

# WORLD TRADE ORGANIZATION

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**Committee on Technical Barriers to Trade**

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## **REPLY BY THE EUROPEAN COMMISSION TO THE COMMENTS PREPARED BY THE UNITED STATES**

### **FEDERAL AVIATION ADMINISTRATION ON THE PROPOSED EUROPEAN COMMUNITY REGULATION ON USED AIRCRAFT (NOTIFICATION G/TBT/NOTIF.99.75)**

#### Communication from the European Community

In its reply, the United States raises the following two issues:

- The full compliance of the recertificated aircraft with the international standards adopted by the International Civil Aviation Organisation (ICAO)
- The imposition of a design based standard (by-pass ratio)

The European Commission wishes to reply as follows to these two issues.

1. It should first be recalled that the main purpose of the proposed Regulation is to prevent further impact of recertificated aircraft on the overall noise level in the European Community. The proposed Regulation aims also at reducing other environmental damage such as fuel emission.
2. The requirement contained in the Regulation affects the recertificated aircraft only by aiming at stopping new registrations of such aircraft within the European Community, with the exception of those being completely re-engined with engines having a by-pass ratio of three or more. Moreover, with a view not to prejudicing aircraft registered in third countries with a history of flights into the European Community in the reference period between 1995 and 1999, the proposed Regulation will not affect such aircraft, if they are in 2002 on the same register as in 1999.
3. The ICAO Chapter 3 standard, which was established in 1977, only measures noise for the purposes of noise certification and does not deal with acceptable noise limits in terms of environmental compatibility of airport activities. Therefore, the existing ICAO standard does not address other airport restrictions, which are an established feature of international aviation. The proposed measure aims at limiting an increase in air transport activities that would make a disproportionate contribution to the noise impact around airports and prevent the expansion of capacity to meet forecast growth.
4. For the purpose of the proposed Regulation, the international standard is thus ineffective and inappropriate. The ICAO standard is in particular ineffective because the noise standard set 20 years ago totally ignores the increase in air traffic which took place since. The European Community has during a large number of years co-operated actively within ICAO to change the Chapter 3 standard to a standard which reflects better modern technology and other related noise factors. However, this has not been possible, notably due to a lack of co-operation from certain states, including the US.

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5. The ICAO Chapter 3 standard would not be effective to achieve environmental objectives in terms of fuel burn and pollution. Available technical data show that the specific fuel consumption at maximum take-off rating for recertificated aircraft can be 50 per cent higher compared to current technology Chapter 3 aeroplanes. The emissions of hydrocarbons and nitrogen oxides during the landing and take-off cycle for recertificated aircraft can be about 30 per cent higher compared to current technology Chapter 3 aircraft. A standard different than one related to noise only appeared thus necessary to fully achieve the environmental objectives of the proposed Regulation.

6. This is why the European Community, by the proposed Regulation, has chosen to refer to the level of the by-pass ratio. This measurement method is technically speaking the most appropriate proxy for the environmental performance of the aircraft. As far as energy consumption is concerned, an increase in the by-pass ratio leads to a decrease in the specific thrust of the engine, which leads to more fuel efficient engines. In addition, the beneficial side effect of an increasing by-pass ratio is a reduction in jet noise, this is particularly relevant for noise during take-off, where jet noise is a significant contributor to overall noise levels. Use of the by-pass ratios for classification of technology-induced noise performance represents a wide-spread international practice and has also been used in the context of the CAEP (Committee on Aviation environmental Protection) work under the auspices of ICAO.

7. It should finally be mentioned that the European Community adopted the Regulation on 29 April 1999, after having postponed on 29 March 1999 its decision to adopt this Regulation by one month in order to fully take account of observations expressed by another WTO Member on the notification by the European Commission. In the joint declaration of the Council of Ministers and the European Commission, which was adopted together with the Regulation, both Community institutions welcomed the priority given by the United States to the ICAO work on noise standardisation. They noted with satisfaction the willingness recently expressed by the United States to develop expeditiously, within ICAO and in close co-operation with the European Community, the next generation of noise standard. The European Community committed itself to work, in close co-operation with the US and other partners, on a new noise standard as a priority. The Community institutions further highlighted that this work should also include the development of phase-out measures for the noisiest categories within Chapter 3. The purpose of these measures is to answer to the immediate noise problems generated by the development of air transport and the problems arising from deficiencies in the phasing out of Chapter 2 aircraft by 2002. In order to facilitate the continuation and the conclusion of consultations on these issues, the Council decided in this exceptional case to postpone the date of application of the Regulation by one year.

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