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**CONSEQUENCES DU NUAGE DE CENDRES GENERE PAR L'ERUPTION
VOLCANIQUE SURVENUE EN ISLANDE SUR LE TRAFIC AERIEN -
ETAT DE LA SITUATION**

Note d'information de M. KALLAS, en accord avec M. ALMUNIA et M. REHN

Cette question est inscrite à l'ordre du jour de la 1915^{ème} réunion de la Commission le mercredi 27 avril 2010.

Destinataires : Membres de la Commission
Les Directeurs Généraux

INFORMATION NOTE TO THE COMMISSION

The impact of the volcanic ash cloud crisis on the air transport industry

1. INTRODUCTION

1. The European air transport industry has been hard hit by the consequences of the Eyjafjallajökull eruption in Iceland. The volcano, which has been erupting since Wednesday 14 April, created a cloud of volcanic ash which threatened to cover most of Europe, except the Mediterranean region. Volcanic ash contains many problematic substances - mostly silica - that harm aircraft engines, pitot tubes and other systems. Thus, in accordance with the relevant procedures developed at international level, the national authorities had to take decision on safety grounds to close off all affected airspace.
2. The impact of such closure was huge. Millions of passengers were unable to fly. In many cases they were stranded in another country without any immediate possibility to go back home. First estimates by Eurocontrol show that the closure of airspace for the period 15 April to 21 April drove to the cancellation of more than 100,000 flights (within the EU, to/from the EU and overflying the EU) and around 10 millions of passengers were unable to travel. This situation provoked great losses for the whole air transport industry, due to loss of revenues and the need to assist stranded passengers.
3. The European Union immediately mobilised to tackle the most pressing problems. Taking into account the evolutions in the situation and the need for a more differentiated approach on the model and risk management procedures, the European Commission took the initiative over the weekend of 17-18 April, with the Spanish Presidency and Eurocontrol, to propose a co-ordinated European approach. As a result of this work, in full cooperation with Member States and the industry, new procedures were defined. These made it possible to define with much greater precision and shrink the no-fly area and hence reduce the human and economic impact on passengers, airlines and cargo.
4. An extraordinary meeting of EU Transport ministers took place by teleconference on 19th April 2010 in order to agree on and validate the measures prepared during the week-end. The Ministers decided to reinforce a coordinated European response in respect to the crisis, through the European Commission and Eurocontrol. As a result, from 20th April, the European airspace was gradually re-opened in a coordinated manner, on the basis of these new procedures. The situation has been now normalised but remains under constant supervision.
5. Simultaneously, the EU Transport ministers stressed the need to guarantee the full operation of alternative modes of transport to ease the effect of the crisis. The European Commission maintained contacts with different authorities to help coordinating measures to allow mobility of citizens. Moreover, the Commission recommended the Member States to apply special derogations for short stay Visa holders and passengers in transit.

6. Since the beginning of the crisis, there have been continuous contacts with the air transport industry in order to find appropriate solutions and assess the impact of the volcano eruption.
7. On the basis of first available figures, it appears that full closure of the main part of the European airspace has had a significant immediate economic impact on the air travel industry. The direct impact of the closure on EU traffic has been greater than the impact of the closure of the American airspace after 9/11 terrorist attacks in 2001 as it affected a wider airspace and many more flights. The number of flights cancelled was so high that, according to the industry, it directly threatens the financial viability of several operators, already in difficulty in the context of the global economic crisis. This unexpected hit, while the sector was trying to recover from two of the worst years in aviation history, came through the sudden occurrence of an unpredicted natural hazard which drove the authorities to decide to close the airspace. The European Commission considers that these extraordinary circumstances, which have grounded totally the major part of traffic during several days, require an appropriate answer through a specific aviation related response whose main elements are detailed in this information note.

2. PRELIMINARY EVALUATION

2.1. The economic importance of the aviation sector in the EU

8. The share of air transport in the EU-27 economy is around 0.3 % (taking into account the airlines, airports and ancillary services). However, given important linkages between the air transport sector and other economic sectors, the overall incidence of the sector on the economy is a multiple of this figure. The importance of the sector varies across Member States, depending on the size of the aviation sector in their economies. Air passenger transport is significant for the tourism industry and plays an important role in providing intermediary services to many sectors in the economy (i.e. business travel). While the share of air freight transport in overall trade is very small in terms of the tonnage of freight moved, it represents some 20% of EU trade when expressed in value. This reflects the fact that freight transport covers high value added goods.
9. Most freight transport is intercontinental, around half of it from and to the USA, Japan and China (in value). By weight, exports from the EU far exceed imports to the EU. The largest part of extra-EU trade is in non-perishable goods, notably electric and non-electric machinery (such as electronics). This suggests that in most cases transport from and to the EU-27 could eventually be taken over by other modes of transport. This would require reorganising supply chains and inventory practices, obviously implying more time and costs. However, international trade in highly perishable goods (e.g. cut flowers) is entirely dependent on air transport. These specific sectors might have been significantly affected by the volcanic ash cloud.

2.2. The impact of the crisis on Air Transport

10. The fact that tens of thousands of flights had to be grounded had huge consequences for the whole sector. Beyond the personal dramatic situation for millions of passengers who were stranded and unable to benefit from the travel they had paid for, air transport actors have incurred significant costs and suffered reduced revenues

which will hit their profits. While it is too early to determine the precise impact, since some traffic that did not take place during the closure of the airspace may take place later on, first figures provided by the sector calculate losses of several hundreds of million Euros. The air transport sector in the EU has never previously faced a situation of such magnitude.

11. Figures provided by Eurocontrol give a clear picture of the scale of the crisis. At its height on 17/18 April 2010, 17 EU Member States had a full airspace closure and 2 partially (simultaneously 6 non EU-States were fully closed). Following the Council agreement on 19th April, the situation has progressively improved. On 22 April, all airspace was again open apart from a partial closure in southern Finland.
12. During this period, if we consider all flights which were supposed to depart or land in the EU or overflying it, the Eurocontrol estimates show that a total of around 100,000 flights were cancelled between 15 and 21 April 2010. This would have affected a total of some 10 million passengers. This figure has to be completed with the cancellations which still took place in the following days. Considering only the flights within the EU, the Eurocontrol's first estimate indicates a total of 67,000 flights cancelled affecting 5.5 millions of passengers. There was a fall in traffic between the scheduled flights the week before and the "ash days" of 64 % for EU27, with some peaks in several countries of more than 90 %. All types of airlines are affected in a similar way. While the fall in passenger traffic is impressive, it should not be forgotten that cargo traffic faced a similar situation with a decrease of 61 % within the EU27.
13. The International Air Transport Association (IATA) estimated that the Icelandic volcano crisis cost airlines more than \$1.7 billion worldwide in lost revenue during the six days after the initial eruption. For a three-day period (17-19 April), when disruptions were greatest, lost revenues reached \$400 million per day. It calculated that 1.2 million passengers were affected per day. While it acknowledges the existence of some cost savings due the grounding of the fleet (e.g. lower fuel costs), airlines had to bear additional costs, in particular to provide assistance to passengers.
14. Forecasts by Association of European Airlines (AEA), which represents 36 major airlines, evaluate loss of revenue at €850 million for the period from 15 April to 23 April, considering that 52,400 of their flights were cancelled. They add other expenditure of €194 millions for Passenger rights exposure, €1.7 millions for the cost of crew stranded and €2.4 millions for parking at airports.
15. The situation is very similar to other groups of airlines, The European Regional Airlines Association (ERAA) estimates in a very preliminary assessment of its members a loss of €110 million, with a net financial impact of €250 million. The European Low-fares Airlines Association (ELFAA) estimates the total prejudice for its members at €201.86 million. The International Air Carrier Association (IACA - charters) calculates a financial net loss of at least €310 million (lost revenue plus additional costs).
16. Airports were also directly hit. ACI Europe, the Airport Organisation, informed the Commission that 313 European airports were totally disabled (75 % of the European airport network). It calculates that it has lost 16 million passengers during the period 15 April - 20 April, which represents a loss of revenue of €250 million. It estimates

that the cost of the extra-assistance provided by the airports to passengers due to the exceptional circumstances at €10 million.

17. Other services have been affected, in particular the groundhandling services in airports. Beyond those under the control of airlines, the independent handlers association (IAHA) calculates a financial direct total loss which may exceed €200 million.
18. Finally, the Civil Air Navigation Services Organisation (CANSO) estimate that the crisis costs for Air Navigation Service Providers (ANSPs) worldwide €25 million a day.
19. Beyond the aviation sector, there was also a direct impact on tour operators, which are required by legislation to provide repatriation of stranded passengers and to refund or offer alternative arrangements to customers who have not yet started their journey as a result of the air traffic closure. According to ECTAA (European Travel Agents and Tour Operator's association), preliminary estimates indicate that there were 1,6 million tour operator customers stranded abroad since April 15th, with a daily increase of 25 %. ECTAA estimates that tour operators have spent to date in excess of €388 million to provide care and assistance to the stranded passengers as well as their repatriation.
20. Finally, while the traffic had almost fully recovered at the end of the week of 19th April, the industry has still to face challenges in a difficult context. Indeed it is currently trying to ensure the full repatriation of a number of stranded passengers. This has also an impact on the operation of the flights which were scheduled for the next weeks and the service provided to the new passengers who booked their ticket weeks or months ago.
21. According to preliminary estimates made by the Commission services, the overall economic impact of a one week disruption to air traffic in the EU would be small (below 0.1 % GDP loss in the quarter of the year concerned), assuming that air transport can be partly substituted by other modes. A longer disruption would imply proportionally higher effects. These estimates are in line with other sources.
22. The estimates of losses for the air transport are still preliminary and come from the industry. Nevertheless, the Commission considers that a set of immediate and mid-term measures should be taken to take account of the economic consequences of the crisis on air transport and improve the situation in the future. It will continue to monitor developments in order to be able to react and to coordinate the reactions of Member States over and above the measures presented in this note.

3. THE AVIATION CRISIS : THE EU RESPONSE

3.1. Immediate measures in favour of the air transport sector

3.1.1. Application of Passenger rights legislation

23. The flight restrictions which were applied within the EU created a very difficult situation for passengers who had suddenly to face cancellations of flights due to extraordinary circumstances. According to the Regulation 261/2004, airlines were

required to offer to passengers either the reimbursement of the ticket or a re-routing. Moreover, the airlines had to provide assistance to stranded passengers, in particular for meals but also accommodation. According to Regulation 1107/2006 on the rights of disabled passengers and passengers with reduced mobility (PRM passengers) airports were to provide assistance to this category of passengers. Moreover, the fact that, in view of the magnitude of the situation, some air carriers were momentarily unable to provide the assistance under regulation 261/2004 brought the airports to spontaneously help the first needs of stranded passengers during their stay at the airport, with additional costs for airports.

24. The Commission considers that these regulations remain fully applicable during these testing times for passengers and the industry alike. The benefits of EU rules for passengers can be precisely appreciated in such exceptional circumstances. On this basis, in order to ensure a uniform application throughout the EU, the Commission informed the national enforcement bodies (NEBs) in Member States of the applicable rules on passenger rights in order to reduce as far as possible any confusion and to give appropriate information to the passengers. In particular, the Commission reiterated that compensation was not due for cancellations of flights since the circumstances were clearly extraordinary.
25. However, the Commission is aware that with the extension of the closing of the air space and the increasing number of flights cancelled, the dimension of the problem has taken such proportions that it may have become very difficult for air carriers to provide all their passengers at the same time with all the different forms of assistance or with the re-routing foreseen in the EU law. National authorities may take these practical difficulties -exacerbated by the uncertainty on when the air space will be fully reopen again and the unstoppable increase in the number of cancelled flights-into account when analysing the circumstances and the practicalities of the application of APR regulations during the crisis. The Commission recommends that Member states adopt administrative acts listing all cancelled and long-delayed flights resulting from the airspace closure, and fixing a timeline for passengers on those flights to provide proof to the operating air carrier of their expenses according to the regulation, which would be duly reimbursed by the carrier within the fixed timeline.
26. The unexpected duration of the closure drove to the need to ensure the assistance to passengers for several days, which represents a huge cost for airlines in a situation which is beyond their control. Therefore the Commission has made clear that Member States could take all measures to favour the repatriation by the government of passengers by other means of transport. Airlines which have fully applied the existing legislation on passenger rights should not be in disadvantage with those who did not.
27. The Commission is currently undertaking a review of the application of Regulation 261/2004. In its assessment, it will take into account the experience of the volcano ash cloud crisis to decide whether improvements are necessary. In particular, it will address the issues of respect by airlines of their obligations and the conditions and modalities of such assistance in exceptional circumstances. It will also continue monitoring the application by Member States and will propose all appropriate measures to ensure uniform application across the EU.

3.1.2. *Operational flexibility to relaunch the traffic*

28. Given the need to facilitate the speedy and efficient repatriation of stranded passengers, the resumption of freight delivery and the return to normality of the overall network, it is important that the airlines are afforded maximum flexibility in scheduling their operations for a temporary period. Member States should be allowed to waive or relax operating restrictions, in particular those introduced under Directive 2002/30/EC¹. This Directive establishes rules and procedures that Member States must follow with regard to the introduction of such restrictions, but contains no provisions relating to the temporary withdrawal or suspension of restrictions, including the associated penalties. Thus, the Commission will not object if Member States consider allowing additional flexibility, given the particular circumstances. Such flexibility should be strictly restricted to the transition period needed to ensure the return to normality. The Commission will closely monitor the situation.

3.1.3. *Application of the slots regulation*

29. The reference point of the Regulation on slot allocation (Council Regulation 95/93 as amended) is the situation during a coordination season. Article 10 (2) of the Regulation provides that carriers are not entitled to the same series of slots for the next equivalent period unless they can demonstrate to the satisfaction of the coordinator that they have used these slots, as cleared by the coordinator, for at least 80% of the period for which they were attributed.
30. However, the Regulation also accepts that exceptional circumstances, namely unforeseeable and unavoidable cases outside the air carrier's control, may affect the use of slots. Article 10(4)(a) allows carriers to cite circumstances such as the grounding of aircraft, the closure of an airport or airspace, or serious disturbance of operations, in order to avoid losing their slots with established historical precedence (grandfather rights) during the season and the next equivalent season.
31. The Commission considers that the closure of the major part of EU airspace and the subsequent disturbances to the resumption of operations constitute exceptional circumstances that impact negatively on the EU routes and the international network of the airlines. It considers that coordinators should interpret the provisions of the above Regulation in such a way that airlines do not risk losing their unused slots as a consequence of the ash cloud crisis.

3.1.4. *En-route charges*

32. It appears that a number of airlines are facing urgent and temporary need for cash following the crisis. Under these circumstances, the immediate payment of en-route charges could undermine their financial situation while they need time to face their obligations. Charges are collected through a Eurocontrol multilateral system. One bill is established per flight, irrespective of the number of States overflown.
33. The Commission will recommend to Member States and to Eurocontrol to assess immediately the possibility to defer the actual payments for en-route charges for a

¹ Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports.

restricted period of time. One of the possible scenarios would be that, during this period, a 0 Euro unit rate would be applied and a new unit rate would be recalculated, taking into account that full-cost recovery applies, for the June-December period. To that effect, Member States should take all appropriate steps in relation to their Air Navigation Service Providers.

3.1.5. *Emission Trading Scheme in aviation*

34. Aviation is contributing to the EU's greenhouse gas reduction commitments² through its inclusion in the EU wide target to reduce emissions by 20% in 2020 from 1990 levels. From 1 January 2012, airlines' carbon dioxide emissions are included in the EU emissions trading system (EU ETS)³. The total cap for aviation emissions is set at 3% below 2004-6 emissions levels in 2012, and 5% below 2004-6 emissions levels between 2013 and 2020. 82% of this cap is allocated to individual aircraft operators as free emissions allowances based on their share of the total amount of passengers and cargo carried and distances travelled in 2010. The financial situation of the airlines should be strengthened by these free allocations up to 2020.
35. While the recent events from the volcano will therefore have no effect whatsoever on the total size of the emissions cap for aviation under the EU ETS, the reduced activity over the past week could in principle affect the distribution of free allowances between aircraft operators. This distributional effect may occur if certain airlines had to cancel a greater proportion of flights than others. Such relative distributional impacts are however likely to be small as most operators have been impacted by the flight restrictions. Flights cancelled throughout the year for other reasons, such as strikes, forest fires and severe weather could also lead to distributional impacts.
36. Furthermore, many airlines will be much busier over the coming weeks, carrying very high amounts of passengers and freight as travel patterns return to normal. This extra activity could make up to some extent for the reductions in activity over the last week, especially as those with most cancelled flights are likely to be busiest in clearing their backlog.
37. The Commission is ready to examine the long term effects.

3.1.6. *Application of the rules on State aid*

38. The Commission considers that Member States can rapidly implement measures in favour of air industry which do not constitute State aid, notably loans and guarantees granted at market conditions. Certain support measures for the undertakings directly affected to offset the losses incurred during those days could also be envisaged in accordance with the provisions of article 107.2.b) TFEU⁴ on the basis of which aid to make good the damage caused by natural disasters or exceptional occurrences is considered to be compatible with the internal market. Indeed, it appears to the

² Directive 2009/29/EC and Decision 406/2009/EC

³ Directive 2008/101/EC

⁴ This provision must be interpreted narrowly. The Court has held that only damage caused by natural disasters or exceptional occurrences may be compensated for under that provision. It follows that there must be a direct link between the damage caused by the exceptional occurrence and the State aid and that an assessment as precise as possible must be made of the damage suffered by the companies.

Commission that the volcanic eruption, the dispersion of volcanic ashes into air space, and the ensuing closure of large parts of the European air space are precisely the kind of exceptional occurrence envisaged by Art 107.2b), and may justify such support measures, in the absence of availability of insurance cover.

39. When support by Member States will take the form of State aid measures, such temporary measures must be granted on the basis of uniform criteria established at European level so as not to distort unduly the market. In particular, aid must only be granted for net losses directly linked to the exceptional occurrences and, in case of airlines, it will have to take into account if relevant costs have been sustained or not on the basis of applicable EU law on air passenger rights, notably as regards assistance and rerouting. Moreover, it must be non-discriminatory and neither result in over-compensation for the damage suffered, nor be used as a pretext for bypassing the Commission's policy on rescue and restructuring aid and providing funds to remedy undertakings' problems unrelated to the current/recent events.
40. In light of these considerations, the Commission could prepare a communication clarifying the requirements to be fulfilled to provide such aid and discuss it with Member States so as to achieve a proportionate and coordinated response. Such a communication would specify the categories of State aid that can be allowed, based on data showing which damages have actually been suffered, and how such aid has to remain proportional to the damages incurred, thus limiting possible market distortions of the aid with a view to ensuring a level playing field in the internal market. To this end, the communication would also impose on Member States the obligation to notify the intended aid schemes to the Commission before their implementation, so that each national plan could be examined on the basis of same the principles as set out in the communication.

3.2. Structural measures to favour a sustainable traffic

41. Beyond the immediate measures to face the effects of the crisis, there are a number of more far reaching measures to be taken, with a structural effect on the air transport sector. These measures constitute the best means to give to the EU the appropriate tools to react to such events in the most effective way, to the benefit of the highest level of safety and provide increased certainty for the air transport sector.

3.2.1. Assessment of risks: change the picture

42. The Eyjafjallajökull eruption and its consequences for air transport showed how important the quality of technological and data support is to enable an appropriate risk assessment and adequate decisions in case of incidents and events with potential effects on a large geographic scale and on complex systems with high safety requirements as in air transport.
43. The "lessons learnt" show the need to accelerate ongoing research and development:
 - to improve data collection and modeling methodologies such as satellite observation and imagery, atmospheric in situ measurements, dispersion models etc.
 - to ensure that they fill the identified gaps of data and information needs and in order to support a robust and more detailed risk assessment.

- to envisage new actions including the adoption of the latest technology such as unmanned aircraft vehicles (UAV) for atmospheric measurements, complementing or replacing the traditional in-situ measurements with balloons.

44. The Commission has decided to take two initiatives

- The creation of a working group of experts, with the participation of representatives from Eurocontrol, the European Air Safety Agency (EASA), Member States, ICAO and the industry. This group will establish an inventory of the relevant technological and methodological tools, at European level and in the Member States, and a research and technology roadmap to make the most up-to-date and validated tools quickly and regularly available to take the appropriate decisions.
- The development of a new European methodology and coherent approach for safety risk assessment and risk management in relation to the closure and reopening of airspace. This work, which will involve all relevant actors, should take into account also other risks from natural causes or human activities.

45. On the basis of this experience and the exchanges with other world regions, the Commission will prepare a paper to be submitted by the EU to the International Civil Aviation Organisation (ICAO) General Assembly in September 2010.

3.2.2. *Giving the highest priority to the acceleration of the implementation of the Single European Sky (SES)*

46. The current crisis showed, if any proof were needed, the crucial importance of a better integration of the EU airspace through the Single European Sky (SES) initiative. There is no time for further delays: the acceleration of its implementation should be given the highest political priority.

47. The SES reform was initially adopted in 2004 to redesign the European sky according to traffic flows rather than national borders. Following the adoption by the European Parliament and the Council of Regulation (EC) No 1070/2009 known as the 'Single Sky Package (SES) II' in record time in November 2009, a roadmap identifying all the actions to be taken to implement SES II has been elaborated.

48. The Madrid Declaration, adopted in February 2010, highlighted the utmost importance of SES for the future of European aviation. It translates the 5 priorities of the Single European Sky second package into concrete actions on:

- a new regulatory framework based on efficient governance and performance-based air traffic management;
- the highest safety standards;
- the most advanced technology in Europe;
- the integration of the infrastructure in 'gate-to-gate' approach;
- the human factor.

49. To accelerate the full implementation of the SES, the Commission proposes 7 concrete actions to be taken in the coming weeks:

- Immediate creation of a crisis coordination cell. Initiated by the Commission, this cell will work with the participation in particular of Eurocontrol, EASA, Member States and the air transport stakeholders. It will organize coordination in the case of a sudden crisis to react immediately and take the appropriate initiatives. For instance, it could take the decision to launch unmanned aircraft vehicles (UAV) needed to collect data. Before the summer 2010 the Commission will make proposals to enable the UAV to be operated in the SES.
- Nomination without delay of the Functional Airspace Blocks (FAB) coordinator to facilitate their quick creation.
- Anticipate the implementation of the FABs by Member States in view of supporting a coordinated reply to the Crisis Cell recommendations. The FABs will contribute to the de-fragmentation of airspace and should allow substantial economies of scale.
- Appointment of the central European network management before the end of 2010. This is crucial: if the network management Function had been designated prior to the crisis, the situation would have been quite different. Thus the EU would have benefit from a more harmonised and coordinated approach to the risk and flow/capacity assessment, the ability to formulate quickly proposals for solutions to be tabled in the context of SES governance structures, taking also into account the need for coordination with other neighbouring countries and regions.
- Implementation before the summer 2010 of the performance scheme. This scheme is the keystone of the entire package and aims at setting binding targets on Member States in the key performance areas of safety, environment, airspace capacity and cost efficiency. The objective is to start quickly with a first performance cycle covering the 2012-2014 period. As a key feature, the scheme will contain alert mechanisms to coordinate a single European response to crisis situations.
- Acceleration of the implementation of EASA's competences in Air Traffic Management (ATM) safety. EASA should be able to assume before 2012 these new competences to ensure the safety of the European network, thus ensuring a "full system, gate-to-gate", approach to safety. In particular, EASA shall ensure the safety oversight of the network in support of the network manager.
- Support the SESAR deployment. The Commission will propose all measures needed to ensure the adoption of the deployment strategy before the end of 2010.

3.2.3. *A strong neighbourhood policy to favour the recover of traffic and its smooth operation*

50. Since 2005, the EU has defined a coherent and ambitious approach in air transport external relations. Through this approach, the EU has achieved important results through agreements with key partners, like Canada and the USA, and the promotion of the creation of a Common Aviation Area with its neighbourhood. The EU is now

recognised as a major actor in international air transport, bringing important added value to the evolution of the sector thanks to the results achieved in terms of market access, investment opportunities and regulatory convergence.

51. The existing agreements have had a strong impact on traffic, favouring the economic growth of the sector, while promoting the highest standards in terms of safety, security and environmental protection. Based on the sharing of standards and promoted through Council conclusions in 2005, the objective of a Common Aviation Area with the neighbouring countries ultimately envisages a single air transport market of 58 countries representing 1 billion inhabitants.
52. This objective will give to the air transport sector new possibilities and opportunities in a harmonized environment. It remains not only perfectly valid but also crucial and must be intensified. In particular, the development of common standards and procedures in ATM with neighbouring countries will greatly facilitate the smooth operation of traffic from and to the EU, as well as for transcontinental flights.
53. Since 2005, the Commission has received several mandates to negotiate such global aviation agreements. In 2006, agreements were signed with Morocco and the Balkan countries (ECAA). New agreements have been initialled with Georgia and Jordan, while negotiations are taking place with Israel, Lebanon, Tunisia and Ukraine, and a mandate has been given to negotiate with Algeria. Following the positive outcome of several negotiations, the Commission will examine the opportunity to complete negotiations with remaining eager countries in the Region, and to further deepen the realisation of a fully functioning Common Aviation Area.
54. The Commission will detail its approach in this field in the framework of an initiative on the EU air transport external policy by the end of 2010.

3.2.4. Promote a pan-European mobility plan

55. The protracted closure of the European airspace following the volcanic eruption in Iceland has left extremely frustrated travellers stranded in airports and severely impacted the air transport industry. With tens of thousands of flights cancelled and millions of passengers to reroute, the magnitude and complexity of the challenges international passenger transport services in general had to face was without precedent.
56. Efforts should be dedicated to ensuring that, if one mode of transport can not deliver, other transport modes can quickly substitute in the interest of passengers. Systems must be developed to promote better intermodality between air services and other modes of transport, notably rail (systems to allow re-booking for passengers, exchangeability of tickets, mutual exchange of schedule information between air and rail, contingency plans, optimisation of schedules).
57. The Commission is in favour of the development of a pan-European mobility plan which would describe contingency scenarios and procedures to be applied in case of a sudden crisis. Such scenarios would have to be implemented by Member States, in full respect of the principle of subsidiarity, with the contribution of the Commission to a smooth coordination. Regional cooperation initiatives would also be supported.

58. To this end, the Commission will propose the creation of a specific working group with stakeholders to assess the current situation and make concrete proposals to the Member States

3.2.5. *Reflection on a European instrument to give the appropriate answer to such crisis*

59. The Commission will also reflect on the specificities of the economic impact of such unexpected crisis provoked by a specific disaster. It will evaluate which tools could be developed to provide assistance to a specific sector seriously hit without breaching the level-playing field within the EU. Stakeholders should start reflecting about mechanisms to best cope with such unforeseen events leading to difficulties in terms of business continuity and lost revenues. Possibility for specific insurance or the creation of a common fund should be explored.

4. CONCLUSIONS

60. The Commission therefore considers that the situation created by the closure of airspace in the EU justifies the adoption of emergency measures in the framework of the current rules and policies:

- With regard to air passenger rights: the Commission considers that air passenger rights provided by the EU law remain fully applicable and that their uniform application is essential. It encourages the relevant national authorities to take into account in their compensation schemes the practical difficulties encountered by the airlines. It will continue monitoring the situation and, in the framework of the review of Regulation 261/2004 will propose to take into account the experience of the ash cloud crisis.
- With regards to the implementation of EU legislation: the Commission will not object if Member States consider allowing additional flexibility to existing operational restrictions, given the particular circumstances. Such flexibility should be strictly limited to the transition period needed to ensure the return to normality. The Commission will closely monitor the situation. It will also assess the impact of the fall in traffic in other pieces of legislation, including ETS Directive.
- With regard to slots: coordinators should interpret the provisions of the "slots" Regulation in such a way that airlines do not risk losing their unused slots simply as a consequence of the ash cloud crisis..
- With regards to route charges: the Commission will recommend to Member States and to Eurocontrol to assess immediately the possibility of deferring the actual payments for en-route charges for a restricted period of time.
- With regards to State aids: the Commission will examine favourably, within the framework of State aid rules, support measures by Member States to compensate undertakings directly affected by the closure of the EU airspace to offset the losses incurred during those days. Such temporary measures should be granted on the basis of uniform criteria established at EU level so as not unduly to distort the market. The Commission will make sure that such measures are only granted for net losses directly linked to the exceptional occurrences, are non-discriminatory and neither result in over-compensation for the damage suffered, nor they are used

as a pretext for bypassing the Commission's policy on rescue and restructuring aid and providing funds to remedy undertakings' problems unrelated to the current events.

- With regards to risk analysis in air transport: the Commission will favour new approaches in the evaluation of risks, in particular in the case of natural disasters like the Eyjafjallajökull eruption. On the basis of the conclusions of expert meetings, of the European Air Safety Agency (EASA)'s input and of cooperation with other World regions, the Commission will make proposals to adapt and develop a better integrated and more coherent approach for safety risk assessment and risk management in relation to the closure and reopening of airspace. It will prepare an EU paper in view of the September 2010's International Civil Aviation Organisation (ICAO) General Assembly.
- With regard to the Single European Sky (SES), the Commission will prepare all needed measures to accelerate and anticipate the full implementation of the Single European Sky. Several measures should be taken already in 2010. The Commission has decided to create a permanent crisis cell (with the participation of Eurocontrol, EASA, member States and the air transport stakeholders) to manage dramatic situations in air traffic. It also calls the Member States and the European Parliament to give the highest priority to this objective and adopt all needed measures as fast as possible.
- With regard to relations with third countries: the Commission considers that the priority should be given in the coming years to negotiations with neighbourhood countries in order to create a single European Common Aviation Area covering 58 countries. Full cooperation will be given to the countries which have already initialled or signed an air transport agreement with the EU in order to accelerate the implementation of the acquis, in particular in ATM cooperation. The implementation of global agreements with the USA and Canada will also be key for the recovering of the traffic.
- With regards to mobility plans in case of crisis: the Commission is in favour of the development of a pan-European mobility plan which would describe contingency scenarios and procedures to be applied by Member States in case of a sudden crisis. It will propose the creation of a specific working group with stakeholders to assess the current situation and make concrete proposals to the Member States.
- With regards to the possibility of a specific fund to answer to such crisis: the Commission will evaluate which appropriate tools could be developed to provide assistance to a specific sector seriously hit without breaching the level-playing field within the EU. Possibility for specific insurance or the creation of a common fund should be explored.

61. The Commission will continue to monitor closely developments in the air transport sector and to act quickly should the situation deteriorate. The present crisis has also demonstrated the necessity to engage with the very many aviation stakeholders in an urgent manner to understand their concerns, their needs, their requests and their proposals. Given the importance of the EU in aviation policy and the fact that initiatives in many policy areas impact the aviation industry at large, the Commission

will create an Aviation Platform gathering all aviation stakeholders at European level. Its aims would be twofold:

- To follow-up to the crisis measures and, beyond the present situation,
- To work closely with all air transport actors on all initiatives that have an impact on the sector.

The Aviation Platform would be convened by the Vice-President of the European Commission in charge of transport in close coordination with the responsible Commissioners.

62. Depending on how the current situation evolves, the Commission reserves the right to review the measures taken or announced in this note.