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LIMITE

**AVIATION 16
RELEX 109
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NOTE

From: General Secretariat
To: Working Party on Aviation

Subject : **AVIATION**

- **Demarche by the Community and its Member States regarding the proposed prohibition by the United States of America of all types of lighters being carried by passengers onboard aircraft**
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At the meeting of the Aviation Working Party on 1 March 2005, delegations examined a draft ‘note verbale’ to be submitted by the European Community and its Member States to the US Department of State and the US Department of Homeland Security regarding the proposed prohibition by the USA of all types of lighters being carried by passengers onboard aircraft.

In the light of comments made by delegations at the meeting, the Commission services drafted a revised text of this note, which is set forth in the Annex.

Delegations are invited to reach agreement on the text, further to which it will be submitted to COREPER, probably at the meeting on Monday 21 March 2005.

NOTE VERBALE

The European Community and its Member States presents its compliments to the Department of State and have the honour to refer to Section 4025 of S.2845, the Intelligence Reform and Terrorism Prevention Act of 2004 which was signed by the President of the United States on 17 December 2004. This Section requires that butane lighters be added to the list of items prohibited from being carried onboard a passenger aircraft by 15 March 2005.

We understand that the Transportation Security Administration (TSA), Department of Homeland Security, on the basis of the above mandate will introduce from 14 april 2005 a prohibition of all types of lighters being carried both by passengers and in their hand luggage and, consequently, also in the sterile areas of airports¹. As US rules are often intended to apply not only to US outbound but also inbound flights, this rule may have a direct impact on operations at airports in the European Union.

The European Union's primary objective is to ensure that flights departing from its airports meet the highest security standards, in particular those of Regulation (EC) 2320/2002 and related implementing legislation. If for any reason more stringent measures than those already required by this Regulation or by a Member State are considered necessary for flights to the United States, the EU and its Member States would expect full consultation in accordance with the rules of Annex 17 to the Chicago Convention.

As regards a ban on all lighters the EU and its Member States question the effectiveness of such a rule. Given technology restraints to date in detecting in an efficient way lighters the only realistic means of potentially detecting such items would be to subject all passengers and their hand luggage to a hand search. However, such hand searching of all passengers and their hand luggage would paralyse airport operations in Europe and is, therefore, unacceptable and inapplicable.

¹ Source of information: US Federal Register, Vol. 70, N° 39 of 1.3.2005, p. 9877

It should also be noted that any such ban may have the likely effect of encouraging passengers to place lighters in their hold baggage. This has potentially serious safety consequences and the risks may, indeed, outweigh any possible benefits from banning such objects from being carried on the passenger.

The European Community and its Member States avail themselves of this opportunity to renew to the Department of State the assurance of their highest consideration and request that the Department bring this Note to the attention of the Department of Homeland Security and other relevant authorities.
