

- Member States are required to eliminate incompatibilities between provisions of both the Rome Treaty and Community law and provisions in bilateral Agreements with their countries; and
- Council regulations on competition in the 1987 package provided for their application to fifth-freedom carriers with the EC. Following EJC ruling on the Ahmed Saeed case, the 1987 package proposed that: Article 86 of the Treaty should apply to concerted practices on routes between the Community and third countries; rules need to be established and applied to concerted practices on third country routes; procedures should be provided for the resolution of conflicts of international law and also for block exemptions. The 1987 proposals also included rules concerning fifth-freedom traffic rights for Community air carriers between Member States and third countries.

Community Competence

- Drawing on the ECJ opinion 1/78 of the European court of Justices that commercial policy as laid down in Article 113 is of "an evolutive nature" and "embraces all that, in an international framework, is considered to form part of such a policy", then Article 113 on the Common Commercial policy in the Treaty affords the legal basis for Community competence in this sector. Furthermore, as transport forms part of services — to wit their inclusion in the Uruguay Round of