



**COUNCIL OF
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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view to the adoption of 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
– Draft Statement of the Council's reasons

I. INTRODUCTION

On 1 December 2011, the Commission submitted to the European Parliament and the Council its proposal for a Regulation 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 2002/30¹.

On 7 June 2012, the Council reached a general approach on the draft proposal.

In carrying out its work, the Council took account of the opinions of the European Economic and Social Committee and of the Committee of the Regions.

On 12 December 2012, the European Parliament voted its opinion at first reading².

Following the vote in the European Parliament, negotiations took place between the European Parliament, the Council and the Commission with a view to reaching an agreement on the proposal. On 27 January 2014, a final compromise was agreed, which was subsequently endorsed by the Committee of Permanent Representatives on 29 January 2014. The European Parliament Committee on Transport and Tourism (TRAN) also confirmed the agreement on 11 February 2014, and to this effect addressed a letter to the Chairman of the Permanent Representatives Committee.

On 17 February 2014, the Council reached a political agreement on its position at first reading.³ On basis of the draft Regulation attached to the above-mentioned letter from the European Parliament, and the Council's political agreement, the text has been subject to legal-linguistic revision by both institutions.

¹ Doc. 18010/11.

² Doc. 17488/12.

³ Doc. 6258/14.

II. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

1. General

The airport noise 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 European Union of the International Civil Aviation Organisation (ICAO) set of principles and guidance known as the "Balanced Approach" for the introduction of noise-related operating restrictions at EU airports. 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 Union airports.

2. The Council's position on the Parliament's amendments concerning key issues

i) Right of scrutiny

The Commission proposed to give the Commission the right to scrutinise and suspend decisions to introduce noise-related operating restrictions prior to their implementation. The Council agreed with the European Parliament that the Commission should only be allowed to review the process in this regard, and accepted therefore to a large extent the spirit of amendment 32. However, the Council did not share the European Parliament's position in not putting any obligation on Member States' authorities in relation to the Commission's notification on the review.

At the same time, the general orientation of the Council's position was also to maintain the discretionary power of local authorities when deciding on operating restrictions. Therefore, in the spirit of compromise, the Council accepted to reflect the European Parliament's concern in its first reading position, whereby the competent authorities have to examine the Commission notification and inform the Commission of their intentions on the operating restrictions to be introduced.

ii) Health

The European Parliament has adopted several amendments concerning the inclusion of the harmful effects of human health in the noise assessment process set up by the Regulation. While acknowledging the importance health in the process, the Council has a different approach and considers that health related aspects are covered by the procedures set up by Directive 2002/49/EC on the assessment and management of environmental noise. The inclusion of health among the compulsory, and quantifiable list of elements to be taken into account for assessing cost effectiveness was assessed especially problematic, since health constitutes a criterion which at the current stage of scientific development is difficult to evaluate and quantify objectively.

In the compromise text links to the European Union *acquis* on the assessment of environmental noise are reinforced, thus building a bridge toward the future inclusion of health aspects in the noise assessment process, based on objective and scientific criteria. More specifically, the European Parliament's concerns are accommodated by a new recital stressing the need for the assessment of health aspects, a new reference to health among the objectives of the airport noise Regulation, and an obligation to assess the noise situation at an airport in accordance with Directive 2002/49/EC. In this context, the Commission accepted to make a statement on the ongoing revision of Directive 2002/49/EC, as set out in Annex to this document.

iii) Transitional periods

a) Definition of 'marginally complaint aircraft'

According to the initial Commission proposal, the threshold for the definition of marginally compliant aircraft should have been set at a cumulative margin of less than 10 EPNdB (Effective Perceived Noise in Decibels), without a transitional period. Moreover, the Commission proposed to have the possibility to update this threshold through delegated acts in order to follow future developments in ICAO. The Council could not subscribe to this approach, and agreed with the European Parliament in lowering the cumulative margin to less than 8 EPNdB for a transitional period of four years, in order to take into account the composition of current aircraft fleets and investments already made.

The co-legislators also agreed that the Commission should not be empowered to update the definition by delegated acts, and that this aspect should remain subject to the ordinary legislative procedure.

b) Entry into force

The compromise text maintains a delayed entry into force of 24 months, allowing time for Member States to amend or repeal national provisions adopted for the application of Directive 2002/30/EC, and to designate the national bodies entrusted with the new tasks set out in the Regulation. This longer period will effectively also extend the transitional application of the less than 8 EPNdB threshold for 'marginally compliant aircraft' to six years.

iv) Existing operating restrictions and mediation

Both the Council and the European Parliament expressed concerns on the effects of the new noise Regulation on existing operating restrictions already in force, and the decisions relating to them. These concerns were further explored during the negotiations and are reflected in the compromise reached, which also takes into account the need for legal clarity. Namely, the compromise text ensures that existing operating restrictions shall remain in force until the competent authorities decide to review them. Also, the article on transitional provisions allows for the operating restrictions to be considered under Directive 2002/30/EC, if the necessary consultation processes have already started before the entry into force of the new Regulation, and the operating restrictions are adopted within a period of one year. On mediation, it is clarified that the consultation with interested parties may also take the form of a mediation process. In addition, a new recital specifies that the concept of existing operating restrictions encompasses those resulting from court decisions and mediation processes.

3. Other European Parliament amendments

- In addition to the obligation to provide regular information to local residents on the implementation of noise mitigating measures, the compromise text adds an additional layer of transparency by listing information elements, the availability of which should be encouraged.
- In order to alleviate the burden on aircraft operators in relation to the provision of information on noise modelling data, the relevant provisions are streamlined in order to avoid duplication in the submission of already existing data, and to ensure that the information provided is fit for purpose.

III. CONCLUSION

The Council's position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament, facilitated by the Commission. This compromise is confirmed by the letter that the Chair of the European Parliaments' Committee on Transport and Tourism (TRAN) addressed to the Chairman of the Permanent Representatives Committee on 11 February 2014.

In this letter, the TRAN Chair indicates that he will recommend to the members of the TRAN Committee, and subsequently to the plenary, that they approve the Council's position at first reading without amendments, and conclude the ordinary legislative procedure at the stage of the European Parliament's second reading, in accordance with Article 294 of the TFEU.

Statement by the Commission on the revision of Directive 2002/49/EC

"The Commission is discussing with the Member States Annex II to Directive 2002/49/EC (noise calculation methods) with a view to adopting it in the coming months.

Based on work the WHO is currently undertaking regarding the methodology to assess health implications of the noise impact, the Commission intends to revise Annex III to Directive 2002/49/EC (estimation of health impact, dose response curves)."
