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*****II**

RECOMMENDATION FOR SECOND READING

1. on the Council common position for adopting a European Parliament and Council regulation on the provision of air navigation services in the Single European Sky ("the service provision Regulation")
(15853/2/2002 – C5-0137/2003 – 2001/0235(COD))
2. on the Council common position for adopting a European Parliament and Council regulation on the organisation and use of the airspace in the Single European Sky ("the airspace Regulation")
(15852/3/2002 – C5-0139/2003 – 2001/0236(COD)) and
3. on the Council common position for adopting a European Parliament and Council regulation on the interoperability of the European Air Traffic Management network ("the interoperability Regulation")
(15854/3/2002 – C5-0140/2003 – 2001/0237(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Marieke Sanders-ten Holte

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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PROCEDURAL PAGE

At the sitting of 3 September 2002 Parliament adopted its position at first reading on the proposals for a European Parliament and Council regulation on 1. the provision of air navigation services in the Single European Sky (COM(2001) 564 – 2001/0235 (COD)), 2. the organisation and use of the airspace in the Single European Sky (COM(2001) 564 – 2001/0236(COD)) and on 3. the interoperability of the European Air Traffic Management network (COM(2001) 564 – 2001/0237(COD)).

At the sitting of 27 March 2003 the President of Parliament announced that the common positions had been received and referred to the Committee on Regional Policy, Transport and Tourism (15853/2/2002 – C5-0137/2003, 15852/3/2002 – C5-0139/2003, 15854/3/2002 – C5-0140/2003).

The committee had appointed Marieke Sanders-ten Holte rapporteur at its meeting of 20 November 2001.

It considered the common positions and draft recommendations for second reading at its meetings of 24 April 2003, 21 May 2003 and 12 June 2003.

At the last meeting it adopted the draft legislative resolutions by 39 votes to 4, with 3 abstentions, by 39 votes to 6 with 4 abstentions and by 43 votes to 3 with 4 abstentions respectively.

The following were present for the vote: Luciano Caveri, chairman; Rijk van Dam and Helmuth Markov, vice-chairmen; Dirk Sterckx (for Marieke Sanders-ten Holte, rapporteur); Emmanouil Bakopoulos, Carlos Bautista Ojeda (for Camilo Nogueira Román), Rolf Berend, Philip Charles Bradbourn, Luigi Cocilovo, Gerard Collins, Jean-Maurice Dehousse (for Danielle Darras), Jan Dhaene, Alain Esclopé, Giovanni Claudio Fava, Markus Ferber (for Felipe Camisón Asensio), Jacqueline Foster, Jean-Claude Fruteau (for Garrelt Duin), Mathieu J.H. Grosch, Konstantinos Hatzidakis, Ewa Hedkvist Petersen, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Christine de Veyrac), Karsten Knolle (for Reinhard Rack), Dieter-Lebrecht Koch, Giorgio Lisi, Nelly Maes, Sérgio Marques, Emmanouil Mastorakis, Erik Meijer, Rosa Miguélez Ramos, Enrique Monsonís Domingo, Francesco Musotto, James Nicholson, Wilhelm Ernst Piecyk, Giovanni Pittella (for John Hume), Samuli Pohjamo, José Javier Pomés Ruiz, Carlos Ripoll y Martínez de Bedoya, Agnes Schierhuber (for Dana Rosemary Scallon), Ingo Schmitt, Renate Sommer, Ulrich Stockmann, Margie Sudre, Hannes Swoboda (for Bernard Poignant), Joaquim Vairinhos, Ari Vatanen, Herman Vermeer, Mark Francis Watts and Brigitte Wenzel-Perillo.

The recommendation for second reading was tabled on 16 June 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

1. on the Council common position for adopting a European Parliament and Council regulation on the provision of air navigation services in the Single European Sky ("the service provision Regulation") (15853/2/2002 – C5-0137/2003 – 2001/0235(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (15853/2/2002 – C5-0137/2003),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2001) 564²),
 - having regard to the Commission's amended proposal (COM(2002) 658³),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0225/2003),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ P5-TAPROV(2002)0392.

² OJ C 103 E, 30.4.2002, p. 26.

³ OJ C not yet published.

Amendment 1
Recital 8a (new)

(8a) Arrangements should be proposed to overcome the lack of controllers, through the improvement and harmonisation of the procedures for selection, training, authorisation, rating and licensing and the mutual recognition of licences. The Commission should monitor and, where appropriate, support Member States' recruitment programmes.

Justification

Parliament amendments 4 and 5 from first reading, incorporated into the Commission's amended proposal, but not adopted by the Council, are reintroduced in substance.

Amendment 2
Recital 9

(9) Whilst guaranteeing the continuity of service provision, a common system should be established for certifying air navigation service providers, which constitutes a means for defining the rights and obligations of those providers.

(9) Whilst guaranteeing the continuity of service provision, a common system should be established for certifying air navigation service providers, which constitutes a means for defining the rights and obligations of those providers. ***Authorisations should be granted for a maximum period of ten years.***

Justification

Reinstates Parliament's Amendment 6 from first reading.

Amendment 3
Recital 23a (new)

(23a) In the context of those revenues raised to provide a reasonable return on assets, and in direct correlation with the savings made from efficiency improvements, it should be possible to allow the establishment of a reserve to avoid a sudden increase in charges to airspace users at times of reduced levels of traffic.

Justification

Parliament amendment 10 from first reading, incorporated into the Commission's amended proposal. Not considered by the Council.

Amendment 4
Article 4a (new)

Article 4a

***Licensing and training of controllers
On the basis of a Commission proposal to be agreed by the European Parliament and the Council, arrangements shall be made to overcome the lack of controllers and air traffic management personnel (ATM-personnel) through the improvement and harmonisation at Community level of the procedures for the selection, training, authorisation, rating and licensing of controllers and ATM-personnel, and to establish the mutual recognition of licences.***

Justification

Parliament amendment 16 from first reading, incorporated, in part, into the Commission's amended proposal. This Article was removed by the Council.

Amendment 5
Article 5, seventh indent

- ownership and organisational structure,
- ownership and organisational structure,
including the prevention of conflict of interest,

Justification

Restores Commission wording from Annex III of the amended proposal, not carried over into the common position.

Amendment 6
Article 5, eighth indent

- human resources,
- human resources, ***including adequate staffing plans for all categories of air traffic management personnel,***

Justification

EP amendment 35 from first reading, carried over into the amended proposal, in an amended form (as drafted here), but not covered in the common position.

Amendment 7
Article 5, indent 8a (new)

- ***non-discriminatory access to services from airspace users and the required level of performance of such service, including safety and interoperability levels,***

Justification

Restores Commission wording from Annex III of the amended proposal, not carried over into the common position.

Amendment 8
Article 6, paragraph 3

3. National supervisory authorities shall issue certificates to air navigation service providers where they comply with the common requirements referred to in Article 5. Certificates may be issued individually for each type of air navigation service as defined in Article 2 of the framework Regulation, or for a bundle of such services, including the situation where a provider of air traffic services, whatever its legal status, operates and maintains its own communication, navigation and surveillance systems.

3. National supervisory authorities shall issue certificates to air navigation service providers where they comply with the common requirements referred to in Article 5. Certificates may be issued individually for each type of air navigation service as defined in Article 2 of the framework Regulation, or for a bundle of such services, including the situation where a provider of air traffic services, whatever its legal status, operates and maintains its own communication, navigation and surveillance systems. ***Authorisations for the purpose of providing air navigation services shall be granted for a minimum period of five years and a maximum period of ten years.***

Justification

Reinstates Parliament's Amendment 18 from first reading.

Amendment 9
Article 6, paragraph 4

4. Certificates shall specify the rights and obligations of air navigation service providers. Certification may be subject only

4. Certificates shall specify the rights and obligations of air navigation service providers, ***with particular regard to safety.***

to the conditions set out in Annex II. Such conditions shall be objectively justified, non-discriminatory, proportionate and transparent.

Certification may be subject only to the conditions set out in Annex II. Such conditions shall

(a) be objectively justified, non-discriminatory, proportionate and transparent,

(b) reflect the public interest nature of air navigation services and be harmonised,

(c) be compatible with internationally agreed standards,

(d) enable service providers to work in cooperation,

(e) meet the quality standards required by users.

Justification

Reinstates the wording of the amended Commission proposal (in particular the new point (b)) and Parliament's Amendments 19, 20, and 21 from first reading.

Amendment 10 Article 7, paragraph 4

4. In respect of functional airspace blocks established in accordance with Article 5 of the airspace Regulation that extend across the airspace under the responsibility of more than one Member State, the Member States concerned shall jointly designate one or more air traffic service providers.

4. In respect of functional airspace blocks established in accordance with Article 5 of the airspace Regulation that extend across the airspace under the responsibility of more than one Member State, the Member States concerned shall jointly designate one or more air traffic service providers, ***within one month of the establishment of the airspace block.***

Justification

Resinstates Commission wording from the amended proposal, removed by Council.

Amendment 11
Article 7, paragraph 5

5. Member States shall inform the Commission and other Member States ***without delay*** of any decisions within the framework of this Article regarding the designation of air traffic service providers within specific airspace blocks in respect of the airspace under their responsibility.

5. Member States shall inform the Commission and other Member States ***immediately*** of any decisions within the framework of this Article regarding the designation of air traffic service providers within specific airspace blocks in respect of the airspace under their responsibility.

Justification

Reinstates Commission wording.

Amendment 12
Article 10

Member States shall, within the context of the common transport policy, take the necessary steps to ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements, are established in respect of the management of specific airspace blocks.

1. Member States shall, within the context of the common transport policy, take the necessary steps to ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements, are established in respect of the management of specific airspace blocks.

2. As long as Member States have separate entities to provide air traffic services to civil and military air traffic, they shall keep the Commission informed of the way in which the cooperation between such entities is organised and the actions taken to enhance this cooperation or, where possible, to integrate such entities with one another.

Justification

Commission wording, as amended by Parliament (EP 24 from first reading), removed by

Council.

Amendment 13
Article 12, paragraph 2

2. Access to relevant operational data shall be granted to appropriate authorities, certified air navigation service providers, airspace users and airports on a non-discriminatory basis.

2. Access to relevant operational data shall be granted to appropriate authorities, certified air navigation service providers, airspace users and airports on a non-discriminatory basis. ***The requesting agencies shall bear the costs incurred.***

Justification

Reinstates Parliament's Amendment 26 from first reading.

Amendment 14
Article 14, paragraph 2, (e)

(e) Transparency of the cost-base for charges shall be ***provided***. Implementing rules for the provision of information by the service providers shall be adopted in order to permit reviews of the provider's forecasts, actual costs and revenues. Information shall be regularly exchanged between the national supervisory authorities, service providers, airspace users, the Commission and Eurocontrol.

(e) Transparency of the cost-base for charges shall be ***guaranteed***. Implementing rules for the provision of information by the service providers shall be adopted in order to permit reviews of the provider's forecasts, actual costs and revenues. Information shall be regularly exchanged between the national supervisory authorities, service providers, airspace users, the Commission and Eurocontrol.

Justification

Reinstates Commission wording, amended by Council.

Amendment 15
Article 14, paragraph 3, point (e)

(e) Charges shall ***allow for*** the safe and effective provision of air navigation services ***with a view to a high level of safety and to cost efficiency*** and ***shall stimulate*** integrated service provision. ***To that effect, such charges may be used to provide:***

– ***mechanisms to encourage air navigation service providers and/or airspace users to support improvements in air traffic flow management such as increased capacity and reduction of delays, while maintaining an optimum safety level. The decision as to whether to apply such mechanisms remains within the sole responsibility of each Member State;***

– revenues to benefit 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.

(e) Charges shall ***stimulate*** the safe, ***efficient***, and effective provision of air navigation services ***at the lowest possible cost*** and integrated service provision. ***They may offer incentives in the form of financial advantages and disadvantages for air navigation service providers and/or airspace users. They may also cover*** revenues to benefit projects designed to assist specific categories of users and/or air navigation service providers ***for the purpose of improving*** collective air navigation infrastructures, the provision of air navigation services and the use of airspace. ***Cross-subsidisation of different air navigation services shall be permitted only in exceptional cases and in that event must be clearly identified.***

Justification

Cross-subsidisation can produce considerable distortions of competition: it should therefore be permissible only in justified exceptional cases and in that event must be identified as such.

Amendment 16
Article 18, paragraph 2

2. However, Articles 6 and 7 shall enter into force one year after publication of the common requirements, as referred to in Article 5, in the Official Journal of the European Union.

Deleted.

Justification

New provision introduced by the Council, which delays entry into force of those provisions relating to certification and designation of service providers.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

2. on the Council common position for adopting a European Parliament and Council regulation on the organisation and use of the airspace in the Single European Sky ("the airspace Regulation") (15852/3/2002 – C5-0139/2003 – 2001/0236(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (15852/3/2002 – C5-0139/2003),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2001) 564²),
 - having regard to the Commission's amended proposal (COM(2002) 658³),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0225/2003),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ P5-TAPROV(2002)0393.

² OJ C 103 E, 30.4.2002, p. 35.

³ OJ C not yet published.

Amendment 17
Recital 2

(2) The report of the High Level Group on the Single European Sky in November 2000 has confirmed the need for rules at Community level to design, regulate and manage airspace on a European basis and enhance air traffic flow management.

(2) The report of the High Level Group on the Single European Sky in November 2000 has confirmed the need for rules at Community level to design, regulate and **strategically** manage airspace on a European basis and enhance air traffic flow management.

Justification

Reinstates Commission wording, amended by Council.

Amendment 18
Recital 3

(3) The Communication of the Commission on the creation of the Single European Sky of 30 November 2001 calls for structural reform to permit the creation of the Single European Sky by way of **a more** integrated management of airspace and the development of new concepts and procedures of air traffic management.

(3) The Communication of the Commission on the creation of the Single European Sky of 30 November 2001 calls for structural reform to permit the creation of the Single European Sky by way of integrated management of airspace and the development of new concepts and procedures of air traffic management.

Justification

Reinstates Commission wording, amended by Council.

Amendment 19

Recital 6

(6) Airspace is a resource that needs to be used flexibly by all users, ensuring fairness and transparency whilst taking into account security and defence needs of Member States and their commitments within international organisations.

(6) Airspace is a **common** resource that needs to be used flexibly by all users, ensuring fairness and transparency whilst taking into account security and defence needs of Member States and their commitments within international organisations.

Justification

Reinstates Commission wording, amended by Council.

Amendment 20 Recital 9

(9) A **more integrated operating** airspace should be established for en-route general air traffic in the upper airspace; the interface between upper and lower airspace should be identified accordingly.

(9) A **single** airspace should be established for en-route general air traffic in the upper airspace; the interface between upper and lower airspace should be identified accordingly.

Justification

Reinstates Commission wording, amended by Council.

Amendment 21 Recital 12

(12) The reconfiguration of airspace should be based on operational requirements regardless of existing boundaries.

(12) The reconfiguration of airspace should be based on operational requirements regardless of existing boundaries. ***The plan for creating uniform functional airspace blocks should be drawn up by Eurocontrol***

Justification

Reinstates Parliament's Amendment 37 from first reading.

Amendment 22
Article 1, paragraph 1

1. Within the scope of the framework Regulation, this Regulation concerns the organisation and the use of airspace in the Single European Sky. The objective of this Regulation is to support the concept of a **more integrated** operating airspace within the context of the common transport policy and to establish common procedures for design, planning and management ensuring the efficient and safe performance of air traffic management.

1. Within the scope of the framework Regulation, this Regulation concerns the organisation and the use of airspace in the Single European Sky. The objective of this Regulation is to support the concept of a **single** operating airspace within the context of the common transport policy and to establish common procedures for design, planning and management ensuring the efficient and safe performance of air traffic management.

Justification

Reinstates Commission wording, amended by Council.

Amendment 23
Article 3, paragraph 1

1. The Community and its Member States shall **aim at** the establishment and recognition by the ICAO of a single EUIR. To that effect, for matters which fall within the competence of the Community, the Commission shall submit a recommendation to the Council in accordance with Article 300 of the Treaty.

1. The Community and its Member States shall **achieve** the establishment and recognition by the ICAO of a single EUIR, **within 5 years of the entry into force of this Regulation**. To that effect, for matters which fall within the competence of the Community, the Commission shall submit a recommendation to the Council in accordance with Article 300 of the Treaty.

Justification

Stronger wording, in line with the spirit of the original proposal, incorporating EP amendment 46 from first reading.

Amendment 24
Article 3a (new)

Article 3a
Creation of a European Lower Flight
Information Region

Within five years of the establishment of the EUIR, the European Parliament and the Council, shall, on the basis of a proposal from the Commission, extend the concept referred to in Article 3(1) to include the creation of a European Flight Information Region in the lower airspace.

Justification

Reinstatement of Commission text, as amended by Parliament (EP 48, first reading).

Amendment 25
Article 4, first paragraph

The Commission and the Member States shall ***work towards the progressive harmonisation of*** airspace classification, designed to ensure the seamless provision of air navigation services within the framework of the Single European Sky. This common approach shall be based on a simplified application of airspace classification, as defined within the Eurocontrol airspace strategy for the

The Commission and the Member States shall ***designate the EUIR in accordance with a harmonised*** airspace classification, designed to ensure the seamless provision of air navigation services within the framework of the Single European Sky, ***establishing a single category of environment within which all air traffic is known to providers of air traffic services, both with position and with flight***

European Civil Aviation Conference States
in accordance with ICAO standards.

intentions. This common approach shall
be based on a simplified application of
airspace classification, as defined within
the Eurocontrol airspace strategy for the
European Civil Aviation Conference States
in accordance with ICAO standards.

Justification

*Reinstatement of Commission wording from the first paragraph of Article 6 of the amended
proposal, removed by Council.*

Amendment 26
Article 5, paragraph 5a (new)

***5a. Where disputes arise between two or
more Member States with regard to the
definition of a cross-border functional
airspace block, a final decision shall be
taken in accordance with the procedure
referred to in Article 5(3) of the
framework Regulation, and on the basis
of the criteria referred to in paragraph 2
and the common general principles
referred to in paragraph 3.***

Justification

*EP amendment 51 from first reading, rejected by the Commission, and not considered by the
Council, adjusted to take account of the new comitology procedure proposed by Council.*

Amendment 27
Article 5 a (new)

Article 5a

The structuring, division and categorising

or airspace together with the planning of routes shall rely on a uniform, efficient and effective design process within the agreed concept of operation and shall be developed centrally.

Justification

Central development of the structuring, division and categorising of airspace is indispensable in order to make sure that the airspace design in the Single European Sky is optimised from an overall European perspective and avoids prioritisation of national views.

Amendment 28
Article 6a (new)

Article 6a

*Consistency with the design for lower
airspace*

On the basis of the criteria specified in Article 5(2), as regards the concept of functional airspace blocks, the planning and design of lower airspace shall be harmonised to be consistent with upper airspace in accordance with the procedure referred to in Article 7 of the framework regulation. The concept shall be extended to establish similar blocks in the lower airspace, particularly to address cross-border problems for short to medium flights.

Justification

Reinstatement of Commission wording of Article 9 in the amended proposal, removed by Council.

Amendment 29

Flexible use of airspace

1. Taking into account the organisation of military aspects under their responsibility, Member States shall ensure the uniform application within the Single European Sky of the concept of the flexible use of airspace as described by the ICAO and as developed by Eurocontrol, in order to facilitate airspace management and air traffic management in the context of the common transport policy.
2. Member States shall ***report annually to the Commission on the application, in the context of the common transport policy, of the concept of the flexible use of airspace in respect of the airspace under their responsibility.***
3. ***Where, in particular following the reports submitted by Member States, it becomes necessary to reinforce and harmonise the application of the concept of the flexible use of airspace within the Single European Sky, implementing rules within the context of the common transport policy shall be adopted in accordance with the procedure under Article 7 of the framework Regulation.***

Civil-Military Cooperation

1. Taking into account the organisation of military aspects under their responsibility, Member States shall ensure the uniform application within the Single European Sky of the concept of the flexible use of airspace as described by the ICAO and as developed by Eurocontrol, in order to facilitate airspace management and air traffic management in the context of the common transport policy.
2. Member States shall ***work towards full integration of civil and military airspace and traffic flow management. Civil and military providers of air navigation services shall exchange data under the agreements provided for in Article 9 of Regulation (EC) No .../... [on the provision of air navigation services in the Single European Sky].***
3. ***Subject to the general conditions for air traffic flow management, as defined under Article 9, criteria shall, in accordance with the procedure referred to in Article 7 of the framework regulation, be established:***
 - (a) ***for the use of segregated airspace, including factors for the determination of horizontal and vertical extensions, the location of such airspace, and its subdivision into functional elements to be activated according to demand;***
 - (b) ***for the application of the concept of flexible use of airspace.***
4. ***Member States shall ensure the full integration of air defence in airspace management in order to allow full exploitation of airspace under certain agreed conditions and arrangements, taking into account national security***

requirements.

5. Without prejudice to international agreements and conventions to which the Community is a contracting party and in order to ensure the safety of civil aviation, Member States may require submission of a flight plan for any military flight entering the airspace where they have designated air traffic services providers in accordance with Article 7 of Regulation (EC) No .../... [on the provision of air navigation services in the Single European Sky], regardless of the origin and/or the destination of the flight.

Justification

Reinstatement of Commission wording of this Article, as amended by the Parliament (EP 57, 58, and 59 from first reading), adapted to the structural changes introduced by Council.

Amendment 30
Article 8, paragraph 1a (new)

1a. Pursuant to Article 10 of Regulation (EC) No .../... [laying down the framework for the creation of the Single European Sky], Member States shall submit to the Commission the necessary information on the demand and actual use of airspace prohibited, closed, or restricted for military reasons, for further analysis and publication.

Justification

Reinstatement of Commission text, removed by the Council, adapted to the structural changes introduced by Council.

Amendment 31
Article 10

Review

Deleted.

In the context of the periodical review referred to in Article 10(2) of the framework Regulation, the Commission shall finalise a prospective study on the conditions for future application of the concepts referred to in Articles 3, 5 and 6 to lower airspace.

On the basis of the study's conclusions and in the light of the progress achieved, the Commission shall submit by 31 December 2006 a report to the European Parliament and the Council accompanied, if appropriate, by a proposal to extend the application of these concepts to lower airspace, or to determine any other steps.

Justification

New provision introduced by Council. Connected to amendment 12.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

3. on the Council common position for adopting a European Parliament and Council regulation on the interoperability of the European Air Traffic Management network ("the interoperability Regulation") (15854/3/2002 – C5-0140/2003 – 2001/0237(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (15854/3/2002 – C5-0140/2003),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2001) 564²),
 - having regard to the Commission's amended proposal (COM(2002) 658³),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0225/2003),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ P5-TAPROV(2002)0394.

² OJ C 103 E, 30.4.2002, p. 41.

³ OJ C not yet published.

Amendment 32
Article 10, footnotes

* *1½ years after* the date of entry into force of this Regulation.
** *8½ years* after the date of entry into force of this Regulation.

* the date of entry into force of this Regulation.
** *4 years* after the date of entry into force of this Regulation.

Justification

Reinstates (with some technical adjustments) the original timetable proposed by the Commission for compliance of new and existing systems and constituents with essential requirements. The Council has already introduced an exemption clause for systems ordered before the entry into force of the regulation or relevant implementing rules (see the new paragraph 3 of Article 10). There is no justification to delay the timetable for compliance of other systems and constituents with the essential requirements.

EXPLANATORY STATEMENT

Introduction

Your rapporteur believes that the Council's common position on the three "technical" regulations voids the original proposal of much of its substantial content and goes well beyond adjusting the architecture of the package of proposals or technical improvements. Her general approach is to reinstate the Parliament's position.

Airspace regulation

Your rapporteur believes that the Council has undermined the spirit of the Commission's initial proposal. She therefore proposes to re-establish the spirit of the original draft, establishing the basic objective of the regulation as being to create a single airspace, which is considered as a common resource, and is the subject of strategic and fully integrated management.

With regard to the establishment and recognition by the ICAO of a single European Upper Flight Information Region (EUIR). Your rapporteur therefore proposes to reinstate the Parliament's first reading position which includes a deadline of 5 years after the establishment of a single EUIR for the upper airspace to extend this concept to the lower airspace.

Parliament had proposed a dispute resolution mechanism in respect of the definition of cross-border functional blocks of airspace. This proposal has been ignored by the Council. In this context, your rapporteur remains doubtful whether reconfiguration of the airspace into functional blocks will be achieved without a dispute resolution mechanism. She therefore proposes to reintroduce a revised form of Parliament's first reading amendment, which takes account of the structural changes introduced by the Council.

The Commission's original proposals on integration of civil and military airspace management, which your rapporteur considers to be fundamental to the success of the Single Sky, and which the Parliament further strengthened at first reading, have been completely re-drafted and significantly weakened by the Council. She would propose to reintroduce the Commission text, as strengthened by Parliament.

Service provision regulation

Council has removed the original Article 6 of the draft regulation, which made a clear commitment to develop legislation to overcome the lack of controllers and air traffic management personnel. Your rapporteur believes that it is a fundamental element of the successful implementation of the Single Sky. She therefore proposes to reintroduce the Commission's original text, as amended by Parliament.

Council has introduced new provisions on "common requirements" for the provision of air navigation services, with a view to making the text clearer. Your rapporteur is concerned that in the process of re-drafting, important provisions relating to the prevention of conflict of interest; and non-discriminatory access to services for airspace users; have been removed. Furthermore, Parliament's demand that adequate staffing plans should also be a factor has not been taken on board by the Council. The proposed text re-introduces these elements to the

common position.

Your rapporteur proposes to revert to the Parliament's first reading position on the matter of the process of certification of service providers, paying particular attention to safety and internationally agreed standards.

Council has removed the deadline of one month after designation of a cross-border functional airspace block for the designation of the service provider responsible for that block. Your rapporteur remains doubtful as to whether the reconfiguration of the European airspace into optimal airspace blocks will be achieved, without a clear timetable.

The original text contained a requirement that, as long as Member States have separate entities to provide air traffic services to civil and military traffic, they should keep the Commission informed of efforts made to ensure proper cooperation between such organisations. As with the airspace regulation, your rapporteur considers this to be another example of how the commitment to integration of civil and military airspace management has been fundamentally undermined by the Council.

Transparency of the cost-base for charges is a fundamental element of improving efficiency. Council has weakened the Commission's original text on the transparency of the cost base for charges and your rapporteur would propose to revert to the original wording.

Council has delayed the entry into force of those provisions of the regulation which relate to the certification and designation of service providers by one year. Your rapporteur believes that this delay is unnecessary, given that Member State governments should be in a position already to anticipate and prepare the necessary resources and infrastructure to comply with these elements of the proposal from the outset.

Interoperability regulation

Whereas the Commission had foreseen 1 January 2003 as a deadline for compliance of new systems and constituents with the essential requirements, Council has set a deadline of 1 and a half years after the entry into force of the interoperability regulation. Whereas the Commission had foreseen a deadline of 1 January 2009 for compliance of existing systems and constituents with the essential requirements, Council has introduced a deadline of 8 and a half years after the entry into force of the regulation, which on the most optimistic reckoning, would mean 2012. On top of this, the Council has introduced a special exemption clause for systems ordered before the entry into force of the regulation, or of the relevant implementing rules. With this safeguard in place for existing investments by service providers, your rapporteur cannot see the justification for delaying the deadline for compliance with the essential requirements, and would propose to revert to the original timetable proposed by the Commission.