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EUROPEAN PARLIAMENT

Working Documents

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DOCUMENT 1-454/83/rev.

SECOND REPORT

drawn up on behalf of the Committee on Economic and Monetary Affairs

on the proposal from the Commission of the European Communities to the Council (Doc. 1-740/81 - COM(81) 590 final) for a Directive (EEC) on tariffs for scheduled air transport between Member States

Rapporteur: Miss Norvela FORSTER

By letter of 12 November 1981 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive recommendation on tariffs for scheduled air transport between Member States.

On 16 November 1981 the President of the European parliament referred this proposal to the Committee on Economic and Monetary Affairs as the committee responsible and to the Committee on Transport for an opinion.

At its meeting of 24 November 1981 the Committee on Economic and Monetary Affairs appointed Miss Forster rapporteur.

The committee considered the Commission's proposal and the draft report at its meetings of 27-28 April 1982, 18-19 May 1982 and 3-4 November 1982.

At the last meeting, the committee decided unanimously with 3 abstentions to recommend to Parliament that it approve the Commission's proposal with certain amendments:

The committee then adopted the motion for a resolution as a whole by 6 votes to 1, with 4 abstentions.

At the plenary session on 17 December 1982 the report was referred back to the Committee on Economic and Monetary Affairs, pursuant to Rule 85, at the conclusion of voting on the amendments to the proposed Directive, but before a final vote on the Directive as a whole.

The Committee considered the results of the votes in Parliament, the proposed amendments to the directive and the accompanying motion for a resolution at its meetings of 25-26 May 1983 and 14-16 June 1983. At the latter meeting the draft directive as re-amended by the Committee was adopted on a unanimous vote with 3 abstentions, and the motion for a resolution was then adopted by a vote of 11 in favour to 5 against with 2 abstentions.

Present at the vote : Mr Moreau, chairman; Mr Hopper and Mr Deleau, vice chairmen; Miss Forster, rapporteur; Mr Alvanos (deputizing for Mr Fernandez), Mr Albers (deputizing for Mr Mihr), Mr Beazley, Mr von Bismarck, Mrs Desouches, Mr de Goede, Mr Halligan (deputizing for Mr Caborn), Mr Heinemann, Mr Leonardi, Mr Muller-Hermann, Mrs Nielsen (deputizing for Mr Delorozoy), Mr Papantoniou, Mr Schinzel, Mr Welsh and Mr von Wogau.

The opinion of the Committee on Transport is attached.

At the Plenary Session of 4 July 1983 the report was withdrawn from the Agenda pursuant to Rule 56 of the Rules of Procedure and referred back for further consideration to the Committee on Economic and Monetary Affairs.

The report was again discussed at the Committee's meeting on 19-20 September 1983 and 27-28 September 1983. At the latter meeting, and after having heard Mr Kontogeorgis, the member of the Commission responsible for this issue, the Committee voted by 10 votes in favour to 5 against to refer both the amendments to the draft directive and the accompanying motion for a resolution back to the plenary without modification.

The following took part in the vote :

Mr MOREAU (Chairman); Miss FORSTER (Rapporteur); Mr ALBERS (replacing Mr Rogers); Mr BEAZLEY; Mr BEUMER (replacing Mr Vergeer); Mr von BISMARCK; Mrs DESOUCHES; Mr FORTH; Mr HERMAN; Mr LEONARDI; Mr MOORHOUSE (replacing Mr Hopper); Mrs NIELSEN; Mr PAPANTONIOU; Mr ROGALLA (replacing Mr Wagner); Mr WEDEKIND (replacing Mr Schnitker).

The depot was made on 4 October 1983.

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The Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following amendments to the Commission's proposal and motion for a resolution together with explanatory statement:

Proposal from the Commission of the European Communities to the Council for a directive (EEC) on tariffs for scheduled air transport between Member States

Text proposed by the Commission
of the European Communities

Text of the directive as adopted by the
Committee on Economic and Monetary Affairs
after having been referred back to the
Committee by Parliament on 17 December
1982

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

(Unchanged)

Having regard to the Treaty establishing the European Economic Community and in particular article 84 (2) thereof;

(Unchanged)

having regard to the proposal from the Commission;

(Unchanged)

having regard to the opinion of the European Parliament;

(Unchanged)

having regard to the opinion of the Economic and Social Committee;

(Unchanged)

whereas more flexible procedures for controlling scheduled passenger air fares for air services between Member States will give air carriers greater scope to develop markets and meet consumer needs;

(Unchanged)

whereas common rules to define fair prices should be established and whereas such rules should lay down criteria for the establishment of air fares so that they bear a reasonable relationship to the costs of an efficient air carrier;

whereas common rules should lay down criteria for the establishment of air fares which are in a reasonable relationship to the operating costs of an efficient air carrier;

whereas disruptive effects on the air transport system in the Community should be avoided and in particular appropriate measures should be taken to prevent selling below cost including a reasonable margin for overheads and profit;

(Unchanged)

whereas due attention should be paid to the requirements of various user categories in establishing fares, while at the same time the tariff structure should remain as simple as possible;

(Unchanged)

whereas fares should be offered on clear and understandable conditions;

(Unchanged)

whereas air carriers should be free to establish air tariffs individually, but should be permitted to consult with other airlines for the purpose of fixing the terms of interlining arrangements, given the important benefits conferred by interlining facilities on air transport in the Community and in the world;

whereas air carriers should be free to establish air tariffs individually, but should be permitted to consult with other airlines for certain other purposes such as fixing the terms of interlining arrangements, given the important benefits conferred by interlining facilities on air transport in the Community and in the world ,

whereas within the air transport sector differences in social conditions between Member States exist;

(Unchanged)

whereas provision should be made for rapid consultation between Member States in the case of any disagreement and for procedures for settling such disagreements as are not resolved by consultation;

(Unchanged)

whereas provision should be made for the regular consultation of consumer groups on matters relating to air fares;

HAS ADOPTED THIS DIRECTIVE

SCOPE AND DEFINITIONS

Article 1

1. This directive applies to government procedures and criteria to be applied with respect to the fixing of scheduled air tariffs for passengers and air freight, established by air carriers for carriage between a point in one Member State to a point in another Member State.

Article 2

2. For the purposes of this directive

a) Air tariffs mean the prices to be paid in the applicable local legal tender for the carriage by air of passengers, baggage and freight, in accordance with the conditions under which those prices apply, including prices and conditions offered to intermediaries;

b) Air carrier means an air transport enterprise which is authorised by two or more Member States to operate scheduled international air services between those states;

HAS ADOPTED THIS DIRECTIVE

SCOPE AND DEFINITIONS

Article 1

1. This directive applies to government procedures and criteria to be applied with respect to the fixing of scheduled air tariffs for passengers and air freight, established by air carriers for or involving carriage between a point in one Member State to a point in another Member State.

Article 2

(Unchanged)

(Unchanged)

b) Air carrier means an air transport enterprise which is established in the Community and is effectively controlled through a substantial share in its ownership or otherwise by one or more Member States and/or by nationals of Member States, or is authorized by one or more Member States to operate scheduled international air services within the Community.

- c) State of origin means the Member State from which the carriage commences in respect of which an air tariff is established, i.e. both for single and return air tariffs; (Unchanged)
- d) State of destination means the Member State in which the carriage terminates in respect of which an air tariff is established; (Unchanged)
- e) States concerned mean the state of origin and the state of destination; (Unchanged)
- f) Interlining means a facility conferred by a ticket or an airwaybill granting the right to use more than one airline for the carriage; (Unchanged)
- g) Scheduled air service means a series of flights each possessing all the following characteristics: (Unchanged)
- i) it is performed by aircraft for the transport of passengers or cargo for remuneration, in such a manner that each flight is open to use by members of the public; (Unchanged)
 - ii) is operated so as to serve traffic between the same two or more points, either
 - (1) according to a published timetable, or (Unchanged)
 - (2) with flights so regular or frequent that they constitute a recognized systematic series. (Unchanged)

CRITERIA

Article 3

1. The states concerned shall take all appropriate measures to ensure that air tariffs

a) are reasonably related to the costs of an efficient air carrier on the assumption that its principal place of business is located in the state or origin, while allowing for a satisfactory return on investment and taking due account of the characteristics of the route;

b) are sufficient to cover the costs of the carrier on the route in question plus a reasonable margin for overheads and profit;

c) have due regard to the requirements of various user categories and encourage the development of demand by new categories of users while the tariff structure shall remain as simple as possible;

d) are offered on conditions which are clear and understandable.

CRITERIA

Article 3

1. The states concerned shall take all appropriate measures to ensure that the airlines concerned offer air tariffs that

a) are reasonably related to the overall costs of the applicant air carrier including a satisfactory return on investment on the assumption that its principal place of business is located in the State of origin;

b) are sufficient to cover the direct operating costs of the applicant carrier on the route in question plus a reasonable margin for overheads and profit, taking due account of the characteristics of the route. Where the state of origin decides that the route merits some subsidy for social or other special reasons, such as in peripheral regions, it shall invite the Commission to determine if a subsidy can be justified within the terms of Article 92(3)c of the Treaty.

(Unchanged)

(Unchanged)

2. An air carrier shall, however, be permitted to match an existing tariff, which has been approved for another airline in accordance with this Directive for the same route with the same originating point.

PROCEDURES

Article 4

Member States shall permit an air carrier to establish air tariffs:

- a) individually, or
- b) at the option of that air carrier, following consultation with any other airline(s) for the purpose of fixing the terms of interlining or in order to simplify and standardise conditions associated with air tariffs. Member States concerned and the Commission may participate as observers at these consultations.

Article 5

- 1. Without prejudice to the provisions of article 6 hereof, air tariffs shall be approved by the states concerned.
- 2. For this purpose air tariffs established by an air carrier shall be filed with the states concerned.
- 3. Such filing may be required by those states not more than 60 days before the entry into force of the air tariffs.

2. An air carrier, shall however, be permitted to match an existing tariff applied by another airline.

PROCEDURES

Article 4

(Unchanged)

(Unchanged)

- b) at the option of that air carrier following consultations with any other airline(s), provided that representatives of governments and the Commission are fully entitled to take part in such consultations, provided that the Commission has certified that the consultation is generally in accord with the provisions of Article 85 (1) of the Treaty of Rome.

Article 5

(Unchanged)

- 2. For this purpose air tariffs proposed by an air carrier shall be submitted to the States concerned for approval.
- 3. Such submission may be required by those States not more than 60 days before the entry into force of the air tariffs.

4. Approval may be given expressly, but unless one of those states decides otherwise within 30 days following the filing the filed air tariffs shall be considered as approved.

Article 6

1. When a state concerned (hereafter called the first state) decides not to approve an air tariff in conformity with article 5.4, it shall inform the airline and the other state concerned (hereafter called the second state) in writing stating its reasons.

2. If the second state agrees with the decision of the first state, the state of origin shall request the airline concerned to file a new air tariff.

3. If the second state disagrees with the decision of the first state, it shall so notify the first state within 2 weeks of being informed and request a consultation. The first state shall make its representatives available at short notice for consultation on the air tariff(s). For this consultation the states concerned shall on request supply all relevant information to each other. At the consultation the states concerned shall endeavour to agree on the air tariff as filed or agree on modifications thereto.

4. Approval may be given expressly, but unless one of those States decides otherwise within 30 days following the submission the proposed air tariffs shall be considered as approved.

Article 6

1. When a state concerned (hereafter called the first state) decides not to approve an air tariff in conformity with Article 5.4 it shall inform the airline and the other state concerned (hereafter called the second state) in writing stating its reasons.

2. If the second state agrees with the decision of the first state the air tariff shall not come into force.

3. If the second state disagrees with the decision of the first state the states concerned shall attempt to resolve their disagreement by a method of their choice in accordance with the bilateral or international agreements in force. If the states are unable to reach an agreement either of the states may request that the dispute be referred for a decision to a special advisory committee to which each state shall appoint a member within one month of a request being made. The two members shall agree to a third member preferably a Commission representative, within two weeks of the expiry of this one month period.

4. If at the expiry of one month after the date on which the second state was notified disagreement still persists, the state of origin can approve the air tariff unilaterally, after having ascertained that the criteria of article 3 are met, or subject to such modifications as will make it comply with article 3. In this case the air tariff shall come into force two weeks after the approval of the state of origin except where the other state concerned within this period refers the matter to the Commission for decision under paragraph 6.

5. Where no agreement is reached under the procedure set out in paragraph 3, or where action is taken under paragraph 4, the dispute may, at the request of any Member State concerned, be referred to the Commission.

6. The Commission shall within 30 working days of the date of referral after consulting the Member States concerned take a decision. Upon referral of a dispute to the Commission, the states concerned shall immediately make available all pertinent information at their disposal to the Commission. The Commission shall notify its decision to the states concerned.

4. If one of the states fails to appoint a member or no agreement is reached as regards the third member within the times specified the vacant positions shall be filled with persons appointed by the Commission.

5. The advisory committee shall take a decision within 30 working days after the appointment of the third arbitrator on the conformity of the air tariff to the criteria laid down in Article 3. Upon referral of a dispute to the Committee the states concerned shall immediately make available all pertinent information at their disposal. The advisory committee shall notify its decision to the states concerned.

6. In the absence of a decision by the advisory committee within 30 days from the date of referral the air tariff shall come into effect until such date as the decision of the advisory committee comes into force.

7. In the absence of a decision by the Commission within 30 working days from the date of referral the air tariff shall come into effect until such date as the decision of the Commission comes into force.

7. The operation and status of the special advisory committee shall be analogous to the committee established by Article 113 of the Treaty of Rome.

GENERAL PROVISIONS

Article 7

1. At least once a year, each Member State shall call on an Air Transport Users Committee to express its opinion on air fares and related matters for which purpose the members of the Committee shall be supplied with an appropriate information. This Committee shall in each Member State include the main consumers' interests concerned with matters of this kind. If no such Committee exists, the state concerned shall set one up.

Article 7

1. At least once a year, the Commission will consult the Federation of Air Transport Users Representatives in the EEC (FATUREC) as well as any other interested organisations to express its opinion on air fares and related matters for which purpose the members of FATUREC shall be supplied with appropriate information.

2. The Commission shall convene FATUREC at regular intervals, at least once a year, for an exchange of views at Community level.

2. The Commission shall convene periodically, at least once a year, representatives of the transport users committees referred to in paragraph 1, for an exchange of views at Community level.

Article 8

Deleted

1. The Commission shall every second year after the 1st of January, 1983, publish a report on the scheduled air tariffs to which this directive applies.

2. For the purposes of this report, the Member States shall inform the Commission of all such air tariffs filed with them and of any instance when article 6 has been invoked during the relevant period, and, at the request of the Commission, provide details with respect to the conformity of the procedures actually adopted by Member States with the provisions of this directive and the conformity of such air tariffs with the criteria in article 3.

3. Before issuing the report, the Commission shall as it thinks fit consult with the representatives of the Air Transport Users Committees, airlines, governments, and other interested parties.

4. Confidential information obtained by the application of this directive is covered by the professional secrecy.

Article_9

Air tariffs being applied at the entry into force of this directive remain valid until replaced by other air tariffs.

Article_10

Where a Member State has concluded an agreement with one or more third countries, which gives fifth freedom rights for a route between Member States to an air carrier of a third country and in this respect contains provisions incompatible with this Directive, the Member State shall take at the first opportunity all appropriate steps to eliminate such incompatibilities. Until such time as the incompatibilities have been eliminated this directive shall not affect the rights and obligations vis-a-vis third countries arising from such an agreement.

Article_11

1. The Member State shall, before 1 January 1983, and after consultation with the Commission, take the necessary steps to amend their laws and administrative provisions to comply with this directive.

Article_8

(Unchanged)

Article_9

(Unchanged)

Article_10

1. The Member State shall, before 1 January 1984, and after consultation with the Commission, take the necessary steps to amend their laws and administrative provisions to comply with this directive.

2. Such measures shall cover, inter alia, the organisation of, procedures for and means of control, and the penalties for any breach.

(Unchanged)

3. The Member States shall communicate to the Commission all laws and administrative provisions made in furtherance of this directive.

(Unchanged)

Article 12

Article 11

This directive is addressed to the Member States

(Unchanged)

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive (EEC) on tariffs for scheduled air transport between Member States

The European Parliament :

- having regard to the proposal from the Commission to the Council (COM (81) 590 final) ⁽¹⁾;
- having been consulted by the Council (Doc. 1-740/81);
- having regard to the Commission's report on 'Scheduled passenger air fares in the EEC' (COM (81) 398 final);
- recalling its previous resolutions on the air transport sector and on competition policy ⁽²⁾;
- having regard to the second report of the Committee on Economic and Monetary Affairs and of the opinion of the Committee on Transport; (Doc. 1-454/83/rev.);
- having regard to the result of the vote on the proposal from the Commission.

General observations

1. Believes that various studies carried out recently ⁽³⁾, including that of the Commission ⁽⁴⁾, have identified a number of important issues regarding

(1) OJ No. C 78, 30.3.1982, p. 6

(2) OJ No. C 291, 10.11.1980, OJ No. C 11, 18.1.1982, p. 72

(3) e.g. AUC, CAA, TAI and ECAC studies referred to in the Annex of the report

(4) COM (81) 398 final

the level of air fares within the Community which deserve closer examination:

- the considerable discrepancy between fares within the Community and those prevailing in certain other markets, notably within and to the United States;
 - the apparent differentials in levels of productivity and of efficiency between European airlines as a whole and their American counterparts, and also between scheduled and non-scheduled airlines;
 - the lack of transparency on a number of questions central to any proper evaluation of fare levels, such as the degree of cross-subsidization between regions of the world, between routes and also between different fare categories, the effects of prorating, and the degree of government assistance to airlines;
 - the related need for the travelling public to have a clearer understanding of what it is paying for;
 - the apparently very high level of profits on certain selected routes, particularly certain longer-haul ones;
 - the time consuming nature of present tariff setting procedures;
 - the need for greater opportunity to be given to airline initiatives in intra-Community traffic, both with respect to products offered on a route, and market entry;
2. Points out, moreover, that the existing system of multiple bilateral approvals of air fares put forward by national carriers, results in practice, in prices being set by the national carrier of the country with the most restrictive system, in circumstances where the costs involved are not apparent, and where there is little or no chance for a third party competitor to offer different terms;

3. Calls again, therefore, for greater transparency and for gradual liberalization in the air transport sector of the Community;
4. Warns, however, against simplistic comparisons being made between the levels of air fares within the Community and those prevailing elsewhere, especially the United States. Notes the great differences between the respective markets. Further notes the very different circumstances of national carriers, with large, and often world-wide networks and imposed public service obligations, and smaller private carriers;
5. Points out that the above considerations are not justifications for inaction, but illustrate the need for care in moving towards a better system, which would help meet some of the problems outlined above while still preserving beneficial features of the present system;

The Commission's Proposal

6. Welcomes the Commission's proposal on scheduled air fares as a limited but useful step;
7. Strongly supports the thrust of Article 3 that air fares should be more closely related to costs;
8. Supports the principle that disputes between Member States should be referred to arbitration. Believes, that in due course this type of procedure could also be applicable to disputes over questions of market access;

Complementary measures

9. Urges the Commission to follow through vigorously on the overall strategy it set out in its memorandum on 'Air Transport: A Community approach', and to take into account the views of the European Parliament in favour of a measured and gradual evolution safeguarding the interests of the public, the airlines and their employees and avoiding disruption of services to the less developed regions of the Community;

10. Calls on the Commission to submit to Parliament, having regard to the resolution adopted by Parliament on 9.3.1982 on the basis of the report by Mr. Carossino (Doc. 1-996/81), a proposal for an air transport policy that would allow the following measures, amongst others, to be taken:

- swift adoption of the proposed regulation applying Articles 85 and 86 to Air transport as requested by Parliament in its recent resolution ⁽¹⁾;
- further tackling of the central problem of greater market access, without which the possibilities for lowering air fares are limited;
- further examination of the ideas recently put forward by the task force on competition in intra-European air services (COMPAS) established by the European Civil Aviation Conference (ECAC) and, in particular the concept of zones of freedom to compete/safety nets for tariffs, route entry and capacity recommended for further study by the task force;
- extension of the scope of the Commission's directive on the transparency of financial relations between Member States and their public undertakings to include the presently excluded transport sector as well;
- vigorous action to ensure greater transparency of state aids to air transport and the establishment of Community guidelines as to when such aids are justified and when not;
- greater coordination between the aviation authorities in the various Member States aimed at minimizing the costs of en-route and landing charges, and of infrastructure, and in improving coordination of air traffic control, and the harmonization of technical standards for aircraft;
- completion of a proper customs union within the Community, in order to

(1) Motion for a resolution on the regulation applying Articles 85 and 86 of the EEC Treaty to air transport, OJ No.

reduce unnecessary formalities and radically cut the costs of intra-Community travel;

11. Believes, however, that in the longer term, a European Community Civil Aviation Authority should be established.

Points out that this could be started off on a limited scale by building up a permanent centre of expertise on air transport matters at Community level and that it could undertake some of the studies needed in the field of air transport. Believes that eventually it could tackle a much wider range of responsibilities, and perhaps such matters as a Community-wide pilot's licence, crew conditions, air worthiness and so on.

Considers that this would represent the best course of action in Community terms, in providing the basis for an eventual Community-wide framework, and in enabling the Community to develop an aviation and airline industry of truly European scale.

12. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENTForeword to the revised report

1. On 17 December 1982 the report (Doc. 1-847/82) drawn up by the Committee on Economic and Monetary Affairs on the Commission's proposed Directive on tariffs for scheduled air transport between Member States was considered at the plenary session of Parliament.
2. At the conclusion of voting on the amendments to the proposed directive it was clear that the amendments that had been approved did not form a coherent whole. Parliament decided then to refer the issue back to the Committee on Economic and Monetary Affairs, before any final vote on either the text of the proposed directive as a whole, or on the proposed motion for a resolution.
3. The rapporteur carefully examined the amendments that were approved by Parliament and sought to produce a new text following the broad lines of these amendments, but avoiding certain contradictions and overlaps that were created.
4. The major change proposed by the rapporteur lay in Article 6. The combined effect of Parliament's votes on December 17, 1982 (and in particular its approval of amendments PE 81.798, Am. 40, PE 81.798 Am. 30 and PE 81.798, Am. 7) was to propose two different systems of arbitration in the case of disputes between the two Member States concerned.
5. The text proposed by the rapporteur in her new Article 6 put forward one clear rather than two overlapping systems of arbitration in case of dispute, while containing certain elements from both proposals.

6. The other changes proposed by the rapporteur in her new text as compared to the text resulting from the amendments produced by parliament are contained in Article 3 where she suggests that the original words "that the airlines concerned are in a position to offer air tariffs that" be replaced by "that the airlines concerned offer air tariffs that", in Article 5 where she suggests that the word "established" in line 2 be replaced by the word "proposed", and in Article 8 where the word "Committee" in the last line is replaced by "FATUREC" in order to ensure consistency with the rest of the Article.
7. A number of other changes compared to the Commission's original text were put forward as a result of the vote in the Parliament's December plenary were retained by the rapporteur;
- in Article 2 the definition of air carrier was considerably modified;
 - in Article 3, 1 (a) the word "costs" was preceded by the word "overall" and the word "efficient" before air carrier deleted. Article 3, 1 (b) contained a second sentence referring to the need to make social or other subsidies transparent. Article 3, paragraph 2 was made more sweeping;
 - in Article 4 the scope for inter-airline consultations was made much broader, and not just limited to interlining or the standardisation of conditions associated with air tariffs;
 - in Article 7 the reference to individual national Air transport users committees was deleted, and reference made instead to consultation with the Federation of Air Transport User Representatives (FATUREC), which has been established since the Commission's original proposal;
 - the old Article 8, in the Commission's original proposal which would have established a report on the scheduled air tariffs to which the directive applied, and would have required the Member States to inform the Commission of all such air tariffs filed with them, was deleted, as a result of the vote at the December plenary.

8. As a result of the vote in the Committee on Economic and Monetary Affairs on 15 June 1983, most of the above changes were retained but a few additional modifications were made.

The definition of an air carrier in Article 2(b) was further modified by replacing the word "and" in line 7 by the word "or".

In article 3(b) a reference was added to "direct operating" costs and the Commission was requested additionally to determine whether any subsidy could be justified within the terms of Article 92(3) of the Treaty.

In Article 4 the terms for inter-airline consultations have been spelled out in more detail, with representatives of governments and the Commission being "fully entitled" to take part in such consultations and with the Commission being asked to certify whether a consultation is generally in accord with the provisions of Article 85(1) of the Treaty of Rome.

In Article 5 certain textual modifications have been made.

Article 6 has also been further modified, although the system of arbitration proposed by the rapporteur has not been changed in its essentials.

In Article 7 a reference has been added to consultations with other interested organisations.

9. As regards the proposed motion for a resolution the rapporteur has made the corresponding modifications to those paragraphs (the old 6 to 13) concerned with the Commission's proposal by deleting or modifying them in order to ensure that they are in conformity with her proposals concerning the directive.

10. In the section on general observations the rapporteur has also deleted the old fifth indent to her paragraph 1 which referred to the exceptionally high costs of certain costs in Europe, such as en-route and landing charges, and she has also modified the indent on the same subject in paragraph 10 (paragraph 16 in her old text) where she has removed the reference to "tackling the soaring costs of en-route and landing charges ..." and now speaks instead of minimizing such costs without wishing to enter here into a detailed discussion of the nature of aeronautical fees and costs.

The rapporteur would like to acknowledge in this context the comments transmitted to her by various national European airport authorities in which they challenged aspects of the methodology and conclusions of the TAI study and of the report of the European Commission (COM (81) 398).

As, however, the issue of landing charges is marginal to the main subject of her report, the rapporteur feels that it would not be appropriate for her to enter into the debate between the Commission and the airport authorities.

Introduction

11. The level of intra European air fares has been the subject of considerable controversy over the last few years, and highly unfavourable comparisons have been made in particular with fares charged over similar distances within the United States. Others claim that these comparisons are unfair and that there are a wide range of factors which help to justify the differences in prices.
12. A number of reports have sought to examine the issue of European air fares in greater detail. The Commission itself prepared a report on scheduled passenger air fares in the EEC (COM(81) 398 fin.) in July 1981, following which in October 1981 it put forward a proposal for a Council directive on tariffs for scheduled air transport between Member States (COM(81) 590 fin.) in order to help tackle some of the problems that it had identified.
13. Parliament has on several occasions urged for a greater liberalization of the air transport sector within the Community, and for greater competition, albeit with the necessary safeguards, and with due attention being taken of the special characteristics of the European market. It is in this spirit that your rapporteur has examined the Commission's specific proposals on air fares.
14. This report briefly examines the main conclusions of the various studies carried out on the issue of air fares, and that of the Commission in particular. It then reviews the Commission's proposals. The report concludes by broadly supporting the Commission's proposals but with a number of suggested amendments. It further points out that the proposals are a useful but nevertheless still limited step forward, and considers that they need to be complemented by a number of other measures at Community level if the wider goals outlined by Parliament in its previous resolutions are to be achieved.

Studies concerning European air fares

15. As mentioned above a number of studies have been carried out in recent years on the subject of European air fares. Among those that have been examined by your rapporteur are that of the Air Transport Users Committee (AUC) of the United Kingdom of December 1976 (followed up by a further study in 1980), the United Kingdom Civil Aviation Authority (CAA) study on European Air Fares of November 1977, the TAI study carried out for the Commission in October 1980 not directly on air fares but on the related issue of the economic cost structure of air transport in Europe, the European Civil Aviation Conference (ECAC) report on intra-European scheduled air fares. Some of the major conclusions from these various studies are summarized in Annex to this report.

The Commission's Report on "Scheduled Passenger Air Fares in the EEC"
(COM(81) 398 final)

16. The Commission's Report, which took into account the studies mentioned above, as well as a number of other studies and submissions, was issued in July 1981. It examined the ways in which scheduled passenger air fares are fixed, and the criteria used to evaluate the level of such fares, both by the national administrations concerned, and by various affected organisations. It then looked at Community air fares in terms of the profitability of the Community network, the structure of fares, the relationship of fares to the costs of operation, and the level of costs. It then drew a number of conclusions to help serve as an initial basis for Community policy formulation in this area.
17. Among the most significant of these conclusions were that:
- While the profitability per world region is rather sensitive to the way costs are allocated, recent studies give no evidence of excessive earnings in the EEC overall, and that in fact the overall profit of scheduled airlines operations in the EEC leave much to be desired.

- There is a wide range of profitability between individual routes, implying that some routes are cross-subsidised by others. This is generally acceptable in the view of the Commission but only to the extent that each route should at least cover the incremental costs of operating that route, and that the number of routes that do not fully cover the total costs of operation should be strictly limited. Few governments, or airlines however, reveal the information which is necessary to decide whether individual air fares are reasonably related to costs.
- More specifically, the Commission finds that the relationship between the normal economy fare and the costs on shorter routes seems to be quite reasonable but that the margin of profits increases considerably on longer distances. The Commission finds similar fares over similar distances desirable to some extent, but feels that important differences in the costs of operation between airlines and/or routes should also be reflected in the respective tariffs;
- The Commission also concludes, guardedly, (p.51), "that on some routes the level of profits may be so high that the question of their comparability with Article 86 arises";
- As regards the contentious issue of the relative efficiency of scheduled compared to non-scheduled airlines, the Commission concludes that "cascade" studies show that the difference in efficiency would not appear to be enormous, but do nevertheless exist to an extent which may be as low as 5% and as high as 25% depending on the assumptions made;
- The Commission also believes that there are a few areas where cost reductions or at least cost control should be possible, such as in high government charges for the use of infrastructure. There are other areas where the airlines themselves have more discretion, such as the high level of European sales costs, and changes in the products which airlines are offering to passengers, perhaps by eliminating some of the services included in many of the present fares, which passengers do not always require.

- In the context of products offered, the Commission considers that the present fare structure is too much a result of the interest of the airlines, and that there are many routes where consumers choice is too limited. The Commission believes (para. 130, p.54) that "as long as the airlines are protected both with regard to market access and prices, airlines should also offer at least one unbundled low fare on each route they operate, in addition to an economy type fare, which is based on point-to-point transportation costs with an option of buying a reservation";
- Transparency should also be improved and the travelling public should be able to have a clearer understanding of what it is paying for, and in particular be able to see what price it needs to pay in order to obtain greater travelling flexibility;
- With regard to the process of tariff setting itself, the Commission feels that current procedures are rather time consuming and that one of the fields for future action for the European Community should be to achieve a less rigid tariff setting procedure for intra-Community air travel;
- Finally, although the report does not deal directly with issues of market access and competition, the Commission believes that its previous view has been reinforced that (point 133, p. 55) "more opportunities should be given to airline initiatives in intra-Community traffic, both with respect to products offered on a route and market entry".

Is there an air fares "problem"?

18. From the evidence above, (and in the Annex) and as a result of wide consultations with interested parties, your rapporteur is convinced that no simplistic conclusions are possible.

19. It is clearly unfair to take an internal flight within the United States and compare the fare with a flight over a comparable distance between different Community Member States, and then to jump to hasty conclusions. The differing structures of demand between the two areas, the shorter distances in Europe, and the greater availability of other forms of transport, the greater number of charter flights in Europe - the differing ways in which ancillary airline and infrastructure charges are met and above all that flights within Europe are "international" with all the implications entailed, even including for airport design, are among the many factors that prevent straightforward comparisons being possible. In a fundamental sense, as your rapporteur seeks to outline in rather more detail at the end of this report, a central reason for the failure of European air fares to be lower is the wider failure of the Community itself to achieve greater cohesion and to build a true internal market.
20. Another factor which makes judgements about air fare levels difficult is the great difference between individual airlines and, in particular, between those often independent ones which operate a small number of well travelled routes and those which have to operate large networks, often worldwide, and, which, moreover, often include less travelled routes maintained for public service reasons. Besides having to maintain uneconomic routes, being a national carrier often also entails other obligations imposed by the sponsoring state, such as the maintenance of employment and conditions of service at levels not necessarily incumbent on independent airlines.
21. A further difficult issue is the definition of consumer interest. It is clear that there is no one consumer interest to protect. The businessman whose major criteria are likely to be frequency of service and maximum flexibility is a very different consumer to the leisure traveller for whom low cost is more likely to be paramount. A user who lives in a major capital and wishes to travel to another such capital city has a different interest from a user from a peripheral region for whom the economics of being provided with a regular service to or from his region may only be marginal at best.

22. Furthermore, your rapporteur has seen no convincing estimates of the likely impacts of lowering European air fares on the structure of air transport in Europe - and, in particular, the extent to which there might be pent-up demand that has not yet been met.
23. The issue of air fares is hard to separate from the wider issues posed by air transport liberalisation and the motive concept of deregulation, which is of course as much related to questions of market access as to level of fares. In this context it is not possible to draw instant conclusions from the American experience with deregulation. It is still too early to judge fairly, and both potentially positive and negative features are emerging. Your rapporteur would firmly underline, however, that those who are writing off deregulation on the basis of recent trends in the industry, in particular the high losses being made by many airlines, are doing so prematurely, and secondly, that the sceptre of total deregulation and uncontrolled competition should not be put forward to block more modest moves towards liberalisation.
24. So, if no simplistic conclusions can be drawn, what should be done at Community level? Your rapporteur feels that while the evidence concerning the establishment of lower levels of air fares within the Community may be inconclusive, the existing status quo does need to be subject to much greater scrutiny.
25. Issues such as the allocation of costs between regions and routes, the degree of cross-subsidisation, the implications of interlining and proration, and the exact nature of the services provided by airlines, are all matters which affect air fare levels, and which are technical matters not susceptible to facile judgments by outsiders. Nevertheless, in the absence of effective competition in the sector, the national carriers do need to be kept on their toes, and the above issues more carefully analysed.
26. The existing system of multiple bilateral approvals of air fares put forward by national carriers generally operating in a monopoly situation results, in practice, in prices being set by the national carrier of the country with the most restrictive system, in circumstances where the costs involved are not apparent, and where there is no chance for a third party competitor to offer different terms. Greater transparency, and some degree of liberalisation are thus essential. The Commission's proposal on air fares does represent a cautious step in these two directions.

27. The Commission's proposal for a Council directive on tariffs for scheduled air transport between Member States represents a limited response to some of the problems identified in the Commission's report as outlined above.

While generally welcoming the Commission's proposal your rapporteur has a number of comments on specific articles.

Article 3

28. Article 3 mentions a number of criteria for the evaluation of air tariffs by the state concerned, the key one being that they should take all appropriate measures to ensure that air tariffs "... are reasonably related to the costs of an efficient air carrier ...". The second paragraph of this article, however, would permit an air carrier to match an existing tariff approved for another airline for the same route with the same originating point, even if the criteria mentioned in paragraph 1 of the article were not met.
29. The basic thrust behind this article, that air tariffs should be more closely related to costs, is worthy of strong support.
30. Nevertheless your rapporteur does have certain reservations about this article. The concept of an "efficient" airline, for instance, as laid down in paragraph 1(a) of the article, is an extremely difficult one to define in any objective way. While it is clear that certain state-run or sponsored airlines are over-staffed and have a number of highly inefficient practices, it is nevertheless difficult to compare the efficiency of a state airline, which must often fulfil non-commercial objectives, with that of a private airline operating one or two well-travelled routes. As regards these state airlines, and without much greater transparency of the relations between them and their sponsoring government, it is going to be very hard to judge which such airlines are efficient given the constraints within which they operate, and which instead, are genuinely inefficient. Even as regards private airlines efficiency will not be easy to judge. Over what time period should an assessment be

made, for instance, and which criteria should be used? To cite a highly topical example Laker Airways were very efficient according to certain criteria, with great consequent benefits to consumers as a whole, but much less efficient according to other criteria, to the immediate financial loss of certain selected passengers. While sympathizing then, with the Commission's inclusion of the word "efficient", your rapporteur wonders whether it would not be more realistic to have it deleted from the draft text.

31. A second reservation concerns relating costs too closely to individual routes. Certainly the current situation is insufficiently transparent. The degree of cross-subsidization and the effects of prorating are not revealed to any extent. Furthermore, the evidence would seem to indicate that certain longer-haul routes in particular, may well be overpriced. The ECAC study referred to in the Annex claimed that route costs could be identified with a reasonable degree of accuracy, but others have indicated that problems of allocating overheads between routes within the Community and those extending to other parts of the world makes this impossible. Nevertheless too great an emphasis on the costs of individual routes might also be a mistake, and some degree of cross-subsidization would appear to be inevitable, for instance to help cover the costs of services to certain remote regions. Moreover the existence of certain loss leaders is normal commercial practice in most businesses. It should also be possible to permit a flexible commercial response in air transport as well.
32. Finally paragraph 2 of Article 3 would permit any air carrier to match an existing tariff. This means that the principle established in paragraph 1 of relating air tariffs to costs could be undercut.

Article 4

33. Article 4 seeks to restrict the ability of airlines to get together and have consultations on the establishment of air tariffs. In paragraph 4(b) consultations between airlines are only expressly authorised in two cases fixing the terms of interlining and simplifying and standardising conditions associated with air tariffs.

34. Your rapporteur has certain reservations about 4(b). Evidence has been submitted arguing that there should be a wider scope for inter-airline consultations than would be permitted under the terms of this article. These arguments would appear to have a certain amount of validity, always on the proviso, however, that representatives not just of the Member States but also of the Commission do indeed participate at such consultations, in order that potential abuses may be detected. Your rapporteur has consequently suggested an addition to the existing text proposed by the Commission.

Article 6

35. Article 6 puts forward two highly controversial concepts, arbitration by the Commission and state of origin approval unless vetoed by the Commission. These would create a derogation from the existing pattern of tariff approval whereby both states concerned have to agree on a tariff, by providing for the state of origin to approve a proposed air tariff unilaterally if disagreement between the two states still persists after a certain time limit, unless the second state asks the Commission to arbitrate. The Commission would have to take a decision within 30 working days of the date of referral. In the absence of a decision within 30 working days, the air tariff would come into effect "until such date as the decision of the Commission comes into force".
36. This is the core of the Commission's proposal. Of the two principal elements that it contains your rapporteur strongly supports the country of origin principle, as a useful if limited step forward. It would give a country which puts a priority on lower air fares the opportunity to allow a certain progress towards this goal. It means that air fares would no longer be pegged to quite the same extent to the levels desired by the more restrictive carrier. It could even put pressure on those countries with more restrictive systems to examine more rigorously the fare levels of their own carriers. If not, however, there is no reason why discrepancies between the one-way fares in each direction should not be allowed to persist, and in fact such discrepancies have already existed in the past as a result of exchange rate differences.

37. The second key item in Article 6 concerns Commission arbitration. Your rapporteur is not opposed to this concept, but recognizes the very real resistance that could be encountered on sovereignty and other grounds.
38. Your rapporteur has considered two alternatives to the Commission's proposal. One would be to form an Air Tariffs Committee consisting of representatives of Member States and presided over by a representative of the Commission, which could be convened when necessary. Within the Committee the votes of Member States would be weighted in accordance with Article 148(2) of the treaty. Such a solution could reduce the sovereignty problem that might be seen to be posed by Commission arbitration, would not be costly, and yet could not have the charge of lack of expertise levelled at it.
39. The second alternative would be to establish an embryonic European Civil Aviation Authority - starting off on a limited scale by building up a permanent centre of expertise on air transport matters and could carry out some of the further studies needed in the field of air transport. In the long run it could tackle a much wider range of responsibilities, and perhaps such matters as a Community-wide pilot's licence, crew conditions, air worthiness, etc. This solution would provoke a strong reaction from entrenched national bureaucracies, but your rapporteur feels that it might be the best course of action in the long term when it is hoped that the Community may have an aviation and airline industry based on a coherent market equivalent in some respects to the current American market which dominates the world scene.

Article 7

40. Article 7 calls for the establishment of Air Transport Users Committee in each Member State when they do not already exist, and for them to be consulted on air fares and related matters. These committees have now been formed in most Member States within FATUREC.

Opinion of the Committee on Transport¹

41. Your rapporteur is therefore in favour of the Commission's directive subject to a number of modifications to the existing text. She notes, however, that the opinion of the Committee on Transport adopts instead a hostile attitude, although a substantial minority of the committee dissociated themselves from the opinion and welcomed the Commission's proposed directive.

The opinion criticises the Directive on the grounds that it is "unilateral" and allows introduction of tariffs on the basis of approval by the country of origin. Your rapporteur suggests that this is an overstatement and that it is based on an incorrect reading of Article 6. This quite clearly states that if there is disagreement the Commission can be asked to arbitrate and the State of Origin can be over-ruled. The opinion also asks for the interline system to be facilitated and your rapporteur has proposed an amendment to Article 4 in order to permit the widest possible discussion between airlines. It should however, be remembered that the provision of interlining is costly and that some airline users might prefer to have some less expensive tickets available that do not include this benefit.

The opinion's main recommendation is that developments on the North Atlantic Route and in ECAC should be monitored to see how the "zones of reasonableness" concept develops in practice and that the Commission should withdraw its proposed Directive for at least a year or two so this can be done. A recent ECAC Task Force has concluded that a bilateral approach to "zones of reasonableness" is the only feasible one and it is understood that the ECAC-USA experimental scheme is based on a bilateral approach within a multilateral framework. There is nothing in the Directive to prevent experiment with zones of reasonableness on a route between Member States under a bilateral arrangement.

¹PE 77.117/fin., draftsman: Mr KEY

Your rapporteur can therefore see no reason why the Directive should be delayed. She would welcome experiment with zones of reasonableness within the Community and feels this would be far more useful than data derived from the North Atlantic Routes. There the concept is being used to enable an increase in fares, and the position is very different from the complex system of short haul routes within the Community. Zones of reasonableness have as their reference point fares set by existing route operators. The concept cannot therefore offer the scope for innovation and gradual development which the Directive provides.

Final Observations

42. Subject to the above comments your rapporteur recommends Parliament support for the Commission's proposals. Nevertheless it is clear that this proposal is not enough in itself, but needs to be complemented by a number of other measures. The Commission has already outlined a broad strategy in its memorandum "Air Transport: A Community Approach". It is essential that such a broad strategy be maintained.

43. Parliament has on several occasions called for Community competition policy to be extended to the air transport sector although in a gradual and judicious way. The Commission's proposed Council regulation applying Articles 85 and 86 to air transport (COM(81) 396 fin.) is therefore an important complementary measure, and has indeed been recently supported by the Parliament¹. Greater competition in the sector will eventually have a greater effect on the level of air fares than the Commission's current proposal, which leaves untouched the central issue of market access. Without greater possibilities for such market access the possibilities for lowering air fares are limited, and your rapporteur suggests a first step in this direction by amending the definition of Air Carrier and by also proposing that the Air Tariffs Committee might eventually consider question of access.

¹ Resolution

44. A key related need outlined in this report has been the need for much greater transparency. Parliament has, in a previously adopted resolution¹ already urged "the Commission to institute a system of full transparency of airline finances and statistics, especially with regard to route profitability." An essential step in this regard is to extend the scope of the Commission's directive on the transparency of financial relations between Member States and their public undertakings to include the previously excluded transport sector as well.
45. The Commission must also push harder with regard to the control of State aids. The Commission has issued a recent working paper on this issue in which it points out (P.3) "that in the case of the air transport sector there has been an almost total failure by the Member States to comply with the obligation to notify state aids." The paper does go on to point out, however, some of the distortions which are apparently being caused by certain aids. For instance in one Member State aircraft registered in that state pay lower airport charges than aircraft registered elsewhere. In others annual subsidies to cover losses on scheduled services are provided. Many aids do have valuable public policy purpose. Others do not. There is a clear need for Commission action in this field in laying down guidelines for the provision of state aids in the air transport sector. State aids and subsidies to protect services for social reasons for instance to remoter regions and communities have a strong justification not least to promote the important Community objective of reducing economic disparities between richer and poorer countries and regions. Nevertheless your rapporteur believes strongly that such aid should not be hidden but should be made as transparent as possible.
46. Besides competition policy a further area for action has been mentioned on several occasions by those giving evidence to your rapporteur. If there could be some limits to the growth of certain government-controlled cost factors there could be a considerable impact on levels of air fares, and, in particular the cost of landing and en-route charges should be kept to a minimum. It was submitted to your rapporteur that these charges are roughly 5 times as high in Europe as in the United States, and represent more than 11% of the total European costs against only 4% in the US.

47. A further striking figure is the much greater extent to which circuitous routes have to be adopted in Europe due to national defence and other factors compared to in the United States. It has been calculated that 15% excess distances are flown in Europe compared to only 3% in the US.
48. The need for much greater coordination of air traffic control within the Community is also clear.
49. All these factors indicate the need for much broader cooperation at European level in the area of air transport, and also helps to illustrate the perhaps longer-term case for the establishment of some form of European civil aviation authority as suggested in paragraph 39 above.
50. There is no question that there needs to be some sort of overall framework for regulation of the air transport sector within the Community, avoiding complete deregulation at one end of the spectrum, which is politically and practically infeasible, and an over-dirigiste approach at the other.
51. Short of deregulation, for instance, but nevertheless a step towards greater flexibility, would be the approach pioneered by the American Civil Aviation Board before full deregulation was introduced, of establishing zones of reasonableness for air fares. In the version introduced by the CAB in September 1978, companies were permitted to set fares as much as 10 percent above and 50 percent below a set formula fare determined by the regulatory authority without prior CAB approval. Your rapporteur has indicated that this might be a useful approach in her comments on the Transport Committee's opinion in paragraph 41 above. Of potentially even greater interest are the proposals put forward by the task force on Competition in intra-European air services (COMPAS) established by the European Civil Aviation Conference (ECAC). In their recent report (COMPAS report - May 1982) they called for close examination of zones of freedom to compete/safety nets not just for tariffs, but also for route entry and capacity as well. For existing routes existing carriers would be permitted to mount additional capacity and additional carriers to introduce capacity, and for route creation, any existing or new carrier would be permitted to create an additional route, provided, in both cases, that

certain basic criteria were met. The report concluded (summary - paragraph 37(c) and (d)) "if these zones/safety nets were adopted, the regulation of airlines by governments would become more flexible, and the airlines' freedom to compete would increase but, in both cases, the changes would be evolutionary rather than revolutionary". "It therefore believes that ECAC should develop a recommendation with regard to these three zone/safety net systems even if only on an experimental basis". Your rapporteur endorses these conclusions.

52. Another issue which will need to be examined is the inter-relationship of charter and scheduled services.
53. In another context steps could also be taken to encourage joint ventures between existing carriers, or even mergers. It is ironic that the last real attempts to establish a Community-wide airline were over 20 years ago.
54. One final comment is an even wider one, previously referred to in paragraph 9 above, namely that one important contributory reason for the high level of air fares within the Community is the wider failure of the Community itself to build a proper internal market. The achievement of the customs union would have a major effect on simplifying the design of airports. If there were effective controls at the external borders of the Community and less at the internal borders far less people would have to be channelled through one central point in the airport. The TAI study cited in the above (and described in more detail in the Annex) underlined this general point forcefully (on page 17 of the summary) when it states: "Why cannot a flight from Brussels to London be made procedurally as simple as a train journey from Brussels to Paris?" The impact on costs could be great.

Further details concerning recent air fares studies

(i) AUC Studies

The study published by the British Air Transport Users Committee in December 1976¹, and followed up by another study in 1980, was a highly critical one, its main conclusion being that normal economy fares were too high and were subsidizing virtually all other fares. It further pointed out that first class fares were too low, and also criticized the results of prorating which it claimed "gave travellers outside Europe, and in particular from North America, an unmerited reduction in the fares they paid." Another point strongly underlined by the AUC was the absence of proper cost data for European airlines, in comparison to the situation in the United States where carriers have to file both detailed costs and detailed operation figures.

Among the conclusions of the 1980 study was that almost all European normal fares were higher than the fares for similar length journeys in North America and Australia, that on the basis of cost per mile there was substantial and widespread geographical discrimination, and that there were numerous examples of unexplained differences in the fares for journeys of similar length. (It also concluded that the productivity of European airlines appear to be much lower than that of American carriers). The study also claimed that non-scheduled operators would be able to operate scheduled services at fares some 20% lower than the present operators.

The study concluded: "it is not inherent in the characteristics of European travel that fares should be high as is claimed so often by the major European carriers. This is a myth fostered to conceal their management inefficiency and work place culture. Competition is the classic remedy for these shortcomings and it must be introduced into Europe without delay."

¹European Air Fares. A report by the Airline Users Committee to the Civil Aviation Authority.

(ii) CAA Study - "European air fares - a discussion document"

As the title of the study implies, the Civil Aviation Authority's study, issued in November 1977, had less sharply focussed conclusions than the AUC Study - and was more an initial examination of the problems raised from the point of view of a regulatory authority. The study included lengthy discussions of the problems involved in identifying costs, and of making meaningful international and inter-firm comparisons. Furthermore, on the definition of efficiency it concluded (p.20) that "existing approaches to efficiency assessment afforded no prospects of early results which can confidently be applied to regulatory policy".

Nevertheless it did reach a number of tentative conclusions (p.20). It pointed out, for instance, that "the evidence does suggest that US costs and fares are lower than those of European airlines, although the differences are much smaller than often suggested by crude comparisons". It found on a number of specifically analysed routes that "the discrepancy between cost per first class passenger and fares was very substantial". It found it "hard to see the justification for this" and that the degree of cross-subsidization between first class and other fare categories was unacceptable". It also concluded that "on the short-haul routes examined, UK economy fares appeared to be reasonably related to British Airways cost levels, but on the longer routes studied, fares were substantially above cost, even with a full allowance for schedule convenience and a reasonable return on costs".

(The CAA report also included a summary of discussions held with a wide range of interested parties, including a number who were critical of the current level of European air fares, and also an examination of a number of studies carried out previously on relative airline efficiency, such as the Taussig Report, which found - inter alia - that British Airways' fleet was inefficient compared to US carriers, the so-called "Anglo-American Study" which found that, having attempted to identify and quantify all the factors except inefficiency that might account for the difference in unit costs

between the UK and US airlines, there remained a residual cost difference of 16%, and the McKinsey Report which found that North American airlines achieved a significantly greater output per employee than their European counterparts. The CAA, however, merely noted, and did not endorse their conclusions).

(iii) TAI Study on the economic cost structure of air transport in Europe

This study, prepared by a group of consultants, Transportation Analysis International, for the European Commission, and issued in October 1980, did not analyse European air fares, but was intended to provide a methodology for the Commission in their future work on air transport costs, and the relationship of these costs to fare levels. It pointed out the need for more complete information in the future and for both a cost model and a market/fares/yield model to be developed at Community level. It recommended that an attempt should be made to determine the economic cost of various categories of traffic (such as first class, economy, APEX, no-frill, full charter, etc) in order to understand the compensatory aspects of each fare category before cross-subsidisation. One real problem that was identified, however, was how to develop a uniform methodology for the assignment of costs to specifically European rather than world-wide operations.

The study also recommended that the Community try to influence strongly those aviation cost-related factors most likely to inhibit the growth of the system, landing, and en-route charges, fuel prices, re-equipment requirements and carrier return on investment, station and ground costs, and competition. One conclusion of the study was the extent to which the costs of European air carriers were dominated by items over which the carrier had little control, such as landing and en-route charges and fuel costs. Furthermore, it pointed out the extent to which national airlines were also subject to a number of non-commercial pressures, such as to serve unprofitable routes for social reasons, to create employment in the host country and to buy aircraft of local manufacture, which helped to undercut their efficiency.

(iv) ECAC Report on intra-European scheduled air fares

The European Civil Aviation Conference report, published in 1981, concentrated on three sets of issues, whether scheduled European air fares were too high (by reference to scheduled fares outside Europe or to charter fares), whether they were inconsistent (e.g. by distance) and whether they discriminated unfairly between different categories of passenger.

The report concluded that there was little evidence that European services as a whole had earned excess profits, although intra-European routes had generally achieved a level of profitability higher than the world average. Scheduled air transport services in the US tended to be relatively more efficient than those in Europe, but the difference was less than would be inferred from a simple comparison of the general level of fares in the two areas. Cost differences between scheduled and charter services were more attributable to differences in mode than to efficiency, and that while some efficiency gap did appear to exist it had to be interpreted cautiously, and appeared to be a contributory rather than major cause of high European fares.

On consistency of pricing the report found that European normal economy fares were reasonably closely related to distance, but with a taper in fares as distance increased, which was less, however, than the taper in costs.

The task force found it impossible to reach unanimous conclusions on the issue of whether the European fare structure was discriminatory. For instance a major difference of view was apparent on the implications of prorating.

It did, however, draw one or two important conclusions. It believed, for instance, that route costs could be identified with a reasonable degree of accuracy. "Consequently, the identification of price discrimination and the whole approach of relating fares to costs cannot be dismissed on the grounds of the arbitrariness of the allocation of costs to routes" (p.4).

Furthermore, in looking at the costs of serving the on-demand market in isolation, the task force found that there was generally no problem on the shorter routes but that on the longer routes there was a general if not universal tendency for normal economy fares to exceed the costs of separate production - and on some of these routes the fare was found to be substantially above costs.

OPINION OF THE COMMITTEE ON TRANSPORT

Draftsman: Mr KEY

On 16 November 1981 the European Parliament referred the proposal from the Commission of the European Communities to the Council for a Directive on tariffs for scheduled air transport between Member States (Doc. 1-740/81) to the Committee on Transport for its opinion.

On 27 November 1981, the Committee on Transport appointed Mr KEY draftsman.

The committee considered the draft opinion at its meetings of 29 March 1982 and 29 April 1982 and adopted the opinion at its meeting of 27 May 1982 by 12 votes to 6 with 2 abstentions.

The following took part in the vote: Mr Seefeld (chairman), Dame Shelagh Roberts (vice-chairman), Mr Carrosino (vice-chairman), Mr Kaloyannis (vice-chairman), Mr Key (draftsman), Mr Albers, Mr Deudis, Mr Adamou (deputizing for Mr Cardia), Mr Cottrell, Mr Gabert, Lord Harmar-Nicholls, Mr Hoffmann, Mr Junot, Mr Klinkenborg, Mr Lagakos, Mr Moreland (deputizing for Mr Marshall), Mr Martin, Mr Moorhouse, Mr Loo (deputizing for Mr Ripa di Meana) and Mr Skovmand.

The opinion representing the minority view of Dame Shelagh Roberts (vice-chairman), Mr Howell (deputizing for Mr Cottrell), Mr Turner (deputizing for Lord Harmar-Nicholls), Mr Junot, Mr Moreland (deputizing for Mr Marshall), Mr Janssen van Raay (deputizing for Mr Modiano) and Mr Moorhouse is attached.

A. Main results of the air fares examination

The proposed Tariff Directive is put forward on the basis of the conclusions in the Commission's Air Fares Study. Several important caveats need to be made.

- (1) The Study used 1979 data, a year of good airline traffic and economic performance. These assessments cannot simply be carried forward given the seriously deteriorated airline results through 1980/81 and expected in 1982.
- (2) The Commission's services have indicated that the conclusions in (e) and (h) that there may be "unreasonable profits" and "unfair prices" are not relevant for 90-95 % of European routes.
- (3) To view pricing on a point-to-point, strictly cost basis is not helpful to the development of an integrated Community air transport tariff structure. Pricing should take into account network costs of principal carriers on the route and also market factors such as potential demand, traffic mix, etc.
- (4) It is not practicable to effect major changes with respect to the establishment of scheduled air fares without dealing at the same time with charter traffic which amounts to some 50 % of intra-Community air services.

One of the main justifications for the Commission's proposal is "that the present tariff-setting procedures are time consuming and too rigid" (paras 3 (a) and (b)). However, it is not the present systems which are time consuming but the way in which they are utilised by governments to require each and every tariff and product change to be approved, often at great length. The proposal would not alter that situation but would instead make it necessary for governments to acquire extensive and costly specialised knowledge to deal on a day-to-day basis with an increasing number of conflicting tariff proposals. This in turn would lead to intergovernmental disagreements followed by Commission arbitration, subject to possible review by the European Court of Justice. The new procedures will increase costs and delays, politicise disagreements and lead to bureaucratic expansion - hardly a recipe for an improved and rapid process.

3 c-g are the other main conclusions of the examination concerning profitability of European operations, cost allocation and pricing methodology. These factors need to be viewed against the background of public service obligations that many European airlines must apply, the inherently high cost of European operations and the protection of labour obligations inherent in the European social system. Such obligations would not be best served by the disruption likely to occur

through the major changes proposed to the present tariff systems. Neither the consumer nor workers will benefit from such revolutionary measures which will force prices to levels where reasonable offsetting of losses on certain routes by benefits on others would not be possible and marginal routes would have to be abandoned and services concentrated on the high density major routes, a situation very much in evidence in the USA, where many small communities have lost services.

B. The proposed Draft Directive

The most distinctive feature of the Commission's proposal is that it moves away from multilateralism towards unilateralism and from conciliation towards governmental confrontation.

The Commission's proposal is moving towards unilateral government and airline tariff setting. This is not geared to the development of an integrated community tariff structure and would appear to contradict the very foundation of the European Communities, namely to promote closer relations between Member States. The proposal will distance EEC Member States from their governmental partners in the worldwide aviation community.

- (i) The proposed Directive suggests introduction of tariffs on the basis of approval of the country of origin. Less than 2 % of all bilateral agreements in the world apply country-of-origin type principles. These principles are in direct conflict with the ECAC 1967 multilateral agreement on tariffs, which relies on bilateral procedures as a minimum and to which most EEC Member States and many non-EEC States are party. Implementation of the proposed system would probably mean denunciation and renegotiation of this agreement. It would also presumably lead to renegotiation of numerous bilateral agreements with non-EEC States.
- (ii) The proposal misconstrues the actual functioning of the airline coordination system (particularly in its new more flexible form) and would effectively preclude tariff coordination on point-to-point fares and would jeopardise the interline system. Although the Commission expresses its wish to continue to allow interlining, it fails to see that the interlining system will be threatened if carriers are unable to discuss their point-to-point fares, which are competitively interrelated to each other and to interline tariffs.
The Commission fails to recognise that the coordination of tariffs allows the development of an interrelated fares structure between Community States with other European States and with the worldwide system.

To conclude, the Commission is wrong in assuming that its proposal would not be disruptive and presents an evolutionary concept. Community air services are an integral part of the total European and world air network. We cannot effect the changes required under the Directive without serious repercussions upon that total system and on the commercial and legal obligations enshrined in numerous international trading agreements. For the consumer, the airlines and the governments, the maintenance of the present multilateral and bilateral systems of tariff coordination and interlineability are too valuable to put at risk. However, improvements in the present system could and should be achieved by building on that system along the following lines:

C. Alternative

Over the past few years the development of the fares structure on the North Atlantic has given an example of the adverse economic consequences of a too swift movement toward deregulation. The most extreme results of such a policy can be appreciated when looking at the U.S. domestic deregulation experience. It is significant that in recent negotiations between ECAC governments and the U.S., a compromise system of modified regulatory control is evolving and that in the international airline fora IATA has introduced a more flexible system for tariff setting. All these developments may well provide both a warning and a guideline for the intra-European air transport system.

In essence the new system for North Atlantic fares is based on the establishment of a series of "Zones of reasonableness" for each of the main categories of product (e.g. First, Economy, Discount). Within these zones, airlines are free to compete at varying levels; any fare outside the zones remains subject to bilateral approval. A separate index of cost changes would also be established as a measure against which fare adjustments may be reviewed and implemented. Such flexibility would provide the desired improvement in tariff changes yet be accomplished within the present multilateral and bilateral network, thus preserving the need for common airline agreement on standards, interlineability and handling.

Governments within ECAC are already exploring the possibility of introducing further flexibility in the present competitive environment of their airlines and EEC efforts should be coordinated with those ECAC activities. The airlines, for their part, should be encouraged through IATA to study the feasibility of introducing such added flexibility in the system.

It would, however, be essential before introducing any such radical modification in the existing intra-European tariff-setting mechanism to await first the conclusion of a satisfactory agreement on the North Atlantic route and second its being experimented for at least a year or two in that area.

The Committee on Transport draws attention to the report by Mr Carossino on the common transport policy (Doc. 1-996/81) unanimously adopted by Parliament on 9 March 1982, which rightly states that in Parliament's opinion future measures in the field of air transport must be guided by the following principles:

- improvement of the services offered to the transport user;
- reasonable conditions of operation for viable airlines under efficient management;
- safeguarding and expansion of employment;
- improvement of air traffic safety;
- reduction of environmental pollution by air traffic;
- energy saving.

In the opinion of the Committee on Transport based on the above considerations, the directive submitted by the Commission fails to comply with this recommendation.

Taking account of the counterproposal made in this document, Parliament is urged to approve a recommendation that the European Commission closely monitor developments on the North Atlantic route and in EGAC and if appropriate in due course envisage the introduction of proposals for changes along the lines discussed above.

MINORITY OPINION

A minority of members of the Transport Committee believe that the present air fare fixing system needs to be improved. Consequently, they support the Commission's proposed directive in the belief that it will introduce more scope for airline innovation and consumer choice without leading to disruptive effects or endangering the viability of Community airlines or entailing unacceptable labour disturbances.

The minority believes that the Commission proposal follows a gradual evolutionary approach which would induce airlines and governments to consider new ideas.

