proper implementation of Articles 5 and 8.

Article 9 : Slot pool

- 1) At a coordinated airport a pool shall be set up containing newly created slots, unused slots and slots which have been given up by a carrier during or by the end of the season.
- 2) Any slot not utilised more than 65% of the allocated period can be withdrawn and placed in the slot pool referred to in paragraph 1 for reallocation, unless the non-utilisation can be justified inter alia on the grounds of the grounding of an aircraft type, or the closure of an airport or airspace.
- 3) Slots placed in the pool shall be distributed among applicant carriers. At least 50% of these slots shall be allocated to new entrants with priority in the order set out in the Annex.

- 4) (a) When requests for slots by new entrants as defined in Article 2 (b) (ii) cannot be accommodated by the normal process or by the procedure referred to in paragraph 3, the Member State responsible for the airport shall make available the necessary slots. For this purpose the Member State shall, in the first instance, and in a non-discriminatory way, reclaim slots used by air carriers to the extent that these carriers operate more than 6 slots on that route on the day in question. Slots are reclaimed on a priority basis from those services which are operated with aircraft of less than 200 seats.

(b) If despite the application of subparagraph (a) serious problems continue to exist for new entrants, the Member State shall convene a meeting of the scheduling committee. The purpose of the meeting shall be to examine possibilities for remedying the situation. The Commission shall be invited to such a meeting.
- 5) The new entrants referred to in paragraph 4 are entitled to as many slots as are needed to meet the existing services of the other air carrier(s) operating on that route to a maximum of 6 slots on any given day.
- 6) The slots referred to in paragraph 4 cannot be freely transferred by the air carrier receiving them from one route or type of service to another for a period of 2 years.
- 7) A new entrant which, through the normal procedures, does not obtain slots within 3 hours before or after the time requested shall retain the new entrant status.
- 8) When the slots made available in accordance with paragraphs 2 and 4, are not used or are given up within a period of 2 years, they shall be returned to their original holder. Where this rule cannot be applied or where the original holder does not wish to use the slot, it shall be placed in the slot pool.

- 9) At the request of any Member State or on its own initiative, the Commission shall examine the application of this Article in any particular case and within two months decide whether it is correctly applied. The Commission shall communicate its decision to the Council and to the Member States.
- 10) Any Member State may refer the Commission's decision to the Council within a time limit of one month. The Council, acting by a qualified majority, may take a different decision within a period of one month.

Article 10: Special circumstances

- 1) A Member State responsible for a congested airport shall ensure the allocation of slots to a Community air carrier that cannot reciprocate a new service or an increase of frequencies on an existing service by another Community air carrier owing to congestion problems at that airport. This obligation shall be subject to the condition that the first carrier can demonstrate that it has not been able to get the necessary slots within 3 hours before or after the time requested during the previous season by the normal slot allocation procedure or by the procedure referred to in Article 9.
- 2) The Community air carrier referred to in paragraph 1 is entitled to as many slots as is needed in order to reciprocate the new service or the increase of frequencies on the existing service of the other Community air carrier.
- 3) The slots referred to in paragraph 2 cannot be freely transferred by the air carrier receiving them from one route or type of service to another for a period of 2 years.

- 4) Member States shall make the necessary transparent and non-discriminatory arrangements to ensure that the slots required to meet the provisions of this Article shall be available for allocation to the relevant airlines at the beginning of the scheduling period, if need be by limiting the number of slots of the air carrier intending to introduce a new service or to increase frequencies on an existing service.
- 5) Whenever the slots made available in accordance with paragraph 4 are not used or whenever they are given up within a period of 2 years, they shall be returned to their original holder. Where this rule cannot be applied or where the original holder does not wish to use the slot, it shall be placed in the slot pool referred to in Article 9.
- 6) At the request of any Member State or on its own initiative, the Commission shall examine the application of paragraphs 2 and 4 in any particular case and within two months decide whether these paragraphs are correctly applied. The Commission shall communicate its decision to the Council and to the Member States.
- 7) Any Member State may refer the Commission's decision to the Council within a time limit of one month. The Council, acting by a qualified majority, may take a different decision within a period of one month.

Article 11 : Relations with third countries

1. The Member States shall inform the Commission of any specific difficulties encountered, in law or in fact, by Community air carriers in obtaining slots at congested airports in third countries.

2. Whenever it appears to the Commission, either on the basis of information received in accordance with paragraph 1 or on the basis of other information, that a third country, with respect to the allocation of slots at congested airports,
 - a) does not grant Community air carriers treatment comparable to that granted by Member States to air carriers from that country, or
 - b) does not grant Community air carriers de facto national treatment, or
 - c) grants air carriers from other third countries more favourable treatment than Community air carriers,

the Commission may initiate negotiations in order to remedy the situation.

3. At the request of any Member State or on its own initiative, the Commission can decide to suspend wholly or partially the obligations of an airport coordinator and a Member State under Articles 8 and 9 in respect of an air carrier of a third country under the conditions referred to in paragraph 2. The Commission shall communicate its decision to the Council and to the Member States.
4. Any Member State may refer the Commission's decision to the Council within a time limit of one month. The Council, acting by qualified majority, may take a different decision within a period of one month.

Article 12 : General provisions

- 1) The Commission shall submit a report to the Council on the operation of this Regulation within two years after its entry into force.

- 2) Member States and the Commission shall co-operate in the application of this Regulation, particularly as regard the collection of the information for the report mentioned in paragraph 1).

Article 13

The Council shall review the operation of this Regulation before 1 July 1994 on the basis of the report furnished by the Commission.

Article 14

This Regulation shall enter into force on the thirtieth day following that of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX

Additional Priorities for Allocation of Airport Slots

1. The prime objective behind the allocation of specific slots should be to ensure that the economic penalties arising from any necessary rescheduling shall be kept to a minimum in terms of the airlines as a whole.
2. When two or more airlines compete for the same slot, the schedule effective for a longer period of operation in the same season shall have priority.
3. In the short term, schedule dislocation caused by disturbances beyond airline control should be dealt with as if they were ad hoc variations. Long-term emergencies should normally invoke a re-scheduling process. The future treatment of slots cleared, but not operated because of the emergency, should be discussed and agreed in advance between the Coordinator and the airline.
4. To improve flexibility for periods at the beginning and end of scheduling seasons in which there are differences in the dates for introduction and withdrawal of daylight saving time
 - (a) schedules for periods of up to 7 days should not be adjusted ;
 - (b) schedules for periods of 8 to 35 days should be given a higher priority than requests for new slots.
5. Any circumstances not covered by paragraph 3 should require negotiation for a new slot. However, if the schedule change results from :

- (a) larger aircraft,
- (b) adjustments to block times in order to make them more realistic,
- (c) the need of an airline to establish a year round operation,

It should have priority over totally new demands for the same slot unless the new demands are requested by new entrants.

6. Those situations which cannot be resolved by application of the criteria in the Regulation itself and those set out above, should be considered further in the context of the following factors :

- A. Size and type of market - consideration should be given to the need for a mixture of long-haul and short-haul operations at major airports in order to satisfy public requirements. Domestic/regional/long-haul markets are part of a total pattern and the size and type of markets must, therefore, be considered.
- B. Competition - consideration should always be given to attempting to ensure that due account is taken of competitive requirements in the allocation of available slots.
- C. Curfews - in the event of a curfew at one airport creating a slot problem elsewhere, priority should be given to the airline whose schedule is constrained by the curfew.
- D. Requirements of the travelling public and other users -- consideration should always be given to minimising public inconvenience (e.g. avoiding excessive airport transit time, losing connections etc.)
- E. Frequency of operation - higher frequency should not, per se, imply higher priority - the principle of optimising economic benefit should be the main consideration.
- F. Flexibility - to achieve optimum utilisation of the available capacity. Coordinators should apply a certain degree of flexibility when allocating slots. Airlines do not always operate

exactly to the timings published in schedules. Weather, winds, variations in flight times, ATC or technical problems are some of the reasons for such deviations. Coordinators should take account of this by :

- I. applying runway restrictions in time intervals of at least 10 minutes ;
- II. measuring hourly movement rates at not less than 30 minutes intervals (e.g. 1200-1259 + 1230-1329) ;
- III. using overbooking profiles based on past experience.

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DOCUMENTS

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