

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(80) 624 final

Brussels, 27st November 1980

PROPOSAL FOR A COUNCIL REGULATION (EEC)
CONCERNING THE AUTHORIZATION OF SCHEDULED INTERREGIONAL
AIR SERVICES OF PASSENGERS, MAIL AND CARGO BETWEEN MEMBER STATES

(presented by the Commission to the Council)

COM(80) 624 final

EXPLANATORY MEMORANDUM

INTRODUCTION

1. International interregional air services are often regarded as an area where the existence of national barriers has led to a somewhat distorted total network. This view relates particularly to routes which might link regions in different Member States of the Community more directly than the present main trunk air services. For this reason the Council in June 1978 put the subject "Possible improvement to interregional air services" on the priority list of subjects to be examined in a Community context. The Commission also considered this type of air services in the Memorandum of July 1979 (1) and suggested that improvements could be introduced with respect both to market access and to tariffs.

2. Against this background, the Council decided in December 1979 to invite the Commission to develop its ideas further with the assistance of national experts and to present proposals in the first half of 1980.

(1) Bulletin of the European Communities, Supplement 5/79 "Contribution of the European Communities to the development of air transport services - Memorandum of the Commission."

3. The Commission accordingly proceeded to an examination of the subject with national experts. The Commission found the discussion very illuminating and most helpful. In addition the Commission asked for advice from representatives of airlines, airports, railways, workers and users. The Economic and Social Committee produced an advice and a report on the Commission's Memorandum (1) and the European Parliament included the subject in a series of hearings on aviation policy.

BASIC CONSIDERATIONS

4. Although interregional crossborder air services might be said to include all non domestic air services within the Community, this was never the intention behind the inclusion of this subject on the priority list of the Council. It would be more correct to state the aims of a policy effort in this area as being to try to create a Community-wide set of rules for the authorization of routes outside the main trunk routes. This system should be supplementary to the trunk route system. It should be understood that the purpose is not to design a Community network of routes but rather to create a regulatory framework within which airlines could operate in an innovative way if they considered such services to be commercially interesting.

(1) CES 658/80

5. On this basis the Commission's aim in presenting the present proposal is to create a regulatory system which would:

- a) permit airlines more easily to obtain traffic rights on routes which they consider can be operated profitably and thereby to establish supplementary services to the trunk air services.
- b) provide objective criteria for use by public authorities which are asked to authorize a service,
- c) set up criteria for tariff levels,
- d) set up a rapid authorization procedure and an arbitration procedure to resolve conflicts,
- e) provide consumers with more direct means of expressing their views on the operation of the system,

Such a regulatory framework should not only be able to permit the development of healthy and dynamic air services but also in a natural way to contribute to regional development.

6. These elements are described in the specific remarks on each article. There are, however, a number of elements of a more general nature which merit closer examination.

MAIN ELEMENTS

Delimitation of regions

7. This is at the centre of any discussion concerning the subject. The Commission is of the opinion that the Council, when inviting the Commission to present proposals for interregional air services, intended to introduce more flexibility in a limited field, in order to gain experience. It is important therefore to define the level of regional services in such a way that the main air services would not unduly suffer losses of traffic. On the other hand, it would also be necessary to ensure the inclusion of sufficient traffic potential in order to permit profitable operations and in order to obtain experience of a sufficiently general nature.

8. The Commission sought advice on whether the definition should be in terms of the regions or airports to be included or in terms of the regions or airports which should be completely or partly excluded from the system. There was agreement that it would be preferable to use the exclusion principle. On the other hand, there was no agreement as to whether it would be better to use regions or airports. A majority was in favour of using airports, which are easy to identify. The Commission has preferred to use airports and not regions because it is difficult to define traffic characteristics on a regional basis.

9. There was general agreement to try to classify airports into three categories. The first category should, according to some experts, be excluded completely, since these airports are the hubs of the trunk air transport system. The second category would include major provincial airports which might be included to some extent. The third category contains the remaining airports which have the capacity for international operations.

10. The basis for such a classification might be the airport list by region published by ECAC in 1978 (1). The Commission feels, however, that this listing is somewhat inappropriate since it was made in 1975 and is based on criteria different from those underlying the present system. Furthermore, it did not mention the airports directly.

11. The Commission proposes the following classification procedure. The airports should be classified according to their importance for international passenger air traffic. For each country therefore:

- a) the airport which handles the largest volume of international passenger traffic should be classified as category 1. The following airports ranked in order according to the volume of international passenger traffic should also be classified as category 1 until at least 60% of the international passenger traffic of that country is accounted for.
- b) The following airports, still ranked according to volume of international passenger traffic should be classified as category 2, until category 1 and 2 airports account for at least 90% of the international passenger traffic of that country.

c) The remaining airports should be designated as Category 3 airports.

(1) ECAC, Doc. No. 15, European Civil Aviation Conference, Report on Intra-European Air Services, Paris 1978

It has been necessary to adjust this procedure slightly in cases where airports are operated jointly - i.e. in Paris, Rome and Milan. A similar adjustment might have to be made if Stansted is designated as the third London airport.

12. This definition together with the Commission proposal to exclude air traffic between category 1 airports and between category 1 and 2 airports and to limit the size of aircraft to be used, under the arrangement (see paragraph 14) should ensure that the existing main air transport services would be only marginally affected. At the same time, there should be enough scope for traffic development to make it interesting for new operators.

Other limitations

13. At the hearing of the European Parliament the Association des Compagnies Aériennes de la Communauté Européennes (a.s.b.l.) (ACE) presented a paper in favour of a more liberal policy. At the same time the Association of European Airlines (AEA) presented a paper that was somewhat apprehensive concerning the possibility of distorting competition through the "siphoning" effect that interregional traffic could have, draining long-haul international traffic to a hub airport in another country. From a Community point of view it might be doubtful whether traffic originating in one country should only be carried by the national carrier in that country. As the Commission said in its memorandum of July 1979, the introduction of new Community rules should be based on an evolutionary approach. Therefore the present proposal contains certain provisions concerning fare structures which should avoid competition being overly influenced by interests external to this arrangement.

Size of aircraft

14. The advice offered to the Commission ranged from a suggestion that there be no limitation on aircraft size to a suggestion that the maximum aircraft size allowed be about 30 seats. It is true that a number of routes would be served by small aircraft and that a majority in fact could be covered by airplanes having up to 70 seats. Larger aircraft might, however, be needed in some instances and in view of energy considerations and in order to ensure adequate scope for flexibility and innovation the Commission proposes a capacity limit of 130 seats per aircraft. This would also have the advantage of not excluding participation by the major airlines.

Effects of more flexible measures

a) General demand aspects

15. The Commission invited experts to provide an evaluation of the effects of liberalizing market access for interregional air services. The opinions expressed in the meetings ranged widely. One point of view was that no extra traffic would be created since any application to create a new service would be granted under the present bilateral system if there were sufficient traffic. Another point of view was that a substantial additional activity could be expected if, as it was said it was perceived by private operators, the "stranglehold" of public regulation were relaxed somewhat. However, no written statements were presented.

16. The Commission, therefore, had to look at existing reports to see whether any additional traffic might be created by opening up market access for such routes. It must be pointed out that these studies were made on the implicit assumption that the existing regulatory system prevails. Therefore they only partially answer the question what would happen under a new regulatory system.

17. The reports available to the Commission were an ECAC study (1) finished in 1978 and a study (2) financed jointly by the French government and the Commission finished in 1979. Both studies seem to indicate that additional traffic would be created, although some traffic would be diverted from the main routes. It is also clear from the studies that the traffic potential between category 3 airports is normally low and that it is only between the more important of these and category 2 airports that a sufficient basis for profitable air services might exist. These studies therefore were taken into account when defining the regional level proposed.

18. The ECAC report of 1978, which is publicly available, contains two basic conclusions. On the one hand a number of routes are predicted by the study but are not operated (in all 26 routes within the Community of ten). On the other hand the study points to a number of routes operated where the study cannot find demand justification (in all 34 routes within the Community of ten).

(1) ECAC Doc. No. 15, European Civil Aviation Conference, Report on Intra-European Air Services, Paris 1978

(2) Etude No. 8 Février 1980 ; "La Desserte Aérienne Interregionale en Europe"

The distribution of routes by regional level is as follows :

	<u>Routes predicted not operated</u>	<u>Routes operated not predicted</u>
1 - 1	-	9
1 - 2	5	10
1 - 3	8	14
2 - 2	3	1
2 - 3	9	-
3 - 3	1	-
Total	<u>26</u>	<u>34</u>

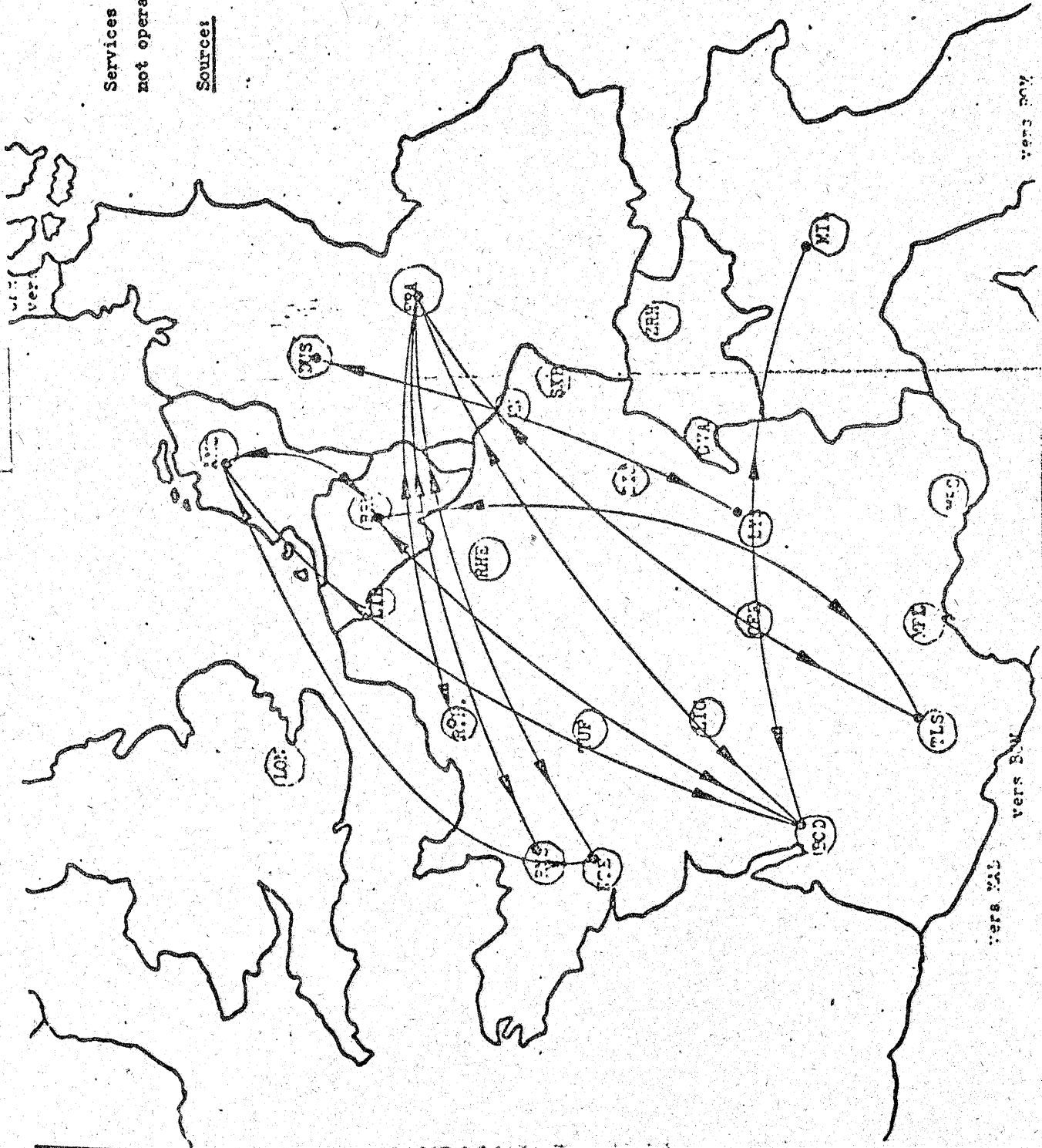
19. This table seems to show that there exists a certain distortion in favour of the trunk routes. It is significant that only 5 of the routes predicted but not operated would fall outside the scope of the proposed regulation.

20. The French government/Commission study, carried out by the SOFREAVIA institute, shows a similar, although somewhat accentuated, result. It must be understood that the study concerns only links between the French provincial regions and the rest of Europe, excluding Greece. However, the illustrations on the next two pages show that at the time of the study a number of routes were predicted which on commercial grounds, including only business traffic, would be able to sustain services, but which were not operated. The study predicts 11 routes in 1985 of which 10 would fall within the scope of the regulation. A further 7 (plus 1 to Spain) are predicted for 1990 which all fall under the regulation.

21. On the basis of these two studies it therefore seems possible to conclude that there is at present a certain distortion in favour of trunk routes and that a potential demand for more direct interregional services exists.

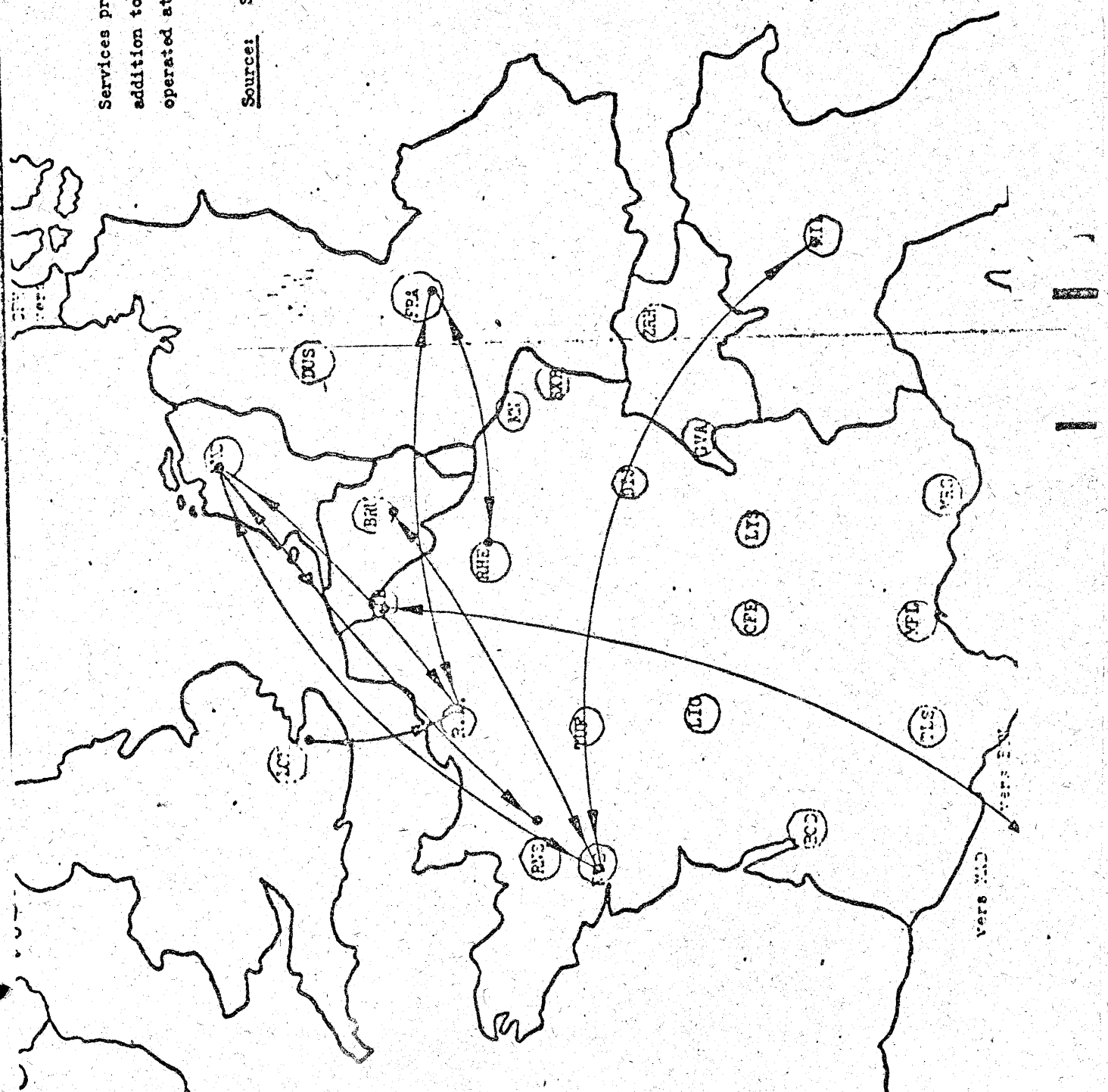
Services predicted for 1985 but
not operated at present.

Source: SOPREAVIA study



Services predicted for 1990 (in addition to 1985 services) but not operated at present.

Source: SOFREAVIA study



b) Specific regional policy aspects

22. It must be emphasized - as the Toothill report did for Scotland as early as 1962 and as was confirmed by later research in particular in the United Kingdom, Denmark and Italy - that the availability and easy accessibility of air services is in many cases a major consideration in business decisions whether or not to choose a site in an outlying region for setting up a new industrial plant. Thus the expansion of interregional air services becomes an integral part of a policy designed to encourage industrial investment in the regions.

23. The reasons, that air transport is important for regional industrial development, relate mainly to accessibility and travel time. Accessibility has traditionally been seen as most important with respect to the hub airports in the home country. However, the SOFREAVIA study shows clearly that regional accessibility in the Community has a wider meaning for business interests and that much of the interregional travel to destinations in other Member States has had to be carried out either indirectly by air or by surface transport. With a view to further integration of the Community and unrestricted and harmonious economic development in the regions such services are important. It must also be pointed out that regional development in many cases is becoming dependant on capital intensive and sophisticated industry. Such industry is often vulnerable with respect to critical components and in case of a breakdown it is necessary that spareparts can be brought in quickly. Air transport could often be the most rapid means.

24. Travel time is often of equal importance and again it must be said that for interregional travel between Member States it is possible to improve considerably on the present structure. No estimation exists of the total saving in travel time which e.g. the new routes identified by SOFREAVIA would give rise to. A direct air service Bordeaux-Frankfurt by turboprop would, however, give rise to timesavings of about 2-3 hours compared with the current travel possibilities by air and 7-8 hours compared with travel by road or rail.

25. In addition, these services may carry some cargo - mostly light parcels - which may be important for firms (many of which show a tendency to settle around airports in order to profit from rapid air transport).

26. The basic demand for interregional services may thus be derived from business travel which has a low price elasticity. In addition in a number of regions some tourist traffic may be expected; this would increase the viability of the routes.

27. In most regions the necessary infrastructure should be available. However, cases may occur where a service will be refused because of lack of infrastructure or insufficient capacity. The fact that information on such cases will be communicated to the Commission will allow it to investigate the possibilities of aid from the Regional Fund or other Community instruments to improve the necessary infrastructure, should such an intervention benefit regional development.

c) Energy saving aspects

28. There are four factors to be considered in this context :

- a) more direct air services
- b) more use of turboprop aircraft
- c) diversion from road traffic
- d) diversion from rail traffic

29. It is quite clear that the first two factors will lead to better energy utilization. A comparison between a direct flight and an indirect flight would not only have to include distance but also energy consumption related to the extra landings and take-offs where aircraft experience heavy consumption. A direct route Bordeaux to Frankfurt would save about 10% on distance alone to which should be added the extra energy consumption connected with an additional stopover. The total saving effect of distance and no stopover, assuming a jet aircraft with about 130 seats, would be about 30%. Similar examples can be shown easily and cases even exist where the first leg of a trip is in the opposite direction from the final destination. A saving in the order of 15% to 20% per passenger as a result of more direct routes does not seem exaggerated.

30. To this must be added use of more energy efficient turboprop aircraft on many routes. A turboprop powered aircraft is considerably more energy efficient than a jet aircraft over short and medium length routes. The breakeven point between a 40 seat turboprop and a 280 seat wide-body jet is slightly over 1500 kms. The comparison over a route of about 500 kms shows more than 25% fuel saving by using a turboprop instead of a wide-body jet. A direct turbo-prop flight from Bordeaux to Frankfurt shows a saving of 45% compared to a turboprop flight from Bordeaux to Paris followed by a wide-body jet flight from Paris to Frankfurt.

31. The effects on energy consumption of a shift of traffic from road to air are not easy to determine.

In most cases, the comparison between a single - occupant motor car and an aircraft shows an advantage for air transport. The energy consumption per passenger - kilometre of a wide - body jet aircraft with a 65 % load factor is lower than that of a single - occupant motor car over straight line distances of about 400 km or more.

An ordinary 130 - seat jet aircraft becomes competitive with a single - occupant motor car in terms of fuel consumption per passenger - kilometre for distances greater than about 900 km ; smaller jet aircraft have an even higher fuel consumption per passenger - kilometre.

New technology jet aircraft (e.g. the HS 146-200) would considerably improve energy efficiency, especially over short distances. Some of these aircraft promise to be more energy efficient than the single - occupant motor car over distances of about 300 km, or perhaps even less.

Turboprop aircraft would bring this "breakeven" distance down to less than 200 km.

For shorter distances, however, the straight line flying advantage of the aircraft is considerably reduced by the need to make landing manoeuvres which incur a handicap corresponding to that suffered by motor cars, which can rarely take a straight line route. It should be noted that the comparisons mentioned above can be affected by air traffic control measures which oblige aircraft to use routes which can be longer than straight line routes.

32. Since it is more than likely that the very short routes would be served by turboprop aircraft, it seems certain that the substitution of air transport for single - occupant motor transport would produce an energy saving if the minimum stage length exceeds 200 km. It is estimated that about 30 % of intercity road traffic consists of single - occupant motor traffic.

33. Except in very special circumstances, energy consumption per passenger - kilometre in rail transport is lower than that in air transport, particularly over short distances. It seems unlikely that air transport would be able to compete against efficient rail services over distances of less than 400 km, or possibly 600 km. Experience to date, and particularly experience with the introduction of fast intercity trains, seems to point to this conclusion. It seems unlikely therefore that air transport would divert passengers from the railways on short haul routes where the two would be in competition.

As far as longer routes are concerned, it seems unlikely that the launching of direct interregional air services would lead to any passenger diversion further to that which has already taken place from the railways to trunk air services.

34. Taking all of these considerations into account, it appears that the launching of direct interregional air services could result in a net saving in energy consumption.

CONCLUSION

35. The Commission considers that there are real economic benefits to be achieved by widening airlines' scope to introduce direct interregional air services.

(a) there is a demand for such services, which would result in important time savings (particularly for business travellers).

(b) Energy savings could result.

(c) The proposed system would provide an invaluable opportunity to test the results of a more competitive environment for air transport, allowing greater scope for innovation, market access and initiative in pricing.

(d) The diversion of some air traffic from the main trunk routes to direct interregional routes would ease congestion at the main airports and in the main airways.

REMARKS CONCERNING SPECIFIC ARTICLES

Article 1

1. This article establishes the scope of the regulation which concerns scheduled interregional air services between Member States including all-cargo services. The minimum distance of 200 km for each stage length is motivated by energy considerations (1). The capacity limit of aircraft is fixed at 130 seats or a maximum take-off weight of 55 tons (1).

2. Charter services are excluded from this regulation because of their specific characteristics.

Article 2

3. The definition of "a scheduled air service" was established by ICAO (The international Civil Aviation Organisation) in 1952 and confirmed by this organisation recently. Other definitions exist but the Commission has preferred to include ICAO's since it is generally accepted.

4. The definition of "An interregional Air Service" is specific to this regulation and aims to separate the services covered by the regulation from other air services within the Community. This is done by including services between certain airport categories.

5. The definition of "a Community Air Carrier" is aimed at preventing air carriers from third countries from establishing themselves in the Community and exploiting the prerogatives which this regulation extends to Community Air Carriers. It should be noted that Community Air Carriers are prevented from carrying domestic traffic in third countries.

(1) For more detailed considerations see under the "MAIN ELEMENTS"

6. The definition of "State of Registry" has a particular importance since it is to this State that a Community Air Carrier must present its application for an Interregional Air Service. It is also the responsibility of this State to examine the economic and technical viability of its Air Carriers.

Article 3

7. This article establishes the obligation for Member States to authorize Interregional Air Services which conform to the regulation. However, it is also stated that Member States may apply more liberal provisions than those contained in certain articles of the regulation.

8. Par. 4 of this article also provides for taking account of the Community interest of the services concerned and their importance for regional development. These provisions concern in particular articles 6 and 7.

Article 4

9. This article states which Interregional Air Service a Community Air Carrier has the right to apply for. The general principle is that such a service must originate in its State of Registry.

10. However, paragraph 2 extends this general principle to include Interregional Air Services between Member States other than its State of Registry (5th freedom) as long as these services constitute an extension of services, referred to in the first paragraph of this article, which are already operated or applied for by the Community Air Carrier. This would mean, for example, that an air carrier, established in the sense of article 2, in France might operate a service Marseille-Liège-Aarhus-Stuttgart-Rome-Marseille. This service would include several Member States and for each flight the air carrier would have the right to pick up and set down passengers, mail and/or cargo for commercial purposes. These 5th freedom rights could be of particular value in allowing the air carriers to improve fleet utilisation particularly when the traffic volume on each flight sector is fairly low. The 5th freedom right proposed does not include extensions of a service beyond a category 1 airport, in order not to disrupt the main trunk scheduled air service.

Article 5

11. The 3-year minimum validity period for authorizations seems sufficient to permit Community Air Carriers to programme their investments and operations.

12. The obligation to begin operations within a certain time limit is aimed at preventing air carriers from obtaining traffic rights without having the intention to operate them.

Article 6

13. The first paragraph specifies the procedure which a Community Air Carrier must follow in order to obtain an authorization. It must present the application to its State of Registry with all necessary documents and information.

14. The rest of the article specifies the role of the State of Registry. First of all this state must check that the service applied for conforms to the regulation, i.e. with respect to authorized airports, stage length, aircraft capacity, restrictions relating to a Community Air Carrier etc. Furthermore, the State of Registry must examine the economic and technical viability of the air carrier. The necessity for these checks seems self-evident, particularly in relation to technical viability which is a vital factor in air safety. However, economic viability may be more difficult to examine and some further remarks are therefore necessary.

Viability of an air carrier

15. The purpose of an examination of economic viability is to assess the real longer-term strength of an airline. Many indicators can be used, some based on accounting analyses and some on traffic analyses. It would be impossible to define one set of indicators as sufficient to give a complete and correct picture of an airline's viability. A correct evaluation requires an examination of the interplay of these factors.

16. Some of the indicators that might be used are mentioned in the following paragraphs but others not mentioned might be more meaningful, depending on the specific structure of the company examined.

17. The return on capital is naturally one of the most important indicators. No firm can remain in business unless it shows a profit. The level of return on capital must be satisfactory and must compare reasonably with earnings in other sectors. A satisfactory return on share holdings might, however, be accompanied by a very slim margin of revenue over costs. Experience in the air transport sector indicates that net revenue before taxes as a percentage of total costs is often a reliable indicator of the viability of small companies.

18. Productivity is another important factor in the assessment. It is, however, quite difficult to evaluate. Gross revenue might be compared with capital (including long term borrowing), but this factor cannot be used in isolation. Other indicators such as passengers carried, available seat kms, revenue ton miles or available ton miles compared with labour input have traditionally been used. These indicators might, however, become less and less satisfactory, since capital input is becoming more important compared with labour input, and it is, therefore, necessary to include both in a productivity evaluation. Input-output analysis using econometric methods would not seem to be justified in the present case.

19. Other analyses can be based on the balance sheet, e.g. the proportion of borrowed capital to total capital ; the distribution of short term and long term debts ; fixed investments (buildings, aircraft equipment etc.) versus working capital (costs, debtors, stocks) ; the relations between own capital and fixed investments.

The liquidity balance is especially important. In some cases it might be necessary to examine if the firm could cover its financial obligations if it were to go out of business. In general, however, solvency should be examined on the basis of the firm as a running concern.

20. All of these indicators can be used ; but none is sufficient in itself. Great care should be taken to choose those indicators which are relevant to the economic environment in which the airline operates.

Viability of a service

21. The State of Registry may also check the viability of a service applied for, and on this basis, if it is seriously dissatisfied with the results, refuse its authorization or impose conditions.

22. The purpose of this control is to ensure that services proposed have a real chance of viability. This is particularly important when infrastructure investments must be undertaken to accommodate the service. The control is also important in order to ensure a certain stability of the air services which is important with respect to regional development.

23. The basic task is to make an evaluation of the expected yearly revenue for a certain time period and compare these revenues with the costs of operation. Simple profitability over a certain number of years is, however, not enough since it might be apparent that external factors could, at a certain point in time, change the economic environment and endanger the long term viability.

24. The estimation of revenue is the most difficult operation. It is necessary to take account of the whole transport environment when estimating demand for the new service. Thus other transport facilities (road, rail, air, etc.) competing directly on the same route or on neighbouring routes must be examined.

25. Demand at different fare levels and structures would also need to be considered. Seasonal movements, traffic composition etc. must be taken into account. Reactions of potential and/or existing competition might need to be included.

26. The estimation of costs is, by comparison, fairly simple and can be made on the basis of the firm's accounts.

27. Careful analysis is necessary. Only in this way is it possible to arrive at a realistic evaluation and thus minimize the risk of introducing a service which would have to be discontinued after a short period. On the other hand, it is necessary in many cases to allow an airline time to develop a route ; the prospect of deficits for a certain number of years should, therefore, not in itself result in the operation being characterised as being non-viable.

Article 7

28. The States Affected may refuse an authorization or impose conditions only for certain clearly-defined reasons.

29. The first relates to airport capacity. This covers technical capacity (e.g. inadequate runways), handling capacity (e.g. arrival/departure gates, aircraft stands) and administrative capacity (e.g. customs and identity checking facilities). The air carriers and the airport authorities will normally be mutually informed in relation to technical and handling capacity, but the States Affected would be directly involved in relation to administrative capacity.

30. The second reason relates to safety in the air, where capacity considerations in relation to the air traffic control system are critical. In this context and also with respect to airport capacity the provisions of article 12 are important when an authorization has been given.

31. The third reason relates to tariffs. If these do not conform to the criteria laid down in article 8 the States Affected have the right to refuse or to impose conditions.

32. Although the grounds for refusing or imposing conditions are very limited, it is in the interest of the user and the airports that the services authorized continue for at least a minimum period, to ensure a certain stability in the system. Paragraph 2 therefore provides the States Affected with the possibility of requiring that the service be operated for at least 12 months, or 2 seasons for a purely seasonal service. This should make it possible to ensure that authorizations are given only to operators who intend to provide a continuing service.

Article 8

33. This article specifies the criteria to be respected by the Community Air Carriers in setting their tariffs. They are designed to ensure that interregional air services are developed as independent operations and not as feeder services.

34. The intention is that interregional air services should be based on the direct demand for each service, and that such demand should directly provide the necessary revenue.

35. Sub-paragraphs (a) and (b) aim at avoiding the incorporation of these services in a larger network, where long haul interests might lead the airlines to cross-subsidize them in order to divert traffic to their own operations.

36. Sub-paragraph (c) aims at encouraging innovation among air carriers with a view to meeting the needs of as many user groups as possible.

37. Sub-paragraph (d) aims at minimizing another possibility of cross-subsidization, and at encouraging airlines to sell basic point-to-point travel. If a customer wants to stop over at an intermediate point, he should pay the extra cost involved. On the other hand, a customer who does not wish to stop over should not have to pay the extra cost of the stopover facility.

Article 9

38. This article should ensure that an application is treated quickly and without unnecessary delay. The article refers to articles 6 and 7 and the three articles together under normal circumstances fix a maximum delay of 4 months from the moment the Community Air Carrier files its application until it receives the authorizations.

Article 10

39. The purpose of this article is to ensure that when disputes arise, they can be rapidly resolved. The basic principle is to let the parties affected try to reach a solution first. Only if they do not succeed is it necessary to use a more formal arbitration procedure or to have recourse to a competent court. Experience with similar arbitration procedures in road transport has shown that they will only rarely be necessary.

40. If the Commission is called upon to arbitrate, the article obliges it to invite all the parties concerned and to consult with them jointly. At this point, the State resisting authorization must present all the considerations which lead it to take this position. The Commission may also call upon other parties having an interest or expertise in the case in question.

Article 11

41. The Commission feels that users should be given the opportunity of expressing themselves in all matters relating to the question of Interregional air services. Such opportunities are few today and exist only in a general way in one Member State. The Commission is convinced that this provision will lead to a better dialogue between users, airlines and national administrations.

Article 12

42. This article ensures that national or local rules of a technical or operational nature are not prejudiced by this regulation, to the extent that these provisions do not discriminate against Interregional Air Services. The national or local rules in question would concern, for example, measures of an environmental nature, or measures of an operational nature dictated by the location of airports or by their level of equipment.

Article 13

43. International arrangements and, in particular, bilateral agreements include rules giving equal treatment to the air carriers of the authorizing countries concerning for instance fuel, spare parts, staff qualifications etc. These rules are especially useful and it seems necessary to maintain their applicability to the air services concerned by this regulation.

Council Regulation concerning the authorization
of scheduled interregional air services for the transport of
passengers, mail and cargo between Member States

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;

Having regard to the opinion of the European Parliament;

Having regard to the opinion of the Economic and Social Committee;

Whereas more flexible procedures for authorizing scheduled interregional air services between Member States for the transport of passengers, mail and cargo between certain Community airports will give air carriers greater scope to develop markets and could thus contribute to the evolution of the intra-Community network;

Whereas common rules should be established to govern access to the provision of these services by air carriers effectively controlled by Member States or their nationals;

Whereas the introduction of new services under certain conditions will make a positive contribution to regional development within the European Community;

Whereas in respect of fares and rates it is necessary to adhere to the principles of a fair cost price ratio and a fair return on capital, taking account of the requirements of the various categories of user;

Whereas provision should be made for procedures enabling any disagreements which may arise between the parties concerned to be settled;

Whereas users must be able to express their opinion on all matters relating to interregional air services;

Whereas environmental considerations should be taken into account;

.../...

Whereas the provisions of this Regulation may be amended after a trial period to take account of new requirements in the economic and social field and of the subsequent development of the Community integration process,

Article 1

This Regulation shall apply to procedures for authorizing scheduled interregional air services for the transport of passengers, mail and/or cargo between Member States where these services are operated

- a) over stages each being more than 200 km or over stages of less than 200 km where air transport allows a substantial time saving compared to surface transport because of natural obstacles such as sea and mountains ;
- b) by aircraft which have a capacity of less than 130 seats or a maximum take-off weight of less than 55 tons.

Article 2

For the purposes of this Regulation

- a) scheduled air service means a series of flights each possessing all the following characteristics:
 - i) it is performed by aircraft for the transport of passengers, mail or cargo for remuneration, in such a manner that each flight is open to use by members of the public;
 - ii) it is operated so as to serve traffic between the same two or more points, either
 - (1) according to a published timetable, or
 - (2) with flights so regular or frequent that they constitute a recognized systematic series.
- b) interregional air service means a scheduled air service between two or more airports in the Community of category 1 and 3, 2 and 2, 2 and 3 and 3 and 3 .

The classification of airports is contained in the Annex;

- c) Community air carrier means an air transport enterprise, which is established in the Community and is effectively controlled through a substantial share in its ownership or otherwise by one or more Member States and/or by nationals of Member States
- d) State of registration means the Member State in which the Community air carrier is established as an air transport operator for commercial purposes ;
- e) States affected means the Member States in which the airports of an interregional air service are situated. This definition may include the State of registration.

Article 3

1. The operation of an interregional air service shall be subject to authorization in accordance with this Regulation.
2. The State of registration and the States affected shall authorize Community air carriers to operate interregional air services where the services applied for conform to the provisions of this Regulation.
3. Member States may, when giving an authorization as provided for in paragraph 1, apply less restrictive provisions than those of Articles 4(2) and 5(1).
4. In the course of the examination of an application for authorization of an interregional air service, the States affected shall take account of the interest for the Community of the Service, particularly as regards regional development.

Article 4

1. A Community air carrier may apply for authorization to operate any interregional air service when the point of origin of the Service is located in its State of registration.

.../...

2. A Community air carrier may also apply for authorization to operate any interregional air service between two or more Member States other than its State of registration to the extent that the service in question constitutes an extension of another interregional air service operated or applied for by that Community air carrier.

This provision shall not apply to an interregional air service which is linked to another of that Community air carrier's interregional air services only through a category 1 airport.

Article 5

1. The authorizations referred to in Article 3 shall give the Community air carrier in question the right to pick up and set down passengers, mail and cargo for commercial purposes excluding traffic within a Member State.
2. The authorizations referred to in paragraph 1 shall be valid for a period of at least 3 years.
3. An authorization shall lapse if the Community air carrier in question fails to commence operations within 6 months after the inauguration date indicated in that authorization. If the delay in commencing operations arises from unforeseen difficulties, this period may be extended by the States affected at the request of the Community air carrier.

Article 6

1. A Community air carrier shall file its application for an interregional air service together with all necessary documents and information with its State of registration.

.../...

2. The State of registration, after verifying the conformity of the application with the provisions of Articles 1, 2 and 4, shall forward it to the States affected.
3. The State of registration shall verify the economic and technical viability of the Community air carrier and shall refuse authorization only if it is seriously dissatisfied with the results of this verification.
4. The State of registration may verify the economic viability of the interregional air service applied for and may, to the extent that it is seriously dissatisfied with the results of this verification, refuse its authorization or impose conditions.

Article 7

1. States affected may refuse to give their authorization to operate an interregional air service applied for or impose conditions only if and to the extent that:
 - a) one of the airports affected has insufficient facilities to accommodate the service, or
 - b) the navigational aids are inadequate, or
 - c) the proposed tariffs do not meet the requirements of Article 8.
2. A State affected may impose as a condition of authorization that the applicant Community air carrier shall undertake to operate the service in question for 12 months or for 2 seasons in the case of a purely seasonal service.

Article 8

States affected shall ensure that the tariffs charged by Community air carriers

- a) are in reasonable proportion to the costs of the applicant Community air carrier's operations while permitting a satisfactory return on capital;
- b) do not have the character of dumping;
- c) meet the requirements of various user categories and encourage the development of demand by new categories of users;
- d) are as regards interregional passenger traffic, set solely on the basis of the route flown, with the right of stopover at any intermediate point being charged for separately.

Article 9

1. When an application for an interregional air service has been filed by a Community air carrier with its State of registration, that State shall within 1 month forward the application to the States affected or refuse it.
2. When an application for an Interregional Air Service has been forwarded to the States affected, those States and the State of registration shall, within 3 months, reach a decision either authorizing the air service applied for or refusing it, and notify the Community air carrier of the decision. The States affected and the State of registration shall inform each other and the Commission of their decision.
3. Any decision to refuse or to attach conditions to an authorization must state the reasons on which it is based.
4. Failure to comply with the time-limits provided for in paragraph 2 shall constitute a dispute within the meaning of article 10.

Article 10

1. In the event of a dispute concerning the authorization of or the tariffs for an interregional air service, the parties to the dispute shall attempt, by a method of their choice, to settle the dispute within three months. If disagreement persists thereafter any of the parties may refer the dispute to the Commission without prejudice to their right to submit it to a competent court.
2. On receipt of a case, as provided for in paragraph 1, the Commission shall request the parties and particularly the State resisting authorization to submit their observations and all relevant information. It shall within 2 months provide for joint consultation of the States affected, the State of registration and the Community air carrier. The Commission may also consult user representatives, airports affected or independent experts.
3. The Commission shall within 5 months of receiving the case notify its decision to the Member State concerned and communicate that decision to the other parties.
4. The decision of the Commission shall be published.

Article 11

1. At least once a year, each Member State shall call on an Air Transport Users Committee to express its opinion on matters relating to interregional air services. This Committee shall in each Member State include the main consumers' interests concerned with matters of this kind. If no such Committee exists, the State concerned shall set one up.
2. The Commission shall convene periodically, at least once a year, representatives of the Transport Users Committees referred to in paragraph 1, for an exchange of views at Community level.

.../...

Article 12

The provisions of this Regulation shall not prejudice the national and local technical and operational requirements of the States concerned, to the extent that these requirements do not discriminate against interregional air services.

Article 13

Community air carriers operating interregional air services covered by this Regulation shall in each State affected enjoy the most favourable treatment granted by that Member State on the same or neighbouring routes to other air carriers, in particular with respect to fuel, spares, staff qualifications and similar matters.

Article 14

Flights covered by this Regulation shall be considered as enjoying the rights of overflight and technical landings in accordance with the International Air Services Transit Agreement.

Article 15

In the light of the experience acquired the Council may, as from 1 January 1984, acting by a qualified majority on a proposal from the Commission and after consulting the Parliament, amend the provisions of this Regulation.

Article 16

This Regulation shall enter into force on 1 January 1981.

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

AIRPORT CLASSIFICATION		
COUNTRY	AIRPORT	AIRPORT CATEGORY
<u>BELGIUM</u>	Bruxelles-Zaventem	1
<u>DENMARK</u>	København-Kastrup	1
<u>FRANCE</u>	Paris-C.D.G.	1
	Paris-Orly	1
	Paris-Bourget	1
	Marseille-Marignane	2
	Nice-Côte d'Azur	2
	Lyon-Satolas	2
	Bâle-Mulhouse	2
<u>GERMANY</u>	(Fed. Rep.)	
	Frankfurt/Main	1
	Düsseldorf	1
	München	2
	Hamburg	2
	Stuttgart	2
	Köln/Bonn	2
<u>GREECE</u>	Athinai	1
	Thessaloniki	2
<u>IRELAND</u>	Dublin	1
	Shannon	2
<u>ITALY</u>	Roma Fiumicino	1
	Roma-Ciampino	1
	Milano-Linate	1
	Milano-Malpensa	1
	Napoli Capodichino	2
	Venezia Tessera	2
	Rimini	2
	Catania Fontanarossa	2

AIRPORT CLASSIFICATION		
COUNTRY	AIRPORT	AIRPORT CATEGORY
<u>LUXEMBURG</u>	Luxemburg	1
<u>NETHERLANDS</u>	Amsterdam-Schiphol	1
<u>UNITED KINGDOM</u>	London-Heathrow	1
	London-Gatwick	1
	Manchester	2
	Luton	2
	Birmingham	2
	Glasgow	2
<u>All other airports:</u>		3