



Council of the  
European Union

Brussels, 16 October 2018  
(OR. en)

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## REPORT

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From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 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

- Presidency proposed compromise package

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A. The Presidency is proposing the following possible concessions from the Council, as part of an overall package, with a view to a final agreement on the file:

- Reintroduction of the **threat of injury**, including a tentative definition, for the investigation phase only (*definition based on the contribution for the working party on 23 October*);
- **Fast track procedure** (in case of urgency) - on the basis of the COM proposal, Art. 9(2) – line 190.  
*"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 / [six months]."*
- **Union interest**, no UI test before launch of the investigation and no questionnaire;
- Reference to **social** factors included in the Regulation.

B. In exchange, the Council will expect the Parliament to be flexible on the following:

**Split decision-making** for the adoption of redressive measures, as in CGA

**Deletion of Art. 10** + sentence about investigation in case of violation:

*"During its investigation concerning the third country with which the Union or the Union and its Member States have concluded a comprehensive air transport agreement the Commission may examine if the practice distorting competition also leads to the violation of the provisions of that international agreement which relates to practices that may affect competition or other conduct relevant to competition between air carriers."*

**Suspension of the investigation**, at the request of the Member States concerned- Art. 4a (line 157 et seq.).

Exclusion of **traffic rights**, Art.13 (3) (b), line 247