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Subject: ***Preparation of the Council meeting (Transport, Telecommunications and Energy) on 8 October 2014***
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the implementation of the Single European Sky (recast)
- Progress report

I. INTRODUCTION

On 12 June 2013, the Commission transmitted to the Council and to the European Parliament the above-mentioned proposal. The purpose of this proposal is to improve the competitiveness of the European air transport system and in particular to further develop the Single European Sky (SES) initiative by means of a recast of the existing SES legislative package and some amendments to the EASA Regulation, adopted in 2009. More explicitly, the Single European Sky recast (known under the abbreviation of SES 2+) aims to introduce improvements in the oversight of rules, the performance scheme, the Functional Airspace Blocks (FABs), the customer focus of the service providers and in overall performance.

Moreover, the SES 2+ package will simplify the legislation by eliminating certain overlaps in the current legislation. The key problems addressed by the proposal are the insufficient efficiency of the air navigation services and the fragmentation of the Air Traffic Management (ATM) system.

The specific objectives of the proposal are:

- To improve the performance of air traffic services in terms of efficiency.
- To improve the utilisation of air traffic management capacity.

The operational objectives are:

- To ensure that the provision of Air Navigation Services is transparent, based on market principles and customer value.
- To strengthen the role of the National Supervisory Authorities.
- To strengthen the process of setting up targets and enforcing the performance scheme (including the reinforcement of the Performance Review Body (PRB)).
- To undertake a strategic redirection of Functional Airspace Blocks.
- To strengthen the governance and operational scope of the Network Manager.

II. WORK WITHIN THE COUNCIL

The Commission presented this proposal and its impact assessment to the Aviation Working Party on 2 September 2013, during the Lithuanian Presidency, followed by an exchange of views. This first presentation of the proposal was a stepping stone for the informal meeting of the EU Transport Ministers 'Single European Sky - Delivering the Future: Vision 20XX' (Vilnius, 15-16 September 2013). The exchange of views continued under the Greek Presidency at the Aviation Working Party on 20 June 2014.

The **article-by-article** examination of the Commission proposal by the Aviation Working Party began under the Italian Presidency on 4 July and then continued on 9, 15 and 23 July, as well as on 8, 15 and 24 September.

III. GENERAL COMMENTS

In general, Member States have welcomed the Commission's intention to simplify and clarify the existing legal framework of the Single European Sky (SES) initiative. They are strong supporters of the SES principles and overall objectives, namely safer, more efficient and less costly air navigation services within a less fragmented European airspace. However, several Member States question the timing and the suitability of a new legislative package before the implementation of the previous one has had sufficient time to bear fruit. **Although they acknowledge the detailed information provided by the Commission in the impact assessment, their opinion is that it is premature to assess the impact of such a proposal while the first reference period provided by the current SES II legislation is not yet over.** They argue that this initiative is at a crossroad and that an in-depth analysis on the way forward is needed.

Others are more positive about the Commission proposal. In their view, the current system works, it is already starting to show added value and the proposal will only put in place the remaining necessary improvements.

The Presidency has worked extensively to accommodate the views of the delegations. In an effort to guide the discussions in the most constructive way, the Presidency has focused most of the work on some of the core articles of the proposal, those which concentrate a great deal of the issues Member States have with this proposal: Articles 16 (Functional airspace blocks), Article 17 (Network management and design), Article 10 (Provision of support services), Article 11 (Performance scheme), plus Articles 1-2, 18-19.

In spite of the several difficult issues contained in this proposal, delegations are positive about the progress made so far and consider the Presidency is taking the file in the right direction.

IV. COMMENTS ON SPECIFIC ISSUES

a) Functional airspace blocks (Article 16)

The current legislation requires that the Functional Airspace Blocks (FABs) should have been implemented by 4 December 2012. As several FABs have not fulfilled all the requirements provided by the SES II legislation by the above-mentioned deadline, 18 Member States are now faced with infringement proceedings. Therefore, the Presidency has tried to use the opportunity of the Commission proposal to tackle this difficult issue and resume the dialogue between the Commission and Member States in a more positive manner. The purpose of the Presidency has been, on the one hand, to look for a drafting solution in the text of the proposal which could be a step towards solving the current infringement procedures. On the other hand, the Presidency has tried to clarify the proposal such that different interpretations of the same text could be settled, the implementation of FABs could be set on a renewed basis and could prevent other infringement proceedings similar to those recently launched against Member States.

To this end, the Presidency has proposed the establishment, on a voluntary basis, of an operational plan drafted by the Member States describing the actions undertaken for the implementation of the FABs. Such plan is aimed at providing the Commission and stakeholders with clear visibility of the progress made in the FABs' implementation.

In order to improve the performance of the whole European Air Traffic Management Network (EATMN) and to support the SES initiative, the Presidency has proposed a new article dedicated to industrial partnerships, which clarifies their role as partners in one or more FABs and aims at maximising the performance of the FABs. In spite of the sensitivity of the FABs' issue for the Member States, the Presidency's compromise proposals seem to be getting close to addressing the Member States' concerns.

b) Network management and design (Article 17)

One of the main objectives of the Commission proposal is to clarify the role of the various actors involved in the SES at EU level and to take care of several overlapping areas existing in the current SES legislation.

Delegations' comments on this issue have focused on the roles and future tasks of the Network Manager in the context of the SES, as well as on enhancing the involvement of Member States in the network management and airspace design processes. There have been lengthy discussions on the role of the Single Sky Committee, as Member States wish to enhance its consultative role in most areas concerning network management and design. Another concern expressed by Member States regards the independence and the cost-efficiency of the Network Manager.

c) Provision of support services (Article 10)

The Commission proposes the unbundling of support services from the core of air navigation services, which could be provided by separate undertakings under market conditions, that is the usual public procurement rules. Member States do not favour a compulsory unbundling. However, they are considering the possibility of the application of market principles to support services on a voluntary basis.

As regards the provision of support services related to the operations of the EATMN in a centralised manner, the Commission proposes that such centralised services should be provided either by the Network Manager, or by a group of air navigation service providers. Member States are cautious on this issue, as they do not always see the added value of centralisation of support services, which needs anyway to be justified on the basis of a sound analysis.

d) Performance scheme (Article 11)

The introduction of a revised performance scheme was discussed at length and it proved to be a difficult issue. Initially, Member States considered it premature and suggested to wait for the results of the first reference period of SES which will end in 2014, before deciding on a revised performance scheme.

The link between local and EU-wide targets is still debated. Member States are aiming at a dynamic performance scheme which would take into account the local specificities of Member States and restrictions of any nature in the traffic conditions.

Another concern expressed by the Member States relates to the roles of the performance review body (PRB) and the Single Sky Committee in the process of the definition of the performance scheme. Member States wish to consolidate their involvement in the process. They would also like to consolidate their role in the definition of the local performance targets as a contribution to the EU-wide performance targets. Moreover, in order to maximise the quality of the performance plans, Member States propose that the PRB's methodology and the evaluation process for the performance plans should be made available to the national supervisory authorities before the performance plans are drafted.

V. CONCLUSION

Coreper and Council are invited to take note that this discussion is still ongoing and that a number of issues need to be further clarified. Therefore, the competent Council preparatory bodies should be invited to pursue the examination of the proposal in order to achieve significant progress and reach an agreement on it at the next TTE Council in December.