COUNCIL DIRECTIVE

of 18 July 1989

amending Directive 83/416/EEC concerning the authorization of scheduled inter-regional air services for the transport of passengers, mail and cargo between Member States

(89/463/EEC)

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 (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas Directive 83/416/EEC (3), as last amended by Directive 86/216/EEC (4), establishes a Community procedure for authorizing scheduled inter-regional air services between Member States;

Whereas this initiative represents a significant step towards the completion of the internal market;

Whereas the system set up by the aforementioned Directive is of an experimental nature and Article 13 of the Directive therefore provides for the Council to review the operation of the Directive before 1 July 1986 on the basis of reports furnished by the Commission;

Whereas experience has shown that only a few services have been authorized in accordance with the Directive and that it would therefore be desirable to give air carriers greater scope to develop markets and thereby contribute to the evolution of the intra-Community network;

Whereas common rules should promote the development of direct services between the various regions in the Community rather than indirect services;

Whereas a direct service between two airports should not be rejected when an air service between neighbouring airports exists;

Whereas the potential traffic from some regional airports is small but viable services can be operated from such airports when combined with services to other regional airports in the Community, with consequent energy and cost savings;

Whereas arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a Joint Declaration by the Ministers for Foreign Affairs of the two Member States and such arrangements have yet to come into operation;

Whereas Directive 83/416/EEC should be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 83/416/EEC is hereby amended as follows:

1. Article 1 shall read as follows:

'*Article 1*

1. This Directive shall apply to procedures for authorizing those scheduled inter-regional air services, for the development of internal Community air transport for the carriage:

— of passengers, or

— of passengers in combination with mail and/or cargo,

on journeys which both originate and end in the European territories of the Member States and which are operated between two airports in the Community which are open to international scheduled traffic of category 2 and 2, 2 and 3 or 3 and 3 respectively. The classification of airports is contained in Annex A.

2. Notwithstanding the provisions of Article 1 (4) of Council Decision 87/602/EEC of 14 December 1987 on the sharing of passenger capacity between air carriers on scheduled air services between Member States and on access for air carriers to scheduled air-service routes between Member States (1), Article 2 (b) and Articles 3 and 4 of that Decision shall apply to services authorized in accordance with this Directive and operated with aircraft of more than 70 passenger seats.

(1) OJ No L 374, 31. 12. 1987, p. 19.'

2. The second subparagraph of Article 3 (2) is deleted.

3. Point (c) of Article 6 (1) is deleted.

(1) OJ No C 13, 18. 1. 1988, p. 183.
(2) OJ No C 105, 21. 4. 1987, p. 4.
(3) OJ No L 237, 26. 8. 1983, p. 19.
(4) OJ No L 152, 6. 6. 1986, p. 47.

4. Article 13 is replaced by the following:

'Article 13

The Council shall decide on the revision of this Directive by 30 June 1990, on the basis of a Commission proposal to be submitted by 1 November 1989.'

Article 2

1. The application of this Directive to the airport of Gibraltar shall be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

2. Application of the provisions of this Directive to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of the Kingdom of Spain and the United Kingdom will so inform the Council on that date.

Article 3

1. Member States shall, after consultation of the Commission, take the necessary steps to amend their laws, regulations and administrative provisions to bring them into conformity with this Directive not later than 1 November 1989.

2. Member States shall communicate to the Commission all laws, regulations and administrative provisions made in furtherance of this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 18 July 1989.

For the Council

The President

R. DUMAS