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REPORT

From : General Secretariat of the Council

To : COREPER

No. prev. doc. : 7273/09 AVIATION 38 CODEC 313
7276/09 AVIATION 39 CODEC 314

No. Cion prop. : 11323/08 AVIATION 138 CODEC 906
11285/08 AVIATION 137 CODEC 900

Subject : **Single Sky package**

- (a) Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the **European aviation system (LA) (First reading)**
 - (b) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of **aerodromes, air traffic management and air navigation services** and repealing Council Directive 06/23/EEC (LA) **(First reading)**
 - Presidency briefing on the outcome of the informal triologue
 - Analysis of the new compromise text
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I. Introduction

Following the discussion in Coreper on 11 March on the Single European Sky proposals (7273/09, 7276/09) the Presidency held an informal triologue with the EP rapporteurs on 12 March.

At that meeting, the EP indicated that it could accept the compromise texts tabled by the Presidency regarding the outstanding issues with the exception of the issues set out below. In addition, the EP made a request for several other changes to the texts. Coreper is asked to indicate where it can approve these changes as described below, with a view to finalising the agreement with the EP on these two dossiers.

II. Main outstanding issues to be examined by Coreper

A. Single European Sky

There are several remaining issues which require examination by Coreper. These are described in detail below. Modifications in relation to documents 7273/09 and 7276/09 are indicated in **bold** and in ~~strike through~~.

Recital 13a (consultation requirement for establishment of functional airspace blocks)

The EP believes that it would not be possible for a functional airspace block to be set up solely in the territory of one Member State (although it might be possible between a single Member State and one or more third countries). Therefore the wording of recital 13a of the technical text (16455/08) should be modified as follows:

(13a) When ~~one or more~~ Member States establish a functional airspace block, other Member States, the Commission and other interested parties have an opportunity to submit their observations with the aim of facilitating an exchange of views. These observations should only be advisory in nature for the Member State(s) concerned.'

In the same connection, the EP would like to make a similar change in Article 9a(3). The text, including the compromise already agreed relating to EP amendment 42, would read as follows:

3. *A functional airspace block shall only be established by mutual agreement between all the Member States **and, where appropriate, third countries** who have responsibility for any part of the airspace included in the functional airspace block, ~~or by a declaration of one Member State if the airspace included in the block is wholly under its responsibility.~~ Before notifying the Commission of the establishment of a functional airspace block, the Member State(s) concerned shall provide the Commission, the other Member States and other interested parties with adequate information and give them an opportunity to submit their observations.'*

Procedure for adoption of national/functional airspace block performance targets and corrective measures (Article 11 (paragraph 3(c) Regulation 549/2004)

The EP could agree to the text as set out in 7273/09 with the exception of the last sentence, which it would prefer to delete, as follows:

- '(c) *The consistency of the national or functional airspace block targets with the Community-wide performance targets shall be assessed by the Commission using the assessment criteria referred to in paragraph 6(d).*

In the event the Commission identifies that one or more national or functional airspace block targets do not meet the assessment criteria, it may decide, in accordance with the procedure referred to in article 5(2), to issue a recommendation that the NSA(s) concerned propose revised performance target(s). The Member State(s) concerned shall adopt revised performance targets and appropriate measures which shall be notified to the Commission in due time.

Alternatively, the Commission may decide, with adequate supporting evidence, to revise the Community-wide performance targets in accordance with the procedure referred to in Article 5(3).

Where the Commission finds that the revised performance targets and appropriate measures are not adequate, it may decide, in accordance with the procedure referred to in Article 5(3), that the concerned Member States shall take corrective measures. ~~Such corrective measures shall be notified to the Commission.~~

Reference period for the performance scheme (Article 11 (paragraph 3(d) Regulation 549/2004)

The EP could agree to the text as set out in 7273/09. However, in order to avoid any confusion between the measures that Member States should take during the reference period in order to ensure that their performance targets are met, and the corrective measures referred to in paragraph (c) (which relate to adoption of the targets), the Presidency suggested the following change, to which the EP indicated it could agree:

*'(d) The reference period for the performance scheme shall cover a minimum of three years and a maximum of five years. During this period, in case the national or functional airspace block targets are not met, the Member States and/or the national supervisory authorities shall apply the ~~corrective~~ **appropriate** measures they have defined. The first reference period shall cover the first three years following the adoption of the implementing rules referred to in paragraph 6.'*

Study on market principles and the provision of various aeronautical services (Article 18a Regulation 550/2004)

The EP could agree to the text as set out in 7273/09 with the exception of the timing of the delivery of the study, which it would prefer to set at three years, as follows:

*'The Commission shall submit a study to the European Parliament and the Council not later than ~~three~~ **four** years following the entry into force of this Regulation evaluating the legal, safety, industrial, economic and social impacts of the application of market principles to the provision of communication, navigation, surveillance and aeronautical information services, compared to existing or alternative organisational principles and taking into account developments in the functional airspace blocks and in available technology.'*

B. EASA

EP Amendment 18 (Stakeholders' Advisory Group)

As a compromise solution to the above amendment and in order to ensure that the EASA Agency undertakes appropriate consultation with all relevant stakeholders, the EP suggests the following new recital:

‘When elaborating safety rules, the Agency should ensure involvement of all interested parties. Rulemaking opinions should be based on a full scale consultation of all stakeholders, including the smaller industry, as well as on a proper assessment of their potential impact in the applicable fields. As provided for in the Regulation, the advisory body of interested parties should be consulted by the Agency prior to making decisions.’

Article 8c(7) (Air Traffic Controllers):

The EP could agree to the text as set out in 7276/09, however, in order to align it with the wording of the first sentence of paragraph 7 and with the last sentence of paragraph 8 of the same article, the word ‘*approvals*’ is suggested to be replaced by ‘*certificate*’. The text should read as follows:

*‘7. A certificate shall be issued to training organisations, aero medical examiners and aero medical centres for air traffic controllers that have demonstrated that they comply with the rules established to ensure compliance with the relevant essential requirements as laid down in Annex Vb. The privileges granted by the ~~approvals~~ **certificate** shall be specified therein.’*

III. Information on the state of play

In order to provide sufficient time for the preparation of the vote in the plenary (26 March 2009), Coreper should decide at this meeting whether or not it could agree to these final modifications to the texts.

IV. Task for Coreper

Coreper is invited to indicate whether it can approve the modified compromise texts described above. On the basis of this approval, the Chair of Coreper will write to the Chair of the EP's TRAN Committee to confirm that, should the Parliament adopt the amendments to the Commission proposal agreed during the trialogues, the Council would approve the amendments of the European Parliament, permitting the acts in question to be deemed to have been adopted in the form of the Commission proposal as amended.
