

4.5. It also provides for exemption of small manufacturers (see point 3.3). It is understandable and proper for the Commission to concern itself with the effects on SMEs. However, it is necessary to avoid this exemption being used to reduce the effectiveness of the standard laid down in the proposed directive.

4.6. The ESC favours this solution, which forms part of the broader approach of support for small and medium European enterprises, and suggests that for those who produce only slightly more than 2 000 units per year the public bodies responsible for type-approval checks could make available the technical type-approval equipment (dynamometer bench) at a reasonable cost.

Brussels, 20 March 2002.

## 5. Conclusions

5.1. For the reasons set out above, the Committee, while endorsing the application of this provision to the first sub-category, would ask the Commission to provide further justification for the application of the draft directive's provisions to vehicles in the second and third sub-categories; it seems more realistic for such vehicles to be excluded from its scope. It would also seem desirable to extend the deadlines for new type-approvals as well from 1 July 2003 to 1 October 2005. That would enable the present draft directive to come into force at the same time as the more restrictive emission standards known as EURO 4.

*The President*

*of the Economic and Social Committee*

Göke FRERICHS

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### **Opinion of the Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports'**

(COM(2001) 335 final — 2001/0140 (COD))

(2002/C 125/03)

On 12 July 2001 the Council decided to consult the Economic and Social Committee, under Article 80 (2) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 February 2002. The rapporteur was Mr Tosh.

At its 389th Plenary Session of 20 and 21 March 2002 (meeting of 20 March) the Committee adopted the following opinion unanimously.

## 1. Introduction

1.1. This proposal attempts to re-focus upon the management of slots and in conjunction with that to reflect ATC, airports operation and capacity issues alongside current environmental objectives, to impart fair and transparent procedures to protect and encourage the industry and users alike and arbitrate upon congestion.

1.2. It offers clarification to the definition of slot rights, airports status, new entrant management, coordination, conciliation and ultimately enforcement.

1.3. It sets out to enhance the prospects of finding and maintaining the right balance between air carriers and the development of a competitive network within the EU and with third countries.

## 2. Background

2.1. This proposal amends Council Regulation (EEC) No 95/93 of 18 January 1993.

2.2. The Committee should note the context within which this proposal resides. In 2002 the following proposals are programmed for implementation:

- common rules on noise measurement around airports;
- standards of noise and emission of air transport;
- common requirements and procedures in the field of aviation security;
- specific common requirements for air safety;
- air transport pricing.

2.3. We should also note that a review of the process and options on a market-based system by which slot-trading will be managed, is planned. No external award by the Commission has yet been commissioned!

2.4. Also, in the Transport White Paper it is noted that:

- the EU suffers from over-fragmentation of its air-traffic-management systems;
- transport is globalised but international rules to facilitate trade and commerce do not take sufficient account of environmental protection or security of supply concerns.

## 3. Content

It comprehensively revises the following principal aspects and features:

- new entrant definition and allocations process;
- slots transfer;
- designation and use of airports where demand exceeds capacity;
- international terminology;
- principles of transparency, neutrality and non-discrimination for slot allocation;

- roles of schedules facilitator and coordinator, and, of the Coordination Committee;
- definition of slot entitlements at airports;
- recognition of allocation and precedence in slot rights;
- operational priorities of airports;
- efficient use of airport capacity;
- environmental impact objectives;
- inter-regional air-service provisions;
- third-country comparability;
- enforcement and review.

## 4. ESC comments

The Committee welcomes the proposal, not least in view of the current situation where poor performance and punctuality of air transport is causing serious disruption to business and individuals.

The proposal entails far-reaching impact on the core business of airports — namely the landing and take-off of the range of carrier aircraft. It serves to describe and mould procedures and organisation so as to improve both efficiency and effectiveness. The Committee would make the following remarks on specific aspects:

### 4.1. *New entrants*

4.1.1. The accommodation now extended to new entrant applications offers a rolling opportunity for new competition to assess the attractiveness to compete for both existing route traffic and new inter-regional routes. The proportion of pool slots at 50 % appears adequate given that it can be expected that they will probably be at off-peak times. Article 10(5) should be reworded to ensure that first preference is given to new entrants up to 50 % of slots in the pool.

4.1.2. The decree in Article 10 which removes new entrant status from a carrier who refuses offered slots appears unreasonable, given the attendant front end commercial risk level in developing a new route.

#### 4.2. Slots transfer

4.2.1. Whereas they might reasonably expect first refusal on such better timings as became available, the proposal does not offer such an incentive to new entrants.

4.2.2. When an established carrier unilaterally withdraws a regional service, as did BA from Heathrow to Belfast immediately post 11 September, slot transfer action must facilitate return of the service, by whomsoever, and not debar any carrier. Article 9 should specifically refer to support for meeting Public Service Obligations in particular to isolated and island regions. The ESC is concerned that serious difficulties will arise in the policing of slot mobility as outlined in Articles 8a and 8b.

4.2.3. The ban on bogus or fake unilateral slot transfers, where in essence valuable slots were exchanged for poor quality slots should help open the competitive environment.

#### 4.3. Airport designation and terminology

Major airports will be clearly coordinated, with slots allocated by coordinators, others will suffer partial congestion. It should be understood that when average daily slot allocation exceeds a designated level, say 40 %, and the 'analysis' predicts further growth, an airport will switch from 'schedules facilitated' to 'coordinated' status.

#### 4.4. Principles of slot allocation

4.4.1. The ESC welcomes the Commission explanation that slots are considered as 'rights to use infrastructure' and not 'property rights'. This does beg the question of the proposed examination of slot trading and the inevitable challenge by flagship carriers that the 'grandfather right' embodied in the proposal is de facto their 'property'.

4.4.2. There is concern at the provision (Article 2 (b)) to debar partners in route sharing from new entrant status; such route sharing has sound reasons e.g. load factor, environmental impact, services, to justify it.

4.4.3. On the other hand, the comfort of 'grandfather' rights gives balance to the process of slot mobility, recognition of historical commercial costs and control of transfers.

#### 4.5. Coordination

##### 4.5.1. General

4.5.1.1. The coordinated periods require definition. Some references suggest six-monthly periods, summer and winter, elsewhere the emphasis is on year round operational provision. It is important that these periods be defined and, further, that to afford the widest opportunity for competition to reposition slots, the periods should be staggered within national boundaries to facilitate this. Six-monthly periods would appear to be the most responsive format.

4.5.1.2. The appointment of the coordinator must be totally independent and apolitical. There is concern that the coordination exercise could become both costly and bureaucratic. The ESC would emphasise the importance that the proposal insist that:

- coordination is established as a totally independent entity;
- Member States adequately ensure their operational budgets and assure their authority;
- expertise evolves from current status to ensure it has transparently sustainable, independent capacity;
- management systems develop in concert with airports to create the data that ensures fast response for solutions creation.

##### 4.5.2. Coordinator

4.5.2.1. The reinforcement of neutrality and independence of the coordinator is an essential ingredient for the success of this proposal, as is the remit of his/her reach into inter-related issues such as airport-capacity considerations. The wider auditorial remit to cross-refer will ensure malpractices are identified and addressed, though it is unclear in which forum. This should be clarified. Member States must provide indemnification to coordinators so that they may act in an unimpaired manner to pursue their brief and respect their principles. This does not remove any responsibility from the Coordinator to satisfactorily account for their actions and decisions.

4.5.2.2. It is assumed that standardised data will be made available to the industry at large, within defined response times, to ensure best competitive knowledge is disseminated. The ESC insists that coordinators cooperate with relevant authorities and respect the provisions of Article 81 and 82 of the EU Treaty to ensure that resulting decisions are favourable for all air-traffic users.

#### 4.5.3. Coordination committee (Article 5)

4.5.3.1. This forum appears to be an amalgam of the great and the good from the industry, apparently single airport focused. With the caveat that matters of commercial confidence are kept off the agenda, it would be more efficient if regional Coordination Committees governed the policy matters outlined in Article 8, when it is considered that methodology, local guidelines and procedures for example would be common.

4.5.3.2. It would appear that the Coordination Committee has significant influence but no teeth, and definition of its right of recourse to Member State competent bodies should be spelt out. The ESC believes that this Committee's remit should discourage an infestation of local rules that inadvertently or otherwise frustrate competitive practice.

#### 4.5.4. Slots allocation and entitlement

4.5.4.1. The refinements to the process are justified. Given the Coordination Committee's brief to arbitrate it would appear relevant that the coordinator should report and describe the totality of all of his/her justifications to this Committee within each period, so that their deliberations are not predicated upon complaints only.

4.5.4.2. There is concern that coordinators are not compelled to arbitrate upon 'alternative' transfer modes, which is outside their field of responsibility.

#### 4.6. Airports

##### 4.6.1. Capacity and priorities (Articles 3 and 5)

4.6.1.1. Intermediate capacity review should only be conceived after significant changes occur to influence airport capacity, or at three years' intervals.

4.6.1.2. Given that airports will make decisions to maximise returns, it cannot be assumed that an airport will be driven to invest by the outcome of a dispute referral to the Coordination Committee. An example could be the desirability of funding the ubiquitous shopping mall in preference to a no-frills terminal for low-cost arrivals and departures. So, if this proposal cannot be seen as the means to influence strategic airport planning, additional measures will be needed.

#### 4.7. Environment

4.7.1. Given the recently adopted ESC Opinion on holistically minimising the noise and pollutant discharges around airports <sup>(1)</sup>, it would be appropriate for local/regional government to be represented on the Coordination Committee.

#### 4.8. Inter-regional route development

4.8.1. The ESC understands the demands for economic justification, but given the proposal's emphasis on network development and the value of this to Community cohesion, it should clearly establish to what level available slots should be so reserved and for how long, so as not to consume scarce airport capacity.

4.8.2. It is inevitable that major hubs such as London or Frankfurt will find regional network evolution impossible to accommodate. Such can be more readily resolved on a regional air-transport basis, not by a single airport.

#### 4.9. Third countries

4.9.1. The proposal promotes, in essence, measures against carriers of a third country which refuses comparable treatment to Community carriers. Such action is surely misdirected and raises the need for EU diplomatic efforts to reach comparable stewardship of slots and cross-reciprocity globally. Airline alliances tend to be global, so identifying suitable candidates for action could be tricky and damaging, by association, to EU partnering carriers.

#### 4.10. Enforcement

4.10.1. It seems reasonable that non-performance is penalised by both fines and slot withdrawal. The coordinator must nevertheless act expeditiously to limit collateral damage to airports from such actions. Given the recent asymmetric shocks to the air-traffic industry, coordinators should hold a degree of autonomy to deal wisely in such occurrences.

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<sup>(1)</sup> Opinion on the Proposal for a Directive of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating instruction at Community airports.

4.10.2. The ESC would note that in Article 14 the intervention proposed when carriers default could be frustrated by the slot-trading process.

## 5. Final observations

5.1. The ESC believes that EU agreed legislation must be universally upheld.

5.2. Member States must offer indemnification to coordinators so that they may be clear to pursue their brief and principles unfettered.

5.3. This proposal avoids any comment upon the maximum level of slots which, in the interests of competition, any one carrier may hold in a given airport. Present levels above 60 % are not uncommon.

5.4. The measures provided for in this proposal need to be understood by the widest cross-section of the travelling public. Well-displayed user-friendly records by way of e.g. score boards showing performance achievements, would be of interest. Slots' usage is in the gift of the airport and punctuality performance must be reported therefore by them, to show actual and trend reliability.

5.5. Whilst air traffic safety is not under consideration, it is of paramount importance. The Coordination Committee should ensure high levels of safety and security in its operation.

5.6. There is much emphasis on new entrants developing new routes. All carriers should be so encouraged, those already

established then also having more leverage. Recognition of effective competition should be the driving principle.

5.7. The inclusion of regional local authority representation on committees should be considered essential. This influence could assure that regional capacity, land-side infrastructure and public service obligations are satisfied, and Article 5 should assert this. However the ESC does recognise that slots are not infinitely interchangeable given the widely diverging character of airports.

5.8. The allocation of slots will require sensitivity in the policing of 'use it or lose it'. Coordinators must not be bureaucratic and restrained by red tape, but should retain some authority to exercise discretion e.g. when a carrier is dislodged from a slot by the direct interventions of serious disruptive actions by terrorists. If airlines can demonstrate their discomfort to the coordinator's satisfaction, they should be accorded the right to retain their slots for the subsequent coordinated period, to facilitate recovery.

5.9. The Coordination Committee's remit should include clear responsibility to assess the capacity and implementation of best security practice and ensure that its common adoption is practised evenly so as to ensure that this slots' proposal is implemented in such a secure environment, established jointly by airports and carriers.

5.10. Whilst the impact of forthcoming reports is awaited, it is the ESC view that coordinators reflect the latest understanding of environmental constraints in their selection process. It is anticipated that such findings will clarify the weighting of their impact upon decisions.

Brussels, 20 March 2002.

*The President*  
*of the Economic and Social Committee*  
Göke FRERICHS