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REPORT

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council
- General approach

I. INTRODUCTION

1. On 1 December 2011, the Commission submitted to the European Parliament and the Council the above-mentioned proposal. This proposal is part of the so-called "airport package", a set of three legislative proposals aimed at fostering competitiveness in European airports and at increasing their performance in terms of efficiency, quality and resilience. The main objective of this proposal is to ensure the consistent application in the EU of the ICAO set of principles and guidance known as the "Balanced Approach" for the introduction of noise-related operating restrictions. It replaces and repeals Directive 2002/30/EC, the current basic act establishing the rules and procedures with regard to the introduction of noise-related operating restrictions at the EU airports.

II. CONTENT OF THE PROPOSAL

2. The proposal contains the following key elements:
 - specification of objectives to stress the link with other elements of the Balanced Approach and other instruments to manage air traffic noise;
 - definition of allocation of responsibilities;
 - listing of general requirements to manage noise;
 - provision of more details on the noise assessment process;
 - specification of stakeholders to be consulted;
 - harmonisation of data and methods;
 - specification of notification and introduction requirements;
 - use of comitology to adapt noise standards to new technological progress;
 - provision of support to competent authorities.

III. WORK WITHIN THE COUNCIL BODIES

3. The Aviation Working Party (hereinafter referred to as the "Working Party") started the examination of the proposal under the Danish Presidency in March 2012. In line with the Inter-Institutional Approach to Impact Assessments, the Working Party also discussed and evaluated the Commission's impact assessment.¹
4. Following the in-depth discussions held at various meetings of the Working Party, the Presidency has amended several provisions of the Commission proposal to take account of delegations' comments. The recitals have not been examined yet and they will have to be adapted to the text of the general approach at a later stage.

¹ Better Regulation: Inter-Institutional Common Approach to Impact Assessment (IA) 14901/05 JUR 486 COMPET 263.

5. On 25 May 2012, the draft general approach was submitted to the Permanent Representatives Committee (Coreper). During this Coreper meeting, several delegations expressed, in general, their support for the Presidency compromise text, while others reiterated their concerns on some issues and presented new draft suggestions. The Presidency took note of the delegations comments and, in order to solve some outstanding issues and to facilitate reaching a general approach, accepted some of the proposals tabled by the delegations. However, a few questions still need to be discussed at Council level, as some delegations and the Commission maintain their reservations on the text. The changes in the Annex to this report compared to the Annex to the report to Coreper are indicated in **bold** and ~~striketrough~~.

IV. MAIN OUTSTANDING ISSUE

6. Commission's right of scrutiny (Article 7)

The Commission's proposal included Article 10 giving the Commission the right to scrutinise a Member State's decision to introduce noise-related operating restrictions prior to its implementation. The Commission's right of scrutiny was included in the proposal in order to reflect the political commitment taken by the EU Member States in the Protocol Amending the EU-US Air Transport Agreement signed in June 2010 (hereinafter referred to as the "EU-US Protocol") regarding the Commission's right of scrutiny prior to the imposition of noise-related operating restrictions.

In Coreper, the Commission said that the current text falls short of the political commitment provided for in Article 6 of the EU-US Protocol. The Commission argued that, in order to reflect the provisions of the EU-US Protocol correctly other substantive steps should have been included to ensure the Commission's right of scrutiny. Such a solution would avoid a situation whereby only measures *ex-post* are possible, when the damages will be more difficult to repair. UK considers this a key issue and argues that it is important to meet the requirements of the EU-US Protocol regarding the Commission's right of scrutiny. This delegation considers that such a solution would have triggered additional opportunities for the EU air operators on the basis of the EU-US Protocol. However, other delegations had a different interpretation of the current compromise text considering that the provisions of the EU-US Protocol have been fully respected in the current Presidency compromise text. AT, DE and UK have not yet finalised scrutinising the above text and internal consultations are still ongoing.

V. OTHER ISSUES

7. Exemptions granted to developing countries (Article 8)

In Coreper, IT proposed a new paragraph for Article 8, whereby a list of developing countries could be drafted and reviewed annually through comitology. That list would then be used by the EU Member States as a reference indicating which countries might be exempted from noise-related operating restrictions in the EU. The Commission cautioned against such a solution, on the argument that this was a controversial issue, very difficult to define. A large majority of delegations supported the Presidency compromise proposal.

8. DE has still several reservations on the Presidency compromise text, in particular on the following issues: the type of legislative act (directive instead of regulation), the definition of the 'marginally compliant aircraft', the costs and benefits of the noise-related operating restrictions, the application of all types of measures proposed by the Balanced Approach and the Commission's right of scrutiny.

9. The Commission supports reaching a general approach at the forthcoming Council meeting. Nevertheless, it reserves its position on the entire compromise proposal pending the EP's vote at first reading. Its reservation pertains in particular to the compromise solutions proposed for the definition of the 'marginally compliant aircraft' (Article 2.4) and the Commission's right of scrutiny (Article 7).
10. DE, MT, NL and UK have a parliamentary scrutiny reservation.

VI. CONCLUSIONS

11. In the light of the above, the Council is invited to examine the text as set out in the Annex to this report, to resolve the last outstanding issues and adopt a general approach at its meeting on 7 June 2012.

2011/0398 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council²

The European Parliament and the Council

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the European Economic and Social Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure⁶,

² An explanatory recital will be introduced to explain the exact scope of the Regulation, specifying that it will only apply when a competent authority is considering the introduction of noise-related operating restrictions at an airport with more than 50 000 movements/year.

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ C , , p. .

Whereas:

- (1) A key objective of the common transport policy is sustainable development. This requires an integrated approach aimed at ensuring both the effective functioning of Union transport systems and protection of the environment.
- (2) Sustainable development of air transport necessitates the introduction of measures aimed at reducing the noise nuisance from aircraft at airports with particular noise problems. A large number of EU citizens are exposed to high noise levels which may lead to negative health effects.
- (3) Following the removal of the noisiest aircraft pursuant to Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports⁷ and Directive 2006/93/EC of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aircraft covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)⁸, an update of new measures is required to enable authorities to deal with the noisiest aircraft to improve the noise climate around airports in the Union within the international framework of the Balanced Approach on Noise Management.
- (4) Resolution A33/7 of the International Civil Aviation Organisation (ICAO) introduces the concept of a “Balanced Approach” to noise management and establishes a coherent method to address aircraft noise. The ICAO 'Balanced Approach' should remain the foundation of noise regulation for aviation, as a global industry. The Balanced Approach recognises the value of, and does not prejudge, relevant legal obligations, existing agreements, current laws and established policies. Incorporating the international rules of the Balanced Approach in this Regulation should substantially lessen the risks of international disputes in case third country carriers may be affected by noise-related operating restrictions.

⁷ OJ L85, 28.3.2002, p.40.

⁸ OJ L 374, 27.12.2006; p.1.

- (5) The Report from the Commission to the Council and the European Parliament on noise operating restrictions at EU Airports⁹ pointed to the need to clarify in the text of the Directive the allocation of responsibilities and the precise obligations and rights of interested parties during the noise assessment process so as to guarantee that cost-effective measures are taken to achieve the noise abatement objectives.
- (6) The introduction of operating restrictions by Member States at Union airports on a case-by-case basis, whilst limiting capacity, can contribute to improving the noise climate around airports. However, there is a possibility of introducing distortions of competition or hampering the overall efficiency of the Union aviation network through the inefficient use of existing capacity. Since the objectives cannot be sufficiently achieved by the Member States and can therefore be more effectively achieved by the Union by means of harmonised rules on the introduction of operating restrictions as part of the noise management process, the Union may adopt measures in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives. Such harmonised method does not impose noise quality objectives, which continue to derive from Directive 2002/49/EC or other European, national or local rules, and does not prejudice the concrete selection of measures.
- (7) While noise assessments should take place on a regular basis, such assessments should only lead to additional noise abatement measures if the current combination of noise mitigating measures does not achieve the noise abatement objectives. **Additional noise abatement measures should be identified according with the ICAO ‘Balanced Approach’ methodology. Noise-related operating restrictions should be introduced only when other measures of the ICAO ‘Balanced Approach’ have failed in reaching the specific noise abatement objectives.**

⁹ COM(2008)66.

- (8) While a cost-benefit analysis provides an indication of the total economic welfare effects by comparing all costs and benefits, a cost-effectiveness assessment focuses on achieving a given objective in the most cost-effective way, requiring a comparison of only the costs.
- (9) Suspension of noise mitigating measures is important to avoid unwanted consequences on aviation safety, airport capacity and competition. Whilst an appeal procedure against noise-related operating restrictions may relate to noise abatement objectives, assessment methods and selection of cost-effective measures, the appeal may not suspend their implementation. Therefore, the Commission should well before implementation of the measures be able to use the right of scrutiny and to suspend measures deemed to produce unwanted or irreversible consequences. It is recognised that the suspension should be for a limited period.
- (10) Noise assessments should build on existing information available and ensure that such information is reliable and accessible to competent authorities and stakeholders. Competent authorities should put in place the necessary monitoring and enforcement tools.
- (11) It is recognised that Member States have decided on noise-related operating restrictions in accordance with national legislation based on nationally acknowledged noise methods, which may not (yet) be fully consistent with the method as described in the authoritative European Civil Aviation Conference Report Doc 29 on 'Standard Method of Computing Noise Contours around Civil Airports' nor use the internationally recognised aircraft noise performance information. However, the efficiency and effectiveness of an operating restriction, together with the efficiency and effectiveness of the relevant action plan of which the restriction is a part, should be assessed in accordance with methods prescribed in ECAC Doc 29 and the ICAO Balanced Approach. Accordingly, Member States should adapt their assessments of operating restrictions in national legislation towards full compliance with ECAC Doc 29.

- (12) Centralisation of information on noise would substantially reduce the administrative burden for aircraft and airport operators alike. Such information is currently provided and managed at the individual airport level. These data need to be put at their disposal for operational purposes. It is important to use the data bank of the European Aviation Safety Agency (the Agency) concerning noise performance certification as a validation tool with the European Organisation for the Safety of Air Navigation (Eurocontrol) data on individual flights. Such data are currently already systematically requested for central flow management purposes, but need to be specified for the purpose of this Regulation and for performance regulation of air traffic management. Good access to validated modelling data should improve the quality of mapping of noise contours of individual airports and strategic mapping to support policy decisions.
- (13) In order to reflect the continuous technological progress in engine and airframe technologies and the methods used to map noise contours, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect to regularly updating the noise standards for aircraft referred to in this Regulation and the reference to the associated certification methods; amending the definitions of marginally compliant aircraft and of civil aircraft accordingly, and updating the reference to the method to computing noise contours. It is particularly important that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (14) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.¹⁰

¹⁰ OJ L 55, 28.2.2011, p. 13.

- (15) The advisory procedure should be used for the adoption of implementing decisions with respect to whether the Member States that are planning to introduce operating restrictions may proceed with their introduction in the event that the Commission has suspended the operating restrictions given that those decisions are only of a limited scope.
- (16) Considering the need for the consistent application of the noise assessment method within the EU aviation market, this Regulation sets out common rules in the field of noise operating restrictions. Directive 2002/30/EC should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject-matter, objectives and scope

1. This Regulation lays down rules on the process to be followed for the introduction of noise-related operating restrictions in a consistent manner on an airport-by-airport basis so as to help improve the noise climate and to limit or reduce the number of people significantly affected by potentially harmful effects of aircraft noise, in accordance with the Balanced Approach.
2. The objectives of this Regulation are:
 - (a) to facilitate the achievement of specific noise abatement objectives, at the level of individual airports, while respecting relevant Union rules and legislation within each Member State;
 - (b) to enable the use of operating restrictions in accordance with the Balanced Approach so as to achieve the sustainable development of the airport and air traffic management network capacity from a gate-to-gate perspective.
3. This Regulation shall apply to aircraft engaged in civil aviation. It shall not apply to aircraft engaged in military, customs, police, or similar services¹¹.

¹¹ New recital: *"This Regulation applies to aircraft engaged in civil aviation. It does not apply to aircraft such as military aircraft and aircraft undertaking customs, police and fire-fighting operations. Furthermore, provision should be made for the exemption from this Regulation of operations of an exceptional nature such as flights for urgent humanitarian reasons, or search and rescue for situations of emergency, medical assistance, as well as for disaster relief."*

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (1a) 'Aircraft' means fixed-wing aircraft with a maximum certificated take-off mass of 34 000 kg or more, or with a certificated maximum internal accommodation for the aircraft type in question consisting of 19 passenger seats or more, excluding any seats for crew only;
- (1) 'Airport' means an airport which has more than 50 000 civil aircraft movements per calendar year (a movement being a take-off or landing), on the basis of the average number of movements of the last three calendar years before the noise assessment;
- (2) 'Balanced Approach' means the process established by the International Civil Aviation Organisation (ICAO) under which the range of available measures, namely reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions, is considered in a consistent way with the view to addressing the noise problem in the most cost-effective way on an airport by airport basis.
- (4) 'Marginally compliant aircraft' means aircraft which are certified in accordance with Chapter 3 limits laid down in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation (Chicago Convention) by a cumulative margin of less than 8 EPNdB (Effective Perceived Noise in Decibels) during a transitional period of ~~five~~ **four** years after the entry into force of this Regulation, and by cumulative margin of less than 10 EPNdB2 following the end of this transitional period, whereby the cumulative margin is the figure expressed in EPNdB obtained by adding the individual margins (i.e. the differences between the certificated noise level and the maximum permitted noise level) at each of the three reference noise measurement points as defined in Volume 1, Part II, Chapter 3 of Annex 16 to the Chicago Convention;

- (5) 'Noise-related action' means any measure that impacts the noise climate around airports, for which the principles of the ICAO Balanced Approach apply, including other non-operational actions that can affect the number of people exposed to aircraft noise;
- (6) 'Operating restrictions' means a noise-related action that limits the access to or reduces the operational capacity of an airport, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, affecting the operation of aircraft according to time period.

Article 3

Competent authorities

1. Member States in which an airport as referred to in Article 2(1) is located shall designate one or more competent authorities responsible for the process to be followed when adopting operating restrictions.
2. The competent authorities shall be independent¹² of any organisation which could be affected by noise-related action. This independence may be achieved through a functional separation.
3. The Member States shall notify the Commission, in a timely manner, of the names and addresses of the designated competent authorities referred to in paragraph 1.

¹² New recital to clarify the notion of independence: "*The competent authority responsible for adopting measures on operating restrictions should be independent of any organisation involved in the airport's operation, air transportation operators, air navigation services or representing the interests thereof and of the residents affected by airport noise. This should not be understood to require Member States to modify their administrative structures and decision-making*".

Article 3a

Right of appeal

1. Member States shall ensure the right to appeal against the operating restrictions adopted pursuant to this Regulation before an appeal body other than the authority that has adopted the contested measure, in accordance with national legislation and procedures.
2. The Member States in which an airport as referred to in Article 2(1) is located shall notify the Commission, in a timely manner, of the name and address of the designated appeal body referred to in paragraph 1 or of the arrangements for ensuring that an appeal body is appointed.

Article 4

General rules on aircraft noise management¹³

1. Member States shall ensure that the noise situation at an individual airport is assessed in accordance with Directive 2002/49/EC.
- 1a. For the airports where a noise problem has been identified, Member States shall ensure that the Balanced Approach in regard to aircraft noise management is adopted. To this end, they shall ensure that:
 - (a) [...]
 - (b) the noise abatement objective for that airport, taking into account, as appropriate, of Article 8 and Annex V of Directive 2002/49 is defined;

¹³ New recital "*In order to ensure a wide application of the Balanced Approach within the European Union, its use is recommended whenever adequate to the scope, beyond the scope of this Regulation*".

- (c) measures available to reduce the noise impact are identified;
- (d) the likely cost-effectiveness of the noise mitigation measures is evaluated;
- (e) the measures, taking into account public interest in the field of air transport as regards the development prospects of its airports, without detriment to safety are selected;
- (f) the stakeholders in a transparent way on the intended actions are consulted;
- (g) the measures are adopted and sufficient notification is provided for;
- (h) the measures are implemented; and
- (i) dispute resolution is provided for.

2. Member States shall ensure that, when noise-related action is taken, the following combination of available measures is considered, with a view to determining the most cost-effective measure or combination of measures:

- (a) the foreseeable effect of a reduction of aircraft noise at source;
- (b) land-use planning and management;
- (c) noise abatement operational procedures;
- (d) not to apply operating restrictions as a first resort, but only after consideration of the other measures of the Balanced Approach.

The available measures may include the withdrawal of marginally compliant aircraft, if so deemed necessary.

3. The measures may, within the Balanced Approach, be differentiated according to aircraft type, runway use and/or timeframe covered.
4. Without prejudice to paragraph 3, operating restrictions which take the form of a withdrawal of marginally compliant aircraft from airport operations shall not affect civil subsonic aircraft that comply, through either original certification or recertification, with the noise standard in Volume 1, Part II, Chapter 4 of Annex 16 to the Chicago Convention.
5. Measures or a combination of measures taken in accordance with this Regulation for a given airport shall not be more restrictive than necessary to achieve the environmental noise abatement objectives set for that airport. Operating restrictions shall be non-discriminatory, in particular on grounds of nationality or identity.

Article 5

Rules on noise assessment

1. The competent authorities shall ensure that the noise situation at airports for which they are responsible is assessed on a regular basis, in accordance with Directive 2002/49/EC and the legislation applicable within each Member State. The competent authorities may call on the support of the Performance Review Body referred to in Article 3 of Commission Regulation (EU) No 691/2010.¹⁴
2. [...]

¹⁴ OJ L 201, 3.8.2010, p. 1.

3. If this assessment indicates that new operating restriction measures may be required to address a noise problem at an airport, the competent authorities shall ensure that:
- (a) the method, indicators and information in Annex I are applied to take due account of the contribution of each type of measure under the Balanced Approach, before introducing operating restrictions.
 - (b) At the appropriate level, technical cooperation is established between the airport operators, aircraft operators and air navigation service providers to examine measures to mitigate noise. The competent authorities shall also ensure that local residents, or their representatives, and relevant local authorities are consulted, and that technical information on noise mitigating measures is provided to them.
 - (c) The cost-effectiveness of any new operating restriction is assessed, in accordance with Annex II. ~~A~~ Minor technical amendments to ~~an existing~~ measures without substantive implications on capacity or operations ~~is~~ **are** not considered as a new operating restrictions¹⁵.

¹⁵ New recital: "A new and wider definition of operating restrictions as compared with Directive 2002/30/EC should be introduced in order to facilitate implementation of new technologies and operational capabilities of aircraft and ground equipment. Its application should not lead to delaying operational measures which could immediately alleviate the noise impact without substantially affecting the operational capacity of an airport. Such a measure should therefore not be considered to constitute a new operating restriction."

- (d) The consultation process with interested parties is organised in a timely and substantive manner, ensuring openness and transparency as regards data and computation methodology. Interested parties shall have at least three months prior to the adoption of the new operating restrictions to provide comments. The interested parties shall at least include:
- (i) local residents, living in the vicinity of the airports, affected by air traffic noise or their representatives and the relevant local authorities;
 - (ii) relevant airport operators;
 - (iii) representatives of aircraft operators which may be affected by noise-related actions;
 - (iv) relevant air navigation service providers;
 - (v) the Network Manager, as defined in Commission Regulation No 677/2011;¹⁶
 - (vi) where applicable, the designated slots coordinator.
4. The competent authorities shall follow up and monitor the implementation of the operating restrictions and take action as appropriate. They shall ensure that relevant information is provided on a regular basis to the local residents living in the vicinity of the airports and to the relevant local authorities.

¹⁶ OJ L 185, 15.7.2011, p. 1.

Article 6

Noise performance information

1. Decisions on noise-related operating restrictions shall be based on the noise performance of the aircraft as determined by the certification procedure conducted in accordance with Volume 1 of Annex 16 to the Chicago Convention, sixth edition of March 2011.
2. ¹⁷At the request of the Commission, aircraft operators shall communicate the following noise information in respect of the aircraft that they operate at Union airports:
 - (a) the aircraft nationality and registration mark;
 - (b) the noise documentation of the aircraft used, together with the associated maximum take-off weight;
 - (c) any modification of the aircraft which affects its noise performance and is stated on the noise documentation;
 - (d) aircraft noise and performance information of the aircraft for noise modelling purposes.

For each aircraft making use of a Union airport, aircraft operators shall communicate the noise documentation used and the aircraft nationality and registration mark.

The data shall be provided free of charge, in electronic form and using the format specified, where applicable.

¹⁷ Recital 12 will be redrafted to explain that this information is currently not yet available to the Commission/EASA.

3. The Agency shall verify the aircraft noise and performance data for modelling purposes in relation to its tasks performed in accordance with Article 6 (1) of Regulation (EC) No 216/2008 of the European Parliament and the Council.¹⁸
4. Data shall be stored in a central database and made available to competent authorities, aircraft operators, air navigation service providers and airport operators for operational purposes.

Article 7

Rules on the introduction of operating restrictions

1. Before introducing an operating restriction, the competent authorities shall give notice of six months, ending at least two months prior to the determination of the slot coordination parameters as defined in Article 2, point m) of Council Regulation EEC N° 95/93¹⁹ for the airport concerned for the relevant scheduling period, to the Member States, the Commission and the relevant interested parties.
2. Following the assessment carried out in accordance with Article 5, the notification shall be accompanied by a written report in accordance with the requirements specified in Article 4 explaining the reasons for introducing the operating restriction, the noise abatement objective established for the airport, the measures that were considered to meet that objective, and the evaluation of the likely cost-effectiveness of the various measures considered, including, where relevant, their cross-border impact.

¹⁸ OJ L 79, 19.3.2008, p. 1.

¹⁹ OJ L 14 22.01.1993.

- 2a. At the request of a Member State or on its own initiative, the Commission may within a period of four months after the day on which it receives notice under paragraph 1, review the process for the introduction of an operating restriction. Where the Commission finds that the introduction of a noise-related operating restrictions does not follow the process set out in this Regulation, it may notify the relevant competent authorities accordingly. The Member States shall ensure that the competent authority takes due account of any notification from the Commission, before introducing the operating restrictions, and inform the Commission accordingly.
3. Where the operating restriction concerns the withdrawal of marginally compliant aircraft from an airport, no additional services above the number of movements by marginally compliant aircraft in the corresponding period of the previous year shall be allowed at that airport six months after the notification. The Member States shall ensure that the competent authorities decide on the annual rate for reducing the number of movements of marginally compliant aircraft of affected operators at that airport, taking due account of the age of the aircraft and the composition of the total fleet. Without prejudice to paragraph 3 of Article 4, this rate shall not be more than 20% of the number of movements of marginally compliant aircraft for each operator serving that airport.

Article 8

Developing countries²⁰

1. In order to address undue economic hardship, the competent authorities may exempt marginally compliant aircraft registered in developing countries from noise operating restrictions, while fully respecting the principle of non-discrimination, provided that such aircraft:

²⁰ New recital: *"To take account of the ICAO Balanced Approach, provision should be made for the possibility of exemptions in special circumstances for operators from developing third countries, without which such operators would suffer undue hardship. It is clear that the reference to 'developing countries' needs to be understood from this specific point of view and would certainly not include all countries that might, within the international community, be referred to as such. In particular, it is necessary to ensure that any such exemptions would not be incompatible with the principle of non-discrimination."*

- (a) are granted a noise certification to the standards specified in Chapter 3, Volume 1 of Annex 16 to the Chicago Convention.
 - (b) were operated in the Union during the five-year period preceding the entry into force of this Regulation, were on the register of the developing country concerned in that five year period and continue to be operated by a natural or legal person established in that country.
2. Where a Member State grants an exemption provided for in paragraph 1, it shall forthwith inform the competent authorities of the other Member States and the Commission of the exemptions it has granted.

Article 9

Exemptions for aircraft operations of an exceptional nature

1. On a case by case basis, the competent authorities may authorise individual operations of marginally compliant aircraft which could not take place on the basis of the provisions of this Regulation, at airports for which they are responsible.

The exemption shall be limited to:

- (a) operations which are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption, including humanitarian aid flights;
 - or
 - (b) non-revenue flights for the purpose of alterations, repair or maintenance.
2. [...]

Article 10

Right of scrutiny

[...]

Article 11

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 12 concerning:

- (a) [...]
- (b) technical updates of the noise certification standards provided for in Articles 4(4) and 8(1)(a); and of the certification procedure provided for in Article 6(1);
- (c) technical updates of the methodology and indicators set out in Annex I.

The purpose of these updates shall be to take into account the changes to relevant international rules, as appropriate²¹.

²¹ **New recital:** "*The Commission should be empowered to adopt delegated acts in accordance with Article 12 only in order to take account of changes in relevant ICAO documents and only when appropriate. In addition, changes to ECAC Doc.29 should also be taken into consideration for technical updates through delegated acts, as appropriate.* "

Article 12

Exercise of the delegation

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 11 shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegation of power referred to in Article 11 may be revoked by the European Parliament or by the Council. The revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 11 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 13

Committee

[...]

Article 14

Information and revision

Member States shall submit information on the application of this Regulation to the Commission upon request.

No later than five years after the entry into force of this Regulation, the Commission shall report to the European Parliament and to the Council on the application of this Regulation.

The report shall be accompanied, where necessary, by proposals for revision of this Regulation.

Article 15

Repeal

Directive 2002/30/EC is repealed with effect as from the date of entry into force of this Regulation.

Article 15a

Transitional provisions²²

Operating restrictions and decisions on the operation of airports which were already introduced before the entry into force of this Regulation shall not be subject to this Regulation and shall, to the extent that Directive 2002/30/EC is applicable, continue to be subject to that Directive and, where applicable, the national rules transposing it. The effects of Directive 2002/30/EC shall therefore be maintained for such measures.²³

²² A recital will be inserted to explain that operating restrictions and decisions on operating restrictions, which were already introduced before the entry into force of this Regulation and are not subject to this Regulation, may also include measures based on court decisions or results of a mediation process.

²³ New recital: "*Operating restrictions and decisions on the operation of airports for which the notice period provided for in Article 11 of Directive 2002/30/EC has commenced before the entry into force of this Regulation should not be subject to this Regulation and should continue to be subject to that Directive and, where applicable, to the national rules transposing it.*"

Article 16

Entry into force

1. This Regulation shall enter into force on ~~twelve~~ **twenty four** months following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Assessment of the noise situation at an airport

Methodology:

1. Competent authorities will ensure the use of noise assessment methods which have been developed in accordance with the ECAC Report Doc 29 'Report on Standard Method of Computing Noise Contours around Civil Airports', 3rd Edition.

Indicators:

1. Air traffic noise impact will be described, at least, in terms of noise indicators Lden and Lnight which are defined and calculated in accordance with Annex I to Directive 2002/49/EC.
2. Additional noise indicators may be used which have an objective basis.

Noise management information:

1. Current inventory
 - 1.1 A description of the airport including information about its size, location, surroundings, air traffic volume and mix.
 - 1.2 A description of any environmental objectives for the airport and the national context. This will include a description of the aircraft noise abatement objectives for the airport.
 - 1.3 Details of noise contours for the relevant previous years – including an assessment of the number of people affected by aircraft noise.

1.4 A description of the existing and planned measures to manage aircraft noise already implemented in the framework of the Balanced Approach and their impact and contribution to the noise situation, by reference to:

1.4.1 For reduction at source:

- Information on current aircraft fleet and any expected technology improvements;
- Specific fleet renewal plans;

1.4.2 For land-use planning and management:

- Planning instruments in place, like comprehensive planning or noise zoning;
- Mitigating measures in place, like building codes, noise insulation programmes or measures to reduce areas of sensitive land use;
- Consultation process of the land-use measures;
- Monitoring of encroachment;

1.4.3. For noise abatement operational measures, to the extent that these measures do not restrict capacity of an airport:

- Use of preferential runways;
- Use of noise preferential routes;
- Use of noise abatement take-off and approach procedures.
- Indication of the extent to which these measures are regulated under environment indicators, mentioned in Annex I to Commission Regulation (EU) No 691/2010.

1.4.4. For operating restrictions:

- Use of global restrictions, like cap on movements or noise quotas;
- Use of aircraft-specific restrictions, like the withdrawal of marginally compliant aircraft;
- Use of partial restrictions, making a distinction between measures at day and during the night.

1.4.5. The financial instruments in place, like noise-related airport charges.

2. Forecast without new measures

- 2.1. Descriptions of airport developments (if any) already approved and in the pipeline, for example, increased capacity, runway and/or terminal expansion, and the projected future traffic mix and estimated growth.
- 2.2. In the case of airport capacity extension the benefits of making that additional capacity available within the wider aviation network and the region.
- 2.3. A description of effect on noise climate without further measures, and of those measures already planned to ameliorate the noise impact over the same period.
- 2.4. Forecast noise contours – including an assessment of the number of people likely to be affected by aircraft noise – distinguish between established residential areas and newly constructed or planned residential areas.

2.5. Evaluation of the consequences and possible costs of not taking action to reduce the impact of increased noise – if it is expected to occur.

3. Assessment of additional measures

3.1. Outline of the additional measures available and an indication of the main reasons for their selection. Description of those measures chosen for further analysis and information on the outcome of the cost-efficiency analysis, in particular the cost of introducing these measures; the number of people expected to benefit and timeframe; and a ranking of the overall effectiveness of particular measures.

3.2. An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.

3.3. Reasons for selection of the preferred option.

3.4. A non-technical summary.

Assessment of the cost-effectiveness of noise-related operating restrictions

The cost-effectiveness of envisaged noise-related operating restrictions will be assessed taking due account of following elements, to the extent possible, in quantifiable terms:

- 1) The anticipated noise benefit of the envisaged measures, now and in the future;
- 2) Safety of aviation operations, including third party risk;
- 3) Capacity of the airport;
- 4) Effects on the European aviation network.

In addition competent authorities may take due account of following factors:

- 1) Health and safety of local residents living in the vicinity of the airport;
- 2) Environmental sustainability, including interdependencies between noise and emissions;
- 3) Direct, indirect and catalytic employment and economic effects.