

**All NATMAC Representatives**

25 March 2010

**NATMAC INFORMATIVE LETTER**

Dear Colleagues,

**SINGLE EUROPEAN SKY (SES) – AMENDED CHARGING REGULATION**

During NATMAC 66 on 28 October 2009, the Directorate undertook to distribute the amended SES Charging Regulation.

Under SES II the Commission has been developing an Implementing Rule on the Performance Scheme. The amendment to the Charging Regulation is closely associated with this. Both IRs are being developed through a series of Single Sky Committee workshops and the next one is scheduled for 19 April. .

Copies of the latest versions of both the Performance Scheme IR and the amended Charging Regulation, presented to the SSC for the meeting being held on 23 and 24 March, are attached.

An update on progress on both these IRs will be provided at the next NATMAC on 29 April 2010.

Yours sincerely,

*Original signed*

J C Walker  
NATMAC Secretary



SINGLE SKY COMMITTEE

23 & 24 March 2010

**Implementing rule on the performance scheme**

- Submitted by the European Commission -

Since the last meeting of the Committee on 3-4 December where a first incomplete draft implementing rule had been presented by the Commission, three working Groups of the Committee have taken place to discuss the Commission proposal.

The last of these Working Groups was held on 15 March 2010. This meeting allowed a detailed examination of the text, except for its safety dimension which required more consideration.

Since then additional comments were received in particular on the safety aspects of the draft.

The draft implementing rule attached highlights in **yellow** the comments that were discussed and agreed at the Working Group's meeting or received in writing and accepted by the Commission.

The Committee is invited to have a further reading of the text in view of stabilising it in a version that will serve as a reference document for the discussions on the draft update of the charging Regulation, allowing a vote by the Committee on both implementing rules at its meeting of 7 May 2010.

**DRAFT COMMISSION REGULATION (EC) N°.../...**

**of [...]**

**laying down a performance scheme for air navigation services and network functions**

**(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN UNION,

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

Having regard to Regulation (EC) No 549/2004 of 10 March 2004 of the European Parliament and of the Council laying down the framework for the creation of the single European sky (the framework Regulation)<sup>1</sup> and in particular Articles 11 and 13a thereof, Regulation (EC) No 550/2004 on the provision of air navigation services in the single European sky (the service provision Regulation) and in particular Article 15 thereof, as well as to Regulation (EC) No 551/2004 of 10 March 2004 of the European Parliament and of the Council on the organisation and use of the airspace in the single European Sky (the airspace Regulation)<sup>2</sup> and in particular Article 6 thereof, these three Regulations as amended by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009;

Having regard to Regulation (EC) No. 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC, as amended by Regulation (EC) No. 1108/2009 of the European Parliament and of the Council of 21 October 2009 (the EASA Regulation).

Whereas:

- (1) The framework Regulation requires that a performance scheme for air navigation services and network functions be set up by means of implementing rules.
- (2) The performance scheme should contribute to the sustainable development of the air transport system by improving overall efficiency of the air navigation services across the key performance areas of safety, environment, capacity and cost-efficiency, in consistency with those identified in the Performance Framework of the ATM Master plan, all having regard to the overriding safety objectives.

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<sup>1</sup> OJ L 96, 31.3.2004, p.1.

<sup>2</sup> OJ L 96, 31.3.2004, p.20.

- (3) The performance scheme provides for indicators and binding targets on key performance areas whereby required safety levels are fully achieved and maintained while allowing for performance target setting in other key performance areas.
- (4) The performance scheme should be set up and operated with a long term view on the high level societal goals.
- (5) The performance scheme should address air navigation services in a gate-to-gate approach including airports with a view to improving the overall performance of the network.
- (6) the interdependencies between the national and functional airspace block levels and the network level, as well as the interdependencies between performance targets, all having regard to the overriding safety objectives, should be duly taken into account in the preparation and monitoring of the performance scheme.
- (7) The performance plans register the commitment of Member States, for the duration of the reference period, to achieve the objectives of the single European sky and the balance between the needs of airspace users and supply of services provided by air navigation service providers.
- (8) National Supervisory Authorities have a key role to play in the implementation of the performance scheme. States should therefore ensure that they are in a position to effectively carry out these additional responsibilities.
- (9) The Performance plans should describe the measures, such as incentives schemes, aimed at driving the behaviour of stakeholders towards improving performance at national, functional airspace block, and European levels.
- (10) In circumstances that were unforeseeable at the moment of adopting the performance plans and that are both insurmountable and outside the control of Member States, the establishment of appropriate alert mechanisms should allow the implementation of adequate measures aiming at preserving the safety requirements as well as the continuity of service provision.
- (11) Effective stakeholder consultations should take place at national and / or functional airspace block level, as well as at European Union level.
- (12) Having due regard to military mission effectiveness, civil-military co-operation and co-ordination are of utmost importance in order to achieve the performance objectives.
- (13) Key performance indicators are selected for being specific and measurable and allowing the allocation of responsibility for achieving the performance targets. The associated targets should be achievable, realistic and timely and aim at effectively steering the sustainable performance of air navigation services.
- (14) The implementation of binding performance targets supported by incentives that can be of financial nature requires appropriate link with Commission Regulation (EC) No 1794/2006 laying down a common charging scheme for air navigation services ('the charging Regulation').

- (15) The establishment and implementation of key performance indicators and of performance targets require the appropriate consistency with the safety objectives and standards laid down in Regulation (EC) No 216/2008, as amended by Regulation (EC) No. 1108/2009, and its implementing rules together with the measures taken by the Community to achieve and maintain these objectives.
- (16) During the reference periods an effective performance monitoring process should be put in place to ensure that the evolution of performance allows meeting the targets and if necessary introducing appropriate measures.
- (17) When adopting European Union-wide performance targets for the first reference period, due account should be taken by the Commission of the actual financial situation of the air navigation service providers resulting in particular from cost-containment measures already taken, in particular since 2009, as well as possible over or under recoveries of route charges to be carried over from preceding years. Due account should also be taken of the progress already achieved by the existing functional airspace blocks.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee.

HAS ADOPTED THIS REGULATION:

## **Chapter I**

### **GENERAL PROVISIONS**

#### *Article 1*

#### **Subject matter and scope**

1. This Regulation lays down the necessary measures to improve the overall performance of air navigation services and network functions for general air traffic in Europe with a view to meeting the requirements of all airspace users.
2. For the purpose of target setting, this Regulation shall apply to air navigation services provided to general air traffic by designated air navigation service providers.

Member States may decide not to apply this Regulation to terminal air navigation services provided at airports with less than 50.000 commercial air transport movements per year. They shall inform the Commission thereof. Where none of the airports in a Member State reaches the threshold of 50.000 commercial air transport movements per year, performance targets shall apply as a minimum to the airport with the highest commercial air transport movements.

3. Where a Member State considers that some or all of its terminal air navigation services are submitted to market conditions it shall assess in accordance with the

procedures laid down in Article 1.6 of Regulation (EC) No 1794/2006, and with the support of the national supervisory authority, no later than 12 months before the start of each Reference Period, whether the conditions laid down in Annex 1 of that regulation are met. Where the Member State finds that these conditions are met, regardless of the number of commercial air transport movements served, it may decide not to apply binding targets to the cost efficiency of those services.

4. Pursuant to Article 11.6 (c) (ii) of the framework Regulation and Article 15.2 (a) and (b) of the service provision Regulation, and without prejudice to Article 4.2 of the present Regulation, target setting on cost-efficiency shall apply to the entire national or functional airspace block cost-base chargeable to airspace users.
5. Pursuant to Article 11.1 of the framework Regulation, this Regulation shall apply to the air traffic management network functions referred to in Article 6 of the airspace Regulation through appropriate amendment of this Regulation.
6. Member States may also apply this Regulation:
  - (a) in airspace under their responsibility within other than EUR and AFI ICAO regions, on condition that they inform the Commission and the other Member States thereof;
  - (b) to providers of air navigation services which have received the permission to provide air navigation services without certificate, in accordance with Article 7(5) of the service provision Regulation.
7. The requirements related to the provision of data as defined in Chapter V shall apply to national authorities, air navigation service providers, airport operators, airport coordinators and air carriers under the conditions set out in Annex IV.

## *Article 2*

### **Definitions**

For the purposes of this Regulation, the definitions of Article 2 of the framework Regulation shall apply.

In addition, the following definitions shall apply:

- (a) "Airport operator" means the "managing body of an airport" as defined in Council Regulation (EC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (hereinafter "the airport slot Regulation").
- (b) "Data" means qualitative, quantitative and other relevant information related to air navigation performance collected and systematically processed by, or on behalf of, the Commission for the purpose of the implementation of the performance scheme.
- (c) "Performance indicators" means the indicators used for the purpose of performance monitoring, benchmarking and reviewing.
- (d) "Key performance indicators" means the performance indicators used for the purpose of performance target setting.

- ~~(e) "Network Manager" means the body entrusted with the tasks necessary for the execution of the air traffic management network functions ("network functions") in application of Article 6 of the airspace Regulation.~~
- (e) "Commercial air transport movements" means the sum of take-offs and landings calculated as an average over the three years preceding the adoption of the performance plan, regardless of the maximum take-off mass and the number of passenger seats used.
- (f) "En route air navigation services" means all services provided in an en route charging zone according to the charging Regulation.
- (g) "Terminal air navigation services" means all services provided in a terminal charging zone according to the charging Regulation.
- (h) "Binding target" means a performance target adopted by Member States as part of a national or functional airspace block performance plan and subject to an incentive scheme providing for rewards, disincentives and/or corrective action plans.
- (i) "Air carrier" means an air transport undertaking with a valid operating license issued by a Member State in accordance with European Union Law.
- (j) "Airspace users' representative" means any legal person or entity representing the interests of one or several categories of users of air navigation services.
- (k) "Determined costs" means the costs as defined in Article 15.2(a) and (b) of the service Provision Regulation.

### *Article 3*

#### **Performance Review Body**

1. Where the Commission decides to designate a Performance Review Body to assist it in the implementation of the performance scheme, such designation shall be for a fixed term consistent with the reference periods.
2. The Performance Review Body shall have the appropriate competence and impartiality to carry out independently the tasks assigned to it by the Commission, in particular in the applicable key performance areas.
3. The Performance Review Body shall assist the Commission in the implementation of the performance scheme, in particular in the following tasks:
  - (a) the collection, examination, validation and dissemination of performance – related data;
  - (b) the definition of new or the adaptation of key performance areas, in consistency with those identified in the Performance framework of the ATM Master Plan, as referred to in Article 8.1 and the related key performance indicators;
  - (c) for the second reference period and beyond, the definition of appropriate key performance indicators in order to cover in all key performance areas the

performance of the network functions and of air navigation services both in en route and terminal services;

- (d) the setting up or the revision of European Union-wide performance targets;
  - (e) the setting up of the thresholds for activating the alert mechanisms as referred to in Article 9.3;
  - (f) the consistency assessment of adopted performance plans, including performance targets, with the European Union-wide targets;
  - (g) where appropriate, the consistency assessment of the alert thresholds adopted in application of Article 18.3 with the European Union-wide alert thresholds referred to in Article 9.3;
  - (h) where appropriate, the assessment of the revised performance targets or the corrective measures taken by the Member States concerned;
  - (i) the monitoring, benchmarking and reviewing of the performance of air navigation services, at national or functional airspace block and European Union level;
  - (j) the monitoring, benchmarking and reviewing of the performance of the network functions;
  - (k) the ongoing monitoring of the overall performance of the air traffic management network, including the preparation of annual reports to the Single Sky Committee;
  - (l) the assessment of the achievement of the performance targets at the end of each reference period with a view to preparing the following period;
4. Upon Commission's request, the Performance Review Body shall provide ad hoc information or reports on performance related issues.
5. The Performance Review Body may report and make recommendations to the Commission for the improvement of the scheme.
6. Relations with national supervisory authorities:
- (a) In order to exercise its function of ongoing monitoring of the overall performance of the air traffic management network, the Performance Review Body shall obtain from the national supervisory authorities the information necessary in relation with the national or functional airspace block performance plans.
  - (b) The Performance Review Body shall assist the national supervisory authorities upon their request by providing an independent view of the national or functional airspace block performance issues such as factual comparisons between air navigation service providers operating in similar environments (benchmarking), analyses of changes in performance over the last 5 years, or analyses of forward-looking projections.



- (c) National supervisory authorities may request the assistance of the Performance Review Body for the definition of ranges of indicative values for national or functional airspace block target setting, taking into account the European perspective. Such values shall be available to national supervisory authorities, air navigation service providers, airport operators and airspace users.

#### **7. Relations with the European Aviation Safety Agency:**

The Performance Review Body shall cooperate as appropriate with the European Aviation Safety Agency for the tasks referred to in paragraph 3 when they are related to safety performance, to ensure consistency with the objectives and standards established and implemented in accordance with the EASA Regulation.

8. In order to exercise its function of ongoing monitoring of the overall performance of the air traffic management network, the Performance Review Body shall develop appropriate working arrangements with the air navigation service providers, airport operators, **airport coordinators** and air carriers.

#### *Article 4*

##### **National supervisory authorities**

1. The national supervisory authorities shall be responsible for the elaboration, at national or functional airspace block level, of the performance plans, the performance oversight and the monitoring of performance plans and targets. In carrying out these tasks, they shall act impartially, independently and transparently.
2. Member States shall ensure that national supervisory authorities have the necessary resources and capabilities in all the key performance areas to carry out the tasks provided for in this regulation, including the investigation powers to perform the tasks referred to in Article 19.
3. Where a Member State has more than one national supervisory authority, it shall notify the Commission which national supervisory authority is responsible for the national coordination and relations with the Commission for the implementation of this Regulation.

#### *Article 5*

##### **Functional airspace blocks**

1. Member States shall encourage close cooperation between their national supervisory authorities with a view to establishing a performance plan at functional airspace block level.
2. Where Member States decide to adopt a performance plan at functional airspace block level, they shall:
  - (a) ensure that the performance plan conforms with the template laid down in Annex II;

- (b) notify the Commission which national **or functional airspace block** supervisory authority is responsible for the coordination within the functional airspace block and the relations with the Commission for the implementation of the performance plan;
  - (c) make appropriate arrangements to ensure that:
    - (i) a single target is established for each key performance indicator;
    - (ii) the measures referred to in Article 11.3(d) of the framework Regulation are defined and applied during the reference period when targets are not met. For this purpose the annual values in the performance plan shall be used;
    - (iii) the consequences for meeting **or** not meeting the targets are suitably allocated within the functional airspace block.
  - (d) be jointly **responsible** for the achievement of the performance targets set for the functional airspace block,
  - (e) in the case where no common charging zone has been established within the meaning of Article 4 of the charging Regulation, aggregate the national cost-efficiency targets and provide for information a **global** figure demonstrating the cost efficiency effort at functional airspace block level.
3. **Where** Member States of a functional airspace block do not adopt a performance plan with targets at functional airspace block level, they shall communicate to the Commission **consolidated performance targets** highlighting the consistency at functional airspace block level with the European Union-wide performance targets.

#### Article 6

##### *European Aviation Safety Agency*

In application of Article 13a of the framework Regulation and in accordance with the EASA Regulation the Commission shall coordinate as appropriate with the European Aviation Safety Agency:

- a) the safety aspects of the performance scheme, including the setting-up, revision and implementation of key safety performance indicators and European Union-wide safety performance targets as well as the provision of proposals for appropriate actions and measures following the activation of an alert mechanism.
- b) the consistency of the safety key performance indicators and targets with the implementation of the European Aviation Safety Programme by the European Union.

#### Article 7

##### **Duration of the reference periods**

1. The first reference period for the performance scheme shall cover the calendar years 2012 to 2014 included. The following reference periods shall be of five calendar years, unless decided otherwise through amendment of this Regulation.
2. The same reference period shall apply to European Union-wide performance targets and the national or functional airspace blocks performance plans and targets.

#### *Article 8*

### **Key performance areas and performance indicators**

1. For the purpose of target-setting, the possible addition and adaptation of other key performance areas pursuant to Article 11 (4) (b) of the framework Regulation shall be decided by the Commission in accordance with the procedure referred to in Article 5(3) of the framework Regulation
2. For the purpose of target-setting, to each key performance area shall correspond one or a limited number of key performance indicators. The performance of air navigation services shall be assessed by means of binding targets for each key performance indicator.
3. The key performance indicators for European Union-wide target setting, selected for each key performance area, are in Annex I section 1.
4. The key performance indicators used for establishing the performance targets for the national or functional airspace blocks are in Annex I section 2.
5. The key performance indicators shall not be changed in the course of a reference period. Changes shall be adopted by amendment of this Regulation at the latest six months before adopting new European Union-wide performance targets.
6. In addition to the key performance areas and key performance indicators referred to in this Article, Member States, at national or functional airspace block level, may decide to set up and use additional performance indicators and associated targets to those set out in Annex 1 Section 2 for their own performance monitoring and/or as part of their performance plans, where these are supportive of the achievement of the European Union wide, and resulting national or functional airspace block level targets, for example to integrate and describe the civil-military or meteorological dimension of their plan. These additional indicators and targets may be accompanied by appropriate incentive schemes decided at national or functional airspace block level.

## **Chapter II**

### **THE PREPARATION OF PERFORMANCE PLANS**

#### *Article 9*

##### **European Union-wide performance targets**

1. The Commission shall adopt European Union-wide performance targets, in accordance with the procedure referred to in Article 5 (3) of the framework Regulation, **taking into account the relevant inputs from national supervisory authorities** and after consultation of the stakeholders as referred to in Article 10 of the framework Regulation, other relevant organisations as appropriate and the European Aviation Safety Agency for the safety aspects of the performance.
2. European Union-wide targets shall be proposed by the European Commission at the latest fifteen months before the beginning of the reference period and adopted at the latest twelve months before the beginning of the reference period.
3. Together with the adoption of the European Union-wide performance targets, the Commission shall define for each key performance indicator **alert** thresholds beyond which the alert mechanisms referred to in Article 18 may be activated. Alert thresholds for the cost-efficiency key performance indicator shall cover both traffic and costs evolution.
4. The Commission shall substantiate each European Union-wide performance target with a description of the assumptions used for setting up these targets **such as expected levels of efficient determined costs and traffic forecast for the European Union**.

#### *Article 10*

##### **Elaboration of performance plans**

1. The national supervisory authorities, at either national or functional airspace block level, shall draw up performance plans **containing** targets consistent with the European Union-wide performance targets and the assessment criteria set out in Annex III. There shall be only one performance plan per Member State or functional airspace block.
2. To support the preparation of the performance plans the national supervisory authorities shall ensure:
  - (a) that the air navigation service providers **communicate** relevant elements of their business plans, prepared in accordance with the objectives set by the national supervisory authorities in consistency with the European Union-wide targets;
  - (b) consultation of the stakeholders in accordance with Article 10 of the framework Regulation on the performance plan and targets. Adequate

exchange of information between stakeholders shall be provided at least **three** weeks prior to the consultation meeting.

3. The performance plans shall contain, in particular:
  - (a) The traffic forecast, **expressed in service units**, to be served for each year of the reference period, with the justification of the figures used.
  - (b) The determined costs for air navigation services costs set by Member State(s) in accordance with the provisions of Article 15.2 (a) and Article 15.2 (b) of the service provision Regulation;
  - (c) A description of the investments necessary to achieve the performance targets with a description of their relevance against **the service levels and lines of change as defined** in the European ATM Master Plan;
  - (d) Performance targets in each relevant key performance area, set by reference to each key performance indicator, for the entire reference period, with annual values to be used for monitoring and incentive purposes;
  - (e) **An assessment of the safety impact of the implementation of the plan highlighting the main safety issues to be monitored;**
  - (f) **A description of the civil-military dimension of the plan describing the performance of flexible use of airspace (FUA) application in order to increase capacity with due regard to military mission effectiveness, and if deemed appropriate, relevant civil-military performance indicators and targets in consistency with the indicators and targets of the performance plan;**
  - (g) A description and justification of how the performance targets referred to in (d) reconcile and contribute to the European Union-wide performance targets;
  - (h) Clear identification of the different entities, accountable for meeting the targets and their specific contribution;
  - (i) A description of the incentive mechanisms to be applied on the various accountable entities to ensure that the targets will be met over the reference period;
  - (j) The measures taken by the national supervisory authorities to monitor the achievement of the performance targets;
  - (k) A description of the outcome of the stakeholder consultation, including the issues raised by the participants as well as the actions agreed.
4. The performance plans shall be based on the template set out in Annex II and may, if the Member States so decide in application of Article 8.6, contain additional indicators with associated targets.

## Article 11

### Incentive schemes

1. The incentive schemes applied by Member States as part of their performance plan, shall comply with the following general principles:
  - (a) They shall be effective, proportional, credible and shall not be changed during the reference period;
  - (b) They shall be implemented on a non-discriminatory and transparent basis to support improvements in the performance of service provision;
  - (c) They shall be part of the regulatory environment known *ex ante* by all stakeholders and be applicable during the entire reference period
  - (d) They shall drive behavior of entities subject to target setting with a view to achieving a high level of performance and meeting the associated targets
2. Incentives on safety targets shall aim at encouraging that required safety objectives are fully achieved and maintained while allowing for performance improvements in other key performance areas. They shall not be of financial nature and shall consist in action plans with deadlines and/or associated measures in application of Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services and/or implementing rules resulting from the EASA Regulation.
3. Incentives on cost-efficiency targets shall be of financial nature and shall be governed by appropriate provisions in Article 11a paragraphs 1 and 2 of the charging Regulation. They shall consist in a risk-sharing mechanism, at national or functional airspace block level.
4. Incentives on capacity targets may be of financial nature or of other nature, such as corrective action plans with deadlines and associated measures, which may include penalties, adopted by Member States. Where the incentives are of financial nature, they shall be governed by the provisions of Article 11a paragraph 3 of the charging Regulation.
5. Incentives on environment targets shall aim at encouraging the achievement of required environmental performance levels while allowing for performance improvements in other key performance areas. They shall be of financial or non financial nature and shall be decided by Member States taking account of local circumstances.

## **Chapter III**

### **THE ADOPTION OF PERFORMANCE PLANS**

#### *Article 12*

##### **Initial adoption of performance plans**

Upon proposal of the national supervisory authorities, Member States, at national or functional airspace block level, shall adopt and communicate to the Commission, at the latest six months after adoption of the European Union-wide targets, their performance plans containing binding performance targets.

#### *Article 13*

##### **Assessment of performance plans and revision of the targets**

1. The Commission shall assess the performance plans, their targets and in particular their consistency with, and adequate contribution to, the European Union-wide performance targets, on the basis of the criteria laid down in Annex III, taking into appropriate account the evolution of the context that may have occurred between the date of adoption of the European Union-wide targets and the date of assessment of the performance plan.
2. Where performance targets contained in a performance plan are found consistent with, **and adequately contributing to**, the European Union-wide targets, the Commission shall notify the Member State(s) thereof at the latest four months after reception of the plan.
3. Where performance target(s) contained in a performance plan is/are found not to be consistent with, and adequately contributing to, the European Union-wide targets, the Commission may, at the latest four months after reception of the plan and in accordance with the procedure referred to in Article 5 (2) of the framework Regulation, decide to issue a recommendation to the **Member State(s)** concerned to **adopt** revised performance target(s). Such decision shall be taken after consultation of the Member State(s) concerned, and shall identify precisely which target(s) has / have to be revised as well as the rationale of the Commission's assessment.
4. **In such case**, at the latest two months after the issuance of the recommendation, the Member State(s) concerned shall adopt revised performance targets, taking due account of the Commission's views, together with the appropriate measures for reaching those targets and shall notify the Commission thereof.

#### *Article 14*

##### **Assessment of the revised performance targets and adoption of corrective measures**

1. Within two months after notification, the Commission shall assess the revised performance targets and in particular their consistency with, **and adequate**

**contribution to**, the European Union-wide performance targets, on the basis of the criteria laid down in Annex III.

2. Where the revised targets referred to in Article 13.4 are found consistent with, **and adequately contributing to**, the European Union-wide targets, the Commission shall notify the Member State(s) thereof at the latest two months after reception of the revised targets.
3. Where the revised performance targets and the appropriate measures are still not consistent with, **and adequately contributing to**, the European Union-wide targets, the Commission may decide, in accordance with the procedure referred to in Article 5(3) of the framework Regulation that the Member State(s) concerned shall take corrective measures.
4. Such decision shall identify precisely which target(s) has / have to be revised and the rationale of the Commission's assessment. It may contain the level of performance expected for those targets in order to allow the Member State(s) concerned to take the appropriate corrective measures, and/or contain suggestions for such appropriate measures.
5. At the latest two months after the Commission's decision, the corrective measures **adopted** by the Member State(s) concerned shall be communicated to the Commission, together with the elements showing how consistency with the Commission's decision is ensured.

#### *Article 15*

### **Performance plans and targets adopted after the beginning of the reference period**

Performance plans adopted after the beginning of the reference period **as a result of the implementation of the procedures set out in Articles 13 and 14** shall apply retroactively as from the first day of the reference period.

#### *Article 16*

### **Revision of the European Union-wide targets**

1. The Commission may decide to revise the European Union-wide targets in accordance with the procedure referred to in Article 5(3) of the Framework Regulation:
  - (a) before the beginning of the reference period when it has substantial evidence that the initial data, assumptions and rationales used for setting the initial European Union-wide targets are no longer valid;
  - (b) during the reference period, as a result of the application of an alert mechanism as referred to in Article 18.



2. A revision of the European Union-wide targets may result in amendment of the existing performance plans. In such case the Commission may decide an appropriate adjustment of the time schedule set up in Chapters II and III of this Regulation.

## **Chapter IV**

### **MONITORING OF THE ACHIEVEMENT OF PERFORMANCE**

#### *Article 17*

##### **Ongoing monitoring and reporting**

1. The national supervisory authorities and the Commission shall monitor the implementation of the performance plans.
2. Where the Commission witnesses a significant and persistent drop in performance in a Member State or a functional airspace block, affecting other States parties to the single European sky and/or the entire European airspace, it may request the national or functional airspace block supervisory authority concerned to define appropriate measures to achieve the set targets for the Member State(s)' approval and communication to the Commission.
3. The Member States shall report to the Commission on the monitoring by their national or functional airspace block supervisory authorities of the performance plans and targets at least on an annual basis and when performance targets risk not being achieved. The Commission shall report to the Single Sky Committee on the achievement of performance targets at least on an annual basis.

#### *Article 18*

##### **Alert mechanisms**

1. Where, due to circumstances that are at the same time unforeseeable, insurmountable, and outside the control of the Commission and Member States, alert thresholds referred to in Article 9.3 is/are reached at European Union level, the Commission shall review the situation in consultation with the Member States and provide proposals for appropriate actions within three months, which may include the revision of the European Union-wide performance targets and as a consequence revision of the national or functional airspace block performance targets.
2. Where, due to circumstances that are at the same time unforeseeable insurmountable, and outside the control of the entities subject to the performance targets, alert thresholds referred to in Article 9.3 is/are reached at national or functional airspace block level, the national supervisory authority or ad hoc functional airspace block governance body concerned and the Commission shall review the situation and provide proposals for appropriate measures within three months, which may include the revision of the national or functional airspace block performance targets.
3. Member States, at national or functional airspace block level, may decide to adopt alert thresholds different from the ones referred to in Article 9.3, in order to take account of local circumstances and specificities. In such case, these thresholds shall be set out in the performance plans and consistent with the thresholds adopted under Article 9.3. The deviations shall be supported by detailed justification. When these thresholds shall be activated, the process set out in paragraph 2 shall apply.

3. Revision of performance plans and targets as a consequence of the implementation of an alert mechanism shall necessitate appropriate adjustment by the Commission of the applicable time schedule in accordance with the procedure as referred to in Chapters II and III of this Regulation.

#### *Article 19*

#### **Facilitation of compliance monitoring**

Air navigation service providers shall facilitate inspections and surveys by the national supervisory authority (ies) responsible for their oversight, by a qualified entity acting on the latter's behalf, or by EASA insofar as relevant, including site visits. Without prejudice to the oversight powers conferred upon the national supervisory authorities and the European Aviation Safety Agency the authorised persons shall be empowered:

- (a) to examine, in relation with all key performance areas, the relevant documents and any other material relevant to the establishment of performance plans and targets;
- (b) to take copies of or extracts from such documents;
- (c) to ask for an oral explanation on site.

Such inspections and surveys shall be carried out in compliance with the procedures in force in the Member State in which they are to be undertaken.

## **Chapter V**

### **COLLECTION, VALIDATION, EXAMINATION, EVALUATION AND DISSEMINATION OF INFORMATION RELATED TO AIR NAVIGATION PERFORMANCE FOR THE SINGLE EUROPEAN SKY**

#### *Article 20*

##### **Collection and validation of data for performance review**

1. In addition to the data already collected by the Commission through other European Union instruments and which may also be used for performance review, national authorities, air navigation service providers, airport operators, **airport coordinators** and air carriers shall ensure the provision to the Commission of the data referred to in Annex IV according to the requirements set out in this annex.
2. National authorities may delegate or reorganise in full or in part the task of providing the data between their national supervisory authorities, air navigation service providers and airport operators, with a view to taking into account local specificities and existing reporting channels.
3. The data providers shall take the necessary measures to ensure the quality, validation and timely transmission of the data, including evidences of their quality checks and validation processes, explanations to specific requests of the European Commission related to the quality of the data and, where necessary, action plans to improve data quality. The data shall be provided free of charge, in electronic form where applicable using the format specified by the Commission.
4. The Commission shall assess the quality and validate the data transmitted according to Paragraph 1. When the data do not allow proper use for performance review, the Commission may take appropriate measures to assess and improve the quality of the data in cooperation with Member States, and in particular their national supervisory authorities.
5. For the purpose of this Regulation, performance related data referred to in paragraph 1 that is already provided to Eurocontrol shall be deemed to be provided to the Commission. Where this is not the case, the Commission and Eurocontrol shall make the necessary arrangements to ensure that such data is made available to the Commission under the same requirements as described in paragraph 3.
6. Whenever significant new data requirements are identified or insufficient quality data is to be expected, the Commission may **carry out** pilot studies to be completed on a voluntary basis by the Member States before new data requirements are introduced by amendment of this Regulation. Such pilot studies will be carried out in order to assess the feasibility of the relevant data collection, taking into consideration the benefits of the availability of the data in relation to the collection costs and the burden of respondents.

## *Article 21*

### **Dissemination of information**

1. The Commission shall disseminate general information for the purpose of the objectives set out in Article 11 of the framework Regulation in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents <sup>(3)</sup>, in particular its Article 4, and with Article 18 of the service provision Regulation.
2. The information included in Article 3.3 (a) shall be publicly available to the interested parties concerned, in particular by electronic means.
3. The annual reports referred to in Article 3.3 (k) shall be publicly available. A reference to those reports shall be published in the Official Journal of the European Union. The Commission may decide to provide other general information on a regular basis to the interested parties concerned, in particular by electronic means.
4. The European Union-wide targets referred to in Article 9 and a reference to the adopted performance plans referred to in Chapter III shall be publicly available and published in the Official Journal of the European Union.
5. Individual access to specific information, such as validated data and statistics, shall be granted to the data provider to whom the information and activities directly relate.

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<sup>3</sup> OJ L 145, 31.5.2001, p. 43.

## **Chapter VI**

### **FINAL PROVISIONS**

#### *Article 22*

##### **Appeal**

Member States shall ensure that decisions taken pursuant to this Regulation are properly reasoned and are subject to an effective review and/or appeal procedure.

#### *Article 23*

##### **Transitional measures**

Where Member States decide to adopt a performance plan with targets at functional airspace block level in the course of the first reference period, they shall ensure that:

- (a) the plan supersedes the national plans as from 1 January of one of the years of the reference period;
- (b) the duration of the plan does not exceed the remaining duration of the reference period;
- (c) the plan demonstrates that its performance targets are at least as ambitious as the consolidation of the former national targets.

#### *Article 24*

##### **Review of the scheme**

By the end of [...] and regularly thereafter, the Commission shall review the performance scheme, and in particular the effectiveness and scope of that system.

#### *Article 25*

##### **Amendments to Regulation (EC) No 2096/2005**

Regulation (EC) No 2096/2005 is amended as follows:

1. Section 2.2 of Annex I is replaced by the following:

‘2.2. Organisational management

An air navigation service provider shall produce a business plan covering a minimum period of five years. The business plan shall:

- (a) set out the overall aims and goals of the air navigation service provider and its strategy towards achieving them and with relevant European Union requirements relevant for the development of infrastructure or other technology;
- (b) contain appropriate performance targets in terms of safety, capacity, environment and cost-efficiency;

The information contained in paragraphs (a) and (b) shall be consistent with the national or functional airspace block performance plan referred to in Article 11 of the framework Regulation and, as far as safety data is concerned, consistent with the State safety programme referred to in Standard 2.27.1 of ICAO Annex 11, amendment 47-A from 20 July 2009.

An air navigation service provider shall produce safety and business cases for major investment projects including the estimated impact on the appropriate performance targets referred to in 2.2 (b) and identifying separately investments stemming from the legal requirements associated with the implementation of SESAR.

An air navigation service provider shall produce an annual plan covering the forthcoming year which shall specify further the features of the business plan and describe any changes to it.

The annual plan shall cover the following provisions on the level and quality of service such as the expected level of capacity, safety, environment and cost-efficiency:

- (a) information on the implementation of new infrastructure or other developments and a statement how they will contribute to improving the performance of the air navigation service provider, including level and quality of services;
- (b) performance indicators consistent with the national or functional airspace block performance plan referred to in Article 11 of the framework Regulation against which the performance level and quality of service may be reasonably assessed;
- (c) information on the measures foreseen to mitigate the safety risks identified in the safety plan of the air navigation service provider, including safety indicators to monitor safety risk and estimated cost of mitigation measures;
- (d) the service provider's expected short-term financial position as well as any changes to or impacts on the business plan.

The air navigation service provider shall make the content of the performance part of the business plan and of the annual plan available to the European Commission on request under conditions set by the national supervisory authority in accordance with national law.'

2. Section 9 of Annex I is replaced by the following:

#### '9. REPORTING REQUIREMENTS

An air navigation service provider shall be able to provide an annual report of its activities to the relevant national supervisory authority. This report shall cover its financial results without prejudice to Article 12 of Regulation (EC) No 550/2004, as well as its operational performance and any other significant activities and developments in particular in the area of safety.

The annual report shall include as a minimum:

- an assessment of the level of performance of service generated,

- the performance of the air navigation service provider compared to the performance targets established in the business plan, reconciling actual performance against the annual plan by using the indicators of performance established in the annual plan,
- provide an explanation for differences with the targets, and identify measures for closing any gaps during the Reference Period referred to in Article 11 of the framework Regulation;
- developments in operations and infrastructure,
- the financial results, as long as they are not separately published in accordance with Article 12(1) of Regulation (EC) No 550/2004,
- information about the formal consultation process with the users of its services,
- information about the human resources policy.

The air navigation service provider shall make the content of the annual report available to the European Commission on request and to the public under conditions set by the national supervisory authority in accordance with national law.’;

#### *Article 26*

#### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

The collection, validation, examination, evaluation and dissemination of performance-related data shall start as from 1<sup>st</sup> January 2011. The first reference period shall start from 1<sup>st</sup> January 2012.

This Regulation shall be binding in its entirety and directly applicable in all Member States.



## ANNEX I

### KEY PERFORMANCE INDICATORS (KPI)

#### SECTION 1: FOR EUROPEAN UNION-WIDE TARGET SETTING:

##### 1. SAFETY KEY PERFORMANCE INDICATORS

(a) The first European Union-wide safety KPI shall be the minimum acceptable level of the first safety KPIs defined in paragraph 5 a) below for air navigation services providers and national supervisory authorities respectively. There shall be no EU-wide target for this KPI in the first reference period.

(b) The second European Union-wide safety KPI shall be the percentage of application of the Risk Analysis Tool as defined in paragraph 5 b) below in States where this regulation applies, to allow harmonised assessment of Separation Minima Infringements, Runway Incursions and ATM Specific Technical Events.

(c) The third European Union-wide safety KPI shall be the minimum level of the measure of the open reporting culture at the end of the reference period as defined in paragraph 5 c) below. There shall be no EU-wide target for this KPI in the first reference period.

During the first reference period, the Commission shall use the data collected to validate the above safety indicators and assess them with a view to ensuring that risk is adequately identified, mitigated and managed. On this basis, the Commission shall adopt new safety KPIs if necessary, by revision of this regulation.

##### 2. ENVIRONMENT INDICATOR

###### 2.1 For the first reference period:

The first European Union-wide environment KPI shall be the **average horizontal en route flight efficiency**, defined as follows:

- The average horizontal en-route flight efficiency indicator is the difference between the length of the en-route part of the actual trajectory and the great circle.
- En route is defined as the distance flown outside a circle of 40 NM around the airport.
- The flights considered for the purpose of this indicator are
  - (a) All IFR flights within European airspace;
  - (b) Where a flight departs or arrives outside the European airspace, only that part inside the European airspace is considered.
- Circular flights and flights with a great circle distance shorter than 80NM between terminal areas are excluded.

2.2 The second environment KPI shall be the development of a European Improvement Plan for the European Network before the end of 2014 by the body entrusted with the route design function in accordance with Article 6 of the airspace Regulation, in collaboration with States/FAB.

2.3 As from the second reference period, a third European Union-wide environment KPI shall be developed to address the specific **ATC and** airport-related environment issues, including noise abatement.

### 3. CAPACITY INDICATOR

3.1 For the first reference period:

The European Union-wide capacity KPI shall be the **percentage of IFR flights delayed by more than 15 minutes due to en-route Air Traffic Flow Management (ATFM) capacity restrictions**, defined as follows:

- (a) The en route ATFM delay is the delay calculated by the central unit of ATFM as defined in Commission Regulation (EC) No XXX/XXXX on ATFM and expressed as the difference between the take-off time requested by the aircraft operator in the last submitted flight plan and the calculated take-off time allocated by the central unit of ATFM.
- (b) The indicator includes all IFR flights within European airspace and covers all ATFM delay causes.
- (c) The indicator is calculated for the whole calendar year.

3.2 As from the second reference period, a second European Union-wide capacity indicator shall be developed to address the specific **ATC and** airport-related capacity issues.

### 4. COST-EFFICIENCY INDICATOR

4.1 For the first reference period:

The European Union-wide cost-efficiency key performance indicator shall be **the average European-Union wide determined unit rate for en route air navigation services**, defined as follows:

- (a) **The indicator is the result of the ratio between the determined costs and the forecast traffic expected for the period at European Union level, as contained in the Commission's assumptions for establishing the European-Union wide targets in application of Article 9.4.**
- (b) **The indicator** includes all cost components **chargeable** to users in accordance with the charging Regulation.
- (c) **The indicator** is expressed in Euros and in real terms.
- (d) **The indicator** is provided for each year of the reference period.

For the first reference period, terminal air navigation services costs and unit rates shall be collected, consolidated and monitored by the Commission.

4.2 As from the second reference period, a second European Union-wide **cost-efficiency** KPI shall be implemented **the average European Union unit rate for terminal air navigation services**.

## **SECTION 2: FOR NATIONAL OR FUNCTIONAL AIRSPACE BLOCK TARGET SETTING:**

### **5 SAFETY KEY PERFORMANCE INDICATORS**

(a) The first set of national/FAB safety KPI shall be the additional safety margin built above the EU safety requirements by air navigation services providers and national supervisory authorities, using a process based on the methodology presented in the ATM Safety Maturity Survey Framework. This indicator shall be developed jointly by the Commission, the Member States, EASA and Eurocontrol and adopted by the Commission prior to the first reference period. During this first reference period, national supervisory authorities will monitor and publish these KPIs, and States may set corresponding targets.

(b) The second national/FAB safety KPI shall be the application of Risk Analysis Tool to allow harmonised assessment of Separation Minima Infringement, Runway Incursions and ATM Specific Technical Events at all ACCs and airports with more than 150.000 commercial air transport movements per year within the scope of this regulation (yes/no value).

(c) The third national/FAB safety KPI shall be the reporting of the open reporting culture. This measure shall be developed jointly by the Commission, the Member States, EASA and Eurocontrol and adopted by the Commission prior to the first reference period. During this first reference period, NSAs will monitor and publish this measure, and States may set corresponding targets.

### **6. ENVIRONMENT INDICATOR**

6.1 For the first reference period, there shall be no mandatory national/FAB environment key performance indicator.

However Member States shall before the end of the first reference period develop a national/FAB improvement plan consistent with the European Improvement Plan for the European Network referred to in Paragraph 2.2.

**Without prejudice to the local prescriptions on environment**, Member States shall also collaborate with the Commission in view of the setting up of an environment key performance indicator to address the specific **ATC and** airport-related environment issues and which shall be implemented as from the second reference period.

6.2 For the second reference period, the national/FAB environment key performance indicator shall be the **development of a national/FAB Improvement Plan on route design**

before the end of the reference period. This plan shall be consistent with the European Improvement Plan for the European Network defined in Paragraph 2.2.

## 7. CAPACITY INDICATOR

7.1 For the first reference period:

The national/FAB capacity KPI shall be the **percentage of IFR flights delayed by more than 15 minutes due to en-route Air Traffic Flow Management (ATFM) capacity restrictions**. It is defined as follows:

- (a) the indicator is defined as in Paragraph 3.1;
- (b) the indicator is given for each year of the reference period.

7.2 As from the second reference period, a second national/FAB capacity KPI shall be developed to address the specific airport-related capacity issues.

## 8. COST-EFFICIENCY INDICATOR

8.1 For the first reference period, the national/FAB cost-efficiency key performance indicator shall be **the national/FAB determined unit rate for en route air navigation services**, defined as follows:

- (a) **The indicator is the result of the ratio between the determined costs and the forecast traffic contained in the performance plans in accordance with Article 10.3 a) and b).**
- (b) **The indicator** includes all cost components **chargeable** to users in accordance with the charging Regulation.
- (c) **The indicator** is expressed in national currency and in real terms.
- (d) **The indicator** is provided for each year of the reference period.

In addition, States shall report their terminal air navigation services costs and unit rates and shall justify to the Commission any deviation from the forecasts.

8.2 As from the second reference period, a second European Union-wide capacity KPI shall be implemented: **the National /FAB determined unit rate(s) for terminal air navigation services**.

## ANNEX II

### TEMPLATE FOR PERFORMANCE PLANS

The national/functional airspace block performance plans shall be based on the following structure:

#### 1. Introduction

- 1.1 Description of the situation (scope of the plan, entities covered, national or FAB plan, etc)
- 1.2 Description of the macroeconomic scenario for the reference period including overall assumptions (traffic forecast, unit rate trend, etc)
- 1.3 Description of the outcome of the stakeholder consultation to prepare the performance plan (main issues raised by the participants and if possible agreed compromises).

#### 2. Performance targets at national and/or functional airspace block level

- 2.1 Performance targets in each key performance area, set by reference to each key performance indicator, for the entire reference period, with annual values to be used for monitoring and incentive purposes:

##### (a) Safety

- **Additional safety margin:** national/FAB targets for NSA and ANSP as defined in accordance with Annex I Paragraph 5a) for each year of the reference period (optional in the first reference period)
- **Application of the Risk Analysis Tool:** national/FAB targets as defined in accordance with Annex I Paragraph 5b) for each year of the reference period (yes/no values).
- **Open reporting culture:** national/FAB targets as defined in accordance with Annex I Paragraph 5c) for each year of the reference period (optional in the first reference period).

##### (b) Capacity

- Percentage of IFR flights delayed by more than 15 minutes due to *en route* Air Traffic Flow Management (ATFM) capacity restrictions;

##### (c) Environment

- Description of the national/FAB improvement plan consistent with the European Improvement Plan for the European Network.

##### (d) Cost-efficiency

- Determined costs for en route and terminal air navigation services set in accordance with the provisions of Article 15.2 (a) and Article 15.2 (b) of the service provision Regulation and in application of the provisions of the charging Regulation for each year of the reference period;
  - En route service units forecast for each year of the reference period.
  - As a consequence, the **determined** unit rates for the reference period
  - Description of the investments necessary to achieve the performance targets with a description of their relevance against the **service levels and lines of change as defined** in the European ATM Master Plan
- 2.2 Description and explanation of the consistency of the performance targets with the European Union-wide performance targets.
- 3. Contribution of each accountable entity**
- 3.1 Individual performance targets for each accountable entity
- 3.2 Description of the incentive mechanisms to be applied on each entity to ensure that the targets will be met over the reference period.

#### **4 *Military dimension of the plan***

Description of the civil-military dimension of the plan describing the performance of flexible use of airspace (FUA) application in order to increase capacity with due regard to military mission effectiveness, and if deemed appropriate, relevant civil-military performance indicators and targets in consistency with the indicators and targets of the performance plan..

#### **5. Analysis of sensitivity and comparison with the previous performance plan**

- 5.1. Sensitivity to external assumptions
- 5.2 Comparison with previous performance plan (not applicable for first reference period)

#### **6. Implementation of the performance plan**

Description of the measures taken by the national supervisory authorities to achieve the performance targets, such as:

- Overview of the ANS part of the State Safety Programmes and of the business plans to meet performance targets;

- Rationale explaining how the combination of ANS safety programmes and business plans are consistent with the performance targets;
- Monitoring mechanisms to ensure that the ANS safety programmes and business plans are implemented;
- Measures to monitor and report on the implementation of the performance plans.

## ANNEX III

### **PRINCIPLES TO ASSESS CONSISTENCY BETWEEN EUROPEAN UNION-WIDE AND NATIONAL OR FUNCTIONAL AIRSPACE BLOCK PERFORMANCE TARGETS**

The Commission shall use the following assessment criteria:

#### **1. General criteria**

- (a) Compliance with the requirements related to the preparation and adoption of the performance plan and in particular assessment of the justifications provided in the performance plan;
- (b) Factual analysis taking into account the overall situation of each individual States.
- (c) The interrelations between all performance targets

#### **2. Safety**

a) **Safety maturity:** the additional margin for both air navigation service providers and national supervisory authorities, used in the performance plan and assessed by the Commission, shall be equal or higher than to the scores of the corresponding European Union-wide targets at the end of the reference period (not applicable in the first reference period).

(b) **Application of the Risk Analysis Tool:** consistency of the EU-wide KPI with the EU-wide target as defined in Annex I Section 1.1, b) for each year of the reference period.

(c) **Open reporting culture:** the level of the national/FAB performance target at the end of the reference period using the KPI defined in Annex I Section 2.1 c) shall be equal to or higher than the EU-wide target as defined in accordance with Annex I Section 1.1. c) (not applicable in the first reference period).

#### **3. Environment**

**Route design:** not applicable during the first reference period. During the second reference period, comparison of the plan on route design used in the performance plan and the European Improvement Plan for the European Network;

#### **4. Capacity**

**Delay level:** Comparison of the expected level of en-route ATFM delay used in the performance plans with a reference value provided by capacity planning process of Eurocontrol;

#### **5. Cost-efficiency**

- (a) **Unit rate trend:** assessment whether the submitted **determined** unit rates are foreseen to evolve consistently with the Community-wide cost-efficiency target and whether



they contribute in an adequate manner to the achievement of the aforementioned target during the entire reference period as well as for each year individually;

- (b) **Determined Unit rate level:** comparison of the submitted local unit rates with the average unit rate of Member States or FABs having a similar operational and economic environment defined by the European Commission;
- (c) **Traffic forecast assumptions:** comparison of local service unit forecasts used in the performance plan with a reference forecast such as Eurocontrol STATFOR traffic forecasts;
- (d) **Economic assumptions:** Check that the inflation assumptions used in the performance plan are in line with a reference forecast such as IMF/EUROSTAT forecasts.

## ANNEX IV

### LIST OF DATA TO BE PROVIDED FOR THE PURPOSE OF THIS REGULATION

#### 1. By National authorities:

##### 1.1 Data set specification

National authorities shall provide for the purpose of performance review the following data:

- (a) Answers to the questionnaire developed jointly by the Commission, the Member States, EASA and Eurocontrol during the first reference period.
- (b) State Safety Programme as required by Standard 2.27.1 of ICAO Annex 11, amendment 47-A from 20 July 2009;

In addition, National authorities shall ensure that the following data is available for the purpose of performance review:

- (c) Data used and calculated by the central unit of ATFM as defined in Commission Regulation (EC) No XXX/XXXX on ATFM such as flight plans for general air traffic under IFR rules, actual routing, surveillance data, en-route and airport air traffic management delays, exemptions from air traffic flow management measures, respect of air traffic management slots, frequency of conditional route usage.
- (d) ATM-related safety occurrences as defined in the EUROCONTROL Safety Regulatory Requirement – ESARR 2, Edition 3.0 - entitled “Reporting and Assessment of Safety Occurrences in ATM”
- (e) NSA safety reports as referred to in Articles 6, 7 and 14 of Regulation (EC) 1315/2007 as well as NSA reports on resolution of safety deficiencies identified in the corrective action plans.
- (f) Information on safety recommendations and corrective actions taken on the basis of ATM-related incident analysis/investigation in accordance with Directives 94/56 on accident investigation and 2003/42/EC on occurrence reporting in civil aviation;
- (g) Information on the elements in place to guarantee the application of an open reporting culture.
- (h) Data in support to tasks referred to in Article 4(m) and (n) of Commission Regulation (EC) 2150/2005.

##### 1.2 Periodicity and deadlines for data provision

Data referred to in 1.1(a), (b), (d), (e), (g) and (h) shall be provided on an annual basis.

Data referred to in 1.1(c) and (f) shall be made available on a monthly basis.

## 2. By air navigation service providers

This Section applies to air navigation service providers providing services referred in Article 1.2. In individual cases, National authorities may include air navigation service providers below the limit of this Article 1.2. They shall inform the Commission thereof.

### 2.1 Data set specification

Air navigation service providers shall provide for the purpose of performance review the following data:

- (a) Data referred to in the Eurocontrol Specification titled “EUROCONTROL Specification for Economic Information Disclosure, Edition 2.6 of 31 December 2008 with the reference EUROCONTROL-SPEC-0117;
- (b) Annual reports and performance-related part of the Business plans and the Annual plan established by the air navigation service provider according to Annex I, Section 2.2 and 9 of Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services (hereinafter the common requirement Regulation) <sup>(4)</sup>
- (c) Answers to the questionnaire used in the ATM Safety Framework Maturity Survey for ANSPs (Reference to be updated);
- (d) Information on the elements in place to guarantee the application of an open reporting culture

### 2.2 Periodicity and deadlines for data provision

Data for year (n) referred to in Article 2(a) shall be provided on an annual basis before the 15<sup>th</sup> of July of year (n+1), except for forward looking data which shall be provided by 1<sup>st</sup> November of year (n+1). The first reference year (n) shall be 2010.

Data referred to in Article 2(b) and (c) shall be provided on an annual basis.

## 3. By airport operators

This Section applies to Airport operators providing services at Community airports with more than 150.000 commercial air transport movements per year and to all coordinated and facilitated airports. In individual cases, Member States may include airports below this threshold. They shall inform the Commission thereof.

### 3.1 Definitions:

The following definitions shall apply for the purpose of this specific Annex:

- (a) “Airport Identification” means the description of the airport using the standard ICAO 4-letter code as defined in ICAO Doc. 7910 (120th edition – June 2006);

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<sup>4</sup> OJ L 335, 21.12.2005, p. 13.

- (b) “Coordination parameters” means the coordination parameters defined in Council Regulation (EC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (hereinafter “the airport slot Regulation”) <sup>(5)</sup>.
- (c) “Airport Declared capacity” means the coordination parameters which are provided in the form that describes a maximum number of slots per unit of time (block period) that can be allocated by the coordinator. The duration of blocks can vary; in addition several blocks with different duration can be superposed to control the concentration of flights within a certain time period. The use of declared capacity values for the whole season means a fixing of the seasonal airport infrastructure capacity at an early stage.
- (d) “Aircraft Registration” means the alphanumerical characters corresponding to the actual registration of the aircraft;
- (e) “Aircraft type” means an aircraft type designator (up to 4 characters) as indicated in ICAO guidelines.
- (f) “Flight Identifier” means a group of alphanumeric characters used to identify a flight;
- (g) “Encoded aerodrome of departure” and “Encoded aerodrome of destination” mean the code of the airport using the ICAO 4-letter or the IATA 3-letter airport designator;
- (h) “Out-Off-On-In time stamps” means the following data, to the nearest minute:
- Scheduled time of departure (off-block);
  - Actual off-block time;
  - Actual take-off time;
  - Actual landing time;
  - Scheduled time of arrival (in-block);
  - Actual in-block time;
- (i) “Scheduled time of departure (off-block)” means date and time when a flight is scheduled to depart from the departure stand;
- (j) “Actual off-block time” means the actual date and time the aircraft has vacated the parking position (pushed back or on its own power)
- (k) “Actual take off time” means the date and time that an aircraft has taken off from the runway (wheels-up);
- (l) “Actual landing time” means the actual date and time when the aircraft has landed (touch down);

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<sup>5</sup> OJ L 14, 22.1.1993, p. 1. Regulation as last amended by Regulation (EC) No 793/2004 (OJ L 138, 30.04.2004, p. 50).

- (m) “Scheduled time of arrival (in-block)” means date and time when a flight is scheduled to arrive at the arrival stand
- (n) “Actual in-block time” the actual date and time when the parking brakes have been engaged at the arrival stand;
- (o) “Flight Rules” means the rules used in conducting the flight. “IFR” for aircraft flying according to instrument flight rules as defined in Annex 2 of the Chicago Convention or “VFR” for aircraft flying according to visual flight rules as defined in the same Annex. Operational Air Traffic (OAT) for State Aircraft not following the rules defined in Annex 2 of the Chicago Convention;
- (p) “Flight type” means “IFR” for aircraft flying according to instrument flight rules as defined in Annex 2 the 1944 Chicago Convention on International Civil Aviation (Tenth Edition – July 2005) or “VFR” for aircraft flying according to visual flight rules as defined in the same Annex;
- (q) “Airport arrival slot” and “Airport departure slot” mean an airport slot assigned either to an arrival or departure flight as defined in Regulation (EC) No 95/93;
- (r) “Arrival runway designator” and “Departure runway designator” mean the ICAO designator of the runway used for take-off (e.g. 10L);
- (s) “Arrival stand” means the designator of the first parking position where the aircraft was parked upon arrival;
- (t) “Departure stand” means the designator of the last parking position where the aircraft was parked before departing from the airport;
- (u) “Delay causes” means the standard IATA delay codes as defined in Annex 2 of Digest – Annual 2008 Delays to Air Transport in Europe (ECODA)<sup>6</sup> with the duration of the delay. Where several causes may be attributable to the flight, the list of delay causes shall be provided.
- (v) “De-icing or anti-icing information” means indication if de-icing or anti-icing operations occurred and if yes, where (before leaving the departure stand or in a remote position after departing the stand, i.e. after off block);
- (w) “Operational cancellation” means an arrival or departure scheduled flight to which the following conditions apply:
- the flight received an airport slot, and
  - the flight was confirmed by the air carrier the day before operations and/or it was contained in the daily list of flight schedules produced by the airport operator the day before of operations, but
  - the actual landing or take-off never occurred

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<sup>6</sup> [https://extranet.eurocontrol.int/http://prisme-web.hq.corp.eurocontrol.int/ecoda/coda/public/standard\\_page/codarep/2008/2008DIGEST.pdf](https://extranet.eurocontrol.int/http://prisme-web.hq.corp.eurocontrol.int/ecoda/coda/public/standard_page/codarep/2008/2008DIGEST.pdf)

## **3.2 Data set specification**

3.2.1 Airport operators of coordinated and facilitated airports shall provide the following data:

- Airport Identification;
- Airport declared capacity;
- All coordination parameters pertinent to air navigation services;
- Planned level of quality of service (delay, punctuality, etc.) associated to the airport capacity declaration, when established;
- Detailed description of the indicators which are used to establish the planned level of quality of service, when established.

3.2.2 Airport operators shall provide for the purpose of performance review, the following operational data for each flight landing or taking-off:

- Aircraft Registration;
- Aircraft type;
- Flight Identifier;
- Encoded aerodrome of departure and of destination;
- Out-Off-On-In time stamps;
- Flight Rules and Flight type;
- Airport arrival and departure slot, where available;
- Arrival and departure runway designator;
- Arrival and departure stand;
- Delay causes, where available (only for departing flights);
- De-icing or anti-icing information, where available;

3.2.3 Airport operators shall provide for the purpose of performance review, the following operational data for each operational cancellation:

- Flight Identifier;
- Aircraft type;
- Scheduled airport of departure and of destination;
- Airport arrival and departure slots where available;
- Reason for cancellation.

3.2.4 Airport operators may provide for the purpose of performance review:

- Voluntary reports regarding degradation or disruption of ANS at airports;
- Voluntary reports related to ANS safety occurrences;
- Voluntary reports on en-route capacity shortfalls;
- Voluntary reports on consultation meetings with ANSPs and States.

### **3.3 Periodicity and deadlines for data provision**

Data referred to in 3.2.1 shall be provided twice a year, in accordance with the timescale set out in Article 6 of the airport slot Regulation.

When data referred to in 3.2.2 and 3.2.3 is provided, it shall be provided on a monthly basis within one month after the end of the flight month.

Reports referred to in 3.2.4 may be provided at any time.

#### **4. By airport coordinators**

##### **4.1 Data set specification**

Airport coordinators shall provide for the purpose of performance review the following data:

Data referred to in Article 4(8) of Council Regulation (EC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (“the airport slot Regulation”) (<sup>7</sup>);

##### **4.2 Periodicity and deadlines for data provision**

Data shall be made available twice a year, in accordance with the timescale set out in Article 6 of the airport slot Regulation.

#### **5. By air carriers**

This Section applies to Air carriers which operate within the European airspace more than 35.000 flights per year calculated as the average over the previous three years.

##### **5.1 Definitions**

5.1.1 The same definitions as in Annex IV 3.1 shall apply for the purpose of this specific Annex and in addition:

- (a) “Fuel burn” means the actual quantity of fuel that has been burnt during the flight (gate-to-gate);

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<sup>7</sup> OJ L 14, 22.1.1993, p. 1. Regulation as last amended by Regulation (EC) No 793/2004 (OJ L 138, 30.04.2004, p. 50).

- (b) “Actual take-off weight” means the actual metric tons of the aircraft before starting the engine.

## **5.2 Data set specification**

5.2.1 Air carriers shall provide for the purpose of performance review the following data for each flight they operate within the geographical scope of this Regulation:

- Aircraft Registration;
- Flight Rules and Flight type;
- Encoded airport of departure and of destination;
- Arrival and departure runway designator, where available;
- Arrival and departure stand, where available;
- Out-Off-On-In time stamps both scheduled and actual;
- Delay causes;
- De-icing or anti-icing information, where available.

5.2.2 Air carriers shall provide for the purpose of performance review the data referred to in Annex IV paragraph 3.2.3 for each operational cancellation within the geographical scope of this Regulation.

5.2.3 In addition to the data provided under the requirements of Annex IV, Part B of Directive 2003-87 of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, air carriers may provide to the Commission the following data for each flight they operate within the geographical scope of this Regulation:

- Fuel burn;
- Actual take-off weight.

5.2.4 Air carriers may provide for the purpose of performance review:

- Voluntary reports regarding access to airspace;
- Voluntary report regarding degradation or disruption of ANS at airports;
- Voluntary reports related to ANS safety occurrences;
- Voluntary reports on en-route capacity shortfalls, level capping or rerouting;
- Voluntary reports on consultation meetings with ANSPs and States.

## **5.3 Periodicity of data provision**

Data referred to in Annex IV 3.2.1, 3.2.2 and 3.2.3 shall be provided on a monthly basis.



Reports referred to in 3.2.4 may be provided at any time.



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT  
DIRECTORATE E - Air Transport  
E.2 - Single sky & modernisation of air traffic control

SSC/10/34/14  
Agenda Item 6  
19 March 2010

SINGLE SKY COMMITTEE

23 & 24 March 2010

**Amendment to Commission Regulation (EC) No 1794/2006**  
**(the charging Regulation)**

- Submitted by the European Commission -

The Commission distributed to the Single Sky Committee a first draft update of the charging Regulation on 19 January 2010. The text was presented at the Single Sky Committee's working group of 26 January 2010.

Member States and stakeholders provided comments on this text, which allowed the production of several updated versions for the Working Groups of 23 February and 15 March 2010. As no discussion could take place yet on this text, another Working Group of the Single Sky Committee will take place on 19 April 2010 and will be devoted entirely to the examination of this text.

Attached is the Commission's proposal as distributed on 5 March for the Working Group of 15 March 2010.

The Committee is invited to provide its general feedback on this version of the text it being understood that the detailed discussion will take place on 19 April 2010.

The Commission's proposal will then be transmitted to the Single Sky Committee for vote at its meeting of 7 May 2010, together with the performance implementing Rule.

## How to read the table

Left column is the current legal text of Regulation (EC) No 1794/2006. The column in the middle contains only the text of the amending regulatory proposal. For the parts where amendments are proposed, the actual change is *highlighted (or highlighted, for the changes made after 23 February 2010) and in italics*. Whenever there is proposed to delete parts in the original text, this is stated. The right column is reserved for comments or observations in relation with the proposed amendments.

Original text	Proposed amendments	Comments
<b>The charging Regulation (Regulation (EC) No 1749/2006)</b>		
<p>THE COMMISSION OF THE EUROPEAN COMMUNITIES,</p> <p>Having regard to the Treaty establishing the European Community,</p> <p>Having regard to Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation), and in particular Article 15(4) thereof;</p>	<p>Having regard to the Treaty <i>on the Functioning of the European Union and in particular Article 100(2) thereof</i>,</p> <p>Having regard to Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation), and in particular Articles 15(4) <i>and 15a</i> thereof;</p>	<p>Reference to the Lisbon Treaty</p> <p>Reference to new Paragraph of SPR on Common projects</p>

Original text	Proposed amendments	Comments
<p>Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation), and in particular Article 8(2) thereof;</p>	<p>Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation), and in particular Articles <b>3, 5 and 11</b> thereof.</p> <p><i>Having regard to Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending the framework Regulation and the service provision Regulation;</i></p> <p><i>Having regard to Regulation (EC) No [...] of the Commission of [...] laying down a performance scheme for air navigation services and network functions (the performance Regulation), and in particular Articles 9 and 10 thereof<sup>1</sup>.</i></p>	<p>The update has been prepared by the Commission, without a Mandate being given to Eurocontrol. No need to refer anymore to Article 8.2. On the other hand it is necessary to refer to Articles 3, 5 and 11 because of the performance scheme, the link with the service provision Regulation and the role of the Single Sky Committee</p> <p>Reference to the Performance Regulation</p>

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<sup>1</sup> Date of publication in OJEU to be added.

Original text	Proposed amendments	Comments
<p>Whereas:</p> <p>(1) The Commission is required to establish a common charging scheme for air navigation services throughout the European Union. A Regulation providing direct application is the most suitable instrument for this purpose in order to guarantee uniform application of the common charging scheme in the single European Sky.</p>		
<p>(2) Eurocontrol has been mandated in accordance with Article 8(1) of the framework Regulation to assist the European Commission in the development of implementing rules on a common charging scheme for air navigation services. This Regulation has been based on the resulting mandate report of 29 October 2004.</p>	<p><i>This paragraph is deleted</i></p>	<p>Eurocontrol has not been mandated</p>
<p>(3) The development of a common charging scheme for air navigation services provided during all phases of flight is of the utmost importance for the implementation of the single European sky. The system should contribute to the achievement of greater transparency with respect to the determination, imposition</p>	<p>(3) The development of a common charging scheme for air navigation services provided during all phases of flight is of the utmost importance for the implementation of the single European sky. The <i>scheme</i> should <i>achieve</i> greater transparency with respect to the determination, imposition and enforcement</p>	<p>Better consistence of terminology + Second package more ambitious than first.</p>

Original text	Proposed amendments	Comments
<p>and enforcement of charges to airspace users. The system should also encourage the safe, efficient and effective provision of air navigation services to the users of air navigation services that finance the system and stimulate integrated service provision.</p>	<p>of charges to airspace users and <i>cost efficiency in providing air navigation service. It should also encourage efficiency of flights while maintaining an optimum safety level</i> and stimulate integrated service provision.</p>	<p>Link with FAB dimension</p>
<p>(4) In accordance with the overall objective of improving the cost efficiency of air navigation services, the charging scheme should promote the enhancement of cost and operational efficiencies.</p>		
<p>(5) In order to provide access for passengers to the air transport network and in particular to small and medium sized airports as well as to larger airports at an acceptable cost, Member States should be able to apply the same unit rate for terminal services charges at all airports served by the same air traffic service provider, or in several groups of such airports, in order to cover the costs of terminal services.</p>		
<p>(6) The common charging scheme should be consistent with Article 15 of the 1944 ICAO Chicago Convention on International Civil Aviation.</p>		
<p>(7) Since the majority of Member States are</p>		

Original text	Proposed amendments	Comments
<p>parties to the Eurocontrol Multilateral Agreement for route charges of 12 February 1981 and the Community has signed the protocol of accession to the Eurocontrol revised Convention, the rules developed in this Regulation should be consistent with the Eurocontrol Route Charges System.</p>		<p><i>No change proposed to the existing text</i></p>
<p>(8) The charging scheme should allow the optimum use of airspace, taking into account air traffic flows, in particular within functional airspace blocks as established in accordance with Article 5 of Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation).</p>		
<p>(9) According to the Statement attached to the airspace Regulation, the Commission will draft a report by 2008 on experience in the creation of functional airspace blocks. At that time, the Commission will assess the difficulties that may arise from maintaining separate unit rates within a functional airspace block.</p>	<p><i>This paragraph is deleted</i></p>	<p>Not necessary anymore</p>
<p>(10) It is necessary to establish requirements for complete and transparent information to be made available in due time to airspace users'</p>		

Original text	Proposed amendments	Comments
representatives and the competent authorities		
(11) The level of charges imposed in particular on light aircraft should not discourage the use of facilities and services necessary for safety or the introduction of new techniques and procedures.		
(12) The charging formula for terminal air navigation services should reflect the different nature of services as compared to en route air navigation services		
(13) Member States should be able to set their unit rates collectively, in particular when charging zones extend across the airspace of more than one Member State or when they are parties to a joint route charges system.		
(14) In order to improve the efficiency of the charging scheme and to reduce the administrative and accounting workload, Member States should be able to collect en route charges collectively within a joint route charges system through a single charge per flight.		
(15) It is important to reinforce the legal means necessary to ensure the prompt and full payment of air navigation charges by users of air navigation services.		



Original text	Proposed amendments	Comments
(16) Charges to be imposed on airspace users should be established and applied in a fair and transparent manner, after consultation of users. Such charges should be reviewed on a regular basis.		
(17) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,		
HAS ADOPTED THIS REGULATION:		
<p style="text-align: center;"><b><u>Chapter I</u></b></p> <p style="text-align: center;"><b>GENERAL PROVISIONS</b></p> <p><i>Article 1</i></p> <p><b>Subject matter and scope</b></p> <p>1. This Regulation lays down the necessary measures for the development of a charging scheme for air navigation services which is consistent with the Eurocontrol Route Charges System.</p> <p>2. This Regulation shall apply to air navigation services provided by air traffic service providers designated in accordance with Article 8 of Regulation (EC) No 550/2004 and by providers of meteorological services, if designated in accordance with Article 9(1) of</p>	<p>1. This Regulation lays down the necessary measures for the development of a <b>common</b> charging scheme for air navigation services which is consistent with the Eurocontrol Route Charges System.</p>	<p>Editorial</p>

Original text	Proposed amendments	Comments
<p>that Regulation, for general air traffic within the ICAO EUR and AFI regions where Member States are responsible for the provision of air navigation services.</p> <p>3. Member States may apply this Regulation to air navigation services provided in airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States thereof.</p> <p>4. Member States may apply this Regulation to providers of air navigation services which have received permission to provide air navigation services without certification, in accordance with Article 7(5) of the service provision Regulation.</p> <p>5. Member States may decide not to apply this Regulation to air navigation services provided at aerodromes with less than 50 000 commercial air transport movements per year, regardless of the maximum take-off mass and the number of passenger seats, movements being counted as the sum of take-offs and landings and calculated as an average over the previous three years.</p>	<p>5. Member States may decide not to apply this Regulation to air navigation services provided at <b>aerodromes airports</b> with less than 50 000 commercial air transport movements per year, regardless of the maximum take-off mass and the number of passenger seats, <b>movements being counted as the sum of take-offs and landings and calculated as an average over the previous three years.</b></p>	<p>Now in Definitions</p>

Original text	Proposed amendments	Comments
<p>Member States shall inform the Commission thereof. The Commission will publish periodically an updated list of exempted airports.</p> <p>6. Without prejudice to the application of the principles referred to in Articles 14 and 15 of the service provision Regulation, Member States may decide not to calculate terminal charges as stipulated in Article 11 of this Regulation and not to set terminal unit rates as Regulation and to set unit rates as referred to in Article 13 of this Regulation in respect of air navigation services provided at aerodromes with less than 150 000 commercial air transport movements per year , regardless of the maximum take-off mass and the number of passenger seats, movements being counted as the sum of take-offs and landings and calculated as an average over the previous three years.</p> <p>Before taking this decision, Member States shall carry out an assessment of the extent to which the conditions laid down in Annex I including consultation with airspace users’ representatives are met.</p>	<p>6. Without prejudice to the application of the principles referred to in Articles 14 and 15 of the service provision Regulation <i>and prior to each reference period referred to in Article 11.3(d) of the framework Regulation</i>, Member States may <i>decide</i> not to calculate terminal charges as stipulated in Article 11 of this Regulation and not to set terminal unit rates as referred to in Article 13 of this Regulation in respect of air navigation services provided at <i>aerodromes airports</i> with less than 150 000 commercial air transport movements per year, regardless of the maximum take-off mass and the number of passenger seats, <i>movements being counted as the sum of take-offs and landings and calculated as an average over the previous three years.</i></p> <p><i>To this effect</i>, Member States shall carry out <i>an a detailed</i> assessment, <i>supported by evidence</i>, of the extent to which the conditions laid down in Annex I <i>including consultation with airspace users’</i></p>	<p>Current text of Article 1.6 leaves Member States to decide unilaterally without any possibility for the Commission or Member States to react or even ask questions or more justifications. The text is now modified to allow Commission to have a say, with SSC's support (advisory procedure). Furthermore the validity of the decision shall be limited to the duration of the reference period.</p> <p>Now in definitions</p>

Original text	Proposed amendments	Comments
<p>The final assessment as to whether the conditions are met and the decision of Member State shall be published and communicated to the Commission, giving full reasoning for the Member State's conclusions, including the outcome of the consultation with users.</p>	<p>representatives are met <i>and will provide a report on the outcome of the consultation with airspace users.</i></p> <p>The final assessment as to whether the conditions are met <i>against the criteria set out in Annex I</i> and the decision of Member State shall be <del>published and</del> communicated to the Commission, giving full reasoning for the Member State's conclusions, including the <i>report on the</i> outcome of the consultation with users.</p> <p><i>Where the Commission shall deem that this assessment does not meet the conditions laid down in Annex I, it may, at the latest two months after reception of the assessment and in accordance with the procedure referred to in Article 5, paragraph 2 of the framework Regulation, request the Member State to revise the assessment. Such decision shall be taken after consultation of the Member State concerned and shall identify precisely which part(s) of the assessment has / have to be revised and the rationale of the Commission's request.</i></p> <p><i>In such case, the Member State concerned shall propose a revised assessment at the latest two months after reception of the Commission's decision.</i></p>	<p>More stringent than in SES I</p>

Original text	Proposed amendments	Comments
	<p><i>The final assessment shall be published and valid for the duration of the performance reference period.</i></p>	
<p><i>Article 2</i></p> <p><b>Definitions</b></p> <p>For the purpose of this Regulation, the definitions in Article 2 of the framework Regulation shall apply.</p> <p>In addition the following definitions shall apply:</p> <p>(a) “User of air navigation services” means the operator of the aircraft at the time when the flight was performed or, if the identity of the operator is not known, the owner of the aircraft, unless he proves that another person was the operator at that time.</p> <p>(b) “Airspace users’ representative” means any legal person or entity representing the interests of one or several categories of users of air navigation services.</p> <p>(c) “IFR” means Instrument Flight Rules, as defined in Annex 2 of the 1944 Chicago Convention on International Civil Aviation (Tenth Edition – July 2005).</p> <p>(d) “VFR” means Visual Flight Rules, as defined in Annex 2 of the 1944 Chicago Convention on International Civil Aviation (Tenth Edition – July 2005).</p> <p>(e) “en route charging zone” means a volume of airspace for which a single cost base and a single unit rate are</p>		

Original text	Proposed amendments	Comments
<p>established.</p> <p>(f) “Terminal charging zone” means an airport or a group of airports for which a single cost base and a single unit rate are established.</p> <p>(g) “Commercial air transport” means any aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.</p>	<p><i>(h) "determined costs" means the costs as defined in Article 15.2(a) and (b) of the service provision Regulation</i></p> <p><i>(i) "Reference period" means the reference period for the performance scheme set up in Article 11.3(d) of the framework Regulation</i></p> <p><i>(j) For the purpose of Articles 1.5 and 1.6 "air transport movements" means the sum of take-offs and landings calculated as an average over the three years preceding the adoption of the performance plans referred to in Article 11 of the performance Regulation .</i></p> <p><i>(k) "Quality of service" means the incentive that may be applied in relation with the performance targets on capacity.</i></p> <p><i>(l) "Regulated airports" means the airports submitted to the provisions of this</i></p>	<p>Proposed clarification of the drafting of Articles 1.5 and 1.6</p>

Original text	Proposed amendments	Comments
	<i>Regulation.</i>	
<p><i>Article 3</i></p> <p><b>Principles of the charging scheme</b></p> <ol style="list-style-type: none"> <li>1. The charging scheme shall reflect the costs incurred either directly or indirectly to provide air navigation services.</li> <li>2. The costs of en route services shall be financed by means of en route charges imposed on the users of air navigation services.</li> <li>3. The costs of terminal services shall be financed by means of terminal charges imposed on the users of air navigation services and/or other revenues, including cross-subsidies in accordance with Community law.</li> <li>4. Paragraphs 2 and 3 shall be without prejudice to the financing of exemptions of certain users of air navigation services through other sources of funding in accordance with Article 9.</li> <li>2. The charging scheme shall provide transparency and consultation on the cost bases and on the allocation of the costs among different services.</li> </ol>	<ol style="list-style-type: none"> <li>1. The charging scheme shall <i>be governed by the principles set out in Article 15 of the service provision Regulation.</i></li> <li>2. The <i>determined</i> costs of en route <i>air navigation</i> services shall be financed by means of en route charges imposed on the users of air navigation services.</li> <li>3. The <i>determined</i> costs of terminal <i>air navigation</i> services shall be financed by means of terminal charges imposed on the users of air navigation services and/or other revenues, including cross-subsidies in accordance with Community law.</li> </ol>	<p>No need to repeat or paraphrase the principles already contained in the service provision Regulation.</p> <p>Determined costs concept brings the notion of cost capping (see definition in Article 2). It is the materialisation of the end of the automatic full cost recovery.</p>

Original text	Proposed amendments	Comments
<p><i>Article 4</i></p> <p><b>Establishment of charging zones</b></p> <ol style="list-style-type: none"> <li>1. Member States shall establish charging zones in the airspace falling under their responsibility where air navigation services are provided to airspace users.</li> <li>2. The charging zones shall be defined in a manner consistent with air traffic control operations and services, after consultation of airspace users' representatives.</li> <li>3. An en route charging zone shall extend from the ground to, and including, upper airspace without prejudice to the possibility for a Member State to establish a specific zone for complex terminal area after consultation with airspace users' representatives.</li> <li>4. If charging zones extend across the airspace of more than one Member State, the Member States concerned shall make the appropriate arrangements to ensure consistency and uniformity in the application of this Regulation to the airspace concerned. They shall notify the Commission and Eurocontrol thereof.</li> </ol>	<ol style="list-style-type: none"> <li>3. An en route charging zone shall extend from the ground to, and including, upper airspace without prejudice to the possibility for a Member State to establish a specific zone for complex terminal area <del>after consultation with airspace users' representatives</del></li> <li>4. If charging zones extend across the airspace of more than one Member State, <del>for example as a consequence of the decision to create a common charging zone in a functional airspace block</del>, the Member States concerned shall make the appropriate arrangements to ensure consistency and uniformity in the application of this Regulation to the airspace concerned. They shall notify the Commission and Eurocontrol</li> </ol>	<p>Duplication. The general obligation to consult is already in Paragraph 2</p>



Original text	Proposed amendments	Comments
	thereof.	
<p style="text-align: center;"><b><u>Chapter II</u></b></p> <p style="text-align: center;"><b>THE COSTS OF AIR NAVIGATION SERVICE PROVISION</b></p> <p><i>Article 5</i></p> <p><b>Eligible services, facilities and activities</b></p> <p>1. Air navigation service providers referred to in Article 1(2) and (4) shall establish the costs incurred in the provision of air navigation services in relation to the facilities and services provided for and implemented under the ICAO Regional Air Navigation Plan, European Region, in the charging zones under their responsibility.</p> <p>Those costs shall include administrative overheads, training, studies, tests and trials as well as research and development allocated to these services.</p> <p>2. Member States may establish the following costs when they are incurred in relation with the provision of air navigation services:</p> <p>(a) the costs incurred by the relevant national authorities,</p>	<p>2. <b>In order to set the determined costs,</b> Member States may establish the following costs when they are incurred in relation with the provision of air navigation services:</p> <p>(a) <del>the</del> costs incurred by the relevant national authorities,</p>	<p>Member States "may" establish these costs, all or in part. They may also decide that all or part of these costs are not</p>

Original text	Proposed amendments	Comments
<p>(b) the costs incurred by the recognised organisations, as referred to in Article 3 of the service provision Regulation,</p> <p>(c) the costs stemming from international agreements.</p> <p>3. Without prejudice to other sources of funding, and with a view to a high level of safety, cost efficiency and service provision, the charges may be used to provide funding for projects designed to assist specific categories of airspace users and/or air navigation service providers in order to improve collective air navigation infrastructures, the provision of air navigation services and the use of airspace in accordance with Community law.</p>	<p>(b) <del>the</del> costs incurred by the recognised organisations, as referred to in Article 3 of the service provision Regulation,</p> <p>(c) <del>the</del> costs stemming from international agreements.</p> <p>3. In application of Article 15a (3) of the service provision Regulation, without prejudice to other sources of funding, the charges may be earmarked to provide funding for projects for network-related functions that are of particular importance for the improvement of the overall performance of air traffic management and air navigation services in Europe. <del>designed to assist specific categories of airspace users and/or air navigation service providers in order to improve collective air navigation infrastructures, the provision of air navigation services and the use of airspace in accordance with Community law.</del></p>	<p>charged to users</p> <p>The Common projects concept is outlined in Article 15a of the service provision Regulation.</p>
<p><i>Article 6</i></p> <p><b>Calculation of costs</b></p> <p>1. The costs of eligible services, facilities and</p>	<p><b>Calculation of <i>the determined</i> costs</b></p> <p>1. The <i>determined costs, established by</i></p>	<p>Description of the materialisation of the</p>

Original text	Proposed amendments	Comments
<p>activities within the meaning of Article 5 shall be established in such a manner as to be consistent with the accounts referred to in Article 12 of the service provision Regulation for the period from 1 January to 31 December.</p> <p>However, the non-recurring effects resulting from the introduction of International Accounting Standards may be spread over a period not exceeding 15 years.</p> <p>2. The costs referred to in paragraph 1 shall be</p>	<p><i>Member States in accordance with Article 15.2 of the service provision Regulation, shall be composed of eligible services, facilities and activities within the meaning of Article 5 and established in consistency with the accounting requirements of Article 12 of the service provision Regulation. Where pension contributions are paid by the air navigation service provider, the cost of such contributions may be calculated using prudent assumptions agreed by those governing the pension scheme or the national supervisory authority, unless they are fully determined by the rules set by the competent national authorities.</i></p> <p><i>1a. Without prejudice to Articles 14 and 16 of the performance Regulation, the determined costs shall be fixed prior to the beginning of each reference period, as part of the performance plans referred to in Articles 11 of the framework Regulation, and 9.2(b) of the Performance Regulation for each calendar year of the reference period .</i> The non-recurring effects resulting from the introduction of International Accounting Standards may be spread over a period not exceeding 15 years.</p>	<p>determined costs concept: It is a cost capping system for each year of the performance reference period.</p> <p>Simplification</p> <p>UK + FR proposal</p> <p>Link with the performance Regulation</p>

Original text	Proposed amendments	Comments
<p>broken down in staff costs, other operating costs, depreciation costs, cost of capital and exceptional items including non recoverable taxes and custom duties paid, and all other related costs.</p> <p>Staff costs shall include gross remuneration, payments for overtime, employers' contributions to social security schemes as well as pension costs and other benefits.</p> <p>Other operating costs shall include costs incurred through the purchase of goods and services used to provide air navigation services, in particular outsourced services such as communication, external staff such as consultants, material, energy, utilities, rental of buildings, equipment and facilities, maintenance, insurance costs and travel expenses. Where an air traffic service provider purchases other air navigation services, the service provider shall include the actual expenditure for those services in its other operating costs.</p> <p>Depreciation costs shall relate to the total fixed assets in operation for air navigation services purposes. Fixed assets shall be depreciated, in accordance with their expected operating life, using the straight-line method applied to the historic costs of the assets being</p>		

Original text	Proposed amendments	Comments
<p>depreciated. When the assets belong to an air navigation service provider which is subject to an incentive mechanism as referred to in Article 12(2), current cost accounting may be applied instead of historic cost accounting for the calculation of depreciation. The method shall remain constant during the duration of the depreciation.</p> <p>Cost of capital shall be equal to the product of:</p> <p>(a) the sum of the average net book value of fixed assets used by the air navigation service provider in operation or under construction and of the average value of the net current assets that are required for the provision of air navigation services; and</p> <p>(b) the weighted average of the interest rate on debts and of the return on equity.</p> <p>Exceptional items shall be non-recurring costs in relation to the provision of air navigation services that have occurred in the year.</p> <p>3. For the purposes of paragraph 2, fifth subparagraph, the weight factors shall be based on the proportion of the financing through either debt or equity. The interest rate on debts shall be equal to the average interest rate on debts of the air navigation service</p>	<p>When the assets belong to an air navigation service provider which is subject to an <i>independent economic regulation regime</i> as referred to in Article 12(2),</p> <p>3. For the purposes of paragraph 2, fifth subparagraph, the weight factors shall be based on the proportion of the financing through either debt or equity. The interest rate on debts shall be equal to the average interest rate on debts of the air navigation service provider. <i>The return on equity shall</i></p>	<p>Alignment of terminology with new drafting of Article 12.</p> <p>Simplification: All ANSPs will be submitted to the same risk. The return on equity shall be decided and justified taking the national bond rate as a guide..</p>

Original text	Proposed amendments	Comments
<p>provider. The return on equity shall take into account the financial risk of the air navigation service provider taking the national bond rate as a guide. When the air navigation service provider is subject to an incentive scheme as referred to in Article 12(2), an additional premium may be added to ensure adequate consideration of the specific financial risk assumed by this provider.</p> <p>When the assets do not belong to the air navigation service provider, but are included in the calculation of the cost of capital, Member States shall ensure that the costs of these assets are not recovered twice.</p>	<p><i>use the national bond rate as a guide and take into account the financial risk of the air navigation service provider. <del>When the air navigation service provider is subject to an incentive scheme as referred to in Article 12(2), an additional premium may be added to ensure adequate consideration of the specific financial risk assumed by this provider.</del></i></p>	
<p><i>Article 7</i></p> <p><b>Allocation of costs</b></p> <p>1. The costs of eligible services, facilities and activities within the meaning of Article 5 shall be allocated in a transparent way to the charging zones in respect of which they are actually incurred.</p> <p>Where costs are incurred across different charging zones, they shall be allocated in a proportional way on the basis of a transparent methodology as required in Article 8.</p>	<p><b>Allocation of costs</b></p>	

Original text	Proposed amendments	Comments
<p>2. The cost for terminal services shall relate to the following services:</p> <p>(a) Aerodrome control services, aerodrome flight information services including air traffic advisory services, and alerting services;</p> <p>(b) Air Traffic Services related to the approach and departure of aircraft within a certain distance of an airport on the basis of operational requirements.</p> <p>(c) An appropriate allocation of all other air navigation services components, reflecting a proportionate attribution between en route and terminal services.</p> <p>3. The cost for en route services shall relate to the costs referred to in paragraph 1 to the exclusion of the costs referred to in paragraph 2.</p> <p>4. If exemptions are granted to VFR flights in accordance with Article 9, the air navigation service provider shall identify the costs of air navigation services provided to VFR flights from the costs provided to IFR flights. These costs may be established through a marginal-cost methodology taking into account the benefits to IFR flights stemming from the services granted to VFR flights.</p>	<p>(b) Air Traffic Services related to the approach and departure of aircraft <i>within 20 kilometres of distance of an airport on the basis of operational requirements.</i></p>	<p><u>Rationale:</u> To harmonise practices around the most frequently used cutting point with the aim of making the cost bases more comparable for performance purposes.</p>

Original text	Proposed amendments	Comments
<p><i>Article 8</i></p> <p><b>Transparency of the cost base</b></p> <p>1. Without prejudice to Article 18 of the service provision Regulation, Member States and/or air navigation service providers shall organise an exchange of information on cost bases, planned investments and expected traffic with airspace users' representatives if the latter so request. Subsequently, they shall make their respective costs established in accordance with Article 5 available in a transparent manner to airspace users' representatives, the Commission and, where applicable Eurocontrol at least on an annual basis.</p>	<p><i>Article 8</i></p> <p><b>Transparency of the cost <i>base and of the charging mechanism</i></b></p> <p>1. <del>Without prejudice to Article 18 of the service provision Regulation,</del> Member States <del>and/or,</del> <i>in the presence of their</i> air navigation service providers shall organise <i>a consultation hearing</i> on cost bases, planned investments, <i>service units forecasts, charging policy and resulting charges</i> with airspace users' representatives <i>before the starts of the reference period if the latter so request</i>. Subsequently, they shall make their respective costs established in accordance with Article 5 available in a transparent manner to airspace users' representatives, the Commission and, where applicable Eurocontrol.</p> <p><i>1a. During the reference period, Member States shall organise annually a consultation hearing to inform airspace users representatives and consult them on any deviation from the forecast, and in particular actual traffic and costs versus forecast traffic and costs and the implementation of the risk sharing mechanism set out in Article 11a. Users shall retain the right to request more</i></p>	<p><b><i>This Article now merges former Articles 8 and 15.</i></b></p> <p>Article 18 now explicitly agrees that such data can and should be disclosed.</p> <p>Need to continue ensuring transparency of costs and traffic data to be able to implement the risk sharing mechanisms (see Article 11a)</p> <p>Explicit requirement for a consultation before adopting a new unit rate (to cover the case of "alert mechanism")</p>



Original text	Proposed amendments	Comments
<p>2. The information referred to in paragraph 1 shall be based on the reporting tables and detailed rules set out in Annex II or, where a Member State has taken the decision referred to in Article 1(6), or has indicated to the Commission that it is considering taking such a decision, in Annex III part 1.</p>	<p><i>frequent consultations. A consultation hearing shall also be organised systematically following the activation of an alert mechanism generating a revision of the unit rate,</i></p> <p>2. The information referred to in <i>paragraphs 1 and 1a</i> shall be based on the reporting tables and detailed rules set out in <i>Annexes II and VI</i> or, where a Member State has taken the decision referred to in Article 1(6), or has indicated to the Commission that it is considering taking such a decision, in Annex III <del>part 1.</del> <i>The relevant documentation shall be put at the disposal of airspace users' representatives, the Commission, Eurocontrol and national supervisory authorities three weeks before the consultation hearing.</i></p>	
<p style="text-align: center;"><b><u>Chapter III</u></b></p> <p style="text-align: center;"><b>THE FINANCING OF AIR NAVIGATION SERVICE PROVISION THROUGH AIR NAVIGATION CHARGES</b></p> <p><i>Article 9</i></p> <p><b>Exemptions from air navigation charges</b></p> <p>1. Member States shall exempt from en route charges:</p>		

Original text	Proposed amendments	Comments
<p>(a) flights performed by aircraft of which the maximum take-off weight authorised is less than two metric tons;</p> <p>(b) mixed VFR/IFR flights in the charging zones where they are performed exclusively under VFR and where a charge is not levied for VFR flights;</p> <p>(c) flights performed exclusively for the transport, on official mission, of the reigning Monarch and his immediate family, Heads of State, Heads of Government, and Government Ministers; in all cases, this must be substantiated by the appropriate status indicator on the flight plan;</p> <p>(d) search and rescue flights authorised by the appropriate competent body.</p> <p>2. Member States may exempt from en route charges:</p> <p>(a) military flights performed by military aircraft of any country;</p> <p>(b) training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew, where this is substantiated by an appropriate remark on the flight plan; flights must be performed solely within the airspace of the Member State concerned; flights must not serve for the transport of passengers and/or cargo, nor for positioning or ferrying of the aircraft;</p>	<p>(c) flights performed exclusively for the transport, on official mission, of the reigning Monarch and his immediate family, Heads of State, Heads of Government, and Government Ministers; in all cases, this must be substantiated by the appropriate status indicator <i>or remark</i> on the flight plan;</p> <p>(No change in Paragraphs 2 to 4)</p>	<p>Alignment with Eurocontrol Principles.</p>

Original text	Proposed amendments	Comments
<p>(c) flights performed exclusively for the purpose of checking or testing equipment used or intended to be used as ground aids to air navigation, excluding positioning flights by the aircraft concerned;</p> <p>(d) flights terminating at the airport from which the aircraft has taken off and during which no intermediate landing has been made;</p> <p>(e) VFR flights;</p> <p>(f) humanitarian flights authorised by the appropriate competent body;</p> <p>(g) custom and police flights.</p> <p>3. Member States may exempt from terminal charges the flights referred to in paragraph 1 and 2.</p> <p>4. The costs incurred for exempted flights shall not be taken into account for the calculation of the unit rates.</p> <p>These costs shall be composed of:</p> <p>(a) The cost of exempted VFR flights as identified in Article 7(4) and;</p> <p>(b) The costs of exempted IFR flights which shall be calculated as the product of the costs incurred for IFR flights and the proportion of the number of exempted service units and the total number of service units; the cost incurred for IFR flights shall be equal to the total costs less the cost of VFR flights.</p> <p>Member States shall ensure that air navigation service providers are reimbursed for the services they have provided to exempted flights.</p>		

Original text	Proposed amendments	Comments
<p><i>Article 10</i></p> <p><b>Calculation of en route charges</b></p> <p>1. The en route charge for a specific flight in a specific en route charging zone shall be equal to the product of the unit rate established for this en route charging zone and the en route service units for this flight.</p> <p>2. Without prejudice to the implementation by a Member State of an incentive scheme with regard to air navigation service providers' in accordance with Article 12(2), the unit rate in the en route charging zone shall be calculated by dividing the forecast number of chargeable en route service units for the relevant year into the forecast costs for air navigation services. The forecast costs shall include the balance resulting from over or under recovery of previous years.</p> <p>3. The en route service units shall be calculated in accordance with Annex IV.</p>	<p>2. <del>Without prejudice to the implementation by a Member State of an incentive scheme with regard to air navigation service providers' in accordance with Article 12(2),</del> <i>Before the beginning of each year over the period,</i> the unit rate in the en route charging zone shall be calculated by dividing the forecast number of chargeable en route service units for the relevant year into the <i>determined</i> costs for air navigation services, <i>taking account of the risk-sharing mechanism set up in Article 11a..</i> <del>The forecast costs shall include the balance resulting from over or under recovery of previous years.</del></p>	<p>Implementation of risk-sharing concept, replacing the automatic full cost recovery principle</p>
<p><i>Article 11</i></p> <p><b>Calculation of terminal charges</b></p>		

Original text	Proposed amendments	Comments
<p>1. Without prejudice to the possibility under Article 3 of financing terminal air navigation services through other sources of funding, the terminal charge for a specific flight in a specific terminal charging zone shall be equal to the product of the unit rate established for this terminal charging zone and the terminal service units for this flight.</p> <p>2. Without prejudice to the implementation by a Member State of an incentive scheme with regard to air navigation service providers in accordance with Article 12(2), the unit rate in the terminal charging zone shall be calculated by dividing the forecast number of chargeable terminal service units for the relevant year into the forecast costs for air navigation services. The forecast costs shall include the balance resulting from over or under recovery of previous years.</p>	<p>1. Without prejudice to the possibility under Article 3 of financing terminal air navigation services through other sources of funding, the terminal charge for a specific flight in a specific terminal charging zone shall be equal to the product of the unit rate established for this terminal charging zone and the terminal service units for this flight. <i>For charging purposes, approach and departure shall count as a single flight. The counting unit shall be either the arriving or the departing flight. (or only "the departing flight"?)</i></p> <p>2. Without prejudice to the implementation by a Member State of an <i>independent economic regulation regime</i> with regard to air navigation service providers in accordance with Article 12(2), the unit rate in the terminal charging zone shall be calculated by dividing the forecast number of chargeable terminal service units for the relevant year into the <i>determined</i> costs for air navigation services, <i>taking account of the risk-sharing mechanism set up in Article 11a.</i> <del>The forecast costs shall include the balance resulting from over or under recovery of previous years.</del></p>	<p>Clarification of what is meant by "a specific flight" for terminal charge billing purpose.</p> <p>Implementation of risk-sharing concept, replacing the automatic full cost recovery principle</p>

Original text	Proposed amendments	Comments
3. The terminal service units shall be calculated in accordance with Annex V.	<p><i>Article 11a.</i></p> <p><b><i>Risk sharing and quality of service</i></b></p> <p><i>In application of the principles contained in Article 10 of the performance Regulation, the following provisions shall apply:</i></p> <p><b><i>1 Traffic risk:</i></b></p> <p><i>(a) Costs established in application of Article 5.2 and costs incurred by meteorological service providers shall not be submitted to traffic risk sharing.</i></p> <p><i>(b) Where, over a given year, the actual number of service units is higher than the forecast established at the beginning of the reference period, a minimum of 50 % of the additional revenue obtained by the air navigation service provider(s) concerned shall be returned to users through a deduction from the determined costs of the following year. The additional revenue retained by the air navigation service provider(s) shall not be added to the determined costs set for the following year.</i></p>	<p>Key article of the updated Regulation: Over and under recoveries (profits and losses) are now allocated according to a pre-defined risk sharing principle rather than the current full cost recovery mechanism. This risk sharing contains an element of quality of service aiming at ensuring that cost control is not detrimental to the quality of service in the capacity/delay and environment KPAs.</p>

Original text	Proposed amendments	Comments
	<p><i>(c) Where, over a given year, the actual number of service units is lower than the forecast established at the beginning of the reference period, a maximum of 50 % of the loss in revenue incurred by the air navigation service provider(s) concerned shall be borne by the airspace users and as a consequence added to the determined costs of the following year.</i></p> <p><i>(d) For the first reference period, where due to unforeseeable circumstances outside the control of the Member State of functional airspace block, the actual service units over a given year are lower than 80% of the forecast at the beginning of the reference period, the air navigation service providers' exposure to loss in revenue shall be limited to 20% of forecast revenue.</i></p> <p><i>For the purpose of this paragraph, the service units shall be calculated as the actual service units of the first nine months of the year, the estimated service units of the last three months of the year, and the adjustment of the estimates of the last three months of the previous year.</i></p>	

Original text	Proposed amendments	Comments
	<p data-bbox="864 288 1032 320">2 <u>Cost risk:</u></p> <p data-bbox="916 357 1469 687"><i>(a) Where, over the whole reference period, actual costs are lower than the determined costs established at the beginning of the reference period, the resulting difference shall be retained by the Member State or functional airspace block concerned and shall not be deducted from the determined costs of the following period.</i></p> <p data-bbox="916 724 1469 1198"><i>(b) Where, over the whole reference period, actual costs are higher than the determined costs established at the beginning of the reference period, without prejudice to the activation of an alert mechanism in application of Article 16 of the performance Regulation, the resulting difference shall be borne by the Member State or functional airspace block concerned and shall not be added to the determined costs of the next reference period.</i></p> <p data-bbox="916 1235 1447 1382"><i>(c) For the first reference period, the cost risk sharing shall be mitigated in accordance with the following provisions:</i></p>	



Original text	Proposed amendments	Comments
	<p data-bbox="913 288 1480 691"><i>Where, over the whole reference period, actual costs of air navigation services providers, at national or functional airspace block level, are higher than the determined costs, up to 30% of the resulting difference can be passed onto the airspace users through the determined costs of the next reference period, provided that the national supervisory authority concerned ascertains that:</i></p> <p data-bbox="958 730 1458 914"><i>i) the variation of actual costs against determined costs is the result of unforeseeable developments that are beyond the influence of the air navigation service provider;</i></p> <p data-bbox="958 954 1464 1169"><i>ii) the variation of actual costs against determined costs is of a magnitude that cannot be solved through the management tools that are at the disposal of the air navigation service provider; and</i></p> <p data-bbox="958 1209 1464 1351"><i>c) the variation in costs to be shared is specifically identified, categorised and agreed by the national supervisory authority.</i></p>	

Original text	Proposed amendments	Comments
	<p><i>The percentage referred to in paragraph c) shall be pre determined by the national supervisory authority and part of the performance plan.</i></p> <p><b>3 <u>Quality of service:</u></b></p> <p><i>In accordance with Article 10 of the Performance Regulation, Member States at national or functional airspace block level, shall adopt financial incentives to the achievement of capacity performance targets by their air navigation service providers. Determined costs for a given year shall be adjusted to provide for a bonus or penalty according to the actual performance level of the air navigation service provider against the relevant target in the previous year. The size of the adjustment shall be set by the national or functional airspace block Performance Plan, within limits set by the Commission as part of the European Union-wide targets.</i></p> <p><i>For the purpose of this paragraph, the quality of service shall be calculated as the actual quality of service of the first nine months of the year, the estimated quality of service of the last three months of the year, and the adjustment of the quality of service</i></p>	

Original text	Proposed amendments	Comments
	<i>of the last three months of the previous year.</i>	
<p><i>Article 12</i></p> <p><b>Incentive schemes</b></p> <p>1. Member States may establish or approve incentive schemes consisting of financial advantages or disadvantages on a non-discriminatory and transparent basis to support improvements in the provision of air navigation services resulting in a different calculation of charges according to paragraphs 2 and 3. These incentives may apply to either air navigation service providers and/or airspace users.</p> <p>2. When a Member State decides to apply an incentive scheme on air navigation service providers, it shall, following the consultation referred to in Article 15, set in advance the conditions for determining the maximum level of the unit rate or of the revenue for each year over a period not exceeding five years. These conditions shall be set with reference to the projected level of costs (including the cost of capital) over the period and may also stipulate financial modulations (either above or below the expected costs) based on particular aspects</p>	<p>1. Member States or functional airspace blocks may establish or approve incentive schemes consisting of financial advantages or disadvantages on a non-discriminatory and transparent basis to support improvements in the provision of air navigation services <i>or the reduction of the environmental impact of aviation</i>, resulting in a different calculation of charges according to paragraphs 2 and 3. These incentives may apply to either air navigation service providers and/or airspace users.</p> <p>2. When a Member State decides to apply an <i>independent economic regulation regime</i> on air navigation service providers, it shall, following the consultation referred to in Article 15, set in advance the conditions for determining the maximum level of the unit rate or of the revenue for each year over a period not exceeding <i>the reference period referred to in Article 11 of the framework Regulation</i>. These conditions shall be set with reference to the projected level of costs (including the cost of capital) over the</p>	<p>Incentive schemes that may be decided by States have to be consistent with the Performance scheme.</p>

Original text	Proposed amendments	Comments
<p>of the air navigation service providers' performance which may include: efficiency, quality of service, the performance of particular projects, milestones or competencies or a level of cooperation with other air navigation service providers in view of taking into account network effects.</p> <p>3. When a Member State decides to apply an incentive scheme, including night time modulations, in respect of users of air navigation services, it shall, following the consultation referred to in Article 15, modulate charges incurred by them in order to reflect efforts made by these users to optimise the use of air navigation services, to reduce the overall costs of these services and to increase their</p>	<p>period and may also stipulate financial modulations (either above or below the <del>expected</del> costs) based on particular aspects of the air navigation service providers' performance, <i>covering at least the key performance areas defined in the performance Regulation. These conditions shall be set out in the performance plan adopted by the Member State or the functional airspace block and shall contribute in an adequate manner to the achievement of the European wide targets during the entire reference period as well as for each year individually which may include: efficiency, quality of service, the performance of particular projects, milestones or competencies or a level of cooperation with other air navigation service providers in view of taking into account network effects.</i></p> <p>3. When a Member State decides to apply an incentive scheme, <i>including night time modulations,</i> in respect of users of air navigation services, it shall, following the consultation referred to in Article 15, modulate charges incurred by them in order to reflect efforts made by these users to, <i>in particular:</i></p>	

Original text	Proposed amendments	Comments
<p>efficiency, in particular by decreasing charges according to airborne equipment that increases capacity or to offsetting the inconvenience of choosing less congested routings.</p> <p>The incentive schemes shall be limited in time, scope and amount. The estimated savings generated by the operational efficiency improvements shall at least offset the cost of incentives within a reasonable timeframe. The scheme shall be subject to regular review involving airspace users' representatives.</p> <p>4. Member States which have established or approved incentive schemes shall monitor the proper implementation by air navigation service providers of these incentive schemes.</p>	<p><i>a) optimise the use of air navigation services,</i></p> <p><i>b )reduce the environmental impact of flying through day/night or noise/load ratio modulation factors</i></p> <p><i>c) reduce the overall costs of air navigation services and increase their efficiency, in particular by <del>decreasing</del> modulating charges according to airborne equipment that increases capacity or to offsetting the inconvenience of choosing less congested routings.</i></p> <p>The incentive schemes <i>referred to in this Article</i> shall be limited in time, scope and amount. The estimated savings generated by the operational efficiency improvements shall at least offset the cost of incentives within a reasonable timeframe. The scheme shall be subject to regular review involving airspace users' representatives.</p> <p>4. Member States which have established or approved <i>such</i> incentive schemes shall monitor the proper implementation by air navigation service providers of these incentive schemes.</p>	
<i>Article 13</i>		

Original text	Proposed amendments	Comments
<p><b>Setting of unit rates for charging zones</b></p> <p>1. Member States shall ensure that unit rates are set for each charging zone on an annual basis. They may also ensure that unit rates are set in advance for each year of a period not exceeding five years.</p>	<p>1. Member States shall ensure that unit rates are set for each charging zone on an annual basis. <del>They may also ensure that unit rates are set in advance for each year of a period not exceeding five years.</del></p> <p>1.a <i>Unit rates shall be set in national currency. For billing purposes, this unit rate can be converted into Euro. In this case, the unit rate shall be recalculated monthly by applying the average monthly rate of exchange between the Euro and the national currency for the month preceding the month during which the billed flight takes place. Where a functional airspace block decides to establish a common charging zone with a single unit rate, this unit rate shall be calculated in Euro. If one or several Member States in the functional airspace block have a national currency other than the Euro, the common unit rate shall be recalculated monthly to take account of the average monthly rate of exchange between the Euro and the other national currency(ies) for the month preceding the month during which the billed flight takes place</i></p>	<p>Clarification and alignment with Eurocontrol multilateral route charges system</p>

Original text	Proposed amendments	Comments
<p>2. In case of unexpected major changes of traffic or costs, unit rates may be amended during the course of the year.</p> <p>3. Member States shall inform the Commission and Eurocontrol, where appropriate, of the unit rates set for each charging zones.</p>	<p>2. <i>Further to Articles 11.4(e) of the framework Regulation and 16 of the performance Regulation, in case of activation of an alert mechanism</i>, unit rates may be amended during the course of the <b>year</b>.</p>	<p>Limitation of the possibility to change a unit rate in the course of a reference period</p>
<p><i>Article 14</i></p> <p><b>Collection of charges</b></p> <p>1. Member States may collect charges through a single charge per flight.</p> <p>2. Users of air navigation services shall promptly and fully pay all air navigation charges.</p> <p>3. Member States shall ensure that effective enforcement measures are applied. These measures may include the denial of services, detention of aircraft or other enforcement measures in accordance with applicable law.</p>	<p>(No change in this Article)</p>	
<p><i>Article 15</i></p> <p><b>Transparency of the charging mechanism</b></p> <p>1. Member States shall ensure that airspace users' representatives are consulted on the</p>	<p><b><i>Transparency of the charging mechanism</i></b></p> <p><del>1. Member States shall ensure that airspace users' representatives are consulted on the</del></p>	

Original text	Proposed amendments	Comments
<p>charging policy on a regular basis. To this end, they shall provide them with the necessary information on their charging mechanism as set out in Annex VI, or where a Member State has taken the decision referred to in Article 1(6), in Annex III, part 2 and organise an effective and transparent consultation hearing to present this information as well as the information referred to in Article 8, in the presence of the air navigation service providers involved.</p> <p>2. Without prejudice to Article 18 of the service provision Regulation, the relevant documentation shall be put at the disposal of airspace users' representatives, the Commission, Eurocontrol and national supervisory authorities three weeks before the consultation hearing.</p>	<p><del>charging policy on a regular basis. To this end, they shall provide them with the necessary information on their charging mechanism as set out in Annex VI, or where a Member State has taken the decision referred to in Article 1(6), in Annex III, part 2 and organise an effective and transparent consultation hearing to present this information as well as the information referred to in Article 8, in the presence of the air navigation service providers involved.</del></p> <p><del>2. Without prejudice to Article 18 of the service provision Regulation, the relevant documentation shall be put at the disposal of airspace users' representatives, the Commission, Eurocontrol and national supervisory authorities three weeks before the consultation hearing.</del></p>	<p>This Article is now merged with Article 8</p>
<p style="text-align: center;"><b><u>Chapter IV</u></b></p> <p style="text-align: center;"><b>FINAL PROVISIONS</b></p> <p><i>Article 16</i></p> <p><b>Appeal</b></p> <p>Member States shall ensure that decisions taken pursuant to this Regulation are properly reasoned and are subject to an effective review and/or appeal procedure.</p>	<p>(No change in this Article)</p>	



Original text	Proposed amendments	Comments
<p><i>Article 17</i></p> <p><b>Facilitation of compliance monitoring</b></p> <p>Air navigation service providers shall facilitate inspections and surveys by the national supervisory authority or by a recognised organisation acting on the latter's behalf, including site visits. The authorised persons shall be empowered:</p> <p>(a) to examine the relevant accounting documents, asset books, inventories and any other material relevant to the establishment of air navigation charges;</p> <p>(b) to take copies of or extracts from such documents;</p> <p>(c) to ask for an oral explanation on site;</p> <p>(d) to enter relevant premises, lands or means of transport.</p> <p>Such inspections and surveys shall be carried out in compliance with the procedures in force in the Member State in which they are to be undertaken.</p>	<p>Air navigation service providers shall facilitate inspections and surveys by the national supervisory authority or by a <b>qualified entity</b> acting on the latter's behalf, including site visits. The authorised persons shall be empowered:</p>	<p>New name under SES II legislation</p>
	<p><b>Article 17a</b></p> <p><b>Review</b></p> <p><i>The review by the Commission of the performance scheme, referred to in Article 22 of the performance Regulation, shall cover the risk sharing mechanism</i></p>	

Original text	Proposed amendments	Comments
	<i>and quality of service incentive set up in Article 11a and their effectiveness in achieving the set performance targets.</i>	
<p><i>Article 18</i></p> <p><b>Entry into force</b></p> <p>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.</p> <p>This Regulation shall apply as from 1<sup>st</sup> January 2007. However:</p> <ul style="list-style-type: none"> <li>– for en-route charges, Member States may defer the application of Articles 9,10,12,13 and 14 until 1<sup>st</sup> January 2008;</li> <li>– for terminal charges, Member States may defer the application of Articles 9,11,12,13, 14 and 15 until 1<sup>st</sup> January 2010. When Member States do so they shall notify the Commission thereof.</li> </ul> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>	<p>This Regulation shall apply as from [...]. However:</p> <ul style="list-style-type: none"> <li><del>– for en route charges, Member States may defer the application of Articles 9,10,12,13 and 14 until 1<sup>st</sup> January 2008;</del></li> <li>– For terminal charges, the risk sharing mechanisms set up in Article 11a shall apply only as from the second performance reference period. <del>Member States may defer the application of Articles 9,11,12,13, 14 and 15 until 1<sup>st</sup> January 2010. When Member States do so they shall notify the Commission thereof.</del></li> </ul>	<p>Because of the phased implementation of the Regulation for the terminal costs and rates, there is not enough maturity to apply the risk sharing mechanisms on terminal on these costs and rates before the second performance reference period.</p>
<p style="text-align: center;"><b><u>ANNEX I</u></b></p> <p style="text-align: center;"><b>ASSESSMENT OF THE CONDITIONS FOR THE PROVISION OF AIR NAVIGATION SERVICES AT</b></p>		

Original text	Proposed amendments	Comments
<p><b>AIRPORTS FALLING WITHIN ARTICLE 1(6)</b></p> <p>The conditions to be assessed under Article 1(6) are the following:</p> <ol style="list-style-type: none"> <li>1. The extent to which air navigation service providers can freely offer to provide or withdraw from the provision of air navigation services at airports: <ul style="list-style-type: none"> <li>– the existence or otherwise of any significant economic barriers that would prevent an air navigation service provider from offering to provide or withdrawing from the provision of air navigation services;</li> <li>– the existence or otherwise of any significant legal barriers that would prevent an air navigation service provider from offering to provide or withdrawing from the provision of air navigation services;</li> <li>– the length of contract duration;</li> <li>– the existence of a procedure allowing assets and staff to be transferred from one air navigation service provider to another.</li> </ul> </li> <li>2. The extent to which airports can freely determine who will provide their air navigation services, including the option to self-supply: <ul style="list-style-type: none"> <li>– the ability or otherwise of airports to move towards self-supply of air navigation services;</li> <li>– the existence or otherwise of legal, contractual or practical barriers to an airport’s ability to change air navigation service provider;</li> <li>– the role of airspace users’ representatives in the selection process of the air navigation service provider.</li> </ul> </li> </ol>	<p>(No change proposed in this Annex)</p>	

Original text	Proposed amendments	Comments
<p>3. The extent to which there is a range of air navigation service providers' from which airports can choose:</p> <ul style="list-style-type: none"> <li>– the existence or otherwise of structural rigidity which restricts the effective choice of the air navigation services for airports;</li> <li>– evidence of alternative air navigation service providers, including the option of self-supply that provides choice in the selection of air navigation services by airports.</li> </ul> <p>4. The extent to which airports are subject to commercial cost pressures or incentive-based regulation:</p> <ul style="list-style-type: none"> <li>– whether airports actively compete for airline business;</li> <li>– the extent to which airports bear the air navigation service charge;</li> <li>– whether airports operate in a competitive environment or under economic incentives designed to cap prices or otherwise incentivise cost reductions.</li> </ul>		
<p style="text-align: center;"><b><u>ANNEX II</u></b></p> <p style="text-align: center;"><b>TRANSPARENCY OF THE COST BASE</b></p> <p><b>1. REPORTING TABLE</b></p> <p>Member States and air navigation service providers shall fill the following reporting table for each charging zone under their responsibility. The figures shall be actual figures for year (n-3) until year (n-1) and planned figures for year (n) onwards. Actual costs shall be established on the</p>	<p><b>1. REPORTING TABLE</b></p> <p>Member States <i>as well as</i> air navigation service providers shall fill the following reporting table for each charging zone under their responsibility. <i>A consolidated table shall be filled for the regulated airports.</i> The figures shall be actual figures for year (n-3) until year</p>	<p><u>Clarification</u> of a practice initiated under SES I package: Both State authorities and ANSPs fill the reporting table and provide the additional information. In addition the State authorities fill a consolidated reporting table, providing</p>

Original text	Proposed amendments	Comments
<p>basis of the certified accounts. Planned costs shall be established in accordance with the business plan required by the certificate. Costs shall be established in national currency.</p> <p><b>2. ADDITIONAL INFORMATION</b></p> <p>In addition, Member States and air navigation service providers shall provide at least the following information:</p> <ul style="list-style-type: none"> <li>– Description of the methodology used for allocating costs of facilities or services between different air navigation services based on the list of facilities and services listed in ICAO Regional Air Navigation Plan, European Region (Doc 7754) and description of the methodology used for allocating those costs between different charging zones;</li> <li>– Description and explanation of differences between planned and actual figures for year (n-1);</li> <li>– Description and explanation of the five-year planned costs based on the business plan;</li> <li>– Description of the costs incurred by Member States (Other State costs);</li> </ul>	<p>(n-1) and <b>determined</b> figures for year (n) onwards. Actual costs shall be established on the basis of the certified accounts. <b>The</b> costs shall be established in accordance with the business plan required by the certificate. Costs shall be established in national currency.</p> <p><i>(Reporting table will be developed once text is stabilised)</i></p> <p><b>2. ADDITIONAL INFORMATION</b></p> <p>In addition, Member States <b>as well as</b> air navigation service providers shall provide at least the following information:</p> <ul style="list-style-type: none"> <li>– Description and explanation of the <b>determined</b> costs based on the business plan for each year of the reference period;</li> </ul>	<p>the entire national or FAB cost base.</p> <p><u>Simplification</u>: Only one consolidated reporting table shall be filled for the aggregation of the regulated airports.</p>

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<ul style="list-style-type: none"> <li>– Description and explanation of the method adopted for the calculation of depreciation costs: historic costs or current costs. When current cost accounting is adopted, provision of comparable historic cost data;</li>   <li>– Justification for the cost of capital, including the components of the asset base;</li> <li>– Description of the cost for each airport for each terminal charging zone; for aerodromes with less than 20 000 commercial air transport movements per year being calculated as the average over the previous three years, costs may be presented in an aggregated way per aerodrome;</li> <li>– Breakdown of the meteorological costs between direct costs and “MET core costs” defined as the costs of supporting meteorological facilities and services that also serve meteorological requirements in general. These include general analysis and forecasting,</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Description of investment costs incurred in relation with the European ATM Master Plan with a description of their relevance against the European ATM Master Plan and an identification of the Operational Improvements served by these investments.</i></li> <li>- <i>A description of other investment costs;</i></li>   <li>– Description of the total cost for each <i>regulated</i> airport for each terminal charging zone.; For <i>airports</i> with less than 20 000 commercial air transport movements per year being calculated as the average over the previous three years, costs may be presented in an aggregated way <i>per aerodrome</i>;</li> </ul>	<p>Need to collect information on ATM Master plan-related investments with a view to monitoring and ensuring coordination of SESAR deployment</p> <p><u>Simplification</u>: Only one reporting table is to be filled for the aggregation of regulated airports (I.e. airports falling within the scope of the Regulation), with a breakdown per airport of only the total cost. If small airports are not exempted, only one consolidated cost figure is requested for the airports below 20000 movements.</p>

Original text	Proposed amendments	Comments
<p>weather radar and satellite observations, surface and upper-air observation networks, meteorological communication systems, data-processing centres and supporting core research, training and administration;</p> <p>– Description of the methodology used for allocating total MET costs and MET core costs to civil aviation and between charging zones.</p>		
<p style="text-align: center;"><b><u>ANNEX III</u></b></p> <p><b>SPECIFIC TRANSPARENCY REQUIREMENTS FOR THE PROVISION OF AIR NAVIGATION SERVICES AT AIRPORTS FALLING WITHIN ARTICLE 1(6)</b></p> <p><b>1. THE COSTS OF AIR NAVIGATION SERVICES</b></p> <p><b>1.1. Reporting table</b></p> <p>Air navigation service providers shall fill the following reporting table for each terminal charging zone under their responsibility.</p> <p>The figures shall be actual figures for year (n-3) until year (n-1) and planned figures for year (n) onwards. Actual costs shall be established on the basis of the certified accounts. Planned costs shall be established in accordance with the business plan required by the certificate.</p> <p>Costs shall be established in national currency.</p> <p style="text-align: center;"><i>(Reporting table –no change proposed)</i></p> <p><b>1.2. Additional information</b></p> <p>In addition, air navigation service providers shall provide at least the following information:</p> <p>– Description of the methodology used for allocating costs</p>	<p>(No change proposed in this Annex)</p>	

Original text	Proposed amendments	Comments
<p>of facilities or services between different air navigation services based on the list of facilities and services listed in ICAO Regional Air Navigation Plan, European Region (Doc 7754);</p> <ul style="list-style-type: none"> <li>– Description and explanation of differences between planned and actual non-confidential figures for year (n-1);</li> <li>– Description and explanation of non-confidential five-year planned costs and investments in relation to expected traffic;</li> <li>– Description and explanation of the method adopted for the calculation of depreciation costs: historic costs or current costs;</li> <li>– Explanation for the cost of capital.</li> </ul> <p><b>2. THE FINANCING OF AIR NAVIGATION SERVICES</b></p> <p>Air navigation service providers shall provide the following information for each terminal charging zone: Description of the way(s) by which the costs of air navigation services are financed.</p>		
<p style="text-align: center;"><b><u>ANNEX IV</u></b></p> <p style="text-align: center;"><b>CALCULATION OF THE EN ROUTE SERVICE UNITS</b></p> <ol style="list-style-type: none"> <li>1. The en route service unit shall be calculated as the multiplication of the distance factor and the weight factor for the aircraft concerned.</li> <li>2. The distance factor shall be obtained by dividing by one hundred the number of kilometres flown in the great circle distance between the entry and the exit point of</li> </ol>		



Original text	Proposed amendments	Comments
<p>the charging zones, according to the latest known flight plan filed by the aircraft concerned for air traffic flow purposes.</p> <p>3. If the exit and entry point of one flight are identical in a charging zone, the distance factor shall be equal to the distance in the great circle distance between these points and the most distant point of the flight plan.</p> <p>4. The distance to be taken into account shall be reduced by 20 kilometres for each take-off from and for each landing on the territory of a Member State.</p> <p>5. The weight factor, expressed as a figure taken to two decimal places, shall be the square root of the quotient obtained by dividing by fifty the number of metric tons in the maximum certificated take-off weight of the aircraft as shown in the certificate of airworthiness or any equivalent official document provided by the aircraft operator. Where this weight is unknown, the weight of the heaviest aircraft of the same type known to exist shall be used. Where an aircraft as multiple certificated maximum take-off weights, the maximum one shall be used. Where an aircraft operator operates two or more aircraft which are different versions of the same type, the average of the maximum take-off weights of all his aircraft of that type shall be used for</p>	<p>3 If the exit and entry point of one flight are identical in a charging zone, the distance factor shall be equal to the distance in the great circle distance between these points and the most distant point of the flight plan <i>multiplied by two (2)</i>.</p> <p>Where an aircraft <i>has</i> multiple certificated maximum take-off weights, the maximum one shall be used</p>	<p>Technical correction. Alignment with Eurocontrol rules</p> <p>Correction of a typo</p>

Original text	Proposed amendments	Comments
<p>each aircraft of that type. The calculation of the weight factor per aircraft type and per operator shall be effected at least once a year</p>		
<p style="text-align: center;"><b><u>ANNEX V</u></b></p> <p style="text-align: center;"><b>CALCULATION OF THE TERMINAL SERVICE UNITS</b></p> <p>5. The terminal service unit shall be equal to the weight factor for the aircraft concerned.</p> <p>3. The weight factor, expressed as a figure taken to two decimal places, shall be the quotient, obtained by dividing by fifty the number of metric tons in the highest maximum certified take-off weight of the aircraft, referred to in Annex IV paragraph 5, to the power of 0.7. However, in a transitional period of five years following the calculation of the first terminal unit rate under this Regulation, this exponent shall be comprised between 0.5 and 0.9.</p>	<p>(No change proposed in this Annex)</p>	
<p style="text-align: center;"><b><u>ANNEX VI</u></b></p> <p style="text-align: center;"><b>CHARGING MECHANISM</b></p> <p><b>1. REPORTING TABLE</b></p> <p>Member States shall fill the following reporting table for each charging zone under their responsibility. Member States shall also provide a consolidated Table 1 for each charging zone under their responsibility. When a charging zone extends</p>		

Original text	Proposed amendments	Comments
<p>across the airspace of more than one Member State, they shall fill the table jointly in accordance with the arrangements referred to in Article 4(4). The figures shall be actual figures for year (n-3) until year (n-1) and planned figures for year (n) onwards. The “Total costs” shall be established as the sum of all total costs presented in Table 1 which are allocated to this charging zone.</p> <p><i>(Reporting table – see separately)</i></p> <p><b>2. ADDITIONAL INFORMATION</b></p> <p>In addition, the Member States concerned shall collect and provide at least the following information:</p> <ul style="list-style-type: none"> <li>– Description and rationale for the establishment of the different charging zones, in particular with regard to terminal charging zones and potential cross-subsidies between airports;</li> <li>– Description and explanation on the calculation of the forecast chargeable service units;</li> <li>– Description and explanation of the methodology used with respect to the recovery of the balance resulting from over or under recovery of previous years</li> <li>– Description of the policy on exemptions and a description of the financing means to cover the related costs;</li> </ul>	<p><del>— Description and explanation of the methodology used with respect to the recovery of the balance resulting from over or under recovery of previous years</del></p>	<p>Under SES II there is no automatic full cost recovery anymore. Over and under recoveries are allocated as set out in Article 11a.</p>

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<ul style="list-style-type: none"> <li>– Description of the income from other sources when they exist;</li>   <li>– Description and explanation of incentives applied on air navigation service providers and, in particular, the modalities to be applied in setting regulatory conditions on the level of unit rates. Description and explanation of the objectives in term of performance and on the modalities to take them into account in the setting of maximum unit rates;</li> <li>– Description of the plans of air navigation service providers in order to meet projected demand and performance objectives;</li> <li>– Description and explanation of incentives applied on users of air navigation services.</li> </ul>	<p style="background-color: #e0ffff; padding: 2px;">-Description of the formula used for calculating terminal charges</p>	