

Air transport: protection against unfair pricing practices from countries not members of the Community

2002/0067(COD) - 21/04/2004 - Final act

PURPOSE : to protect Community airline services from unfair pricing practices and subsidisation from non-EU countries. LEGISLATIVE ACT : Regulation 868/2004/EC of the European Parliament and of the Council 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. CONTENT : this Regulation lays down the procedure to be followed to provide protection against subsidisation and unfair pricing practices in the supply of air services from countries not members of the European Community in so far as injury is thereby caused to the Community industry. This Regulation shall not preclude the prior application of any special provisions in air services agreements between Member States and countries not members of the European Community. In addition, this Regulation shall not preclude the application of any special provisions in agreements between the Community and countries not members of the European Community. This Regulation is based on definitions and standards currently in use at multilateral level and by the Community in order to overcome distortions caused by certain subsidies in the trade in goods. Furthermore, this Regulation is without prejudice to the consultation and conflict-resolution mechanisms provided for under the bilateral agreements among Member States; recourse should be had to the Community's anti-Subsidy Regulation only in cases where a satisfactory solution cannot be arrived at through the bilateral agreements. More specifically, the Regulation : - defines the redressive measures to be taken against such unfair practices; - determines when a subsidy shall be deemed to exist and according to which principles it should be countervailable, in particular whether the subsidy has been targeted at certain enterprises or sectors or is contingent upon air service supply to third countries; - lays down clear and detailed guidance as to the factors which may be relevant for the determination of whether the subsidised or unfairly priced air services provided by non-Community air carriers have caused injury or are threatening to cause injury; in order to demonstrate that the pricing practices related to the supply of such air services cause injury to the Community industry, attention should be given to the effect of other factors, and consideration should be given to all relevant and known factors and economic indicators which have a bearing on the state of the industry, and in particular prevailing market conditions in the Community; - specifies who may lodge a complaint and the information that such a complaint should contain; a complaint should be rejected where there is insufficient evidence of injury to proceed; - lays down the procedure to be followed in the investigation of unfair practices by non-Community carriers; this procedure should be limited in time; - lays down the manner in which interested parties should be given notice of the information which the authorities require; interested parties should have ample opportunity to present all relevant evidence and to defend their interests; - sets out the rules and procedures to be followed during the investigation, in particular the rules whereby interested parties are to make themselves known; - lays down the conditions under which provisional measures may be imposed; - provides that the level of measures should not exceed the value of subsidies or the non-commercial advantages granted as the case may be or the sum corresponding to the injury caused, where this is lower; - provides that measures should remain in force only for as long as it is necessary to counteract the subsidies or unfair pricing practices causing injury. Preference should be given to duties when it comes to the imposition of measures; where duties prove not to be appropriate, other measures may be considered; - specifies procedures for the acceptance of undertakings eliminating or offsetting the countervailable subsidies or unfair pricing practices and the injury caused in lieu of the imposition of provisional or definitive measures; - provides for review of the measures imposed in cases where sufficient evidence is submitted of changed circumstances. ENTRY INTO FORCE : 20/05/2004.