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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position with a view to adopting a regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation
(13376/1/2005 – C6-0090/2006 – 2000/0069 (COD))

Committee on Transport and Tourism

Rapporteur: Ulrich Stockmann

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position with a view to adopting a regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

(13376/1/2005 – C6-0090/2006 –2000/0069 (COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (13376/1/2005 – C6-0090/2006),
 - having regard to its positions at first reading¹ on the Commission proposal to Parliament and the Council (COM(2000)0121)² and on the amended proposal (COM(2002)0030)³
 - having regard to the amended Commission proposal (COM(2004)0073)⁴,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A6-0212/2006),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and Commission.

Council common position

Amendments by Parliament

Amendment 1
RECITAL 6 A (new)

(6a) In some Member States there are negotiated collective labour agreements which, in the interests of air safety, lay down more stringent provisions regarding flight and duty time limitations. It is important to safeguard the possibility of keeping such agreements in force and to ensure that they are compatible with the

¹ OJ C 262, 18.9.2001, p. 224 and OJ C 272 E, 13.11.2003, p. 103.

² OJ C 311 E, 31.10.2000, p. 13.

³ OJ C 227 E, 24.9.2002, p. 1.

⁴ OJ C ... / Not yet published in OJ.

present Regulation. This Regulation should not lead to a lowering of air safety standards where such agreements exist.

Justification

A new legislative proposal must not lead to aviation safety being lowered in the Member States which already have high standards, irrespective of whether they are laid down in legislation or negotiated in a collective agreement.

Amendment 2
RECITAL 12

(12) A scientific and medical evaluation of the provisions on flight and duty time limitations and rest requirements and, as appropriate, of the provisions on cabin crews should be made within a period of ***three*** years following the entry into force of this Regulation.

(12) A scientific and medical evaluation of the provisions on flight and duty time limitations and rest requirements and, as appropriate, of the provisions on cabin crews should be made within a period of ***two*** years following the entry into force of this Regulation.

Justification

The scientific technical evaluation needs to be made as soon as possible so as to avert imperfections and shortcomings. The full body of scientific evidence should also be incorporated in Subpart Q.

Amendment 3
RECITAL 14 A (new)

(14a) The aim of this Regulation is to provide harmonised safety standards of the highest level. Several Member States provide such safety standards through legislation or within the framework of collective labour agreements. Under no circumstances should the provisions of Annex III Subpart Q constitute valid grounds for reducing the levels of safety protection existing in the Member States when this Regulation enters into force.

Justification

Airlines in countries which currently have high standards will encourage their civil aviation authorities to reduce existing upper limits to the less restrictive levels set out in Subpart Q. Since the EU directive is significantly more tolerant, airlines will urge, in negotiations with pilots' representatives, that the provisions of the collective agreements should be relaxed, arguing the need for competitiveness. A safeguard clause is necessary to prevent Subpart Q from being used as an excuse in these Member States to lower existing safety standards.

Amendment 4 RECITAL 14 A (new)

(14a) The aim of this Regulation is to provide harmonised safety standards of the highest level. Several Member States provide such safety levels through legislation and/or within the framework of collective labour agreements. Under no circumstances should the provisions of the Subparts of the Annexes constitute valid grounds for reducing the levels of safety protection existing in the Member States when this Regulation enters into force.

Amendment 5 ARTICLE 1, POINT -1 A (new) Recital 9 a (new) (Regulation (EEC) No 3922/91

-1a) The following recital shall be inserted after recital 9:

"(9a) Whereas the application of provisions regarding flight and duty time limitations can result in significant disruption of rosters for undertakings the operating models of which are exclusively based on night-time operation; and whereas the Commission should, on the basis of evidence to be provided by the parties concerned, carry out an assessment and propose amendment of the provisions regarding flight and duty time limitations to take account of these special operating models";

Justification

Disruptions to rosters often have a negative impact on the level of safety of operating models of express overnight cargo service providers. This is the case where the roster system is based on staff becoming accustomed to nightshifts by limiting the number of dayshift/nightshift changes. This recital is intended to remedy the fact that express overnight cargo services and service- providers were omitted from the original Commission proposal and the European Parliament report at first reading.

Amendment 6

ARTICLE 1, POINT -1 B (new)

Recital 10 a (new) (Regulation (EEC) No 3922/91)

-1b) The following recital shall be inserted after recital 10:

"(10a) By ... * the European Aviation Safety Agency should complete a scientific and medical evaluation of Subparts Q and O of Annex III. In accordance with the procedure referred to in this Regulation, the Commission should draw up and submit proposals without delay, in close cooperation with the European Aviation Safety Agency, to amend the relevant technical provisions relating to flight and duty time limitations and rest periods;

**** Two years after the date of entry into force of this regulation";***

Amendment 7

ARTICLE 1, POINT -1 C (new)

Recital 10 b (new) (Regulation (EEC) No 3922/91)

-1c) The following recital shall be inserted after recital 10:

"(10b) Whereas in the evaluation of certain provisions referred to under Article 8a, the course towards harmonisation of cabin crew training hitherto adopted should be maintained, in order to allow for mutual recognition of

training qualifications throughout the Community and whereas, in this connection, the option of cabin crew licensing should be investigated further;";

Justification

The Harmonisation of cabin crew training serves to create uniform, high European standards. Mutual recognition of training qualifications and the option of licensing cabin crew would serve to take account of the objective of a European labour market for cabin crew.

Amendment 8

ARTICLE 1, POINT 9

Article 8 a, paragraph 1 (Regulation (EEC) No 3922/91)

(1) By...☐ + the European Aviation Safety Agency shall conclude a scientific and medical evaluation of the provisions of Subpart Q and, ***as appropriate, of*** Subpart O of Annex III.

+ ***three years*** following the date of entry into force of this Regulation .

(1) By...☐ + the European Aviation Safety Agency shall conclude a scientific and medical evaluation of the provisions of Subpart Q and Subpart O of Annex III.

+ ***two years*** following the date of entry into force of this Regulation .

Amendment 9

ARTICLE 1, POINT 9

Article 8 a, paragraph 2 (Regulation (EEC) No 3922/91)

2. Without prejudice to Article 7 of Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, the European Aviation Safety Agency shall assist the Commission in the preparation of proposals for the modification of the applicable technical provisions of Subpart Q of Annex III.

2. Without prejudice to Article 7 of Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, the European Aviation Safety Agency shall assist the Commission in the preparation of proposals for the modification of the applicable technical provisions of Subpart Q of Annex III ***and shall make recommendations within not more than six months of submitting the findings of the scientific and medical evaluation referred to in paragraph 1. The Commission shall adopt proposals incorporating those***

recommendations.

Justification

It is right that the European Aviation Safety Agency should be the body instructed to carry out the evaluation, given that it would be technically capable of starting it before the end of 2006. The need to make do with the present inadequate minimum safety arrangements would consequently be shortened in time. The study should therefore be drawn up within at most two years of the entry into force of the regulation. The areas mentioned in the amendment will have to be taken into account, bearing in mind that some are not covered by Subpart Q. Aviation safety is a priority, and the legislation must not be watered down.

Amendment by Luis de Grandes Pascual

Amendment 10

ANNEX

Annex III, Subpart Q, point 2.1, (b)

(b) any additional provisions that are applied by the Authority in accordance with the provisions of this Subpart for the purpose of maintaining safety.

(b) any additional provisions that are applied by the Authority in accordance with the provisions of this Subpart for the purpose of maintaining safety; ***the provisions of this Subpart shall not constitute a legal basis entitling Member States to relax aviation safety legislation.***

Or. es

Justification

The harmonisation proposed in Subpart Q as it stands is at a level below the safety standards in force in some Member States with more advanced legislation.

EXPLANATORY STATEMENT

PROCEDURE TO DATE

On 24 March 2000, the Commission presented a proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation.

The aim of the proposal is to establish technical provisions applicable throughout the Community and to harmonise provisions on the operation of aircraft engaged in commercial air transportation.

Parliament concluded its first reading on 18 January 2001. The Commission subsequently presented a revised proposal on 4 February 2002 incorporating most of Parliament's amendments, including a new Subpart Q as called for.

Since the revised Commission proposal had taken due account of most of Parliament's demands, the then rapporteur, Mr Brian Simpson (PSE), decided to concentrate exclusively on the most controversial issue in the new first reading, i.e. the establishment of minimum provisions regarding flight and duty time limitations and rest requirements in Annex III Subpart Q. On 3 September 2002, Parliament adopted a corresponding amendment following lengthy and difficult negotiations among the parties concerned.

Consequently, the Commission again revised its proposal on 10 February 2004, taking account also of the outcome of the Council negotiations regarding provisions on cabin crews (Subpart O).

On 10 December 2004, the Council reached a partial political agreement and the Common Position was finally adopted on 9 March 2006, incorporating Parliament's amendments from both first readings for the most part.

SIGNIFICANCE OF THE REVISION OF REGULATION No. 3922/91

After a legislative process lasting 6 years, the present revision of Regulation No 3922/91 finally establishes numerous technical provisions regarding safety at a European level. These comprise, in addition to Subparts O (cabin crew) and Q (flight and duty time limitations and rest requirements) referred to earlier, various other subject areas including, inter alia, instruments and equipment (Subpart K), communication and navigation equipment (Subpart L), Maintenance (Subpart M) and transport of dangerous goods by air (Subpart R).

Thus, some urgently required uniform high safety standards, which have not hitherto been provided for in some Member States, are to be established in many areas and to be applicable throughout the Community. The importance of this legislative procedure, particularly in view of the rapidly growing volume of air traffic, is therefore such as not to allow any further delay.

RAPPORTEUR'S APPROACH AND AMENDMENTS

In view of the urgent need to establish uniform European technical provisions, the protracted legislative procedure to date, the difficult negotiations in the Council and the fact that the Council to a large extent adopted the amendments tabled by Parliament at first reading, the rapporteur advocates a swift conclusion of the codecision procedure. Having consulted some of some other groups' shadow rapporteurs, the rapporteur merely proposes three small amendments in areas in which action is most urgently required:

1. Having consulted the rapporteur for the first reading, Mr Brian Simpson (PSE), the rapporteur concluded that, to date, due account has not been taken of the particular situation of express over-night cargo service providers. Consequently, a new recital should be inserted to take account of this shortcoming.
2. Following numerous talks with various parties concerned, the rapporteur is tabling two further amendments in which he seeks to address the need to review certain provisions under Annex III, Subparts Q and O as soon as possible after conclusion of the legislative procedure. The issues of flight and duty time limitations and rest requirements as well as the harmonisation of cabin crew training (and possible licensing) have safety implications. A revision of the corresponding provisions is thus called for without delay.

As regards the issues referred to under point 2, the rapporteur would like to draw attention to the inadequate political coordination in existing legislative procedures: as the law stands, the procedure referred to under Article 12 of this Regulation to involve the committee referred to therein is to be applied for future revisions of individual technical provisions. The Council also makes provision for this method in its Common Position by providing for a revision of Articles 11 and 12 of the existing Regulation under Article 1, point 10 and point 11) and by granting corresponding powers to the Air Safety Committee referred to therein with reference to Regulation 1999/468/EC¹ (Comitology procedure). In parallel to this, in another proposal for a regulation, the Commission proposes the transfer of these powers to the European Aviation Safety Agency². Since the scientific and medical evaluation referred to is to be made within a period of three years following the entry into force of this Regulation, the rapporteur advocates that swift action be taken to extend the powers of the EASA as the only means of avoiding conflicts of competence.

¹ OJ L 184, 17.7.1999, p. 23.

² Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (COM (2005) 579 final; 2005/0228 (COD), C6-0403/05). The following provisions are of particular relevance in this regard: Article 6b (Air operations), Article 15b (Air Operator certification), Annex IV (Essential requirements for air operations referred to in Article 6b).

PROCEDURE

Title	Council common position with a view to adopting a regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation	
References	13376/1/2005 – C6-0090/2006 –2000/0069 (COD)	
Date of Parliament's first reading – P number	18.1.2001 P5_TA(2001)0028	3.9.2002 P5_TA(2002)0384
Commission proposal	COM(2000)0121 – C5-0170/2000	
Amended Commission proposal	COM(2004)0073	
Date receipt of common position announced in plenary	13.3.2006	
Committee responsible Date announced in plenary	TRAN 16.3.2006	
Rapporteur(s) Date appointed	Ulrich Stockmann 16.3.2006	
Previous rapporteur(s)	Brian Simpson	
Discussed in committee	19.4.2006	
Date adopted	1.6.2006	
Result of final vote	+: 32 -: 4 0: 0	
Members present for the final vote	Vittorio Agnoletto, Margrete Auken, Inés Ayala Sender, Etelka Barsi-Pataky, Philip Bradbourn, Paolo Costa, Christine De Veyrac, Saïd El Khadraoui, Robert Evans, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Jeanine Hennis-Plasschaert, Georg Jarzembowski, Dieter-Lebrecht Koch, Rodi Kratsa-Tsagaropoulou, Fernand Le Rachinel, Eva Lichtenberger, Seán Ó Neachtain, Josu Ortuondo Larrea, Luca Romagnoli, Gilles Savary, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Georgios Toussas, Marta Vincenzi, Roberts Zīle	
Substitute(s) present for the final vote	Zsolt László Becsey, Fausto Correia, Den Dover, Elisabeth Jeggle, Helmuth Markov, Kathy Sinnott	
Substitute(s) under Rule 178(2) present for the final vote	Raül Romeva i Rueda, Thomas Wise	
Date tabled	15.6.2006	
Comments (available in one language only)	...	