Basic information

2002/0234(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Air transport: insurance for air carriers and aircraft operators **Subject** 2.50.05 Insurance, pension funds 3.20.01 Air transport and air freight	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
RETT Regional Policy, Transport and Tourism	NICHOLSON James (PPE-DE)	05/11/2002

Former committee responsible	Former rapporteur	Appointed
RETT Regional Policy, Transport and Tourism	NICHOLSON James (PPE-DE)	05/11/2002

Former committee for opinion	Former rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	RIPOLL Y MARTÍNEZ DE BEDOYA Carlos (PPE-DE)	03/12/2002

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2574	2004-03-30
Transport, Telecommunications and Energy	2515	2003-06-05
Transport, Telecommunications and Energy	2531	2003-10-09
Transport, Telecommunications and Energy	2551	2003-12-05

European Commission

Commission DG	Commissioner
Energy and Transport	

Key events

Date	Event	Reference	Summary

24/09/2002	Legislative proposal published	COM(2002)0521	Summary
09/10/2002	Committee referral announced in Parliament, 1st reading		
24/04/2003	Vote in committee, 1st reading		Summary
24/04/2003	Committee report tabled for plenary, 1st reading	A5-0129/2003	
12/05/2003	Debate in Parliament		
13/05/2003	Decision by Parliament, 1st reading	T5-0203/2003	Summary
05/06/2003	Debate in Council		
23/07/2003	Modified legislative proposal published	COM(2003)0454	Summary
05/12/2003	Council position published	13910/1/2003	Summary
15/01/2004	Committee referral announced in Parliament, 2nd reading		
17/02/2004	Vote in committee, 2nd reading		Summary
17/02/2004	Committee recommendation tabled for plenary, 2nd reading	A5-0088/2004	
10/03/2004	Debate in Parliament		
11/03/2004	Decision by Parliament, 2nd reading	T5-0171/2004	Summary
30/03/2004	Act approved by Council, 2nd reading		
21/04/2004	Final act signed		
21/04/2004	End of procedure in Parliament		
30/04/2004	Final act published in Official Journal		

Technical information

Procedure reference	2002/0234(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	RETT/5/19591

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0129/2003	24/04/2003	
		T5-0203/2003		

Text adopted by Parliament, 1st reading/single reading		OJ C 067 17.03.2004, p. 0029-0114 E	13/05/2003	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0088/2004	17/02/2004	
Text adopted by Parliament, 2nd reading		T5-0171/2004 OJ C 102 28.04.2004, p. 0648-0767 E	11/03/2004	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	15251/2003	25/11/2003	
Council position	13910/1/2003 OJ C 054 02.03.2004, p. 0040-0047 E	05/12/2003	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2002)0521 OJ C 020 28.01.2003, p. 0193 E	24/09/2002	Summary
Document attached to the procedure	SEC(2002)1030	27/09/2002	Summary
Document attached to the procedure	SEC(2002)1031	27/09/2002	
Modified legislative proposal	COM(2003)0454	23/07/2003	Summary
Commission communication on Council's position	COM(2004)0006	09/01/2004	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2004)0255	14/04/2004	Summary
Follow-up document	COM(2008)0216	24/04/2008	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0280/2003 OJ C 095 23.04.2003, p. 0016-0021	26/02/2003	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act	
Regulation 2004/0785 OJ L 138 30.04.2004, p. 0001-0006	Summary

Delegated acts	
Reference	**Subject**
2020/2627(DEA)	Examination of delegated act

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 24/09/2002 - Legislative proposal

PURPOSE : to present a proposal for a regulation on insurance requirements for air carriers and aircraft operators. CONTENT : in the aftermath of the 11 September 2001 terrorist attacks in the United States, airlines were suddenly left without insurance and governments have had to step in and assume the role of insurer. To facilitate the rapid return to market conditions and restore confidence both in the aviation and in the insurance sectors, the Commission puts forward this legislative proposal which introduces minimum insurance requirements for all air carriers and aircraft operators flying within, into, out or overflying the European Union. This proposal incorporates in EU law the main rules foreseen in various international conventions, harmonising the rules applicable in the EU territory and making them compulsory for any carrier operating in Europe. It also aims at improving the current rules on third party liability. In addition, commercial insurance has withdrawn its effective cover for aviation third-party risks to EUR 50 million. Above this amount, cover is commercially available, but from few companies and at considerably less favourable conditions to the aviation industry than prior to 11 September. This sudden and unexpected situation drove the European Commission to authorise national aid schemes through the article 87.2 b of the Treaty, applicable under exceptional circumstances. The crisis of the sector also showed the lack of harmonised application of the international conventions and the need to establish a legal framework setting out the conditions of insurance and minimum amounts that both Community and third country air carriers and aircraft operators have to observe at all times in respect to their liability vis-à-vis passengers, baggage, cargo, mail and third parties. With regard to insurance requirements for air carriers and aircraft operators, the proposed Regulation provides legal certainty for European Union and non-EU air carriers and aircraft operators flying into or within the Community and ensure the transparent, non-discriminatory and harmonised application of minimum insurance requirements. It introduces a harmonised approach and a level playing field for all air carriers and aircraft operators irrespective of nationality by setting clear minimum insurance requirements for all types of liability (passengers, baggage, cargo, mail and third parties). The rules put forward clarify the general requirement for community air carriers to be insured and set up minimum requirements following practice at European (European Civil Aviation Conference - ECAC) and international conventions. The main aspects of the proposal are the following : - passengers and baggage : all air carriers shall be insured to cover their liability for death, wounding or any other bodily injury sustained by a passenger for the minimum amount of 250 000 Special Drawing Rights (SDRs) per passenger. Such insurance will also cover damage sustained in the case of destruction or loss of, or damage to checked baggage of a passenger. - cargo : air carriers and aircraft operators shall be insured to cover their liability for damage sustained in the event of the destruction or loss of, or damage to cargo carried for the minimum amount of 17 SDRs per kilogram, under the condition that the damage took place during the flight. - mail : Member States shall set the minimum insurance requirements in value for the carriage of mail by air carriers or aircraft operators without discrimination on grounds of nationality or identity. - third party liability : until now there was no Community rules defining what such liability should be based on. The only international framework is the Rome Convention (1933, amended in 1952 and 1978), which follows the principle of strict liability for damage sustained on the ground, without considering acts of war or terrorism. Moreover, all Member States are not signatories to this Convention or have not ratified it. The proposed Regulation requires that all air carriers and air operators flying within, into, out or overflying the European Union shall be insured or shall produce evidence that they observe at all times the minimum insurance requirements for damages sustained by third parties in the event of accidents as well as acts of war and acts of terrorism. Moreover, Member States will have to perform regular inspections to verify the compliance with the proposed Regulation of air carriers using airports in their territory, or air carriers and air operators under their control (to which they have delivered an operating licence -air carriers- or an aircraft operator's certificate). If not satisfied, they shall deny the access to routes into or within the EU, refuse the right to overfly their territory or not allow the aircraft to take-off. Air carriers and aircraft operators registered in a third country shall provide alternatively to the insurance requirements some other securities like cash deposit in the country of origin or a guarantee issued by a bank authorised to do so by the country of registration of the aircraft, under strict conditions ensuring the effective payment if needed.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 13/05/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Jim NICHOLSON (EPP-ED, UK) and made several amendments to the Commissions proposal. (Please see the summary dated 23/04/03.) The eight categories are as follows: - Category 1: aircraft with a MTOW <2000 kg: 1.5 million SDRs; - Category 2: aircraft with a MTOW <6000 kg: 4.5 million SDRs; - Category 3: aircraft with a MTOW <14000 kg: 9 million SDRs; - Category 4:

aircraft with a MTOW <25000 kg: 12 million SDRs; - Category 5: aircraft with a MTOW <50000 kg: 25 million SDRs; - Category 6: aircraft with a MTOW <100 000 kg: 50 million SDRs; - Category 7: aircraft with a MTOW <200 000 kg: 90 million SDRs; - Category 8: aircraft with a MTOW >200 000 kg: 250 million SDRs.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 11/03/2004 - Text adopted by Parliament, 2nd reading

The European Parliament adopted the resolution drafted by James NICHOLSON (EPP-ED, UK) and made one amendment to the common position. (Please see the document of 17/02/04.) The aircraft concerned must be used for non-commercial purposes, or used for local flight instruction which does not entail the crossing of international borders.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 24/04/2008 - Follow-up document

Regulation (EC) No 785/2004 entered into force in April 2005, imposing minimum insurance obligations on air carriers and non-commercial aircraft operators in respect of passengers, baggage, cargo, and third parties liability. The Regulation applies to all air carriers and aircraft operators flying within, into, out of or - to a certain extent – over EU territory. The purpose of this Communication is to report on the Regulation’s application and operation.

In the three years since the Regulation entered into force, it has been effective in ensuring insurance coverage of all aircraft operators flying within, to or from the Community. There have been very few cases of aircraft operators not complying with the insurance requirements. Civil aviation authorities from the Member States reported that some third-country carriers – usually charter carriers from Central Asia – suspended their operations after the entry into force of the Regulation. In response to a consultation launched by the Commission, stakeholders reported that the Regulation is both clear and straightforward. With very few exceptions, air carriers and aircraft operators demonstrate their compliance with the insurance requirements laid down by depositing an insurance certificate. In cases where third-country carriers fail to provide evidence of insurance, the Member States have the right to refuse landing permission. This sanction alone has proven to be both effective and dissuasive. Indeed, it has deterred some third-country carriers, without proper insurance, from flying into the Community. As far as Community air carriers and aircraft operators are concerned, there have been extremely few cases where Member States have needed to apply sanctions – indicating that the minimum insurance requirements are both clear and proportionate.

In spite of the above some concern has been raised with regard to certain issues. they are:

The insurance certificate: Stakeholders have expressed support for a standard insurance certificate. The Commission is of the view, however, that a legally binding certificate would reduce flexibility. The Commission will encourage further discussions between industry and the Member States to further improve model certificates in order to ensure acceptance in all 27 Member States.

The provision of insurance certificates: Some Member States have asked for insurance certificates to be issued by insurance brokers. The report suggests, however, that for the purposes of the Regulation, it is not relevant whether such an insurance certificate is issued by the insurers themselves or by an insurance broker/agent on behalf of the insurer.

The relationship between the insurance certificate and the terms and conditions of the insurance policy: The Regulation does not intervene in the contractual arrangements between aircraft operators and insurance underwriters. However, and in so far as insurance certificates are often subject to the terms, conditions, limitations and exclusions agreed in the insurance policy, the aviation authorities may need evidence that those terms and conditions do not affect the aircraft compliance. Beyond this, an examination of the terms and conditions by the aviation authorities is not necessary in order to ensure compliance with the Regulation.

To conclude, the report notes that in some Member States, certain categories of aircraft operators have been facing a substantial increase in insurance costs since the entry into force of the Regulation. However, it is does not see evidence of a general problem. It was the Council’s and Parliament’s intention to provide a level playing field and to establish harmonised insurance requirements for all aircraft operators, commercial and non-commercial, European and foreign, in order to guarantee adequate compensation for passengers and third-party victims. Responses have confirmed that this objective continues to be valid and that re-introducing the possibility of national rules would be counter productive.

Harmonisation affects some Member States more than others. However, in the majority of Member States the minimum requirements of the Regulation have not caused any substantial problems. Therefore, the insurance requirements established by the Regulation cannot be considered as inappropriately high for certain categories – such as light aircraft.

In the three years since its entry into force, the Regulation has effectively fulfilled its stated objective of ensuring appropriate insurance coverage for passenger, baggage, cargo and third-country liabilities of all aircraft operators flying in the Community.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 05/12/2003 - Council position

The common position was adopted by qualified majority, with the German delegation abstaining. It integrates 16 out of the 24 amendments adopted by the European Parliament in its first reading. The main modifications operated by the Council are the following: - to exclude "mail" from the scope of the

Regulation, since the insurance requirements in respect of the carriage of mail are sufficiently dealt with by Regulation 2407/92/EEC on licensing of air carriers and by the national laws of the Member States; - to exclude certain types of aircraft and 'flying machines' from the scope of the Regulation; - to insert the Gibraltar clauses; - to delete some definitions ["insurer", "insurance", "insurer's principal place of business", "incident", "air service", "scheduling period"], either because the term concerned was sufficiently self-explicatory - in view notably of established Community law - or because the definition had become superfluous because of redrafting exercises in the rest of the text. The Council revised the definitions of "aircraft operator" and "flight", and added new definitions regarding "passenger", "third party" and "commercial operation"; - redrafting the "general principles of insurance" in order to clarify the insurance requirements that air carriers and aircraft operators have to observe; - the Council underlined that the minimum insurance requirements of this Regulation are without prejudice to the rules on liability as defined by rules of international conventions, Community law and national law of the Member States; - to delete the former Article 5(2), relating to alternative security requirements for air carriers and aircraft operators registered in a third country, since this could lead to a situation in which Community air carriers and aircraft operators using aircraft registered in the Community would be discriminated against; - the Council, acknowledging that the enforcement of the insurance requirements could pose practical problems in respect of "overflying aircraft", stated that "Member States overflown may require that air carriers and aircraft operators referred to in Article 2 produce evidence of valid insurance in accordance with this Regulation"; - to confirm that in respect of passengers, the minimum insurance cover should be 250 000 SDRs per passenger. However, in order to take account of the particular situation of operators using small aircraft for private purposes, the Council provided an exception to this rule, according to which in respect of non-commercial operations by aircraft of 2 700 kg or less, Member States have the possibility of setting a lower minimum insurance cover, provided that such cover is at least 100 000 SDRs per passenger. Since these are minimum levels, Member States have the freedom of setting higher levels of insurance cover; - to simplify the Article concerning insurance in respect of liability for third parties. It lowered the minimum insurance cover in respect of third parties, and agreed upon a more detailed classification of aircraft, which allows a more accurate determination of the minimum insurance cover in each case; - on the issue of enforcement and sanctions was clarified by the Council in view notably of existing Community law; - the entry into force of the Regulation has been put at twelve months following its publication in the Official Journal. Concerning the amendments accepted by the Commission and incorporated in full or in part in the common position, these concern : - the validity throughout the Community of the deposit by Community air carriers and aircraft operators of evidence of insurance have been incorporated into the text of the common position. The scope of the measure however, has been restricted to Community air carriers and aircraft operators only, so as not to interfere with the obligations of Member States stemming from the Montreal Convention; - which persons would be covered by the Regulation have been taken on board in the common position by widening the definition of "passenger"; - the exclusion of state aircraft from the scope of the Regulation has been fully incorporated in the common position; - the inclusion of local flights in the scope of the Regulation has been fully incorporated in the text of the common position; - the definition of maximum take-off weight (MTOW) has been redrafted to fit the description (acronym) of maximum take-off mass (MTOM), which is practically the same (and is the acronym used by the European Civil Aviation Conference - ECAC); - the reference to air carriers and aircraft operators falling within the scope of the Regulation has been fully incorporated in the common position with a consistent reference through the Regulation to "air carriers and aircraft operators. - the categories of aircraft and the minimum insurance requirements for damages to third parties has been followed in principle in the common position; - the commercial practice of aggregates currently applicable to insurance cover for risks of war and terrorism, has been fully followed in the common position; - sanctions against third-country air carriers and aircraft operators has been partially taken up in the common position. The part concerning overflights has not been followed; - the sanctions against aircraft which have landed without adequate insurance has been followed in full despite the provision's being redrafted; - the definition of "flight" has been adopted in principle. - the withdrawal of the operating licence of Community air carriers as a sanction for infringing the Regulation has been followed in full in the common position. On the other hand, the amendments not incorporated in the common position are as follows issues: - overflights was accepted by the Commission in its amended proposal. The Council however, considered the practical difficulties linked to the enforceability of controls and sanctions against air carriers and aircraft operators overflying the territory of a Member State and has therefore unanimously supported the relevant text proposed in the Commission's initial proposal; - stricter general enforcement of the insurance requirements provided for in the Regulation through additional unannounced inspections; - the refusal to allow third-country air carriers and aircraft operators to overfly the territory of a Member State as a sanction for infringement of the Regulation; - imposing the obligation on air carriers to ensure that before commencement of the flight their insurance cover would continue to be in force until after safe landing; - specifying the concept of short-term leases; - specifying the cases where Member States may request additional evidence of valid insurance.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 21/04/2004 - Final act

PURPOSE : to establish minimum insurance requirements for air carriers and aircraft operators in respect of passengers, baggage, cargo and third parties. LEGISLATIVE ACT : Regulation 785/2004/EC of the European Parliament and of the Council on insurance requirements for air carriers and aircraft operators. CONTENT : the objective of this Regulation is to establish minimum insurance requirements for air carriers and aircraft operators in respect of passengers, baggage, cargo and third parties. In respect of the carriage of mail, the insurance requirements are those set out in Regulation 2407/92/EEC and in the national laws of the Member States. As regards the scope of this Regulation, it shall apply to all air carriers and to all aircraft operators flying within, into, out of, or over the territory of a Member State to which the Treaty applies. For liability in respect of passengers, the minimum insurance cover shall be 250000 SDRs per passenger. However, in respect of non-commercial operations by aircraft with a MTOM of 2700 kg or less, Member States may set a lower level of minimum insurance cover, provided that such cover is at least 100000 SDRs per passenger. For liability in respect of baggage, the minimum insurance cover shall be 1000 SDRs per passenger in commercial operations. For liability in respect of cargo, the minimum insurance cover shall be 17 SDRs per kilogram in commercial operations. On the other hand, This Regulation shall not apply to: - State aircraft as referred to in Article 3(b) of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944; - model aircraft with an MTOM of less than 20 kg; - foot-launched flying machines (including powered paragliders and hang gliders); - captive balloons; - kites; - parachutes (including parascending parachutes); - aircraft, including gliders, with a MTOM of less than 500 kg, and microlights, which: are used for non-commercial purposes, or are used for local flight instruction which does not entail the crossing of international borders, in so far as the insurance obligations under this Regulation relating to the risks of war and terrorism are concerned. It should be noted that this Regulation is without prejudice to the rules on liability as arising from: - international Conventions to which the Member States and/or the Community are parties, - Community law, and - national law of the Member States. This Regulation provides for legal certainty vis-α-vis Community and non-Community air carriers and aircraft

operators and create a level playing field by ensuring transparent, non-discriminatory and harmonised application of the minimum insurance requirements throughout the Community. The Commission shall submit a report to the European Parliament and the Council on the operation of this Regulation by 30 April 2008. ENTRY INTO FORCE : 30/04/2005.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 14/04/2004 - Commission opinion on Parliament's position at 2nd reading

The European Parliament passed one amendment during its plenary session on 11 March. The amendment proposes that small aircraft below 500 kg, including "micro-light" aircraft and gliders, be excluded from the scope of the Regulation. The insurance requirements would be disproportionately costly in relation to the perceived damage they could cause. The Parliamentary amendment would exclude these aircraft from insurance requirements for risks of war and terrorism. For all other risks, these aircraft are covered by the provisions of the Regulation. The Commission accepts the amendment in its entirety and has amended the draft Regulation accordingly.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 23/07/2003 - Modified legislative proposal

The Commission accepts 13 of the Parliament's amendments as they stand as they clarify the text or constitute editorial improvements. These amendments concern the following issues: - depositing evidence of insurance with one national authority shall suffice for all Member States. This will further reinforce the absence of any discriminatory treatment against air carriers and aircraft operators across the Community; - the objective of the proposal, the article concerning this issues has been amended so as to render the text clearer with regard to passengers. It should also be noted that this amendment is closely linked to the new definition of passenger; - the scope of the proposal, the articles concerning the scope of the proposed Regulation has been amended in various ways: the wording of the article has been streamlined so as to reflect the objective of the proposed Regulation; the scope has also been broadened, so as to apply to local flights; at the same time aircraft have been excluded from the scope of the application. These changes constitute partly textual clarifications and to the extent they concern the scope, they do not unduly affect the scope of the proposed rules; - the definition concerning the basis for classifying aircraft to categories (Maximum Take-Off Weight - MTOW or Maximum Take-Off Mass - MTOM as it is also called in the industry) has been textually clarified without changing the meaning of the provisions; - with regard to overflight, Member States have instead of the option the obligation to require that air carriers and aircraft operates produce evidence of insurance, which has been effected in accordance with the Regulation. This will ensure consistency of the measures regarding in compliance; - third party liability, the change introduced in this part of the proposal is considerable. With the new text is clearly stated that in as much as third party cover for risks of war and terrorism is concerned, the insurance amounts will be applicable in the aggregate. This change echoes reactions from both the aviation industry and the insurers, which are still unable to provide insurance cover for risks such according to contractual practice prevailing before the events of 11 September 2001; - sanctions/enforcement, the text of the proposal has been changed in an effort to render the sanctions more effective, by allowing Member States to proceed to additional inspections to verify the existence of appropriate insurance. In the same context, where air carriers and aircraft operators from third countries do not observe the insurance requirements of the Regulation, Member States have the obligation to refuse them access to the Community. At the same time, it should be borne in mind, that when EU air carriers are not adequately insured Member States cannot maintain their operating licence as foreseen in article 3 of Council Regulation 2407/92/EEC on air carrier licensing. Finally, the proposed sanctions are further strengthened, as Member States have the obligation not to allow the aircraft which has been found without appropriate insurance to take-off from airport before it has produced evidence of valid insurance. This measure should ensure that no air carrier or aircraft operator subject to the Regulation is allowed to start uninsured a flight from a Community airport. One amendment isacceptable only in principle: it concerns the definition of "passenger". Some amendments are acceptable only in part and with redrafting. These concern the scope of the Regulation with regard to aircraft operators) can be accepted only in part because the second part thereof is confusing, as aircraft operators are never required to hold an operating licence. Regarding the categories and amounts of insurance to cover third party liability, this can be accepted only in part. The addition of 3 categories of small aircraft below 25 tons and the relevant insurance amounts are acceptable as they clarify the situation of such aircraft. The remaining categories and insurance amounts however, are not acceptable, because they are based on a resolution by the European Civil Aviation Conference (ECAC) of December 2000, which does not reflect any more the reality of the market after the events of 11/9/2001 as they are too low. Concerning the definition of a flight, this can be accepted only in part because even though it follows largely the Montreal Convention it is unnecessary detailed and needs therefore to be shortened. Sanctions/Enforcement) is acceptable only as far as third country carriers are concerned, but not Community ones. The Commission, on the other hand, has to reject a number of proposed changes to the Regulation, which affect the core issues of its proposal. These refer to the state guarantee. This would not be in with the Commission's state aid philosophy and would distort competition. Therefore, it cannot be accepted by the Commission. Another amendment concerning the validity of insurance is legally not practicable as insurance may be withdrawn during a flight as after the 11/09/2001 and compliance would be impossible to ensure. Therefore, it cannot be accepted by the Commission. Others concerning the definition of short-term leases fall under the scope of other rules. Also, as far as the responsibility to meet minimum insurance requirement in case of short-term lease is concerned, the is legally confusing as the entity that purchases insurance does not always have to be the holder of an Aircraft Operator's Certificate (AOC).

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 27/09/2002 - Document attached to the procedure

The European Commission presents two working papers on insurance in the air transport market. The first reflects the ongoing developments in the insurance and aviation market and the possible impact of the creation of a mutual fund scheme on those markets. The second deals with a coordinated response to the ICAO State Letter on the establishment of a global aviation war risk insurance scheme. With regard to the first, the Council requested the Commission to assess mutualisation schemes in June 2002 and in response, the Commission adopted a Communication (please see COM020320). This document sets out a factual comparative analysis of the following aspects of the schemes and the market offers: contractual,

institutional, business and financial aspects on the basis of the evaluation presented in the communication. It is based on information gathered from the parties concerned i.e. the promoters of EUROTIME, the GLOBALTIME scheme and the commercial insurers. The criteria against which various aspects of the proposed mutual fund schemes and current commercial market offers were analysed have been the following: -impact of the schemes on the commercial market (risk of undue restrictions). This looks at market foreclosure on primary and excess insurance markets and state aid rules; -impact of the schemes on government exposure. There should be a clear exit strategy for government involvement; -impact of the schemes on EC commitments on financial services under GATS. On balance, the analysis confirms the Commission's initial evaluation with regards to the possible creation of a mutual evaluation scheme at ICAO level. It indicates that at this stage, in case of the creation of a mutual fund scheme at international level, there should be safeguards built in to ensure that the scheme concerned does not unduly affect conditions of competition on the commercial insurance and reinsurance markets and does not prevent any potential competitors from entering these markets (notably those which restricted cover and may re-enter the market by offering higher levels of insurance. Moreover, it should also be ensured that, should there be government participation in the creation of a scheme, that such participation be restricted as much as possible, so as to produce the least possible adverse effects on the commercial market. The analysis is without prejudice to the application of the rules on competition and state aid. The Commission suggests that Member States express, in their response to the ICAO State Letter dated 06/06/02, a favourable attitude to the creation of a global scheme for aviation war risk insurance, under certain conditions. One of these is that either he US or Japan, or both, agree to participate in the scheme. Another is that government participation is limited to maximum 3 years without the possibility of prolongation.

Air transport: insurance for air carriers and aircraft operators

2002/0234(COD) - 09/01/2004 - Commission communication on Council's position

In total, the European Parliament proposed 24 amendments in its opinion. The Commission was able to accept 18 of them as such, in part or in principle. In particular, the Council was able to endorse the objective of most of the amendments proposed by the European Parliament without necessarily using the same wording.