

## P6\_TA(2006)0484

### Joint Undertaking for the European air traffic management system (SESAR)

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European Parliament legislative resolution on the proposal for a Council regulation on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) (COM(2005)0602 – C6-0002/2006 – 2005/0235(CNS))

#### (Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2005)0602)<sup>1</sup>,
  - having regard to Article 171 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0002/2006),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Rules 51 and 35 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on Transport and Tourism (A6-0382/2006),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

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Amendments by Parliament

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#### Amendment 1 Citation 1

- Having regard to the Treaty establishing the European Community, and in particular

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<sup>1</sup> Not yet published in OJ.

*Article 171* thereof,

*Articles 171 and 173* thereof,

Amendment 2  
Recital 2

(2) The project to modernise air traffic management in Europe, hereinafter called the "SESAR project", is the technological element of the single European sky. It aims to give the Community high-performance air traffic control infrastructure which will enable the safe and environmentally friendly development of air transport, benefiting fully from the technological advances of programmes such as Galileo.

(2) The project to modernise air traffic management in Europe, hereinafter called the "SESAR project", is the technological element of the single European sky. It aims to give the Community high-performance air traffic control infrastructure which will enable the safe, ***energy efficient*** and environmentally friendly development of air transport, benefiting fully from the technological advances of programmes such as Galileo. ***It also aims to integrate both aircraft speed management, for reasons of energy efficiency, and intensive cooperation with weather forecasting services, so as to reduce the climate change impact of aviation.***

Amendment 3  
Recital 3

(3) The SESAR project aims to integrate and coordinate activities which were previously undertaken in a dispersed and uncoordinated manner in the Community.

(3) The SESAR project aims to integrate and coordinate activities which were previously undertaken in a dispersed and uncoordinated manner in the Community, ***including the most remote and outlying regions thereof, referred to in Article 299(2) of the Treaty.***

Amendment 4  
Recital 6

(6) The definition phase will be followed by ***a phase to implement the plan to modernise air traffic management in the Community, which will consist of*** two successive ***steps***: development (2008-2013) and deployment (2014-2020).

(6) The definition phase will be followed by two successive ***phases***: ***a*** development ***phase*** (2008-2013) and ***a*** deployment ***phase*** (2014-2020).

Amendment 5  
Recital 6 a (new)

***(6a) Each phase should lay down the main elements of its content and for the deployment phase the legal provisions***

*should be stated in a separate proposal.*

Amendment 8

Recital 12

(12) Taking into account the number of players who will need to be involved in this process, and the financial resources and technical expertise needed, it is vital to set up a legal entity capable of ensuring the coordinated management of the funds assigned to the SESAR project during its **implementation** phase.

(12) Taking into account the number of players who will need to be involved in this process, and the financial resources and technical expertise needed, it is vital to set up a legal entity capable of ensuring the coordinated management of the funds assigned to the SESAR project during its **development** phase.

Amendment 9

Recital 13

(13) This entity, **which is** responsible for managing a public research programme of European interest, **must be considered as an international organisation** within the meaning of the second indent of Article 15(10) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment, and the second indent of Article 23(1) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products.

(13) This entity **will be** responsible for managing a public research programme of European interest within the meaning of the second indent of Article 15(10) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment, and the second indent of Article 23(1) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products.

Amendment 10

Recital 14

(14) This entity should also be exempt from taxation by the Member States as regards taxes other than VAT and excise duty, and salaries paid to its staff should be **exempt from any national income tax**.

(14) This entity should also be exempt from taxation by the Member States as regards taxes other than VAT and excise duty, and salaries paid to its staff should be **in line with the conditions of employment of other servants of the European Communities**.

Amendment 11

Recital 15

(15) SESAR is a research and development project which justifies funding from the Community research and development framework programmes. It is therefore necessary to set up a Joint Undertaking under **Article 171** of the Treaty in order to enable considerable progress to be made in the development of technologies relating to air traffic control systems during the development phase (2008-2013) *phases*.

(15) SESAR is a research and development project which justifies funding from the Community research and development framework programmes. It is therefore necessary to set up a Joint Undertaking under **Articles 171 and 173** of the Treaty in order to enable considerable progress to be made in the development of technologies relating to air traffic control systems during the development phase (2008-2013).

Amendment 12  
Recital 17

(17) The main task of the Joint Undertaking must be to organise and coordinate the SESAR project by combining public and private sector funding and using external technical resources, provided by its members, and in particular Eurocontrol's experience.

(17) The main task of the Joint Undertaking must be to organise and coordinate the SESAR project by combining public and private sector funding and using external technical resources, provided by its members, and in particular Eurocontrol's experience ***and expertise***.

Amendment 13  
Recital 17a (new)

***(17a) It is desirable for the private sector to be appropriately involved in all phases, especially in the development phase, so as to ensure the liability of private-sector participants during the deployment phase.***

Amendment 14  
Recital 20

(20) The rules for the organisation and operation of the Joint Undertaking should be laid down by drawing up the statutes of the Joint Undertaking.

(20) The rules for the organisation and operation of the Joint Undertaking ***and for the avoidance of conflicts of interests within the Joint Undertaking and the procedure for the appointment of its officials*** should be laid down by drawing up the statutes of the Joint Undertaking ***as set out in the Annex***.

Amendment 15  
Recital 20 a (new)

***(20a) The European Parliament should be granted observer status on the***

***administrative board of the Joint Undertaking.***

Amendment 16  
Recital 20 b (new)

***(20b) Applications for the accession to the Joint Undertaking of new members should be welcomed, subject to the provisions of Article 1(3) of the Annex.***

Amendment 17  
Recital 22 a (new)

***(22a) The Commission should report to the European Parliament and the Council every three years on the application of this Regulation and, if appropriate, should propose amendment of it.***

Amendment 18  
Article 1, paragraph 1

***1. In order to carry out the development activities of the implementation phase of the project to modernise air traffic management in Europe, hereinafter referred to as the “SESAR project”, a Joint Undertaking is hereby established, known as “SESAR Joint Undertaking” for a period ending on 31 December 2013.***

***1. A Joint Undertaking (hereinafter referred to as “the Joint Undertaking”) is hereby established. Its primary objective shall be to manage the activities of the development phase of the project to modernise air traffic management in Europe, hereinafter referred to as the “SESAR project”, for a period starting on the date on which the Council endorses the Air Traffic Management Master Plan (hereinafter “the ATM Master Plan”) referred to in point (a) of paragraph 1a below, and ending at the end of the development phase.***

Amendment 19  
Article 1, paragraph 1 a (new)

***1a. The SESAR project shall consist of three phases:***  
***(a) a “definition phase” which aims to define the technical options and steps to be taken and the priorities in the modernisation programme as well as the***

*operational implementation plans. It began in October 2005 and is expected to finish in December 2007, resulting in an ATM Master Plan. The ATM Master Plan is to be developed by a consortium of undertakings under the supervision of the Eurocontrol;*

*(b) a “development phase” which will start on 1 January 2008, once the Council has endorsed the ATM Master Plan, acting on a proposal from the Commission and after consulting the European Parliament. The development phase will end on 31 December 2013;*

*(c) a “deployment phase” which will start on 1 January 2014 and end on 31 December 2020 and will comprise large-scale production and implementation of the new air traffic management infrastructure. The Commission shall submit a proposal to the European Parliament and the Council, defining:*

*(i) the transition from the development phase to the deployment phase,*

*(ii) the reimbursement mechanisms which shall apply to any body succeeding the Joint Undertaking, and*

*(iii) the transfer of selected tangible and intangible assets to the new body succeeding the Joint Undertaking.*

Amendment 20

Article 1, paragraph 1 b (new)

*1b. The scope, governance, funding and duration of the Joint Undertaking shall, where appropriate, be reviewed by the Council, in accordance with the development of the project and the ATM Master Plan. The Council shall take into account the assessment referred to in Article 6 and the provisions of Article 6a.*

Amendment 21

Article 1, paragraph 2, introductory part

2. The aim of the Joint Undertaking shall be to ensure the modernisation of the European air traffic management system by ***federating*** research and development ***efforts in the Community***. It shall be responsible in particular for carrying out the following tasks:

2. The aim of the Joint Undertaking shall be to ensure the modernisation of the European air traffic management system by ***coordinating and concentrating all relevant*** research and development. It shall be responsible in particular for carrying out the following tasks:

#### Amendment 22

Article 1, paragraph 2, indent 1

- organising and coordinating the ***implementation*** of the SESAR project, in accordance with ***the plan to modernise air traffic management in Europe, hereinafter referred to as “the plan”, drawn up*** by Eurocontrol, by combining public and private sector funding;

- organising and coordinating the ***activities of the development phase*** of the SESAR project, in accordance with ***the ATM Master Plan resulting from the definition phase of the project managed by Eurocontrol, by combining and managing under a single structure*** public and private sector funding;

#### Amendment 23

Article 1, paragraph 2, indent 2 a (new)

***- ensuring the necessary funding for the activities of the development phase in accordance with the ATM Master Plan;***

#### Amendment 24

Article 1, paragraph 2, indent 2 b (new)

***- ensuring the involvement of the stakeholders in air traffic management in Europe, in both decision-making and funding;***

#### Amendment 25

Article 1, paragraph 3

3. The seat of the Joint Undertaking shall be ***located in Brussels***.

3. The seat of the Joint Undertaking shall be ***established in accordance with Council Regulation (EC) No58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes<sup>1</sup>***.

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Amendment 26  
Article 2, paragraph 2

**2. The Joint Undertaking shall be recognised as an international organisation within the meaning of the second indent of Article 15(10) of Directive 77/388/EEC and the second indent of Article 23(1) of Directive 92/12/EEC.** *deleted*

Amendment 27  
Article 2, paragraph 3

3. The Joint Undertaking shall be exempt from taxation by the Member States as regards taxes other than VAT and excise duty. In particular, it shall be exempt from the payment of registration fees and corporate or similar taxes. Salaries paid to staff of the Joint Undertaking **shall be exempt from any national income tax.**

3. The Joint Undertaking shall be exempt from taxation by the Member States as regards taxes other than VAT and excise duty. In particular, it shall be exempt from the payment of registration fees and corporate or similar taxes. Salaries **shall be paid to staff of the Joint Undertaking pursuant to the conditions of employment of other servants of the European Communities.**

Amendment 28  
Article 3, paragraph 1

1. The statutes of the Joint Undertaking, as set out in the Annex hereto, are hereby adopted.

1. The statutes of the Joint Undertaking, as set out in the Annex hereto, **which constitute an integral part of this Regulation,** are hereby adopted.

Amendment 29  
Article 3, paragraph 2

2. The statutes may be modified in accordance *to* the procedure referred to in **paragraph 2 of Article 5, and in particular Articles 3, 4, 5, 6 and 8 thereof.**

2. The statutes may be modified in accordance *with* the procedure referred to in **Article 6a.**

Amendments 63 and 61  
Article 4, paragraph 1, points (a) and (b)

(a) contributions from its members in

(a) contributions from its members in accordance with **Articles 1, 3 and 11** of its



accordance with **Article 1** of its statutes and  
(b) a possible levy on the air navigation charges within the meaning of the second indent of Article 15(3)(e) of Regulation (EC) No 550/2004. The Commission shall **define, in accordance to the procedure referred to in paragraph 4 of Article 15 of Regulation (EC) No 550/2004**, the procedures for collecting and using **the** this levy.

statutes and  
(b) a possible levy on the air navigation charges within the meaning of the second indent of Article 15(3)(e) of Regulation (EC) No 550/2004. The Commission shall **submit a proposal to the European Parliament and the Council defining** the procedures for collecting and using this levy.

Amendment 32  
Article 4, paragraph 3

3. All Community financial contributions to the Joint Undertaking shall cease upon expiry of *the period mentioned in Article 1.*

3. All Community financial contributions to the Joint Undertaking shall cease upon expiry of *the development phase, unless otherwise decided by the European Parliament and the Council on the basis of a Commission proposal.*

Amendment 34  
Article 5, paragraph 2 a (new)

**2a. The Commission's position in relation to decisions within the Administrative Board concerning technical adjustments to the ATM Master Plan shall be adopted in accordance with the procedure referred to in Article 3 of Decision 1999/468/EC.**

Amendment 35  
Article 5 a (new)

**Article 5a**  
**Accession of new members**  
**The Commission shall report to the European Parliament and the Council on the accession of new members of the Joint Undertaking. The accession of new members, including members from third countries, shall be subject to the approval of the European Parliament and of the Council.**

Amendment 36  
Article 6

*Every three years* from the start of the activities of the Joint Undertaking and upon expiry of the term of the Joint Undertaking, the Commission shall carry out assessments on the implementation of this Regulation, the results obtained by the Joint Undertaking and its working methods.

*Pursuant to Article 173 of the Treaty*, from the start of the activities of the Joint Undertaking and upon expiry of the term of the Joint Undertaking, the Commission shall carry out assessments on the implementation of this Regulation, the results obtained by the Joint Undertaking and its working methods. ***The Commission shall submit to the European Parliament and the Council reports on the results of these assessments and on the conclusions to be drawn therefrom.***

Amendment 37  
Article 6 a (new)

***Article 6a***

***Review***

***If the Commission considers it necessary or if either the European Parliament or the Council requests, under the comitology procedure, the revision of this Regulation or of the statutes of the Joint Undertaking, the Commission shall submit the appropriate legal proposal in accordance with the procedure laid down by the Treaty.***

Amendment 38  
Annex, Article 1, paragraph 2, indent 3

- any other public or private undertaking or body.

- any other public or private undertaking or body ***that has concluded at least one agreement with the Community in the field of air transport.***

Amendment 39  
Annex, Article 1, paragraph 3, subparagraph 2

The Administrative Board shall ***decide*** whether to accept or reject the request. If the request is accepted, the Executive Director shall negotiate the conditions of accession and submit them to the Administrative Board. These conditions may include, in particular, provisions relating to the financial contributions and

The Administrative Board shall ***advise the Commission*** whether to accept or reject the request ***and the Commission, pursuant to the procedure set out in Article 5a, shall make a proposal to that effect.*** If the request is accepted, the Executive Director shall negotiate the conditions of accession and submit them to the Administrative

representation within the Administrative Board.

Board. These conditions may include, in particular, provisions relating to the financial contributions and representation within the Administrative Board.

Amendment 40

Annex, Article 1, paragraph 3 a (new)

***3a. In proposing whether to authorise negotiations on accession with a public or private undertaking or body, given the agreement referred to in the third indent of Article 1 (2) of the Annex, the Administrative Board shall take particular account of the following criteria:***

- documented knowledge and experience with air traffic management and/or with the manufacture of equipment and/or the provision of services for air traffic management;***
- the contribution that the undertaking or body can be expected to give to the execution of the ATM Master Plan;***
- the financial security of the undertaking or body;***
- any potential conflict of interests.***

Amendment 41

Annex, Article 3, paragraph 1, point (a a) (new)

***(aa) a representative of the military;***

Amendment 42

Annex, Article 3, paragraph 2

***2. The representatives referred to in points (b), (c), (d), (e) and (f) of paragraph 1 are designated by the Industry Consultation Body, set up in accordance with Article 6 of Regulation (EC) No 549/2004.***

***2. The European Parliament shall have observer status on the Administrative Board.***

Amendment 43

Annex, Article 3, paragraph 2 a (new)

***2a. The Administrative Board shall be chaired by the Commission.***

Amendment 44  
Annex, Article 4, paragraph 1

1. *The* representatives referred to in *points (a) and (b)* of Article 3(1) shall have *the right to vote*.

1. *All* representatives referred to in Article 3(1) shall have *a weighted vote in proportion to their contribution to the funds of the Joint Undertaking and subject to the provisions of paragraph 2*.

Amendment 46  
Annex, Article 4, paragraph 5

5. *Any decision relating to the accession of new members - within the meaning of paragraph 2 of Article 1 - the appointment of the Executive Director and the dissolution of the Joint Undertaking shall require the positive opinion of the Community's representative on the Administrative Board.*

*deleted*

Amendment 47  
Annex, Article 4, paragraph 5 a (new)

*5a. Decisions concerning the adoption of the ATM Master Plan and any relevant amendments to it shall require the favourable vote of all the founder members. Notwithstanding the provisions of paragraph 1, such decisions may not be taken where the representatives referred to in Article 3(1) (c) to (f) unanimously express disagreement.*

Amendment 48  
Annex, Article 4, paragraph 5 b (new)

*5b. The ATM Master Plan shall be communicated and forwarded to the European Parliament.*

Amendment 49  
Annex, Article 5, paragraph 1, point (b)

(b) *deciding on* the accession of new members;

(b) *proposing* accession of new members;

Amendment 50  
Annex, Article 5, paragraph 1, point (c)

(c) appointing the Executive Director and approving the organisation chart;

(c) appointing the Executive Director, *subject to the procedure laid down in Article 6(1) and (2) of the Annex*, and approving the organisation chart;

Amendment 51  
Annex, Article 5 a (new)

*Article 5 a*

*Avoidance of conflicts of interests*

*1. Members of the Joint Undertaking or of the Administrative Board and staff of the Joint Undertaking shall not participate in the preparation of calls for public tender or the evaluation or awarding of contracts if they own or have partnership agreements with bodies that are potential candidates for calls for public tender or represent such bodies.*

*2. Members of the Joint Undertaking and participants in the Administrative Board must disclose any direct or indirect personal or corporate interest in the outcome of the deliberations of the Administrative Board in relation to any matter on the agenda. This requirement also applies to the staff of the Joint Undertaking in relation to the tasks which are assigned to them.*

*3. On the basis of any disclosures as mentioned in paragraph 2, the Administrative Board may decide to exclude members, participants or staff from making decisions or undertaking tasks where a conflict of interests is likely to arise. Excluded members, participants and staff shall have no access to information relating to matters where there is a potential conflict of interests.*

Amendment 52  
Annex, Article 6, paragraph 1

1. The Executive Director shall be *responsible for the day-to-day management*

1. The Executive Director shall be appointed by the Administrative Board on *merit and*

*of the Joint Undertaking and is its legal representative. He shall be appointed by the Administrative Board on a proposal from the European Commission. He shall perform his duties with complete independence.*

*on the basis of documented administrative and managerial skills, as well as relevant competence and experience, from a list of at least three candidates proposed by the Commission and Eurocontrol, based on the result of the public recruitment competition and after hearing the opinion of the representative appointed by the European Parliament. The Administrative Board shall take its decision by a majority of three-quarters of its members.*

Amendment 53

Annex, Article 6, paragraph 1 a (new)

*1a. The term of office of the Executive Director shall be five years. On a proposal from the Commission, after hearing the opinion of the representative appointed by the European Parliament and after an evaluation, it may be extended once for a period of no more than three years.*

Amendment 54

Annex, Article 8, introductory part

In order to carry out the tasks defined in Article 1 of the present Regulation, the Joint Undertaking shall conclude *an agreement* with *Eurocontrol by which*:

*1. In order to carry out the tasks defined in Article 1 of the present Regulation, the Joint Undertaking shall conclude specific agreements with its members.*

*1a. Eurocontrol's role and contribution shall be defined in an agreement with the Joint Undertaking. This agreement shall:*

Amendment 55

Annex, Article 8, points (a) and (b)

(a) *Eurocontrol shares* the results of the definition phase *with* the Joint Undertaking;

(a) *establish the modalities of the transfer and the use of* the results of the definition phase *to* the Joint Undertaking;

(b) *Eurocontrol is given responsibility for the following tasks, which result from implementing "the plan", as well as the management of the relevant funds:*

(b) *describe Eurocontrol's tasks and responsibilities in the implementation of the ATM Master Plan, such as:*

Amendment 56

Annex, Article 11, paragraph 3, subparagraph 1

3. The members referred to in the second and third indents of Article 1(2) shall undertake to pay a minimum initial contribution of EUR 10 million within a period of one year from when their accession to the Joint Undertaking is accepted. ***This amount shall be reduced to EUR five million for members that subscribe to the Joint Undertaking within 12 months of its constitution.***

3. The members referred to in the second and third indents of Article 1(2) shall undertake to pay a minimum initial contribution of EUR 10 million within a period of one year from when their accession to the Joint Undertaking is accepted.

#### Amendment 57

##### Annex, Article 11, paragraph 3, subparagraph 2

In the case of undertakings, subscribing individually or collectively, which may be regarded as small or medium-sized enterprises within the meaning of the Commission recommendation of 6 May 2003 concerning the definition of small and medium-sized enterprises, this amount shall be reduced to EUR 250 000 regardless of when they become members.

In the case of undertakings, subscribing individually or collectively, which may be regarded as small or medium-sized enterprises within the meaning of the Commission recommendation of 6 May 2003 concerning the definition of small and medium-sized enterprises, this amount shall be reduced to EUR 250 000 regardless of when they become members. ***Founder members shall have the option of staggering this payment over several instalments, over a period to be agreed by the parties concerned.***

#### Amendment 58

##### Annex, Article 11, paragraph 5

5. Contributions in kind are *possible*. They shall be subject to an evaluation of their value and their utility for carrying out the tasks of the Joint Undertaking.

5. Contributions in kind are *permissible and shall be set out in the agreements referred to in Article 8 of this Annex*. They shall be subject to an evaluation of their value and their utility for carrying out the tasks of the Joint Undertaking.

#### Amendment 59

##### Annex, Article 17

The Joint Undertaking shall own all the tangible and intangible assets created or transferred to it for the ***implementation*** phase of the SESAR project.

The Joint Undertaking shall own all the tangible and intangible assets created ***by it*** or transferred to it for the ***development*** phase of the SESAR project ***in accordance with the membership agreements it concluded. The Joint Undertaking may grant access rights to the knowledge***

*resulting from the project, in particular to its members but also to the Member States of the European Union and/or Eurocontrol for their own, non commercial purposes.*