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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a European Parliament and Council regulation concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of airline services from countries not members of the European Community (14141/1/2003 – C5-0018/2004 – 2002/0067(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Nicholas Clegg

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
PROCEDURAL PAGE	4
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	7

PROCEDURAL PAGE

At its sitting of 14 January 2003 Parliament adopted its position at first reading on the proposal for a European Parliament and Council regulation concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of airline services from countries not members of the European Community (COM(2002) 110 – 2002/0067(COD)).

At the sitting of 15 January 2004 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (14141/1/2003 – C5-0018/2004).

The committee had appointed Nicholas Clegg rapporteur at its meeting of 18 April 2002.

It considered the common position and the draft recommendation for second reading at its meetings of 21 January 2004 and 17 February 2004 .

At the last meeting it adopted the draft legislative resolution by 42 votes to 0, with 2 abstentions.

The following were present for the vote: Paolo Costa (chairman), Rijk van Dam (vice-chairman), Gilles Savary (vice-chairman), Pedro Aparicio Sánchez (for Rosa Miguélez Ramos), Graham H. Booth (for Alain Esclopé), Philip Charles Bradbourn, Felipe Camisón Asensio, Luigi Cocilovo, Christine de Veyrac, Nirj Deva (for Dana Rosemary Scallon), Jan Dhaene, Den Dover (for Rolf Berend), Garrelt Duin, Jacqueline Foster, Catherine Guy-Quint (for Bernard Poignant), Konstantinos Hatzidakis, Ewa Hedkvist Petersen, Roger Helmer (for Mathieu J.H. Grosch), Liam Hyland (for Gerard Collins pursuant to Rule 153(2)), Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Renate Sommer), Dieter-Lebrecht Koch, Giorgio Lisi, Erik Meijer, Bill Miller (for Brian Simpson), Enrique Monsonís Domingo, Francesco Musotto, James Nicholson, Camilo Nogueira Román, Josu Ortuondo Larrea, Peter Pex, Wilhelm Ernst Piecyk, Samuli Pohjamo, Alonso José Puerta, Reinhard Rack, Ingo Schmitt, Dirk Sterckx, Ulrich Stockmann, Hannes Swoboda (for Danielle Darras), Ari Vatanen, Herman Vermeer, Mark Francis Watts and Brigitte Wenzel-Perillo (for José Javier Pomés Ruiz) .

The recommendation for second reading was tabled on 18 February 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council common position for adopting a European Parliament and Council regulation concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of airline services from countries not members of the European Community
(14141/1/2003 – C5-0018/2004 – 2002/0067(COD))**

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (14141/1/2003 – C5-0018/2004),
- having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2002) 110)²,
- having regard to the amended proposal (COM(2003) 228)³,
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 80 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0064/2004),

1. Amends the common position as follows;
2. Instructs its President to forward its position to the Council and Commission.

Council common position	Amendments by Parliament
Amendment 1 Recital (5)	
(5) This Regulation is not intended to replace air services agreements with third countries that can be used to deal effectively with practices covered by this Regulation; in cases where a legal instrument exists at Member State level which would enable a satisfactory response to be made, that instrument would take precedence over this Regulation, <i>which would be subsidiary to it.</i>	(5) This Regulation is not intended to replace air services agreements with third countries that can be used to deal effectively with practices covered by this Regulation; in cases where a legal instrument exists at Member State level which would enable a satisfactory response to be made <i>within a reasonable timeframe,</i> that instrument would take precedence over this Regulation <i>for that period.</i>

¹ .OJ CE 38, 12.2.2004, p.15.

² OJ CE 151, 25.6.2002, p. 285.

³ Not yet published in OJ.

EXPLANATORY STATEMENT

The events of 11 September 2001 and the ensuing war on terror led by the USA, the SARS epidemic, have hit the world airline industry at a time when it is going through a painful but necessary restructuring process. Faced with this dilemma, many non-European countries have granted and may grant in the future, large subsidies thus enabling their national airlines to compete unfairly with European Airlines. The necessity to ensure that European Airlines are able to compete in an undistorted single market has stimulated the Union to take the actions that are the subject of this proposed legislation.

In its Resolution of the 14 January 2004, Parliament proposed 65 amendments to the Commission's proposal¹. Of these, 30 were accepted by the Commission and integrated wholly or in part in the Common position. A further 4 amendments, not initially accepted by the Commission were incorporated into the Common position by Council.

In the view of your rapporteur, the explanations supplied by the Commission for the non-acceptance of the remaining amendments contained in its amended proposal COM(2003)228 are satisfactory. However, The Common position of the Council contains a new recital 5 which in the view of both the Commission and your rapporteur is inconsistent with the dispositions of articles 1, 2. Indeed, The Commission submitted a statement for inclusion in the minutes of the Council adopting the Common Position pointing to the incongruencies between the different texts.

Having consulted with the Council on this point, your rapporteur would recommend that the Common Position be adopted with the following single amendment.

¹ COM(2002)110.