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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8.7.2008
COM(2008) 455 final

2007/0013 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

**common position of the Council on the adoption of a directive of the European
Parliament and the Council on airport charges**

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pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

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common position of the Council on the adoption of a directive on airport charges

1. BACKGROUND

Date of transmission of the proposal to the EP and the Council 29 January 2007
(document COM(2006)820 final – 2007/0013COD):

Date of the opinion of the European Economic and Social Committee: 26 September 2007

Date of the opinion of the European Parliament, first reading: 15 January 2008

Date of adoption of the political agreement : 7 April 2008

Date of adoption of the common position: 23 June 2008

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The objective of the proposal adopted by the Commission on 24 January 2007 is to facilitate the discussions on airport charges between airports and airlines. The proposal introduces some basic rules on the procedures for levying charges. These rules are based on generally accepted principles already endorsed by Member States in the council of the International Civil Aviation Organization. The first principle aims at ensuring regular consultations between airports and airlines on charges in which both parties can explain and develop their views. The objective is to ensure that airports have consulted and informed airlines before deciding on airport charges. The second principle concerns transparency on the elements that form the basis of airport charges. This information will be discussed in regular consultations. Prohibition of discrimination between airlines is the third principle.

The proposal also suggests the establishment of an independent regulatory authority in each Member State. This authority shall oversee the levying of charges and ensure that the relevant provisions of the directive are complied with. The authority will consequently act upon complaints on airport charges from the parties.

3. COMMENTS ON THE COMMON POSITION

The common position adopted by the Council on 23 June 2008 was mainly based on the general approach reached by the Council on 30 November 2007. It also reflects a significant number of the amendments proposed by the European Parliament, most notably on the scope

of the proposal, on airport network, on modulation of charges and on the functioning of the authority.

Some of the modifications improve and clarify the proposal; however, there are some significant modifications introduced in the common position compared to the initial proposal:

- in article 1, on the scope of the directive, the Council proposed that the directive should apply to the largest airport in each Member State and to any other airport with an annual traffic of more than five million passengers. The Commission had proposed that the directive should apply to all airports with an annual traffic of more than 1 million passengers or more than 25 000 tons of cargo. The Commission still considers that the initially proposed scope would better support the objectives of the directive and be more aligned with other Community instruments on similar matters;
- all provisions on security charges were deleted. The Council argues that these provisions may not be necessary following the adoption of EC Regulation 300/08 on common rules in the field of civil aviation security. The Commission will before 31 December 2008 further examine security charges in a comprehensive report on financing of aviation security. This report will if appropriate be accompanied by a legislative proposal. The Commission can therefore accept the position of the Council to delete the provisions on security charges in the existing proposal on airport charges;
- in article 3, the provision on non-discrimination is amended to allow modulation of charges for general and public interest, such as for environmental reasons. In principle, the Commission can accept this provided that such modulation is based on relevant, objective and transparent criteria;
- an article on groups of airports was added authorising Member States to introduce a common system of charges for airports organised in a network or to apply the same level of charges for airports serving the same city. This article could be further discussed in the second reading of the text, in particular to avoid that its application leads to any kind of abuse of discrimination;
- in article 4, a provision was introduced in paragraph 5 to avoid unnecessary duplication of appeal procedures. The Commission would have preferred to have a clearer definition of the conditions for the application of this paragraph 5, whereby a Member state may decide not to apply some other paragraphs of this article, thus rendering the authority inoperative. This should be done by including a definition of the concept of 'economic oversight';
- in article 10, the procedures of the authority are more detailed and were improved. This will facilitate the implementation of the directive into national legislation and ensure better coherence between Member States;
- in article 12, the time period for transposing the directive into national legislation was extended from 18 to 36 months. The Commission considers this extension as rather long.

4. CONCLUSION

The Council adopted its common position by qualified majority; however Luxemburg argued that the amended scope of the directive discriminates between airports with comparable traffic data in different Member States. The Commission considers that the common position reflects

the main objectives of its proposal at those airports where it will apply; nevertheless, the significant reduction of the scope also will mean that these objectives will not be met at several airports in the European Union.

The Commission considers that the only way to allow the procedure to continue is by not opposing it.

5. STATEMENTS BY THE COMMISSION

The Commission made the following statement at the Council meeting on 30 November 2007:

The Commission will assess whether, as a result of the implementation of the [proposed] Directive, the airports referred to in Article 1(2) are being unjustifiably disadvantaged vis-à-vis other airports with comparable traffic data of other Member States with which they are in competition. Where appropriate, the Commission will take adequate initiatives in order to restore a level playing field including, if necessary, making proposals for reviewing the Directive's thresholds.