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## REPORT

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	10146/17
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 – Analysis of the final compromise text with a view to agreement

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Delegations will find attached a statement from the Commission related to the 'no opinion' clause contained in the above-mentioned final compromise text.

*Commission Statement on the 'no-opinion' clause*

*The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 (4) recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified.*

*While the Commission notes the agreement reached by the European Parliament and the Council on the recourse to this provision it regrets that such justification is not reflected in a recital.*

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