Council of the
European Union

Brussels, 8 December 2015
(OR. en)

14991/15
ADD 5

AVIATION 152
CODEC 1667
RELEX 1014

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	7 December 2015
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2015) 263 final PART 2/2
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council

Delegations will find attached document SWD(2015) 263 final PART 2/2.

Encl.: SWD(2015) 263 final PART 2/2

EUROPEAN
COMMISSION

Brussels, 7.12.2015
SWD(2015) 263 final

PART 2/2

COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council

{COM(2015) 613 final}
{SWD(2015) 262 final}

Executive Summary Sheet

Impact assessment on the safe development of drone operations in the EU

A. Need for action

What is the problem and why is it a problem at EU level?

The main problem is that the current regulatory system hampers the development of drone market. The existing aviation rules do not properly address the specificities of drones and are either disproportionate to the operational risk, too difficult (heavy) to carry or present such high cost that most drone services are uneconomical. Besides, drone operations pose a number of issues which are not, or much less, present in 'manned' civil aviation. They concern safety, security, privacy and data protection, environmental protection, and liability. Much as there does not appear to be a need to amend the legal framework in this respect at EU level, there are some difficulties in applying the existing rules for drone operations. The main causes of the problems are: (1) divided responsibilities for drone regulation, leading to diverging requirements in the internal market; (2) too costly and too time and resource intensive Individual authorisations; (3) not properly addressed specificities of drones in the traditional methods of civil aviation regulation; (4) the lack of proper information and instruments by the oversight and law enforcement authorities. The problems affect all actors in the aviation system, drone manufacturers and operators and indirectly all citizens concerning that drone could be flying everywhere.

What is this initiative expected to achieve?

The general policy objective is to enable the development of drones and drone services in a safe, secure and sustainable manner and in full respect of citizens' fundamental rights. For this purpose the initiative aims at amending Regulation (EC) No 216/2008 and several implementing acts in order to extend the EU legislative framework on all drones. In this respect, the first specific objective is to eliminate the regulatory obstacles which today hamper the manufacturing and operation of drones, so that manufacturers may easily place their products on the market and operators may provide drone services to the economy. Unjustified regulatory obstacles should be removed but justified regulation such as essential safety rules, should remain in place or, where lacking, be developed. The second specific objective is to mitigate the specific risks and problems arising from the use of drones, notably in the fields of safety, security, privacy and data protection, and environment. Addressing those issues will be critical to ensure public acceptance of drones as an increasingly common part of daily life.

What is the value added of action at the EU level?

Air transport is to a large extent of transnational character and therefore, by nature, calls for a regulatory approach at EU-level to reach a high level of safety. Taking into account that the new technologies allow ever very light drones to interfere with "manned aviation", for which the EU is already competent, the EU legislation should also cover all types of drones in order to act coherently and thus prevent that drone operations negatively impact the safety of existing aviation activities. From the perspective of drones as "aeronautical products", national markets do not provide sufficient scale to develop such global technologies. Mutual recognition in the single market is difficult to achieve in the presence of detailed national standards and rules. Only EU basic rules for the whole range of drones, regardless of weight, offer a consistent regulatory framework for drone manufacturing and operations in the EU internal market.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

This initiative has a legislative character. As drone operations are aviation safety critical, any approach based purely on voluntary action would be sub-optimal in terms of delivering high safety performance in a way that is coordinated with other air traffic. Policy options were developed regarding the approach to regulation (not mentioning the baseline) and in any case would need to be followed by a number of implementing acts:

1. Extension of the existing EU aviation regulation to all drones - integrating drones in the EU legislative framework with the traditional civil aviation approach.
2. Risk-based EU legislation on drones - the rules and approval and oversight procedures would be based on the particular risk and would no longer be quasi-automatically derived from the characteristics of the drone.
   *2.*1 Applying EU product legislation to low-risk drones – low risk, small, mass produced drone offered for sale in retail shops and on the internet would be authorised on the basis of the a "new approach" product harmonization legislation.

PO2.1 is the preferred policy option as it addresses the safety risks in a less burdensome manner. The provisions in product safety regulations specifically adapted to mass products could complete the aviation rules as developed under PO2.

Who supports which option?

Legislative action at the EU level is supported by all stakeholders and MS (conclusions of the European Summit of 19 December 2013). The vast majority of stakeholders indicated in the public consultation that the current 150kg division of competence is obsolete and the status quo gets little support. There is a wide agreement that there is a need to move away from weight and take a set of factors into account, such as the type of the operation, the quality of the drone operator, the place of the operation and the reliability of the whole system (96%). Rules proportional to the risk of the operation were strongly advocated in particular by manufacturers and operators of lighter and less complex drones. Option 2 and sub-option 2.1 propose such approach by adjusting the requirements to the risks of a drone operation.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)?

Option 2.1 will stimulate the development of the internal market for drone products and services by providing common rules and standards, including by making best use of general market surveillance tools for drones involved in low risk operations. At the same time, by applying rules proportionally to the risks, the market segment of smaller drones (where many SMEs are present) should not be stifled by overregulation. The flexibility of the option to deal with the wide range of operational risks and fast evolving technologies will allow for faster deployment of new technologies and consequently keeping the competitive edge of the EU companies. This option has the highest potential to keep operating costs for businesses low and to minimize the administrative work, by providing flexible framework for a range of procedures, such as self-declarations, simple validation or partial certifications. It should also be effective in addressing all safety risks, particularly by facilitating the compliance, as well as facilitate the enforcement of security, privacy and environmental provisions

What are the costs of the preferred option (if any, otherwise main ones)?

The costs of the preferred option for business should be kept a low level. Harmonisation of rules and a single technical approval/ recognition of pilot and operator licence would lower the costs for any cross-border operation. The aim of the option is to keep authorisation costs down and proportional to the risk, but the overall impact on costs will depend on the implementing rules and the current requirements in Member States. Concerning the cost for national and European authorities, the regulation costs, it is expected that they could be borne with the existing resources. The costs of market oversight and authorisations of drones will be split within the EASA system taking into account optimal use of resources, with some responsibilities transferred to police and market surveillance. In any case, the costs under this option would be less than in the case that no EU initiative was taken.

What are the impacts on SMEs and competitiveness?

Positive impacts on small businesses will stem from a more proportional and risk based regulatory system, more flexibility in the means to meet requirements, an increased reliance on industry standards, simplified certification procedures for light drones and consequently reduced compliance cost. The objective of making the requirements proportional to the risk is exactly to keep the compliance costs low and to avoid unnecessary administrative burden, in particular for SMEs not familiar with the traditional aviation safety system. That is why it would be proposed to use the well-known CE marking mechanism. No official authorisation of the low risk category of drones would reduce the compliance costs for many small companies and operators active in this market segment, making them more competitive. The only negative impact could stem from the need to adjust to the new European safety systems from the national one (if such existed) for the drones used in specific risk category.

Will there be significant impacts on national budgets and administrations?

With respect to implementation costs, Member States that have not yet introduced specific rules for drones below 150kg will be required to do so. Further costs will also arise from the need for additional training. The market surveillance bodies (notified bodies) will have to develop expertise in drones and drone technologies, although this would also be the case to some extent under the baseline. National aviation authorities will also need to bear the costs of adjusting to new rules and of oversight of an increasing number of drones/ drone operations.

Will there be other significant impacts?

The initiative should substantially increase the safety of the European airspace and could contribute to the better perception of drones, by addressing the main concerns related to them. A better public acceptance of drone operations is a prerequisite for the drone market expansion.

Proportionality?

The preferred option should properly balance the need to have common safety rules in Europe and not to put unnecessary burden on businesses. It should also adequately divide the responsibilities between various actors in the revised collaborative EASA system, leaving as many responsibilities as possible at national or local level.

D. Follow up

When will the policy be reviewed?
The implementation of Regulation (EC) No 216/2008 is subject to a mandatory evaluation every 5 years required by the regulation itself. This evaluation is commonly referred to as Article 62 evaluation. A specific part of the exercise will be devoted to drone market regulation.