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REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
No. prev. doc.:	12441/1/18 REV 1
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Subject:	Proposal for a Regulation of the European Parliament and of the Council on safeguarding competition in air transport, repealing Regulation (EC) No 868/2004 - Preparation for the 3rd trilogue

I. INTRODUCTION

1. On 8 June 2017, the Commission adopted the above-mentioned proposal, together with its Communication on an Aviation Strategy for Europe. In this Communication, the Commission stated its intention to assess the effectiveness of Regulation (EC) No 868/2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community, with a view to revising or replacing it with a more effective instrument that would ensure fair competition conditions between all air carriers and thereby safeguard connectivity to and from the Union.
2. The legislative proposal has been assigned to the Parliament's Committee on Transport and Tourism (TRAN) which designated Markus Pieper (EPP, Germany) as rapporteur. The Economic and Monetary Affairs Committee has designated Ramon Tremosa I Balcells as rapporteur for opinion.

II. STATE OF PLAY

3. On 7 June 2018, the Council reached a General Approach on the above-mentioned proposal. On 11 January 2018, the EP rapporteur presented his draft report to the TRAN Committee. The draft report supports the Commission's proposal, but introduces some changes in order to notably involve more the European Parliament in the consultation process, or put more emphasis on the connectivity criterion in the investigations. The Committee Members discussed the amendments to the report on 20 February and adopted the draft report on 20 March 2018.
4. The first trilogue took place on 27 June, on the basis of the General Approach and the EP report. A broad mandate was given to subsequent technical meetings to identify and make progress on certain areas of compromise with a view to a second trilogue, which took place on 24 September 2018. Both these first two trilogues confirmed the importance given by both co-legislators to agreeing on an effective and applicable Regulation, which should be able to support fair competition in the aviation sector, while also protecting consumers and connectivity in the Union.
5. The second trilogue confirmed the tentative agreement reached at technical level on a great deal of issues and allowed an exchange of views on the main political issues of the Regulation.

The European Parliament put a specific emphasis on:

- the inclusion of social factors in the Union Interest test. Moreover, the Parliament insisted that the Union Interest test should not be applied before the launch of the Commission's investigation;
- the inclusion of the concept of the 'threat of injury' in the Regulation, as basis for the investigation and, if necessary, for the adoption of provisional redressive measures;
- the possibility for provisional redressive measures, as a complement to the threat of injury, especially if a third country obstructs the investigation. The Parliament argued that it is important to strongly intervene before irreversible damage is done against the Union, that such provisional redressive measures exist in other Union legal acts and have already been applied;
- the adoption of redressive measures by the Commission.

The European Parliament also expressed doubts and asked for further clarifications regarding the Council General Approach on:

- the deletion of Article 10 (the 'violation track'), which, in their view, reduces the scope of the Regulation;
 - the new Article 4a 'Suspension', which the EP sees as a way for the Member States to block the investigation;
 - the legal clarification regarding the exclusion of traffic rights as possible redressive measures;
 - the adoption of operational redressive measures by the Council.
6. At the Aviation Working Party meetings on 28 September, 8 and 12 October 2018, the Presidency provided the delegations with details regarding the Parliament's position regarding the remaining technical outstanding issues, as well as the main political issues. Delegations were invited to indicate their positions and flexibility on the Parliament's amendments and main concerns. Furthermore, in order to prepare the third informal trilogue, technical meetings were held on 26 September and 8 October 2018.

III. REVISED MANDATE

7. With a view to the third informal trilogue, on 17 October 2018, the basis for the discussion will be the 4-column document contained in the Annex to this report, as well as the proposal for a compromise package concerning the main political issues included in Addendum 1 to this report.
8. In fourth column, the lines highlighted in orange contain the remaining outstanding technical issues and Presidency's compromise proposals for them. Changes with respect to the previous version of the 4-column table (document 12441/1/18 REV1) have been indicated with **bold underlined** and ~~strikethrough~~.
9. The suggested technical compromise proposals include the following provisions:
- lines 107-113 - Union Interest
 - line 127 - Commission's decision not to investigate in case of non-systemic issue, or no significant impact;
 - line 147 - negative impact on connectivity;

- line 152 - Member States' support in the investigation;
- line 175 - confidentiality clause;
- line 189 - duration of proceedings - disregarding the possible suspension of the investigation;
- line 194 - resumption of the investigation after 6 months, if the injury/threat of injury persists;
- line 219 - investigation should not be limited to the injury period;
- line 254 - Commission's reporting before the review of redressive measures.
- lines 272-273 – Commission's reporting to EP and Council

10. In ADD 1 to this report, the Presidency is also proposing a possible compromise package on the main political issues, with a view to reaching a final agreement on the file.

IV. CONCLUSION

11. The Permanent Representative Committee is invited to agree on the revised mandate for the third trilogue on the Safeguarding Competition Regulation foreseen for 17 October 2018, as set out in the Annex and ADD 1 to this report.

**Proposal for a
Regulation of the European Parliament and of the Council
on safeguarding competition in air transport, repealing Regulation (EC) No 868/2004**

COM proposal, COM(2017) 289 final	European Parliament/ A8-0000/2018	General Approach, doc. 8224/18	Compromise proposals/remarks
1.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 100(2) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee ¹ , Having regard to the opinion of the Committee of the Regions ² , Acting in accordance with the ordinary legislative procedure,		
2.	Whereas:	(1) OJ C , , p. . (2) OJ C , , p. .	

	COM proposal, COM(2017) 289 final	European Parliament/ A8-0000/2018 Amendment 1 Recital 1	General Approach, doc. 8224/18	Compromise proposals/remarks
3.				
4.	<p>(1) Aviation plays a crucial role in Union's economy. It is a strong driver for economic growth, jobs, trade and mobility. Over the past decades, growth in air transport services significantly contributed to improving connectivity within the Union and with third countries and has been a significant enabler of Union economy at large.</p>	<p>I. Aviation plays a crucial role in Union's <i>economy and the everyday lives of Union citizens being one of the best performing and most dynamic sectors of the European economy</i>. It is a strong driver for economic growth, jobs, trade and, <i>tourism as well as connectivity</i> and mobility <i>for businesses and citizens alike, particularly within and between the areas of the Union</i>. Over the past decades, growth in air transport services significantly contributed to improving connectivity within the Union and with third countries and has been a significant enabler of Union economy at large.</p>	<p>(1) Aviation plays a crucial role in Union's economy. It is a strong driver for economic growth, jobs, trade and mobility. Over the past decades, growth in air transport services significantly contributed to improving connectivity within the Union and with third countries and has been a significant enabler of Union economy at large.</p>	.

	COM proposal, COM(2017) 289 final	European Parliament/ A8-0000/2018	General Approach, doc. 8224/18	Compromise proposals/remarks
5.		Amendment 2 Recital 1 a (new)		
6.		(1a) <i>The European aviation sector represents around 2 million direct jobs and international aviation is expected to grow by around 5 % per year until 2030.</i>		
7.		Amendment 3 Recital 1 b (new)		
8.		(1b) <i>It is essential for the Union to provide effective protection for the various sectors of its economy, and for its workers, against any unfair competitive practices from third countries.</i>		
9.		Amendment 4 Recital 2		
10.	(2) Union air carriers are at the centre of a global network connecting Europe internally and with the rest of the world. They should be enabled to compete against third countries air carriers in an environment of open and fair competition <i>between all</i>	(2) Union air carriers are at the centre of a global network connecting Europe internally and with the rest of the world. They should be enabled to compete against third countries air carriers in an environment of open and fair competition. This is <i>necessary to maintain</i>	(2) Union air carriers are at the centre of a global network connecting Europe internally and with the rest of the world. They should be enabled to compete against third countries air carriers in an environment of open and fair competition between all	

	COM proposal, COM(2017) 289 final	European Parliament/ A8-0000/2018	General Approach, doc. 8224/18	Compromise proposals/remarks
	<p><i>air carriers. This would contribute to maintaining conditions conducive to a high level of Union's connectivity.</i></p>	<p>conditions conducive to a high level of Union air connectivity <i>and to ensure transparency, a level-playing field and continuing competitiveness of Union air carriers, as well as high levels of quality employment in the European aviation industry.</i></p>	<p>air carriers. This would contribute to maintaining conditions conducive to a high level of Union's connectivity.</p>	
11.		<p>Amendment 5 Recital 2 a (new)</p>		
12.		<p><i>(2a) Europe represents a space of over 500 million potential passengers for third country air carriers. This potentially-increasing traffic should be kept in mind when comprehensive aviation agreements with the rest of the world are negotiated on behalf of the Union.</i></p>		

13.		Amendment 6 Recital 3		
14.	<p>(3) Fair competition is an important general principle in the operation of international air transport services. This principle is notably acknowledged by the Convention on International Civil Aviation (‘the Chicago Convention’) whose preamble recognises the need for international air transport services to be based on the basis of "<i>equality of opportunity</i>". Article 44 of the Chicago Convention also states that the International Civil Aviation Organization (‘ICAO’) should aim to foster the development of international air transport so as to "<i>insure that every contracting State has a fair opportunity to operate international airlines</i>" and to "<i>avoid discrimination between contracting States</i>".</p>	<p>(3) In a context of increased competition between air transport actors at a global level, fair competition is an indispensable general principle in the operation of international air transport services. This principle is notably acknowledged by the Convention on International Civil Aviation (‘the Chicago Convention’) whose preamble recognises the need for international air transport services to be based on the basis of "<i>equality of opportunity</i>". Article 44 of the Chicago Convention also states that the International Civil Aviation Organization (‘ICAO’) should aim to foster the development of international air transport so as to "<i>insure that every contracting State has a fair opportunity to operate</i>"</p>	<p>(3) Fair competition is an important general principle in the operation of international air transport services. This principle is notably acknowledged by the Convention on International Civil Aviation (‘the Chicago Convention’) whose preamble recognises the need for international air transport services to be based on the basis of "<i>equality of opportunity</i>". Article 44 of the Chicago Convention also states that the International Civil Aviation Organization (‘ICAO’) should aim to foster the development of international air transport so as to "<i>insure that every contracting State has a fair opportunity to operate international airlines</i>" and to "<i>avoid discrimination between contracting States</i>".</p>	

		international airlines" and to "avoid discrimination between contracting States".		
15.		Amendment 7 Recital 3 a (new)		
16.		<i>(3a) The opening of markets and connectivity is clearly linked because distortion of competition leads to a shift of traffic flows. Third country air carriers want and need to access airports in all Member States because of the potential market of 500 million passengers that the European continent represents for them.</i>		
17.	(4) The fair competition principle is well established within the Union where market distortive practices are subject to existing Union law, which guarantees equal opportunities and fair competition conditions for all air carriers, European and non-European, operating in the Union.		(4) The fair competition principle is well established within the Union where market distortive practices are subject to existing Union law, which guarantees equal opportunities and fair competition conditions for all air carriers, European and non-European, operating in the Union.	

18.		<p style="text-align: center;">Amendment 8 Recital 5</p>		
19.	<p>(5) However, in spite of continued efforts by some third countries <i>and the Union</i>, principles of fair competition have not yet been defined through specific multilateral rules, notably in the context of the ICAO nor of World Trade Organization (WTO) agreements, from the scope of which air transport services have largely been excluded³.</p>	<p>(5) However, in spite of continued efforts by <i>the Union and</i> some third countries, principles of fair competition have not yet been defined through specific multilateral rules, notably in the context of the ICAO nor of World Trade Organization (WTO) agreements, from the scope of which air transport services have largely been excluded.</p>	<p>(5) However, in spite of continued efforts by some third countries and the Union, principles of fair competition have not yet been defined through specific multilateral rules, notably in the context of the ICAO nor of World Trade Organization (WTO) agreements, from the scope of which air transport services have largely been excluded¹.</p>	
	<p>(3) Marrakech Agreement, Annex 1B General Agreement on Trade in Services (GATS), Annex on Air Transport Services.</p>		<p>(1) Marrakech Agreement, Annex 1B General Agreement on Trade in Services (GATS), Annex on Air Transport Services.</p>	
20.	<p>(6) Efforts should therefore be strengthened in the context of ICAO and of WTO to actively support the development of international rules guaranteeing fair competition conditions</p>		<p>(6) Efforts should therefore be strengthened in the context of ICAO and of WTO to actively support the development of international rules guaranteeing fair competition conditions</p>	

	between all air carriers.		between all air carriers.	
21.		Amendment 9 Recital 6 a (new)		
22.		<i>(6a) In the light of the United Kingdom's notification to the European Council of 29 March 2017, notifying its intention to withdraw from the European Union in accordance with Article 50 of the Treaty on European Union, the Commission should conduct a thorough assessment of the consequences of this withdrawal on air transport between the Union or its Members and the United Kingdom, with the aim of achieving as little disruption as possible in air transport services for carriers based in the Union and for consumers.</i>		

23.		<p style="text-align: center;">Amendment 10 Recital 7</p> <p>(7) Fair competition between air carriers should preferably be primarily addressed in the context of air transport or air services agreements with third countries. However, most air transport or air services agreements concluded between the Union or its Member States or both, on the one hand, and third countries on the other do not so far provide for corresponding rules. Efforts should therefore be strengthened to negotiate the inclusion of fair competition clauses in existing and future air transport or air services agreements with third countries without delay.</p>		
24.	<p>(7) Fair competition between air carriers should preferably be addressed in the context of air transport or air services agreements with third countries. However, most air transport or air services agreements concluded between the Union or its Member States or both, on the one hand, and third countries on the other do not so far provide for corresponding rules. Efforts should therefore be strengthened to negotiate the inclusion of fair competition clauses in existing and future air transport or air services agreements with third countries.</p>		<p>(7) Fair competition between air carriers should preferably be addressed in the context of air transport or air services agreements with third countries. However, most air transport or air services agreements concluded between the Union or its Member States or both, on the one hand, and third countries on the other do not so far provide for corresponding rules. Efforts should therefore be strengthened to negotiate the inclusion of fair competition clauses in existing and future air transport or air services agreements with third countries.</p>	

25.		Amendment 11 Recital 7 a (new)		
26.		(7a) Air agreements and this Regulation should be complementary and facilitate dialogue with the third country concerned in order to efficiently resolve disputes and restore fair competition. Where bilateral air transport or air services agreements with third countries include fair competition clauses or similar provisions, exhausting dispute settlement procedures foreseen in such international agreements should not be a precondition for opening a procedure under this Regulation and should not preclude the right of the Commission to initiate an investigation in order to ensure complementarity between this Regulation and the bilateral agreements.		

27.		Amendment 12 Recital 7 b (new)		
28.		<i>(7b) Wherever necessary, for effective, proportionate and dissuasive reasons or when it is determined, on the basis of available facts, that a threat of injury exists and also, in the event of a complex ongoing investigation, it should be possible for provisional redressive measures to be taken before the termination of proceedings.</i>		
29.		Amendment 13 Recital 7 c (new)		
30.		<i>(7c) The initiative to negotiate air transport agreements at the Union level and bilateral aviation safety agreements with third countries representing emerging and strategic markets (such as China, Japan, ASEAN, Turkey, Qatar, the UAE, Armenia, Mexico, Bahrain, Kuwait, Oman and Saudi Arabia) is welcomed and constructive negotiations are encouraged. New agreements should be correctly implemented and enforced by</i>		

31.			<p><i>all parties and need to include a fair competition clause on the basis of international standards (such as those established by ICAO and ILO). The Commission and the Council, on a basis of respect for Article 218 TFEU, are invited to fully involve the Parliament at all stages of negotiations.</i></p>	
			<p>Amendment 14 Recital 8</p>	
32.	<p>(8) Fair competition between air carriers can also be ensured through appropriate Union legislation such as Council Regulation (EEC) No 95/93⁴ and Council Directive 96/97/EC⁵. Insofar as fair competition supposes protection of Union air carriers from certain practices adopted by third countries or third country carriers, this issue is currently addressed in Regulation (EC) No 868/2004 of the European Parliament and of the Council⁶. However,</p>	<p>(8) Fair competition between air carriers can also be ensured through appropriate Union legislation such as Council Regulation (EEC) No 95/93⁴ and Council Directive 96/97/EC⁵. Insofar as fair competition supposes protection of Union air carriers from certain practices adopted by third countries or third country carriers, this issue is currently addressed in Regulation (EC) No 868/2004 of the European Parliament and of the Council⁶. However,</p>	<p>(8) Fair competition between air carriers can also be ensured through appropriate Union legislation such as Council Regulation (EEC) No 95/93⁴ and Council Directive 96/97/EC⁵. Insofar as fair competition supposes protection of Union air carriers from certain practices adopted by third countries or third country carriers, this issue is currently addressed in Regulation (EC) No 868/2004 of the European Parliament and of the Council⁶. However,</p>	

<p>Regulation (EC) No 868/2004 has proven <i>insufficiently effective</i>, in respect of its underlying general aim of fair competition. This is notably due to certain of its rules pertaining notably to the definition of the practices concerned, other than subsidisation, and to the requirements regarding the initiation and conduct of investigations. In addition, Regulation (EC) No 868/2004 fails to provide for a dedicated Union internal procedure in respect of obligations contained in air transport or air services agreements to which the Union is a party and intended to ensure fair competition. Given the number and importance of the amendments that would be necessary to address these issues, it is appropriate to</p>	<p>Regulation (EC) No 868/2004 has proven <i>ineffective</i>, in respect of its underlying general aim of fair competition. This is notably due to certain of its rules pertaining notably to the definition of the practices concerned, other than subsidisation, and to the requirements regarding the initiation and conduct of investigations. In addition, Regulation (EC) No 868/2004 fails to provide for a dedicated Union internal procedure in respect of obligations contained in air transport or air services agreements to which the Union is a party and intended to ensure fair competition. Given the number and importance of the amendments that would be necessary to address these issues, it is appropriate to replace Regulation (EC) No 868/2004 by a new act.</p>	<p>Regulation (EC) No 868/2004 has proven insufficiently effective, in respect of its underlying general aim of fair competition. This is notably due to certain of its rules pertaining notably to the definition of the practices concerned, other than subsidisation, and to the requirements regarding the initiation and conduct of investigations. In addition, Regulation (EC) No 868/2004 fails to provide for a dedicated Union internal procedure in respect of obligations contained in air transport or air services agreements to which the Union is a party and intended to ensure fair competition. Given the number and importance of the amendments that would be necessary to address these issues, it is appropriate to</p>
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	<p>replace Regulation (EC) No 868/2004 by a new act.</p> <p>(4) Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p.1).</p> <p>(5) Council Directive 96/67/EC of 15 October 1996 on access to the ground handling market at Community airports (OJ L 272, 25.10.1996, p.36).</p> <p>(6) Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community (OJ L 162, 30.04.2004, p.1).</p>	<p>Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p.1).</p> <p>Council Directive 96/67/EC of 15 October 1996 on access to the ground handling market at Community airports (OJ L 272, 25.10.1996, p.36).</p> <p>Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community (OJ L 162, 30.04.2004, p.1).</p>	<p>replace Regulation (EC) No 868/2004 by a new act.</p> <p>(4) Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p.1).</p> <p>(5) Council Directive 96/67/EC of 15 October 1996 on access to the ground handling market at Community airports (OJ L 272, 25.10.1996, p.36).</p> <p>(6) Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community (OJ L 162, 30.04.2004, p.1).</p>	
33.			<p>(8bis) The discrimination may include situations where a Union air carrier is subject to a differentiation of treatment without objective justification, notably concerning the</p>	

			<p>prices and access to ground handling services, airport infrastructure, air navigation services, the allocation of slots, the administrative procedures such as allocation of visas for foreign carrier's staff, the modalities for the selling and distribution of air services or any other 'doing business issues' such as burdensome customs clearance procedures.</p>	
34.		<p>Amendment 15 Recital 9</p>		
35.	<p>(9) Effective, proportionate and dissuasive legislation remains necessary in order to maintain conditions conducive to a high level of Union connectivity and to ensure fair competition with third countries air carriers. To that end, the Commission should be entrusted with the power to conduct an investigation and to take</p>	<p>(9) <i>The competitiveness of the Union aviation sector depends on the competitiveness of each part of the aviation value chain and it can only be maintained through a complementary set of policies. The Union should engage in constructive dialogue with third countries to find a basis for fair competition. In this respect, effective,</i></p>	<p>(9) Effective, proportionate and dissuasive legislation remains necessary in order to maintain conditions conducive to a high level of Union connectivity and to ensure fair competition with third countries air carriers. To that end, the Commission should be entrusted with the power to conduct an investigation and to take</p>	

	<p>measures where necessary. Such measures should be available either where relevant obligations under an agreement to which the Union is a party are violated, or where practices affecting competition cause or threaten to cause injury to Union air carriers.</p>	<p>proportionate and dissuasive legislation remains necessary in order to maintain conditions conducive to a high level of Union connectivity and to ensure fair competition with third countries air carriers thereby preserving jobs in Union airlines. To that end, the Commission should be entrusted with effective power to conduct an investigation and to take provisional or definitive measures where necessary. Such measures should be available either where relevant obligations under an agreement to which the Union is a party are violated, or where practices distorting competition cause or threaten to cause injury to Union air carriers.</p>	<p>measures where necessary. Such measures should be available either where relevant obligations under an agreement to which the Union is a party are violated, or where practices distorting competition cause [...] injury to Union air carriers.</p>	
36.			<p>(9bis) During the investigation the Commission should give consideration to the practice distorting competition in the relevant</p>	

			<p>context. Given the variety of possible practices, in some cases the practice and its effects may be limited to air transport activities of a city-pair route, while in other cases it may be relevant to consider the practice and its effects on the wider air transport network.</p>	
37.	<p>(10) Where the Union is party to an air transport or air services agreement with a third country, the violation of international obligations enshrined therein should be addressed within the context of this agreement, in particular through the application of the fair competition clause where it exists, and, where relevant, dispute settlement.</p>		<p>(10) Where the Union is party to an air transport or air services agreement with a third country, the violation of international obligations enshrined therein should be addressed [...] by the Union, in particular through the application of the fair competition clause where it exists, and, where relevant, dispute settlement.</p>	

38.		Amendment 16 Recital 11		
39.	<p>(11) In order for the Commission to be adequately informed about possible elements justifying the initiation of an investigation, any Member State, Union carrier or association of Union air carriers should be entitled to lodge a complaint.</p>	<p>(11) In order for the Commission to be adequately informed about possible elements justifying the initiation of an investigation, any Member State, Union carrier or association of Union air carriers should be entitled to lodge a complaint, <i>which should be addressed within a reasonable timescale, in order to avoid losses being incurred by European air carriers.</i></p>	<p>(11) In order for the Commission to be adequately informed about possible elements justifying the initiation of an investigation, any Member State, Union carrier or association of Union air carriers should be entitled to lodge a complaint.</p>	

40.		Amendment 17 Recital 11 a (new)		
41.		<i>(11a) In the interest of effective regulation, and by analogy with the other Union trade defence instruments, it is essential that the Commission is able to initiate proceedings on the basis of a complaint presenting prima facie evidence of a threat of injury.</i>		
42.		Amendment 18 Recital 12		
43.	(12) It is important to ensure that the investigation can extend to the widest possible range of pertinent elements. To this effect, and subject to the consent of the third country and third country entity concerned, the Commission should be enabled to carry out investigations in third countries. For the same reasons and to the same end, Member States should be obliged to support the Commission to the best of their abilities. The	(12) It is important to ensure that the investigation can extend to the widest possible range of pertinent elements. To this effect, <i>in cooperation with</i> the third country and third country entity concerned, the Commission should be enabled to carry out investigations in third countries. For the same reasons and to the same end, Member States should be obliged to support the Commission to the best of their abilities. The Commission should conclude	(12) It is important to ensure that the investigation can extend to the widest possible range of pertinent elements. To this effect, and subject to the consent of the third country and third country entity concerned, the Commission should be enabled to carry out investigations in third countries. For the same reasons and to the same end, Member States should be obliged to support the Commission to the best of their abilities. The	

	Commission should conclude the investigation on the basis of best available evidence.	Commission should conclude the investigation on the basis of best available evidence.	
44.		the investigation <i>after gathering all necessary information from relevant stakeholders and</i> on the basis of best available evidence. Amendment 19 Recital 13	
45.	(13) Where the investigation conducted by the Commission concerns operations covered by an air transport or air services agreement with a third country to which the Union is not a party, it should be ensured that the Commission acts in full knowledge of any proceedings intended or conducted by the Member State concerned under such agreement and pertaining to the situation subject to the Commission's investigation. Member States should therefore be obliged to keep the Commission informed accordingly	(13) Where the investigation conducted by the Commission concerns operations covered by an air transport or air services agreement with a third country to which the Union is not a party, it should be ensured that the Commission acts in full knowledge of any proceedings intended or conducted by the Member State concerned under such agreement and pertaining to the situation subject to the Commission's investigation <i>on the basis of fair competition criteria</i> . Member States should therefore be obliged to keep the Commission informed accordingly.	(13) Where the investigation conducted by the Commission concerns operations covered by an air transport or air services agreement with a third country to which the Union is not a party, it should be ensured that the Commission acts in full knowledge of any proceedings intended or conducted by the Member State concerned under such agreement and pertaining to the situation subject to the Commission's investigation. Member States should therefore be obliged to keep the Commission informed accordingly. In that case,

			<p>Member States should have the possibility to ask the Commission to suspend its investigation and address the practice distorting competition exclusively under the dispute settlement mechanisms contained in their air transport or air services agreements with a third country to which the Union is not a party.</p>	
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46.	(14) It is necessary to lay down the conditions under which proceedings should be concluded, with or without the imposition of redressive measures.		(14) It is necessary to lay down the conditions under which proceedings should be concluded, with or without the imposition of redressive measures.	
47.		Amendment 20 Recital 15		
48.	(15) Proceedings should not be initiated or should be concluded without redressive measures under this Regulation where the adoption of the latter would be against the Union interest, having regard to their impact on other <i>persons, notably</i> consumers or undertakings in the Union. Proceedings should also be concluded without measures where the requirements for such measures are not, or no longer met.	(15) Proceedings should not be initiated or should be concluded without redressive measures under this Regulation where the adoption of the latter would be against the Union interest, having regard to their impact on other <i>parties, including consumers or undertakings or aviation employees</i> in the Union. <i>In this context, and especially when redressive measures are being considered, maintaining a high level of Union connectivity should be a priority.</i> Proceedings should also be concluded without measures where the requirements for such	(15) Proceedings should not be initiated or should be concluded without redressive measures under this Regulation where the adoption of the latter would be against the Union interest, [...] giving special consideration to their impact on other persons, notably consumers or undertakings in the Union, as well as on high levels of connectivity throughout the Union. When assessing the Union interest, special attention should be given to the situation of Member States who rely exclusively or significantly on air	

		<p>measures are not, or no longer met.</p>	<p>transport for their connectivity with the rest of the world and consistency with other Union policy areas should be ensured. Proceedings should also be concluded without measures where the requirements for such measures are not, or no longer met.</p>	
49.		<p>Amendment 21 Recital 15 a (new)</p>		
50.		<p><i>(15a) When determining whether or not the Union interest calls for intervention, the Commission should take into account the views of all interested parties. In order to organise consultations with all interested parties and to give them the opportunity to all interested parties to be heard, time-limits for providing information or for requesting a hearing should be specified in the notice of initiation of the investigation. Interested parties should be</i></p>		

51.	(16) Where applicable international obligations have been violated, any redressive measures would by nature need to be based on the act containing such obligations or on rules and principles of public international law. In order to preserve the integrity of those acts, any such measures should only be adopted following discharge of the procedures provided for therein.	<i>aware of the conditions of disclosure for the information they provide and should be entitled to respond to other parties' comments.</i>	(16) [...]	
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52.		Amendment 22 Recital 17		
53.	<p>(17) Findings in respect of <i>injury</i> or threat of injury to the Union air carrier(s) concerned should reflect a realistic assessment of the situation and should therefore be based on all relevant factors, in particular pertaining to the situation of those carrier(s) and to the general situation of the affected air transport market.</p>	<p>(17) <i>When determining whether proceedings should be initiated under this Regulation</i>, findings in respect of a threat of injury <i>and injury that has already materialized</i> to the Union air carrier(s) concerned, should reflect a realistic assessment of the situation and should therefore be based on all relevant factors, in particular pertaining to the situation of those carrier(s) and to the general situation of the affected air transport market, <i>in line with the standing practice and application of instruments aimed at ensuring fair competition, also allowing for prevention and offset of clearly foreseeable injury and the threat of such injury in the event of a practice distorting fair competition of which there is prima facie</i></p>	<p>(17) Findings in respect of injury [...] to the Union air carrier(s) concerned should reflect a realistic assessment of the situation and should therefore be based on all relevant factors, in particular pertaining to the situation of those carrier(s) and to the general situation of the affected air transport market.</p>	

	<i>evidence.</i>		
54.	(18) For reasons of administrative efficiency and in view of a possible termination without measures, it should be possible to suspend the proceedings where the third country or third country entity concerned has taken decisive steps to eliminate the relevant practice <i>affecting</i> competition or the ensuing injury or threat of injury.	(18) For reasons of administrative efficiency and in view of a possible termination without measures, it should be possible to suspend the proceedings where the third country or third country entity concerned has taken decisive steps to eliminate the relevant practice [...] distorting competition or the ensuing injury [...].	
55.	Amendment 24 Recital 18		
56.	(19) Redressive measures in respect of practices <i>affecting</i> competition are aimed at offsetting the injury that occurs or is threatening to occur due to those practices. They should therefore take the form of financial duties or of other measures which, representing a measurable pecuniary value, are capable	(19) Redressive measures in respect of practices [...] distorting competition are aimed at offsetting the injury that occurs [...] due to those practices. They should therefore take the form of financial duties or of other measures which, representing a measurable pecuniary value, are capable	

	<p>of achieving the same effect. This may include measures consisting in the suspension of concessions, of services owed or of other rights of the third country air carrier, provided that this does not lead to a violation of an air transport or air services agreement concluded with the third country concerned. <i>In order to comply with the principle of proportionality, measures of any kind should be confined to what is necessary to offset the injury or threat of injury identified.</i></p>	<p>same effect. This may include measures consisting in the suspension of concessions, of services owed or of other rights of the third country air carrier, provided that this does not lead to a violation of an air transport or air services agreement concluded with the third country concerned.</p>	<p>of achieving the same effect. [...] In order to comply with the principle of proportionality, measures of any kind should be confined to what is necessary to offset the injury [...] identified.</p>	
57.			<p>(19a) Aviation remains to a large degree based on bilateral air transport agreements between Member States and third countries in which they grant each other traffic rights. For the present, the Union has not exercised the shared competence on traffic rights and where the</p>	

			<p>Union and Member States have concluded a comprehensive air transport agreement with a third country, Member States may grant further traffic rights bilaterally beyond what is included in the agreement. An adoption of redressive measures might affect tenets of the bilateral aviation relationship between Member States and third countries, in particular where no comprehensive air transport agreement is in place. Conferral of implementing powers on the Council in this sensitive area should ensure a deeper involvement of Member States in the adoption of operational redressive measures and allow for the full consideration of potential negative effects on the bilateral relationship</p>	
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			<p>with third countries at Member State level. Furthermore, air connectivity and the availability of routes is primarily a public good and a well-established link exists between connectivity and economic performance in terms of jobs and growth. As such, connectivity is directly linked to the vital national interests of Member States and the economic performance of both local and national economies. The possible decrease in air connectivity which might be caused by the adoption of operational redressive measures against third country air operators in a case of unfair competition could affect the wider economic environment at regional and national level and the economic</p>	
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			<p>opportunities for local industries, businesses as well as consumers and citizens. This is not least the case in regions and Member States that are less well connected or where connections to other regions and Member States are particularly dependent on aviation. A conferral of the implementing power to adopt operational redressive measures on the Council should ensure a deeper involvement of the Member States in the adoption of redressive measures and allow for the full consideration of their impact at local and national level.</p>	
58.	(20) In line with the same principle, redressive measures in respect of practices affecting competition should remain in force only as long as, and to		(20) In line with the same principle, redressive measures in respect of practices distorting competition should remain in force only as long as, and to	

	the extent that, it is necessary in view of such practice and the ensuing injury or threat of injury. Consequently, a review should be provided for where circumstances so warrant.		the extent that, it is necessary in view of such practice and the ensuing injury [...]. Consequently, a review should be provided for where circumstances so warrant.	
59.		Amendment 25 Recital 21		
60.	(21) Situations investigated under this Regulation and their potential impact on Member States may differ according to the circumstances. Redressive measures may therefore apply, according to the case, to one or more Member States or be limited to a specific geographical area.	(21) Situations investigated under this Regulation and their potential impact on Member States may differ according to the circumstances. Redressive measures may therefore apply, according to the case, to one or more Member States, may be limited to a specific geographical area or limited in time or may be set to apply from a later date when it is possible to determine a precise moment when the threat of injury would develop into an actual injury.	(21) Situations investigated under this Regulation and their potential impact on Member States may differ according to the circumstances. Redressive measures may therefore apply, according to the case, to one or more Member States or be limited to a specific geographical area.	
61.	(22) In order to ensure uniform conditions for the implementation of this		(22) In order to ensure uniform conditions for the implementation of this	

	<p>Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷.</p> <p>⁽⁷⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>		<p>Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷.</p> <p>⁽⁷⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	
62.		<p>Amendment 26 Recital 22 a (new)</p>		
63.		<p>(22a) The Commission should inform the European Parliament and the Council on the implementation of this Regulation on an annual basis. This report should include information about the application of redressive measures, the termination of</p>		

		<p><i>investigations without redressive measures, ongoing investigations, reviews and cooperation with Member States, interested parties and third countries. This report should be treated with the appropriate level of confidentiality.</i></p>		
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64.		Amendment 27 Recital 23		
65.	<p>(23) Since the objective of this Regulation, namely the efficient protection, equal for all Union carriers and based on uniform criteria and procedures, against violation of applicable international obligations and against injury or threat of injury to one or more Union air carriers caused by practices <i>affecting</i> competition, adopted by third countries or third country entities cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the <i>European</i> Union. In accordance with the principle of proportionality, as set out in that Article, this</p>	<p>(23) Since the objective of this Regulation, namely the efficient protection, equal for all Union carriers and based on uniform criteria and procedures, against violation of applicable international obligations and against injury or threat of injury to one or more Union air carriers caused by practices <i>distorting</i> competition, adopted by third countries or third country entities cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to</p>	<p>(23) Since the objective of this Regulation, namely the efficient protection, equal for all Union carriers and based on uniform criteria and procedures, against [...] injury to one or more Union air carriers caused by practices distorting competition, adopted by third countries or third country entities cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve</p>	

	Regulation does not go beyond what is necessary in order to achieve those objectives.	achieve those objectives. <i>This Regulation does not either aim to impose any standards on third country air carriers, for instance with regards to subsidies by introducing more restrictive obligations than those applying to Union carriers.</i>	those objectives.	
66.		Amendment 28 Recital 23 a (new)		
67.		<i>(23a) The Commission should propose strengthening rules, criteria and measures on fair competition in the Union, not only within the Union internal air transport sector but also in the intermodal transport sector.</i>		

68.	(24) Since this Regulation replaces Regulation (EC) No 868/2004, that Regulation should therefore be repealed,		(24) Since this Regulation replaces Regulation (EC) No 868/2004, that Regulation should therefore be repealed,	
69.	HAVE ADOPTED THIS DIRECTIVE:			
70.	CHAPTER I			
	GENERAL PROVISIONS			
71.		Amendment 29 Article 1 – paragraph 1		
72.	<i>Article 1</i> Subject matter	Subject matter <i>and scope</i>	<i>Article 1</i> Subject matter	
73.	1. This Regulation lays down rules on the conduct of investigations by the Commission and on the adoption of redressive measures, relating to violation of applicable international obligations and to practices <i>affecting</i> competition between Union air carriers and other air carriers and causing or threatening to cause injury to Union air carriers.	1. This Regulation lays down rules on the conduct of investigations by the Commission and on the adoption of redressive measures, relating to violation of applicable international obligations and to practices <i>distorting</i> competition between Union air carriers and other air carriers and causing injury to Union air carriers.	1. This Regulation lays down rules on the conduct of investigations by the Commission [...] practices distorting competition between Union air carriers and third country air carriers and causing [...] injury to Union air carriers.	<i>'distorting' - EP AM = CGA</i> <i>To be discussed</i>
74.			1a. This Regulation also lays down rules on the adoption	<i>To be discussed</i>

			of redressive measures, where practices distorting competition between Union air carriers and third country air carriers have caused injury to Union air carriers.	
75.	2. This Regulation applies without prejudice to Article 12 of Regulation (EEC) No 95/93 and Article 20 of Directive 96/67/EC,	2. This Regulation applies without prejudice to Article 12 of Regulation (EEC) No 95/93 and Article 20 of Directive 96/67/EC,	(2) This Regulation applies without prejudice to Article 12 of Regulation (EEC) No 95/93 and Article 20 of Directive 96/67/EC,	COM text
76.				
77.	<i>Article 2</i> Definitions		<i>Article 2</i> Definitions	
78.	For the purposes of this Regulation:		For the purposes of this Regulation:	COM text

79.	(a) 'air carrier' means an air carrier as defined in Regulation (EC) No 1008/2008 of the European Parliament and of the Council ⁸ ;		(a) 'air carrier' means an air carrier as defined in Regulation (EC) No 1008/2008 of the European Parliament and of the Council ⁸ ;	COM text
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	(8)	Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p.3).	(8)	Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p.3).	
80.	(b)	'air transport service' means a flight or a series of flights carrying passengers, cargo or mail for remuneration or hire;	(b)	'air transport service' means a flight or a series of flights carrying passengers, cargo or mail for remuneration or hire;	COM text
81.	(c)	'applicable international obligations' means any obligations that are contained in an international air transport or air services agreement to which the Union is a party or any provision on air transport services included in a trade agreement to which the Union is a party, and which relates to practices that may affect competition or other conduct relevant to competition between air carriers;	(c)	[...];	<i>Linked with the deletion of Article 10</i>

82.				
83.	(d) 'interested party' means any natural or legal person or any official body, whether or not having its own legal personality, that is likely to have a significant interest in the result of proceedings;	Amendment 30 Article 2 – paragraph 1 – point d (d) 'interested party' means any natural or legal person or any official body, whether or not having its own legal personality, that is likely to have a significant interest in the result of proceedings, including but not limited to air carriers;	(d) 'interested party' means any natural or legal person or any official body, whether or not having its own legal personality, that is likely to have a significant interest in the result of proceedings;	EP AM acceptable
84.		Amendment 31 Article 2 – paragraph 1 – point d a (new)		
85.		(da) ' Member State concerned ' means a State: (i) that issues the operating licence for European carriers in accordance with Regulation (EC) No 1008/2008; (ii) under whose aviation agreements, or trade agreements containing provisions governing aviation, European air carriers operate;	(i bis) ' Member State concerned ' means a) the Member State which granted the operating licence to the Union air carrier(s) concerned pursuant to Regulation (EC) No 1008/2008; b) [...]; c) the Member State under whose air transport agreement, air services agreement or any agreement containing provisions on air transport services with the third country concerned, the	<i>EP AM and CGA - very similar</i> <u>Tentatively agreed compromise:</u> (da)) ' Member State(s) concerned ' means the Member State(s): i) which granted the operating licence to the Union air carrier(s) concerned pursuant to Regulation (EC) No 1008/2008; or ii) under whose air transport agreement, air services agreement or any agreement containing provisions on air transport services with the third country concerned, the

	on air transport services with the third country concerned, the Union air carrier(s) concerned operate(s); d) [...].	Union air carrier(s) concerned operate(s);
86.	<p style="text-align: center;">Amendment 32</p> <p>Article 2 – paragraph 1 – point e</p>	
87.	<p>(e) 'third country entity' means any natural or legal person, whether profit-making or not, or any official body without own legal personality, which is under the jurisdiction of a third country, whether controlled by a third country government or not, and is directly or indirectly involved in air transport services or related services used to provide air transport services or related services, including joint ventures and alliances exclusively composed of third country air carriers;</p>	<p>(e) 'third country entity' means any natural or legal person, whether profit-making or not, or any official body with or without own legal personality, which is under the jurisdiction of a third country, whether controlled by a third country government or not, and is directly or indirectly involved in air transport services or related services or in providing infrastructure or services used to provide air transport services;</p>
88.	<p>(f) 'practices affecting</p>	<p>(f) 'practices distorting</p>

	competition' means discrimination and subsidies;		competition' means discrimination and subsidies;	competition' means discrimination and subsidies;
89.		Amendment 33 Article 2 – paragraph 1 – point f a (new)	competition' means discrimination and subsidies;	
90.		<i>(fa) “threat of injury” means an injury that is imminent or foreseeable in the near future with probability bordering on a certainty;</i>		<i>To be discussed</i>
91.		Amendment 34 Article 2 – paragraph 1 – point f b (new)		
92.		<i>(fb) “provisional redressive measures’ are measures of a temporary nature against a third country air carrier, proportionate to the threat, that have the sole purpose of preventing irreversible injury, that are taken by the Commission at the beginning of the proceeding and on the basis of available facts, and that are to be repealed no later than upon the conclusion of an</i>		<i>To be discussed</i>

	<i>investigation;</i>		COM text
93. (g) 'discrimination' means differentiation of any kind without objective justification in respect of the supply of goods or services, including public services, employed for the operation of air transport services, or in respect of their treatment by public authorities relevant to such services (including practices relating to air navigation or airport facilities and services, fuel, ground handling, security, computer reservation systems, slot allocation, charges, and the use of other facilities or services employed for the operation of air transport services);	(g) 'discrimination' means differentiation of any kind without objective justification in respect of the supply of goods or services, including public services, employed for the operation of air transport services, or in respect of their treatment by public authorities relevant to such services (including practices relating to air navigation or airport facilities and services, fuel, ground handling, security, computer reservation systems, slot allocation, charges, and the use of other facilities or services employed for the operation of air transport services);		
94. (h) 'subsidy' means a financial contribution:			COM text
95. (i) granted by a government or other public organisation of a third country in any of the following forms:		(i) granted by a government or other public organisation of a third country in any	COM text

96.	(1) a practice of a government or other public organisation involving a direct transfer of funds, potential direct transfer of funds or liabilities (such as grants, loans, equity infusion, loan guarantees, setting-off of operational losses, or compensation for financial burdens imposed by public authorities);		(1) a practice of a government or other public organisation involving a direct transfer of funds, potential direct transfer of funds or liabilities (such as grants, loans, equity infusion, loan guarantees, setting-off of operational losses, or compensation for financial burdens imposed by public authorities);	COM text
97.	(2) revenue of a government or other public organisation that is otherwise due is foregone or not collected (such as preferential tax treatment or fiscal incentives such as tax credits);		(2) revenue of a government or other public organisation that is otherwise due is foregone or not collected (such as preferential tax treatment or fiscal incentives such as tax credits);	COM text

	Amendment 35 Article 2 – paragraph 1 – point h – point i – point 3	
98.		
99.	(3) a government or other public organisation, including publicly controlled undertakings, provides goods or services <i>other than general infrastructure</i> , or purchases goods or services;	(3) a government or other public organisation, including publicly controlled undertakings, provides goods or services, or purchases goods or services; COM text
100.	(4) a government or other public organisation makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions referred to in points (1), (2) and (3) which would normally be vested in the government and, in practice, in no real sense differs from practices normally followed by governments;	(4) a government or other public organisation makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions referred to in points (1), (2) and (3) which would normally be vested in the government and, in practice, in no real sense differs from practices normally followed by governments; COM text
101.	(ii) conferring a benefit;	(ii) conferring a benefit; COM text
102.	(iii) limited, in law or in fact, to an entity or industry or group of entities or	(iii) limited, in law or in fact, to an entity or industry or group of industry or group of COM text

	industries within the jurisdiction of the granting authority;		entities or industries within the jurisdiction of the granting authority;	
103.	(i) 'Union air carrier' means an air carrier with a valid operating licence granted by a Member State in accordance with Regulation (EC) No 1008/2008.		(i) 'Union air carrier' means an air carrier with a valid operating licence granted by a Member State in accordance with Regulation (EC) No 1008/2008.	COM text
104.				
105.			(i ter) 'Union air carrier concerned' means the air carrier which is allegedly subject to an injury pursuant to Article 3(1)b.	CGA accepted, with the exception of the deletion of 'threat of injury'
106.		Amendment 36 Article 2 a (new) Union interest	Article 4 bis Union Interest	
107.		1. When determining the Union interest, priority shall be given to the need to restore effective and fair competition, the need to ensure transparency, the need to avoid any distortion to the internal market, the need to avoid undermining Member States' socio-economic situation and the need to maintain a high level		<i>EP AM and CGA similar in principle - alignment necessary</i> <u>Presidency proposed compromise:</u> <u>New Article 2a</u>

108.		<p><i>of connectivity for passengers and the Union.</i></p> <p>2 <i>Whether or not the Union interest calls for intervention shall be determined by the Commission on a case-by-case basis, based on an appreciation of all the various interests, taken as a whole, including a socio-economic appraisal. Such determination shall only be made where all parties have been given the opportunity to make their views known, within a specific timeframe, in accordance with paragraph 3. This opportunity may or may not be taken. The determination of the Union interest shall be without prejudice to the Commission's right to initiate an investigation in accordance with Article 3.</i></p>	<p>1. A determination as to whether the Union's interest calls for intervention shall be based on an appreciation of all the various interests that are relevant in the particular situation and taken as a whole, prioritising the interests of consumers and connectivity. In such an examination, the need to eliminate the practices distorting competition shall be given special consideration.</p>	<p>1. A determination as to whether it is in the interest of the Union interest for the purpose of Article 12(2)(b) to act pursuant to Article 3 and Article 13 shall be made by the Commission based on an appreciation of all the various interests, which are relevant in the particular situation and taken as a whole. When determining the Union interest, priority shall be given to the need to protect consumer interests and to maintain a high level of connectivity for passengers and for the Union. In this determination, <u>In the context of the whole aviation chain, the Commission may also take into account the relevant social factors</u>. The need to eliminate the practice distorting competition, to restore effective and fair competition, and to avoid any</p>
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			distortion to the internal market shall be considered.
109.		<p>3. <i>Where, on the basis of all the information submitted, the Commission clearly concludes that it is not in the Union interest to apply redressive measures, those measures shall not be applied.</i></p>	
110.	<p>4. <i>In order to provide a sound basis on which the Commission can take account of all views, the complainants and interested parties may, within the period specified in the notice of initiation of the investigation, make themselves known and provide information to the Commission. In order to ensure the transparency of the consultation, such information, or a summary thereof, shall be made available to the other parties specified in this Article, who may respond to such information.</i></p>	<p>2. The Union's interest shall be assessed by the Commission on the basis of a questionnaire sent out to the interested parties, and on an economic analysis by the Commission. The assessment shall take into consideration notably the factors set out in Article 11(1). A determination pursuant to this Article in application of Articles 12 shall only be made where interested parties have been given the opportunity to make their views known pursuant to</p>	<p>2. The Union's interest shall be assessed determined by the Commission on the basis of a questionnaire sent out to the interested parties, and of an economic analysis by the Commission. In its assessment The Commission shall base its analysis on information collected from the interested parties. In its determination, it shall also seek any other additional relevant information it deems necessary relevant in the assessment and shall take into consideration notably the factors set out in Article 11(1) [, such as employment and</p>

			<p>Article 4(6).</p>	<p>other social factors]. This information shall be taken into account only where it is supported by actual evidence which substantiates its validity.</p>
111.		<p><i>5. When determining the Union interest, the parties which have acted in accordance with paragraph 3 may request a hearing. Such requests shall be granted when they set out the reasons, based on the Union interest, why the parties should be heard. In addition, the parties may provide comments on the application of any redressive measures and other parties may respond to such comments.</i></p>	<p>3. In determining the Union interest, the Commission shall examine the information provided by the interested parties which have made themselves known, presented their views in writing on the basis of the questionnaire referred to in paragraph 2, submitted information, or applied to be heard by the Commission in accordance with Article 3(7b).</p> <p>4. The interested parties referred to in paragraph 3 may request that the fact and considerations on which decisions are likely</p>	<p>3. A determination as to whether it is in the interest of the Union interest for the purpose of Article 12(2)(b) to set pursuant to Article 13 shall only be made where all interested parties have been given the opportunity to make themselves known, to present their views in writing, to submit information to the Commission or to apply to be heard by the Commission, in accordance with and in the time limits specified in Article 3(7)(b). Requests for a hearing shall outline the reasons pertaining to the Union interest, for which the parties should be heard.</p>

			<p>4. The interested parties referred to in paragraphs 2 and 3 may request that the fact and considerations on which decisions are likely to be taken be made available to them. Such information shall be made available to the extent possible and in accordance with Article 6, and without prejudice to any subsequent decision taken by the Commission.</p>
112.		<p>5. Information shall be taken into account only where it is supported by actual evidence which substantiates its validity.</p>	<p><i>Now included in paragraph 2</i></p> <p>5. The Commission shall examine the information submitted by the interested parties in conformity with paragraphs 2 and 3. This information shall be taken into account only where it is supported by actual evidence which substantiates its validity.</p>
113.	<p>6. <i>The Commission shall examine the information provided, and in particular the extent to which it is representative, and shall</i></p>	<p>6. The economic analysis referred to in paragraph 2 shall be transmitted to the Council for information.</p>	<p>6. The economic analysis referred to in paragraph 2 shall be transmitted to the Council [and to the European Parliament]</p>

		<p><i>transmit the results of its examination to the Parliament and Council in accordance with Article 15a (new) and in accordance with Regulation (EU) No 182/2011.</i></p>		<p>for information.</p>
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114.	<p style="text-align: center;">CHAPTER II COMMON PROVISIONS REGARDING PROCEEDINGS <i>Article 3</i></p> <p>Initiation of proceedings</p>			
115.		Amendment 37 Article 3 – paragraph 1		
116.	<p>1. An investigation shall be initiated following a written complaint submitted by a Member State, a Union air carrier or an association of Union air carriers in accordance with paragraph 2, or on the Commission's own initiative, if there is prima facie evidence of either of the following:</p>	<p>1. An investigation shall be initiated following a written complaint submitted by a Member State, one or more Union air carriers or an association of Union air carriers in accordance with paragraph 2, or on the Commission's own initiative, if there is sound prima facie evidence of either of the elements of the following exhaustive list:</p>	<p>1. An investigation shall be initiated following a written complaint submitted by a Member State, a Union air carrier or an association of Union air carriers [...] or on the Commission's own initiative, if there is prima facie evidence of the existence of all the following circumstances:</p>	<p><i>EP AM and CGA - very similar</i></p> <p><i>Tentatively agreed compromise:</i> An investigation shall be initiated following a written complaint submitted by a Member State, one or more Union air carriers or an association of Union air carriers or on the Commission's own initiative, if there is[...] prima facie evidence of either of the following:</p>
117.	<p>(a) violation of applicable international obligations;</p>	<p>(a) violation of applicable international obligations;</p>	<p>(a) [...]</p>	<p><i>[(a) linked to Art. 10 violation track: violation of applicable international obligations]</i></p>
118.	<p>(b) the existence of all the following circumstances:</p>	<p>(b) the existence of all the following circumstances:</p>	<p>(b) [...]</p>	<p><i>[(b) linked to Art. 10 violation track: the existence of all the following circumstances:]</i></p>

119.	(i) a practice <i>affecting</i> competition, adopted by a third country or a third country entity; (ii) injury or threat of injury to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury or threat of injury.	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity; (ii) injury or threat of injury to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury or threat of injury.	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity; (ii) injury [...] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [...].	CGA = EP (i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity (ii) injury [or threat of injury] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [or threat of injury].
120.	(i) a practice <i>affecting</i> competition, adopted by a third country or a third country entity; (ii) injury or threat of injury to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury or threat of injury.	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity; (ii) injury [...] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [...].	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity; (ii) injury [...] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [...].	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity (ii) injury [or threat of injury] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [or threat of injury].
121.	(i) a practice <i>affecting</i> competition, adopted by a third country or a third country entity; (ii) injury or threat of injury to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury or threat of injury.	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity; (ii) injury [...] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [...].	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity; (ii) injury [...] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [...].	(i) a practice <i>distorting</i> competition, adopted by a third country or a third country entity (ii) injury [or threat of injury] to one or more Union air carriers; (iii) a causal link between the alleged practice and the alleged injury [or threat of injury].
122.	2. A complaint shall include prima facie evidence of one of the cases referred to in paragraph 1.	2. [...]	2. [...]	
123.			2a. When receiving a complaint pursuant to paragraph 1, the Commission shall inform all Member States.	2a. When receiving a complaint pursuant to paragraph 1, the Commission shall inform all Member States.
124.		Amendment 38 Article 3 – paragraph 3		
125.	3. The Commission shall, <i>as far as possible</i> , examine the accuracy and adequacy of the	3. The Commission shall, examine the accuracy and adequacy of the elements	3. The Commission shall [...] examine the accuracy and adequacy of the elements	3. The Commission shall, examine the accuracy and adequacy of the elements provided in the

	elements provided in the complaint or at the disposal of the Commission, in order to determine whether there is sufficient evidence to justify the initiation of an investigation in accordance with paragraph 1.	provided in the complaint or at the disposal of the Commission <i>in a timely manner</i> , in order to determine whether there is sufficient evidence to justify the initiation of an investigation in accordance with paragraph 1.	provided in the complaint or at the disposal of the Commission, in order to determine whether there is sufficient evidence to justify the initiation of an investigation in accordance with paragraph 1.	complaint or at the disposal of the Commission <i>in a timely manner</i> , in order to determine whether there is sufficient evidence to justify the initiation of an investigation in accordance with paragraph 1
126.		Amendment 39 Article 3 – paragraph 4		
127.	4. The Commission may decide not to initiate an investigation where <i>the adoption of measures in accordance with Articles 10 or 13 would be against the Union interest where the Commission considers that</i> the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers.	4. The Commission may decide not to initiate an investigation where the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers <i>and are unwarranted</i> ;	4. The Commission shall decide not to proceed to the initiation of an investigation where the adoption of measures in accordance with Article [...] 13 would be against the Union interest or where the Commission considers that the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers.	<i>Linked to new Article 2a(1) and an agreement on Union interest</i> <u>Proposed compromise:</u> 4. [The Commission shall /[may] decide not to initiate an investigation where the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers;]

128.		<p>Amendment 40 Article 3 – paragraph 4 a (new)</p>		
129.		<p><i>4a. The decision not to initiate an investigation in accordance with paragraph 4 shall be duly substantiated by a statement of reasons. That decision shall be published in the Official Journal of the European Union. The European Parliament may call on the Commission to further justify its decision. Complainants may appeal such decision within 60 days from its publication.</i></p>	<p>6a. The Commission shall inform the complainant and all Member States where it has decided not to initiate the investigation. This information shall contain the reasons for the decision thereof. This information shall also be transmitted to the European Parliament, [in accordance with Article 15b].</p>	<p><u>Tentatively agreed compromise:</u></p> <p>6a. The Commission shall inform the complainant and all Member States where it has decided not to initiate the investigation. This information shall contain the reasons for the decision thereof. This information shall also be transmitted to the European Parliament, [in accordance with Article 15b].</p> <p><i>That decision shall be published in the Official Journal of the European Union. The European Parliament may call on the Commission to further justify its decision. Complainants may appeal such decision within 60 days from its publication.</i></p>

130.		Amendment 41 Article 3 – paragraph 5	
131.	5. Where the evidence presented is insufficient for the purposes of paragraph 1, the Commission shall inform the complainant about the insufficiency within 60 days of the date on which the complaint was lodged. The complainant shall be given 30 days to provide additional evidence. Where the complainant fails to do so within that time limit, the Commission may decide not to initiate the investigation.	5. Where the evidence presented is insufficient for the purposes of paragraph 1, the Commission shall inform the complainant about the insufficiency within 60 days of the date on which the complaint was lodged. The complainant shall be given 60 days to provide additional evidence. Where the complainant fails to do so within that time limit, the Commission may decide not to initiate the investigation.	5. Where the evidence presented is insufficient for the purposes of paragraph 1, the Commission shall inform the complainant about the insufficiency within 60 days of the date on which the complaint was lodged. The complainant shall be given 45 days to provide additional evidence. Where the complainant fails to do so within that time limit, the Commission may decide not to initiate the investigation.
132.		Amendment 42 Article 3 – paragraph 6	
133.	6. The Commission shall decide on the initiation of an investigation in accordance with paragraph 1 within 6 months of the lodging of the complaint.	6. Subject to paragraphs 4 and 5, decide on the initiation of an investigation in accordance with paragraph 1 within 4 months of the lodging of the complaint.	6. Subject to paragraphs 4 and 5, the Commission shall decide on the initiation of an investigation in accordance with paragraph 1 in accordance with paragraph 1

				within a maximum period of 5 months of the lodging of the complaint.
134.		Amendment 43 Article 3 – paragraph 7		
135.	7. Subject to paragraph 4, when the Commission considers that there is sufficient evidence to justify initiating an investigation, the Commission shall take the following steps:	7. Subject to paragraph 4, when the Commission considers that there is sufficient evidence to justify initiating an investigation, the Commission shall take the following steps:	7. Subject to paragraph 4, when the Commission considers that there is sufficient evidence to justify initiating an investigation, the Commission shall take the following steps:	COM text
136.	(a) initiate the proceedings;	(a) initiate the proceedings;	(a) initiate the proceedings and notify the Member States thereof;	<u>Tentatively agreed compromise:</u> (a) initiate the proceedings and notify the Member States and the European Parliament thereof;
137.	(b) publish a notice in the Official Journal of the European Union; the notice shall announce the initiation of the investigation, indicate the scope of the investigation, the	(b) publish a notice in the Official Journal of the European Union; the notice shall announce the initiation of the investigation, indicate the scope of the investigation, the applicable	(b) publish a notice in the <i>Official Journal of the European Union</i> ; the notice shall announce the initiation of the investigation, indicate the scope of the investigation, the	<i>Linked to deletion of Article 10 and threat of injury</i> <u>Tentatively agreed compromise:</u> (b) publish a notice in the Official Journal of the European Union; the notice shall announce the initiation of the investigation, indicate the

	<p>applicable international obligations that are allegedly violated or the third country or third country entity who has allegedly been engaged in practices affecting competition and the alleged injury or threat of injury, the Union air carrier(s) concerned and state the period within which interested parties may make themselves known, present their views in writing, submit information or may apply to be heard by the Commission.</p>	<p>international obligations that are allegedly violated or the third country or third country entity who has allegedly been engaged in practices distorting competition and the alleged injury or threat of injury, the Union air carrier(s) concerned and state the period within which interested parties may make themselves known, present their views in writing, submit information or may apply to be heard by the Commission. That period shall not be shorter than 30 days.</p>	<p>[...] third country or third country entity who has allegedly been engaged in practices [...] distorting competition and the alleged injury [...], the Union air carrier(s) concerned and state the period within which interested parties may make themselves known, present their views in writing, submit information or may apply to be heard by the Commission.</p>	<p>scope of the investigation, [the applicable international obligations that are allegedly violated or] the third country or third country entity who has allegedly been engaged in practices distorting competition and the alleged injury or [threat of injury], the Union air carrier(s) concerned and state the period within which interested parties may make themselves known, present their views in writing, submit information or may apply to be heard by the Commission. That period shall not be shorter than 30 days.</p>
138.	<p>(c) officially notify the representatives of the third country and third country entity concerned of the initiation of the investigation;</p>	<p>(c) officially notify the representatives of the third country and third country entity concerned of the initiation of the investigation;</p>	<p>(c) officially notify the representatives of the third country and third country entity concerned of the initiation of the investigation;</p>	COM text

139.	(d) inform the complainant and the Committee provided for under Article 15 of the initiation of the investigation.	(d) inform the complainant and the Committee provided for under Article 15 of the initiation of the investigation.	(d) inform the complainant and the Committee provided for under Article 15 of the initiation of the investigation.	COM text
140.	8. Where the complaint is withdrawn prior to the initiation of the investigation, the complaint is considered not to have been lodged. This is without prejudice to the right of the Commission to initiate an investigation on its own initiative in accordance with paragraph 1.		8. Where the complaint is withdrawn prior to the initiation of the investigation, the complaint is considered not to have been lodged. This is without prejudice to the right of the Commission to proceed to the initiation of an investigation on its own initiative in accordance with paragraph 1.	8. Where the complaint is withdrawn prior to the initiation of the investigation, the complaint is considered not to have been lodged. This is without prejudice to the right of the Commission to proceed to the initiation of an investigation on its own initiative in accordance with paragraph 1.
141.	<i>Article 4</i> The investigation		<i>Article 4</i> The investigation	
142.	1. Following the initiation of proceedings, the Commission shall begin an investigation.		1. Following the initiation of proceedings, the Commission shall begin an investigation.	COM text
143.	2. The investigation shall aim to determine either of the following:		2. The investigation shall aim to determine whether a practice distorting competition, adopted by a	<i>Tentatively agreed compromise:</i> 2. The investigation shall aim to determine [either of the following]:

			third country or a third country entity, has caused injury to the Union air carrier(s) concerned.	
144.	(a) whether the applicable international obligations have been violated;		(a) [...]	[a] whether the applicable international obligations have been violated;]
145.		Amendment 44 Article 4 – paragraph 2 – point b		
146.	(b) whether a practice affecting competition, adopted by a third country or a third country entity, has caused injury or threat of injury to the Union air carrier(s) concerned.	(b) whether a practice distorting competition, adopted by a third country or a third country entity, has caused injury or threat of injury to the Union air carrier(s) concerned	(b) [...]	(b) whether a practice distorting competition, adopted by a third country or a third country entity, has caused injury [or threat of injury] to the Union air carrier(s) concerned.
147.		b(a)(new) whether this might lead to negative impact on air connectivity of a particular region, of a Member State or a group of Member States, or of the European Common Aviation Area established by the		<i>New compromise text proposal</i> When conducting the investigation, the Commission shall may seek to gather evidence as to whether the cases referred to in paragraph [2(a)] or 2(b) might lead to a negative impact on air connectivity of a particular region,

			<p>of a Member State or a group of Member States, or of the European Common Aviation Area, and thus to consumers. If any, the evidence gathered may be taken into account in the determination of the Union Interest as defined in Article [2a].</p>
	<p><i>Agreement on the establishment of a European Common Aviation Area, and thus to consumers . For the purposes of point (ba), the impact on the Union's air connectivity shall be examined in the context of Union interest before the decision to adopt redressive measures pursuant to Article 13 is taken;</i></p>		
148.		<p>Amendment 46 Article 4 – paragraph 3</p>	
149.	<p>3. The Commission <i>may</i> seek all the information it deems necessary to conduct the investigation and <i>may</i> verify the accuracy of the information it has received or collected with the Union air carrier(s) concerned, or with the third country or third country entity concerned.</p>	<p>3. The Commission shall seek all the information it deems necessary to conduct the investigation and [...] verify the accuracy of the information it has received or collected with the Union air carrier(s) concerned, or with the third country or third country entity concerned.</p>	<p><i>EP AM = CGA</i></p> <p>The Commission shall seek all the information it deems necessary to conduct the investigation and verify the accuracy of the information it has received or collected with the Union air carrier(s) concerned, or with the third country, an interested party, or the third country entity concerned.</p>

150.				<p><i>Tentatively agreed compromise (on the basis of Article 7(2) and (3)):</i></p> <p>3a. Where the information submitted pursuant to paragraph 3 by an interested party, a third country or a third country entity concerned is not ideal incomplete in all respects, it shall nevertheless not be disregarded be taken into account provided that it is neither false nor misleading. any deficiencies are not such as to cause the following conditions are met: there is no undue difficulty in arriving at a reasonably accurate finding, and that the information is appropriately submitted in good due time and is verifiable, and that the party has acted to the best of its ability.</p>
151.				<p>3b. If evidence or information is not accepted, the supplying party shall be informed forthwith of the reasons thereof and shall be granted an opportunity to provide further explanations within the specified</p>

				<p>time limit. If the explanations are considered unsatisfactory, the reasons for rejection of such evidence or information shall be disclosed and given in published findings.</p>
152.	<p>4. The Commission may request Member States to support it in the investigation and Member States shall take whatever steps are necessary in order to give effect to such requests. The support requested from the Member States may cover information supply and information analysis as well as contribution to checks, inspections and investigations.</p>		<p>4. The Commission may request Member State(s) concerned to support it in the investigation. Upon request, Member States concerned shall take the necessary steps [...] to Commission in the investigation by supplying relevant and available information.</p>	<p>4. The Commission may request Member State(s) concerned to support it in the investigation. Upon request, Member States concerned shall take the necessary steps [...] to support the Commission in the investigation by supplying relevant and available information.</p> <p>Upon request, the Member States concerned shall endeavour to contribute to relevant verification and analyses.</p>

153.		<p style="text-align: center;">Amendment 47 Article 4 – paragraph 5</p>		
154.	<p>5. If it appears necessary, the Commission may carry out investigations in the territory of the third country concerned, provided that the government of the third country concerned and the third country entity concerned have been officially notified and have given their consent.</p>	<p>5. If it appears necessary, the Commission may carry out investigations in the territory of the third country concerned or in the territory of another third country, provided that the government of the third country concerned and the third country entity concerned have been officially notified.</p>	<p>5. If it appears necessary, the Commission may carry out investigations in the territory of the third country concerned, provided that the government of the third country concerned and the third country entity concerned have been officially notified and have given their consent.</p>	<p>5. If it appears necessary, the Commission may carry out investigations in the territory of a third country concerned, provided that the government of the third country concerned and the third country entity concerned have has given its consent and the government of the third country has been officially notified and have given their consent and raises no objection.</p> <p><u>Precedent:</u> <u>Article 11(4) of R 2016/1037:</u> <i>'The Commission may request the Member States to carry out all necessary checks and inspections, [...], provided that the firms concerned give their consent and that the government of the country in question has been officially notified and raises no objection.'</i></p> <p><i>Similar precedent in R 2016/1036 -</i></p>

155.	<p>6. Parties which have made themselves known within the time limits set out in the notice of initiation, shall be heard if they have made a request for a hearing showing that they are an interested party.</p>		<p>6. Parties which have made themselves known within the time limits set out in the notice of initiation, shall be heard if they have made a request for a hearing showing that they are an interested party.</p>	<p>Art 6(4) COM text</p>
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156.	<p>7. Complainants, interested parties, the Member State(s) concerned and the representatives of the third country or third country entity concerned may consult all information made available to the Commission, except for internal documents that are for the use of the Commission and the administrations, provided that such information is not confidential within the meaning of Article 6 and provided that it has addressed a request in writing to the Commission.</p>	<p>7. Complainants, interested parties, Member States [...] and the representatives of the third country or third country entity concerned may consult all information made available to the Commission, except for internal documents that are for the use of the Commission and the administrations of the Union and of the Member States(s) concerned, provided that such information is not confidential within the meaning of Article 6 and provided that it has addressed a request in writing to the Commission.</p>	<p><u>Tentatively agreed compromise:</u></p> <p>7. Complainants, interested parties, the Member State(s) and the representatives of the third country or third country entity concerned may consult all information made available to the Commission, except for internal documents that are for the use of the Commission and the administrations of the Union and of the Member States(s) concerned, provided that such information is not confidential within the meaning of Article 6 and provided that it has addressed a request in writing to the Commission.</p>
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157.				<p><u>Proposed compromise - copy-paste of CGA Art 4(2.0) and (2a)</u> <i>Article 4a new</i></p> <p>Suspension</p>
158.				<p>1. The Commission shall suspend the investigation, if the Commission decides that it will address the practice distorting competition exclusively under the procedure for dispute settlement applicable to the air transport or air services agreements to which the Union is a party or to any other agreement which contains provisions on the air transport services to which the Union is a party. The Commission shall notify the Member States of the suspension of the investigation.</p> <p>The Commission shall resume the investigation in any of the following cases:</p>
159.				<p>a) the outcome of the dispute settlement procedure referred to in this paragraph was in favour of the Union and has not been enforced correctly and</p>

			<p>expeditiously by the third country;</p> <p>b) the dispute settlement procedure has not been initiated within three months from the date of notification set out in paragraph 1;</p> <p>c) the Commission comes to the conclusion that the practice distorting competition has not been eliminated within 12 months as from the date of suspension of the investigation.</p>
160.			<p>2. The Commission shall suspend the investigation, if all the Member State(s) concerned have notified the Commission, within 15 days as from the date of the notification of the initiation of the investigation, of their intention to address the practice distorting competition exclusively under the procedure for dispute settlement applicable to the air transport, air services agreements or any other agreement which contains provisions on air transport services that they have concluded with the third country concerned.</p>
161.			<p>The Commission shall resume the</p>

162.				investigation in any of the following cases:
				<p>a) the Member State(s) concerned notifies the Commission that the outcome of the dispute settlement procedure referred to in paragraph 2 has not been enforced correctly and expeditiously;</p> <p>b) the Member State(s) concerned has not initiated the dispute settlement procedure within 3 months from the date of the notification set out in paragraph 2.</p> <p>c) the Member State(s) concerned asks the Commission to resume the investigation;</p> <p>d) the Commission comes to the conclusion that the practice distorting competition has not been eliminated within 12 months as from the date of the notification by the Member State(s) concerned referred to in paragraph 2.</p>
163.	<p><i>Article 5</i></p> <p>Cooperation with the Member States in respect of proceedings relevant to cases falling under</p>		<p><i>Article 5</i></p> <p>Cooperation with the Member States [...]</p>	<p><i>Article 5</i></p> <p>Cooperation with the Member States [...]</p>

164.	<p>Chapter IV</p> <p>1. When the Commission intends to initiate proceedings in accordance with Article 3 and where the air transport services concerned are regulated by an air transport or air services agreement concluded between one or more Member States and a third country and to which the Union is not a party, the Commission shall inform the Member State(s) concerned..</p>		1. [...]	Covered by line 136
165.	<p>2. Where a Member State is informed by the Commission in accordance with paragraph 1, that Member State shall inform the Commission without undue delay of its intention to resort to procedures for dispute settlement or any other relevant procedure provided for in the air transport or air services</p>		<p>2. Where the Member State concerned intends to resort to procedures for dispute settlement provided in an air transport or air services agreement with the third country concerned and has not notified the Commission of its intention to resort to it exclusively in accordance with Article 4(2a), that Member State shall inform</p>	Linked to Suspension

	<p>agreement with the third country concerned, with a view to addressing the situation covered by the investigation.</p>		<p>the Commission without undue delay of its intention [...].</p>	
<p>166.</p>	<p>3. The Member State referred to in paragraph 2 shall also inform the Commission of all relevant meetings scheduled in the framework of the air transport or air services agreement with the third country concerned to discuss the issue covered by the investigation. The Member State concerned shall provide the Commission with the agenda and all relevant information permitting an understanding of the topics to be discussed at those meetings.</p>		<p>3. The Member State concerned referred to in paragraph 2 shall also inform the Commission of all relevant meetings scheduled in the framework of the air transport or air services agreement or any provision on air transport services included in any other agreement with the third country concerned to discuss the issue covered by the investigation. The Member State concerned shall provide the Commission with the agenda and all relevant information permitting an understanding of the topics to be discussed at those meetings.</p>	<p><i>Tentatively agreed text:</i></p> <p>3. The Member State concerned referred to in paragraph 2 shall also inform the Commission of all relevant meetings scheduled in the framework of the air transport or air services agreement or any provision on air transport services included in any other agreement with the third country concerned to discuss the issue covered by the investigation. The Member State concerned shall provide the Commission with the agenda and all relevant information permitting an understanding of the topics to be discussed at those meetings.</p>

167.	<p>4. The Member State concerned shall keep the Commission informed of the conduct of any procedure as referred to in paragraph 2 and may, where appropriate, invite the Commission to attend those procedures. The Commission may request further information from the Member State concerned.</p>		<p>4. The Member State concerned shall keep the Commission informed of the conduct of any procedure as referred to in paragraph 2 and may, where appropriate, invite the Commission to attend those procedures. The Commission may request further information from the Member State concerned.</p>	COM text
168.	<p><i>Article 6</i> Confidentiality</p>		<p><i>Article 6</i> Confidentiality</p>	
169.	<p>1. Any information which is by nature confidential, including but not limited to information the disclosure of which would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom the person supplying the information has acquired</p>		<p>1. Any information which is by nature confidential, including but not limited to information the disclosure of which would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom the person supplying the information has acquired</p>	COM text

	the information, or which is provided on a confidential basis by parties to an investigation shall, if good cause is shown, be treated as such by the Commission.		the information, or which is provided on a confidential basis by parties to an investigation shall, if good cause is shown, be treated as such by the Commission.	
170.	2. Interested parties providing confidential information shall be required to provide non-confidential summaries thereof. Those summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, the interested parties may indicate that the confidential information cannot be summarised. In such exceptional circumstances, a statement of the reasons why summarisation is not possible shall be provided.		2. Interested parties providing confidential information shall be required to provide non-confidential summaries thereof. Those summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, the interested parties may indicate that the confidential information cannot be summarised. In such exceptional circumstances, a statement of the reasons why summarisation is not possible shall be provided.	COM text
171.	3. Information received pursuant to this Regulation shall be used only for the		3. Information received pursuant to this Regulation shall be used only for the	COM text

	<p>purpose for which it was requested. This provision shall not preclude the use of information received in the context of one investigation for the purpose of initiating another investigation in accordance with this Regulation.</p>		<p>purpose for which it was requested. This provision shall not preclude the use of information received in the context of one investigation for the purpose of initiating another investigation in accordance with this Regulation.</p>	
172.	<p>4. The Commission and the Member States, including the officials of either, shall not reveal any information of a confidential nature received pursuant to this Regulation, or any information provided on a confidential basis by a party to an investigation, without specific permission from the party submitting such information. Exchanges of information between the Commission and Member States, or any internal document prepared by the authorities of the Union or the Member States, shall not</p>		<p>4. The Commission and the Member States, including the officials of either, shall not reveal any information of a confidential nature received pursuant to this Regulation, or any information provided on a confidential basis by a party to an investigation, without specific permission from the party submitting such information. Exchanges of information between the Commission and Member States, or any internal document prepared by the authorities of the Union or the Member States, shall not</p>	COM text

	be divulged except where specifically provided for in this Regulation.		be divulged except where specifically provided for in this Regulation.	
173.	5. Where it appears that a request for confidentiality is not warranted and if the supplier is unwilling either to make the information public or to authorise its disclosure in generalised or summary form, the information concerned may be disregarded.		5. Where it appears that a request for confidentiality is not warranted and if the supplier is unwilling either to make the information public or to authorise its disclosure in generalised or summary form, the information concerned may be disregarded.	COM text
174.	6. This Article shall not preclude the disclosure of general information by the Union authorities and in particular the disclosure of the reasons on which decisions taken pursuant to this Regulation are based or the disclosure of the evidence relied on by the Union authorities in so far as is necessary to explain those reasons in court proceedings. Such disclosure shall take into		6. This Article shall not preclude the disclosure of general information by the Union authorities and in particular the disclosure of the reasons on which decisions taken pursuant to this Regulation are based or the disclosure of the evidence relied on by the Union authorities in so far as is necessary to explain those reasons in court proceedings. Such disclosure shall take into	COM text

	account the legitimate interest of the parties concerned that their business or government secrets shall not be divulged.		account the legitimate interest of the parties concerned that their business or government secrets shall not be divulged.	
175.			<p>6a. Member States shall take the necessary measures to ensure appropriate confidentiality of the information relevant to the application of this Regulation.</p>	<p><i>To be discussed between the Legal Services of the COM and the EP</i></p> <p><u>Propose CGA</u></p> <p><u>Fall-back position:</u> [Member States shall take any necessary measures to ensure appropriate confidentiality of the information relevant to the application of the Regulation and with respect to the principle of sincere cooperation.]</p>
176.	<p><i>Article 7</i></p> <p>Basis of findings in case of non-cooperation</p>		<p><i>Article 7</i></p> <p>Non-cooperation</p>	
177.		<p>Amendment 48 Article 7 – paragraph 1</p>		
178.	In cases where access to the necessary information is refused or is otherwise not provided within the appropriate time	In cases where access to the necessary information is refused or is otherwise not provided within the appropriate time limits, <i>where a</i>	1. In cases in which any interested party, a third country or a third country entity concerned refuses	<p><i>Linked to the adoption of provisional redressive measures</i></p> <p><u>Tentatively agreed compromise:</u></p>

	<p>limits, or where the investigation is significantly impeded, findings shall be made on the basis of the available <i>facts</i>.</p> <p>Where the Commission finds that false or misleading information has been submitted, such information shall be disregarded.</p>	<p><i>third country concerned has not granted access to its territory to conduct investigation or where the investigation is significantly impeded, the Commission may take provisional redressive measures on the basis of the available facts and evidence provided in accordance with Article 3.</i> Where the Commission finds that false or misleading information has been submitted, such information shall be disregarded.</p>	<p>access to, or otherwise does not provide the necessary information within the time limits provided for in this Regulation, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.</p> <p>Where it is found that any interested party, a third country or a third country entity has supplied false or misleading information, that information shall be disregarded.</p>	<p>1. In cases where access to the necessary information is refused or is otherwise not provided within the time limits provided for in this Regulation, or where the investigation is significantly impeded, provisional or final findings, affirmative or negative, may be made on the basis of the facts and evidence available.</p> <p>[The Commission may take provisional redressive measures on the basis of the available facts and evidence provided in accordance with Article 3.]</p> <p>Where the Commission finds that false or misleading information has been submitted, such information shall be disregarded.</p>
179.			<p>2. Where the information submitted by an interested party, a third country or a third country entity concerned is not ideal in all respects, it shall nevertheless not be disregarded, provided that any deficiencies are not</p>	<p><i>Tentatively agreed compromise text now in Article 4</i></p>

			such as to cause undue difficulty in arriving at a reasonably accurate finding and that the information is appropriately submitted in good time and is verifiable, and that the party has acted to the best of its ability.	
180.			3. If evidence or information is not accepted, the supplying party shall be informed forthwith of the reasons thereof and shall be granted an opportunity to provide further explanations within the specified time limit. If the explanations are considered unsatisfactory, the reasons for rejection of such evidence or information shall be disclosed and given in published findings.	
181.			4. [...]	
182.	<i>Article 8</i> Disclosure		<i>Article 8</i> Disclosure	
183.	1. The third country, the third country entity and the third		1. The third country, the third country entity and the third	<u><i>Tentatively agreed compromise:</i></u> 1. The third country, the third

	<p>air carrier concerned, as well as the complainant and interested parties shall receive disclosure of the essential facts and considerations on the basis of which it is intended to adopt redressive measures, or to terminate proceedings without adopting redressive measures, no later than one month before the Committee referred to in Article 15 is seized in accordance with Articles 10(2), 10(3), 12(2) or 13(1).</p>	<p>country air carrier concerned, as well as the complainant, the interested parties, Member States and the Union air carrier(s) concerned shall receive disclosure of the essential facts and considerations on the basis of which it is intended to adopt redressive measures, or to terminate proceedings without adopting redressive measures, no later than one month before the Committee referred to in Article 15 is convened in accordance with Articles [..] 12(2) or 13(1), or one month before the Commission transmits its proposal referred to in Article 13(1a) to the Council.</p>	<p>country entity and the third country air carrier concerned, as well as the complainant, the interested parties, Member States and the Union air carrier(s) concerned shall receive disclosure of the essential facts and considerations on the basis of which it is intended to adopt redressive measures, or to terminate proceedings without adopting redressive measures, no later than one month before the Committee referred to in Article 15 is convened in accordance with Articles [10(2), 10 (3)] 12(2) or 13(1), [or one month before the Commission transmits its proposal referred to in Article 13(1a) to the Council.]</p>
184.	<p>2. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission. Where the Commission intends to base</p>	<p>2. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission. Where the Commission intends to base</p>	<p><i>Tentatively agreed compromise:</i> 2. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission. Where the Commission intends to base such</p>

	such a decision on any additional or different facts and considerations they shall be disclosed as soon as possible.		such a decision on any additional or different facts and arguments they shall be disclosed as soon as possible.	a decision on any additional or different facts and considerations , they shall be disclosed as soon as possible.
185.	3. Representations made after disclosure is given shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 10 days, due consideration being given to the urgency of the matter. A shorter period may be set whenever an additional final disclosure has to be made.		3. Additional information provided [...] after disclosure [...] shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 14 days, due consideration being given to the urgency of the matter. A shorter period may be set whenever an additional final disclosure has to be made.	<i>CGA accepted by EP</i> Additional information provided [...] after disclosure [...] shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 14 days, due consideration being given to the urgency of the matter. A shorter period may be set whenever an additional final disclosure has to be made.
186.	<i>Article 9</i> Duration of proceedings and suspension		<i>Article 9</i> Duration of proceedings and suspension	
187.		Amendment 49 Article 9 – paragraph 1		
188.	1. The proceedings shall be concluded within two years. That period may be prolonged in duly justified cases.:	1. The proceedings shall be concluded within two years. That period may be prolonged in duly justified cases.	1. [...].	<i>Tentatively agreed compromise:</i> 1. The proceedings shall be concluded within 20 months. That period may be prolonged in duly

				justified cases.
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189.		<p><i>1a(new)The investigation shall be concluded within twelve months. That period may be prolonged in duly justified cases.</i></p>	<p>1a. The proceedings shall be concluded within a maximum of eighteen months. The period necessary for the proceedings may be prolonged in duly justified cases. In case of a suspension of the investigation as set out in Article 4(2.0) and 4(2a), that period of suspension shall not be counted within the duration of the proceedings.</p>	<p><u>Linked to suspension article</u> <u>Tentatively agreed compromise:</u></p> <p>1a(new) The investigation shall be concluded within twelve months. That period may be prolonged in duly justified cases. In case of a suspension of the investigation as set out in Articles [4a] and 9(3) that period of suspension shall not be counted within the duration of the investigation.</p> <p>In case the period for the investigation is prolonged, the duration of the prolongation shall be added to the total duration of the proceedings as defined in paragraph 1.</p>
190.	<p>2. In case of urgency, such as in situations where there is a risk of immediate and irreversible injury to Union air carrier(s), the proceedings may be shortened to one year.</p>	<p>2. In case of urgency, such as in situations where there is a risk of immediate and irreversible injury to Union air carrier(s), the proceedings may be shortened to <i>six months or, as a last resort, the Commission may adopt provisional redressive measures to</i></p>	<p>2. [...]</p>	<p><i>Linked to provisional redressive measures</i></p>

		<i>prevent or offset such injury.</i>	
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191.	3. The Commission <i>may</i> suspend the proceedings where the third country or the third country entity concerned has taken decisive steps to eliminate, as the case may be:	3. The Commission <i>shall</i> suspend the proceedings where the third country or the third country entity concerned has taken decisive steps to eliminate, as the case may be:	3. The Commission shall suspend the proceedings where the third country or the third country entity concerned has taken decisive steps to eliminate [...].	<i>linked to the deletion of Art. 10</i>
192.	(a) in case of violation of applicable international obligation, that violation;	(a) in case of violation of applicable international obligation, that violation;	(a) [...];	<i>To be discussed. 1</i>
193.	(b) in case of practice <i>affecting</i> competition, either that practice or the injury or threat of injury to the Union air carrier(s) concerned.	(b) in case of practice <i>distorting</i> competition, either that practice or the injury or threat of injury to the Union air carrier(s) concerned.	(b) [...] the practice <i>distorting</i> competition [...] or the injury to the Union air carrier(s) concerned.	b) in case of practice <i>distorting</i> competition, either that practice or the injury [or threat of injury] to the Union air carrier(s) concerned.
194.	4. If the violation of applicable international obligations or the practice <i>affecting</i> competition, the injury or the threat of injury to the Union air carrier(s) concerned has not been eliminated following a reasonable period of time, the Commission <i>may</i> resume the proceedings.	4. If the violation of applicable international obligations or the practice <i>distorting</i> competition, the injury or the threat of injury to the Union air carrier(s) concerned has not been eliminated following a reasonable period of time, <i>but no longer than six months</i> , the Commission <i>shall</i> resume the proceedings.	4. If [...] the practice <i>distorting</i> competition, [...] or the injury to the Union air carrier(s) concerned has not been eliminated following a reasonable period of time, the Commission may resume the proceedings.	<i>Proposed compromise:</i> 4. In the cases referred to in paragraph 3, the Commission may shall resume the proceedings if [Art. 10] the practice <i>distorting</i> competition, [threat of injury] or the injury to the Union air carrier(s) concerned has not been eliminated following a reasonable period of time, [but no longer than six months].
195.	CHAPTER III	CHAPTER III	CHAPTER III	

	VIOLATION OF APPLICABLE INTERNATIONAL OBLIGATIONS <i>Article 10</i> Conclusion of proceedings		VIOLATION OF APPLICABLE INTERNATIONAL OBLIGATIONS <i>Article 10</i> Conclusion of proceedings [...]	
196.		Amendment 50 Article 10		<i>Still under discussion</i>
197.				
198.	1. Where the complaint is withdrawn, the Commission <i>may</i> terminate the investigation conducted under Article 4 without adopting redressive measures.	1. Where the complaint is withdrawn, the Commission <i>shall assess whether to take a decision to</i> terminate the investigation conducted under Article 4 without adopting redressive measures.		
199.	2. The Commission shall, by means of implementing acts, terminate the investigation under Article 4 without adopting redressive measures in any of the following cases:	2. The Commission shall, by means of implementing acts, terminate the investigation conducted under Article 4 without adopting redressive measures in any of the following cases:		
200.	(a) the Commission concludes that applicable international	(a) the Commission concludes that applicable international obligations have not been violated		

	obligations have not been violated;			
201.	(b) the Commission concludes that adopting redressive measures would be against Union interest;	(b) the Commission concludes that adopting redressive measures would be against Union interest;		
202.	(c) a satisfactory remedy has been obtained between the Union and the third country concerned in accordance with the relevant mechanisms provided for in the applicable agreement or arrangement or under relevant public international law.	(c) a satisfactory remedy has been obtained between the Union and the third country concerned in accordance with the relevant mechanisms provided for in the applicable agreement or arrangement or under relevant public international law.		
203.	The implementing acts referred to in the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 15(2).	The implementing acts referred to in the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 15(2), <i>after informing the European Parliament and the relevant interested parties.</i>		

204.	<p>3. Without prejudice to the relevant provisions of the Treaty on the Functioning of the European Union and subject to paragraphs 1 and 2, the Commission shall, by means of implementing acts, adopt redressive measures if the investigation determines that the applicable international obligations have been violated.</p>	<p>3. Without prejudice to the relevant provisions of the Treaty on the Functioning of the Union and subject to paragraphs 1 and 2, the Commission, <i>after informing the Parliament</i>, shall, by means of implementing acts, adopt redressive measures if the investigation determines that the applicable international obligations have been violated.</p>		
205.	<p>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 15(2).</p>	<p>Those implementing acts referred to in the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 15 (2).</p>		
206.	<p>4. Where the act containing the applicable international obligations requires, before the adoption of any measure, the prior discharge of an international procedure for consultation or for the settlement of disputes, that procedure</p>	<p>4. Where the act containing the applicable international obligations requires, before the adoption of any measure, the prior discharge of an international procedure for consultation or for the settlement of disputes, that procedure shall be first</p>		

	shall be first discharged and any decision taken in accordance with paragraph 3 shall take account of its results.	discharged and any decision taken in accordance with paragraph 3 shall take account of its results.		
207.	5. The redressive measures referred to in paragraph 3 shall be the measures provided for by the act containing the applicable international obligations or available under relevant rules and principles of public international law.	5. The redressive measures referred to in paragraph 3 shall be the measures provided for by the act containing the applicable international obligations or available under relevant rules and principles of public international law.		

	CHAPTER IV PRACTICES DISTORTING COMPETITION		CHAPTER IV PRACTICES AFFECTING COMPETITION	
209.	<p><i>Article 11</i></p> <p>Determination of injury</p>		<p><i>Article 11</i></p> <p>Determination of injury</p>	
210.	<p>1. A finding of injury for the purposes of this Chapter shall be based on evidence and shall take account of [...] the relevant factors, in particular:</p>		<p>1. A finding of injury for the purposes of this Chapter shall be based on evidence and shall take account of all relevant factors, in particular:</p>	CGA
211.	<p>(a) the situation of the Union air carrier(s) concerned, notably in terms of aspects such as frequency of services, utilisation of capacity, network effect, sales, market share, profits, return on capital, investment and employment;</p>		<p>(a) the situation of the Union air carrier(s) concerned, notably in terms of aspects such as frequency of services, utilisation of capacity, network effect, sales, market share, profits, return on capital, investment and employment;</p>	COM text
212.	<p>(b) the general situation on the affected air transport services market(s), notably in terms of level of fares or rates, capacity and</p>		<p>(b) the general situation on the affected air transport services market(s), notably in terms of level of fares or rates, capacity and</p>	COM text

	frequency of air transport services or use of the network.		frequency of air transport services or use of the network.	
213.			Where the injury to the Union air-carrier(s) concerned is caused by factors other than the practice-distorting competition, they shall not be attributed to the practice under scrutiny and shall be disregarded.	<i>Moved back to line 220</i>
214.	2. A finding of a threat of injury requires that it be clearly foreseeable that a particular situation is likely to develop into actual injury. Any such determination shall be based on evidence and take account of all relevant factors, in particular:		2. [...] <i>To be discussed.</i>	
215.	(a) the foreseeable evolution of the situation of the Union air carrier(s) concerned notably in terms of frequency of services, utilisation of			

	capacity, network effect, sales, market share, profits, return on capital, investment and employment;			
216.	(b) the foreseeable evolution of the general situation of the potentially affected air transport services market(s), notably in terms of level of fares or rates, capacity and frequency of air transport services or use of the network.			
217.		Amendment 51 Article 11 – paragraph 2 – subparagraph 1 (new)		
218.		<i>The totality of the factors considered shall be such as to lead to the conclusion that the foreseeable evolution is imminent and that, unless protective action is taken, actual injury will occur.</i> <i>In the event where the situation under scrutiny develops into an</i>		<i>To be discussed</i>

		<p><i>actual injury before the end of the proceeding, the Commission shall proceed in accordance with paragraph 1 and take into account the newest evidence at its disposal.</i></p>		
219.	<p>3. The Commission shall select an investigation period and analyse the relevant evidence over that period.</p>		<p>3. The Commission shall select an investigation period during which the injury has allegedly taken place and analyse the relevant evidence over that period.</p>	<p><u><i>Tentatively agreed compromise:</i></u></p> <p>The Commission shall select an investigation period which includes but is not limited to the period during which the injury has allegedly taken place and analyse the relevant evidence over that period.</p> <p><i>Moved back from line 213</i></p> <p><u><i>Tentatively agreed compromise:</i></u></p> <p>Where the injury [or threat of injury] to the Union air carrier(s) concerned is caused by factors other than the practice distorting competition, they shall not be attributed to the practice under scrutiny and shall be disregarded.</p>
220.	<p>4. Injury or threat of injury caused by factors other than the practice affecting competition and which are also negatively affecting the Union air carrier(s) concerned shall not be attributed to the practice under scrutiny.</p>		<p>4. Where the injury to the Union air carrier(s) concerned is caused by factors other than the practice distorting competition, they shall not be attributed to the practice under scrutiny and shall be disregarded.</p>	<p><u><i>Tentatively agreed compromise:</i></u></p> <p>Where the injury [or threat of injury] to the Union air carrier(s) concerned is caused by factors other than the practice distorting competition, they shall not be attributed to the practice under scrutiny and shall be disregarded.</p>

221.	<i>Article 12</i> Termination of proceedings without redressive measures		<i>Article 12</i> Termination of proceedings without redressive measures	
222.		Amendment 52 Article 12 – paragraph 1		
223.	1. The Commission may terminate the investigation without adopting redressive measures where the complaint is withdrawn.	1. Only the Commission may terminate the investigation without adopting redressive measures where the complaint is withdrawn. Union carriers have the right to appeal against a Commission decision to terminate the investigation. Such an appeal shall be lodged within 30 days from the notification by the Commission of its decision to terminate the investigation.	1. Unless the Commission continues the investigation on its own initiative, the Commission shall terminate the investigation without [...] redressive measures being adopted where the complaint is withdrawn.	<u><i>Tentatively agreed compromise:</i></u> The Commission shall terminate the investigation without redressive measures being adopted where the complaint is withdrawn, unless the Commission continues the investigation on its own initiative.

224.		Amendment 53 Article 12 – paragraph 2 – subparagraph 1 – introductory part		
225.	2. The Commission shall, by means of implementing acts, terminate the investigation conducted in accordance with Article 4 without adopting redressive measures where:	2. The Commission is empowered to adopt delegated acts, in accordance with Article 15 a (new) terminating the investigation conducted in accordance with Article 4 without adopting redressive measures where:	2. The Commission shall, by means of implementing acts, terminate the investigation conducted in accordance with Article 4 without redressive measures being adopted where:	<i>To be discussed – delegated acts</i>
226.	(a) the Commission concludes that either of the following is not established:.		(a) the Commission concludes that either of the following is not established:	COM text
227.	(i) the existence of a practice affecting competition, adopted by a third country or a third country entity;		(i) the existence of a practice distorting competition, adopted by a third country or a third country entity;	CGA
228.	(ii) the existence of injury or threat of injury to the Union air carrier(s) concerned;		(ii) the existence of [...] injury to the Union air carrier(s) concerned;	<i>To be discussed</i>

229.	(iii) the existence of a causal link between the injury or threat of injury and the practice considered;		(iii) the existence of a causal link between the injury [...] and the practice considered;	<i>To be discussed</i>
230.	(b) the Commission concludes that adopting redressive measures in accordance with Article 13 would be against Union interest;		(b) the Commission concludes that adopting redressive measures in accordance with Article 13 would be against Union interest;	COM text
231.	(c) the third country or third country entity concerned has eliminated the practice affecting competition;		(c) the third country or third country entity concerned has eliminated the practice distorting competition;	COM text
232.	(d) the third country or third country entity concerned has eliminated the injury or threat of injury to the Union air carrier(s) concerned.		(d) the third country or third country entity concerned has eliminated the [...] injury to the Union air carrier(s) concerned.	<i>To be discussed</i>

233.		Amendment 54 Article 12 – paragraph 2 – subparagraph 2		
234.	<i>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 15(2).</i>	<i>Deleted</i>	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).	<i>To be discussed</i>
235.		Amendment 55 Article 12 – paragraph 3		
236.	3. The decision to terminate the investigation in accordance with paragraph 2 shall be accompanied by a statement of the reasons thereof and shall be published in the Official Journal of the European Union.	3. The decision to terminate the investigation in accordance with paragraph 2 shall be accompanied by a statement of the reasons thereof and shall be published in the Official Journal of the European Union. <i>The Commission shall further justify its decision before the competent committees of the European Parliament.</i>	3. The decision to terminate the investigation in accordance with paragraph 2 shall be accompanied by a statement of the reasons thereof and shall be published in the <i>Official Journal of the European Union.</i>	<i>Covered by new compromise proposal for Article 15b.</i>

237.	<i>Article 13</i> Redressive measures		<i>Article 13</i> Redressive measures	
238.		Amendment 56 Article 13 – paragraph 1 – subparagraph 1		
239.	1. Without prejudice to Article 12(1) and except in the case referred to in point (b) of Article 12(2) the Commission shall, by means of implementing acts, adopt redressive measures if the investigation conducted under Article 4 determines that a practice <i>affecting</i> competition, adopted by a third country or a third country entity, has caused injury or threat of injury to the Union air carrier(s) concerned.	1. Without prejudice to Article 12(1) and except in the case referred to in point (b), of Article 12(2) the Commission shall <i>adopt implementing acts laying down</i> redressive measures if the investigation conducted under Article 4 determines that a practice <i>distorting</i> competition, adopted by a third country or a third country entity, has caused injury or threat of injury to the Union air carrier(s) concerned.	1. Without prejudice to Article 12 [...], the Commission shall, by means of implementing acts, adopt the redressive measures referred to in point (a) of paragraph 2 , if the investigation conducted under Article 4 determines that a practice <i>distorting</i> competition, adopted by a third country or a third country entity, has caused injury [...] to the Union air carrier(s) concerned.	<i>To be discussed</i>
240.	Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 15(2).	Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 15(2).	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).	<i>To be discussed</i>

241.			<p>1a. Without prejudice to Article 12, on the basis of a proposal from the Commission, the Council shall, by means of implementing acts, adopt operational redressive measures referred to in point (b) of paragraph 2, if the investigation conducted under Article 4 determines that a practice distorting competition, adopted by a third country or a third country entity, has caused injury to the Union air carrier(s) concerned.</p>	<i>To be discussed</i>
242.			<p>1(b) The redressive measures referred to in paragraphs 1 and 1a shall not direct the Union or the Member State(s) concerned to violating air transport, air services agreements or any provision on air transport services included in a trade agreement concluded with the third country</p>	<i>To be discussed - almost identical to line 252</i>

243.	<p>2. The redressive measures referred to in paragraph 1 shall be imposed on the third country air carriers(s) benefiting from the practice affecting competition and may take the form of either of the following:</p>	<p>2. The redressive measures referred to in paragraph 1 and 1a shall be imposed on the third country air carriers(s) benefiting from the practice distorting competition and may take the form of either of the following:</p>	<i>To be discussed</i>
244.	<p>(a) financial duties;</p>	<p>(a) financial duties;</p>	<i>To be discussed</i>
245.	<p>(b) any operational measure of equivalent or lesser value.</p>	<p>(b) any operational measure of equivalent or lesser value, such as suspension of concessions, of services owed or of other rights of the third country air carrier.</p>	<i>To be discussed</i>
246.	<p>3. The redressive measures referred to in paragraph 1 shall not exceed what is necessary to offset the</p>	<p>3. The redressive measures referred to in paragraphs 1 and 1a shall not exceed what is necessary to offset the</p>	<i>To be discussed</i>

	<p>injury or threat of injury to the Union air carrier(s) concerned. To this effect measures referred to in point (b) of paragraph 2 may be limited to a specific geographic area.</p>	<p>Union air carrier(s) concerned or to prevent the threat of injury from developing into an actual injury to the Union air carrier(s) concerned. To this effect measures referred to in point (b) of paragraph 2 may be limited to a specific geographic area or may be limited in time.</p>	<p>injury [...] to the Union air carrier(s) concerned. [...]</p>	
247.			<p>3(b) The redressive measures shall not consist of suspension or limitation of traffic rights granted by a Member State to a third country under an air transport, an air service agreement or any provision on air transport services included in any other agreement concluded with that third country.</p>	<p><i>To be discussed – traffic rights</i></p>
248.	<p>4. The redressive measures referred to in paragraph 1 shall not direct the Union or the Member State(s) concerned to violating air</p>	<p>4. The redressive measures referred to in paragraph 1 shall not direct the Union or the Member State(s) concerned to violating air transport, air</p>	<p>4. [...]</p>	<p><i>Covered in CGA- line 245</i></p>

	transport, air services agreements or any provision on air transport services included in a trade agreement concluded with the third country concerned.	services agreements or any provision on air transport services included in a trade agreement concluded with the third country concerned.		
249.		<p><i>4a. The redressive measures referred to in paragraph 1 shall have regard to the proper functioning of the Union air transport market and shall not result in an undue advantage being given to any air carrier or group of air carriers.</i></p>		<i>To be discussed</i>
250.		<p><i>4b(new). The redressive measures referred to in paragraph 1 may be provisional and may be adopted, where necessary, when the investigation determines, on the basis of available facts, that a threat of injury exists and also, if needed in the event of complex on-going investigation which has not yet been concluded or</i></p>		<i>To be discussed</i>

		<i>terminated.</i>	5. The decision to conclude the investigation with the adoption of redressive measures referred to in paragraph 1 shall be accompanied by a statement of the reasons thereof and shall be published in the <i>Official Journal of the European Union.</i>	5. The decision to conclude the investigation with the adoption of redressive measures referred to in paragraphs 1 and 1a shall be accompanied by a statement of the reasons thereof and shall be published in the <i>Official Journal of the European Union.</i>	<i>Linked with line 244.</i>
252.	<i>Article 14</i> Review of redressive measures	Article 14	Review of redressive measures	<i>Article 14</i>	
253.		Amendment 57 Article 14 – paragraph 1			
254.	1. The redressive measures referred to in Article 13 shall remain in force only as long as, and to the extent that, it is necessary in view of, the persistence of the practice affecting competition and the ensuing injury or threat of injury. To this end, the review procedure set out in	1. The redressive measures referred to in Article 13 shall be in force only as long as, and to the extent that, it is necessary in view of, the persistence of the practice distorting competition and the ensuing injury or threat of injury. To this end, the review procedure set out in paragraphs 2, 3 and 4 shall apply.	1. The redressive measures referred to in Article 13 shall remain in force only as long as, and to the extent that, it is necessary in view of, the persistence of the practice distorting competition and the ensuing injury [...]. To this end, the review procedure set out in	1. The redressive measures referred to in Article 13 shall remain in force only as long as, and to the extent that, it is necessary in view of, the persistence of the practice distorting competition and the ensuing injury [...]. To this end, the review procedure set out in paragraphs 2, 3 and 4 shall apply. The Commission shall regularly provide a written report	1. The redressive measures referred to in Article 13 shall remain in force only as long as, and to the extent that, it is necessary in view of, the persistence of the practice distorting competition and the ensuing injury [...]. To this end, the review procedure set out in paragraphs 2, 3 and 4 shall apply. The Commission shall regularly provide a written report

	paragraphs 2, 3 and 4 shall apply.		paragraphs 2, 3 and 4 shall apply. The Commission shall regularly provide a written report to the Council on the effectiveness and impact of redressive measures.	to the Council on the effectiveness and impact of redressive measures. This information shall also be reflected in the report referred to in Article 15b(1).
255.		Amendment 58 Article 14 – paragraph 2		
256.	2. Where circumstances so warrant, the need for the continued imposition of redressive measures in their initial form may be reviewed, either on the initiative of the Commission or of the complainant or upon a reasoned request by the third country or the third country entity concerned.	2. Where circumstances so warrant, the need for the continued imposition of redressive measures in their initial form may be reviewed, either on the initiative of the Commission, the Member State concerned, or of the complainant or upon a reasoned request by the third country or the third country entity concerned.	2. Where circumstances so warrant, the need for the continued imposition of redressive measures in their initial form may be reviewed, either on the initiative of the Commission or of the complainant or upon a reasoned request by the Member State(s) concerned , the third country or the third country entity concerned.	<i>CGA accepted by EP</i>
257.	3. In the course of its review, the Commission shall assess the continued existence of the practice affecting competition, of the injury or threat of injury and of the		3. In the course of its review, the Commission shall assess the continued existence of the practice distorting competition, of the injury [...] and of the	<i>CGA</i>

	causal link between the practice and the injury or threat of injury.		causal link between the practice and the injury [...].	
258.		Amendment 59 Article 14 – paragraph 4		
259.	4. The Commission shall, by means of implementing acts, repeal, amend or maintain , as appropriate, the redressive measures. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 15(2) .	4. The Commission is empowered to adopt delegated acts in accordance with Article 15 a (new), repealing, amending or maintaining , as appropriate, the redressive measures. When adopting those delegated acts the Commission shall take into account the Union interest.	4. The Commission shall, by means of implementing acts, repeal, amend or maintain, as appropriate, the redressive measures set out in Article 13(2a) . Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).	<i>To be discussed – delegated act</i>
260.			4a. On the basis of a proposal from the Commission, Council shall, by means of implementing acts, repeal, amend or maintain, as appropriate, the redressive measures set out in Article 13(2b).	<i>To be discussed</i>

261.	CHAPTER V FINAL PROVISIONS			
262.	<i>Article 15</i> Committee procedure		<i>Article 15</i> Committee procedure	COM text
263.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	COM text
264.	2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	<i>To be discussed</i>
265.		Amendment 60 Article 15a new – paragraph 1		
266.		<i>Article 15 a (new)</i> Exercise of the delegation		
267.		1. <i>The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</i>		<i>To be discussed.</i>

268.		<p><i>2. The power to adopt delegated acts referred to in Article 12 and Article 14(4) shall be conferred on the Commission for a period of ... years from ... [date of entry into force of the basic legislative act or any other date set by the co-legislators]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the ... year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</i></p>		
269.		<p><i>3. The delegation of power referred to in Article 12 and Article 14(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put</i></p>		

		<p><i>an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</i></p> <p>4. <i>Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.</i></p> <p>5. <i>As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</i></p> <p>6. <i>A delegated act adopted pursuant to Article 12 and Article 14(4) shall enter into</i></p>		
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		<p><i>force only if no objection has been expressed either by the European Parliament or the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council</i></p>	
270.		<p>Amendment 61 Article 15b new – paragraph 1</p>	
271.		<p>Article 15 b (new) Report</p>	<p>Article 15 b (new) Report and information</p>
272.		<p>1. The Commission shall on a case-by-case basis, with due regard to the protection of confidential information within the meaning of Article 6, present a report, accompanied by a statement, on the application and</p>	<p><u>Proposed compromise:</u> 1. On a regular basis, the Commission shall report to the European Parliament and to the Council on the application and implementation of this</p>

		<p><i>implementation of this Regulation to the European Parliament and to the Council. Where relevant, the report shall include information about the application of redressive measures, the termination of investigations without redressive measures, ongoing investigations, reviews and cooperation with Member States, interested parties and third countries.</i></p>	<p>Regulation. With due regard to the protection of confidential information within the meaning of Article 6, the report shall include information about the application of the redressive measures, the termination of investigations without redressive measures, reviews and cooperation with Member States, interested parties and third countries.</p>
273.		<p><i>2. The European Parliament may, within one month of the Commission presenting the report, invite the Commission to an ad hoc meeting of its responsible committee to further explain any issues related to the implementation of this Regulation.</i></p>	<p>2. The European Parliament and the Council may invite the Commission to present and explain any issues related to the application of this Regulation.</p>
274.		<p><i>3. No later than six months after presenting the report to the European Parliament and to the Council, the Commission shall make the report public.</i></p>	

275.	<i>Article 16</i> Repeal		<i>Article 16</i> Repeal	COM text
276.	Regulation (EC) No 868/2004 is repealed. References to the repealed Regulation shall be construed as references to this Regulation.		Regulation (EC) No 868/2004 is repealed. References to the repealed Regulation shall be construed as references to this Regulation.	COM text
277.	<i>Article 17</i> Entry into force		<i>Article 17</i> Entry into force	COM text
278.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.		This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	COM text
279.	This Regulation shall be binding in its entirety and directly applicable in all Member States.		This Regulation shall be binding in its entirety and directly applicable in all Member States.	COM text