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REPORT

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

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.
