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P7_TA(2012)0496

Introduction of noise-related operating restrictions at European Union airports *I**

European Parliament legislative resolution of 12 December 2012 on the proposal for a regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC (COM(2011)0828 — C7-0456/2011 — 2011/0398(COD))

(Ordinary legislative procedure: first reading)

(2015/C 434/44)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0828),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0456/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, the German Bundesrat and the Netherlands Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 28 March 2012 ⁽¹⁾,
 - having regard to the opinion of the Committee of the Regions of 11 May 2012 ⁽²⁾,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on the Environment, Public Health and Food Safety (A7-0372/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2011)0398

Position of the European Parliament adopted at first reading on 12 December 2012 with a view to the adoption of Regulation (EU) No .../2013 of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

⁽¹⁾ OJ C 181, 21.6.2012, p. 173.

⁽²⁾ OJ C 277, 13.9.2012, p. 110.

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Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) A key objective of the common transport policy is sustainable development. This requires an integrated approach aimed at ensuring both the effective functioning of Union transport systems and protection of the environment.
- (2) Sustainable development of air transport necessitates the introduction of measures aimed at reducing noise nuisance from aircraft at **and around** airports with particular noise problems. A large number of Union citizens are exposed to high noise levels which may lead to negative health effects, **particularly where night flights are concerned**. [Am. 1]
- (3) Following the removal of the noisiest aircraft pursuant to Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports ⁽⁴⁾ and Directive 2006/93/EC of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988) ⁽⁵⁾, an update of new measures is required to enable authorities to deal with the noisiest aircraft to improve the noise climate around airports in the Union within the international framework of the Balanced Approach on Noise Management.
- (4) Resolution A33/7 of the International Civil Aviation Organisation (ICAO) introduces the concept of a 'Balanced Approach' to noise management and establishes a coherent method to address aircraft noise. The ICAO Balanced Approach should remain the foundation of noise regulation for aviation, as a global industry. The Balanced Approach recognises the value of, and does not prejudge, relevant legal obligations, existing agreements, current laws and established policies. Incorporating the international rules of the Balanced Approach in this Regulation should substantially lessen the risks of international disputes in case third country carriers may be affected by noise-related operating restrictions.
- (5) The Report from the Commission to the Council and the European Parliament of 15 February 2008 entitled 'Noise Operation Restrictions at EU Airports (Report on the application of Directive 2002/30/EC)' pointed to the need to clarify in the text of Directive 2002/30/EC the allocation of responsibilities and the precise obligations and rights of interested parties during the noise assessment process so as to guarantee that cost-effective measures are taken to achieve the noise abatement objectives.
- (6) The introduction of operating restrictions by Member States at Union airports on a case-by-case basis, whilst limiting capacity, can contribute to improving the noise climate around airports. However, there is a possibility of introducing distortions of competition or hampering the overall efficiency of the Union aviation network through the inefficient use of existing capacity. Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore be more effectively achieved at Union level by means of harmonised rules on the introduction of operating restrictions as part of the noise management process, the Union may adopt measures in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives. Such harmonised method does

⁽¹⁾ OJ C 181, 21.6.2012, p. 173.

⁽²⁾ OJ C 277, 13.9.2012, p. 110.

⁽³⁾ Position of the European Parliament of 12 December 2012.

⁽⁴⁾ OJ L 85, 28.3.2002, p. 40.

⁽⁵⁾ OJ L 374, 27.12.2006, p. 1.

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not impose noise quality objectives, which continue to derive from Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise ⁽¹⁾ or other European, national or local rules, and does not prejudice the concrete selection of measures.

- (6a) ***In order to reduce the need for operating restrictions, the national action plans referred to in Directive 2002/49/EC should, in the immediate future, embrace the adoption of complementary measures to manage external airport noise, such as soundproofing of homes and plans for general noise barriers. [Am. 2]***
- (7) While noise assessments should take place on a regular basis, such assessments should only lead to additional noise abatement measures if the current combination of noise mitigating measures does not achieve the noise abatement objectives.
- (8) ~~While a cost-benefit analysis provides an indication of the total economic welfare effects~~ ***noise abatement objective should be chosen*** by comparing all costs and ***all*** benefits, ~~a cost-effectiveness assessment focuses on achieving a given~~ ***the tool for reaching that*** objective ~~in the most~~ ***should be*** cost-effective way, requiring a comparison of only the costs, ***taking account of health, economic and social aspects. [Am. 4]***
- (9) ~~Suspension of noise mitigating measures is important to avoid unwanted consequences on aviation safety, airport capacity and competition. Whilst an appeal procedure against noise-related~~ ***The Commission should be able to evaluate proposed*** operating restrictions may relate to noise abatement objectives, assessment methods and selection of cost-effective measures, the appeal may not suspend ***before*** their implementation. Therefore, the Commission should well before implementation of the measures be able to use the right of scrutiny and to suspend measures deemed to produce unwanted or irreversible consequences. It is recognised that the suspension should be for a limited period. [Am. 5]
- (9a) ***The use of approved noise abatement operational procedures should ensure that the necessary flight safety is maintained by considering all factors that might affect a particular operation. Noise abatement operational measures must not preclude or prohibit anti-terrorist security measures. [Am. 6]***
- (10) ***In accordance with Directive 2002/49/EC, noise assessments should build be based on existing information available and ensure that such objective and measurable criteria common to all the Member States. That information is must be reliable, obtained in a transparent manner, comparable and accessible to competent authorities and all stakeholders. Assessments should include monitoring of the latest technological developments and exchanges of information on the latest findings concerning the procedures to be employed. Competent authorities should put in place the necessary monitoring and enforcement tools. Noise assessments should be carried out or supervised by outside agencies independent of the airport operator. [Am. 7]***
- (11) It is recognised that Member States have decided on noise-related operating restrictions in accordance with national legislation based on nationally acknowledged noise methods, which may not (yet) be fully consistent with the method as described in the authoritative European Civil Aviation Conference (ECAC) Report Doc 29 on 'Standard Method of Computing Noise Contours around Civil Airports' nor use the internationally recognised aircraft noise performance information. However, the efficiency and effectiveness of an operating restriction, together with the efficiency and effectiveness of the relevant action plan of which the restriction is a part, should be assessed in accordance with methods prescribed in ECAC Doc 29 and the ICAO Balanced Approach. Accordingly, Member States should adapt their assessments of operating restrictions in national legislation towards full compliance with ECAC Doc 29.
- (12) Centralisation of information on noise would substantially reduce the administrative burden for aircraft and airport operators alike. Such information is currently provided and managed at the individual airport level. Those data need to be put at their disposal for operational purposes. It is important to use the data bank of the

⁽¹⁾ OJ L 189, 18.7.2002, p. 12.

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European Aviation Safety Agency (the Agency) concerning noise performance certification as a validation tool with the European Organisation for the Safety of Air Navigation (Eurocontrol) data on individual flights. Such data are currently already systematically requested for central flow management purposes, but need to be specified for the purpose of this Regulation and for performance regulation of air traffic management. Good access to validated modelling data should improve the quality of mapping of noise contours of individual airports and strategic mapping to support policy decisions.

- (13) In order to reflect the continuous technological progress ~~in engine and airframe technologies and~~ the methods used to map noise contours, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect to regularly updating the ~~noise standards for aircraft referred to in this Regulation and the reference to the associated certification methods; amending the definitions of marginally compliant aircraft and of civil aircraft accordingly, and updating the reference to the method to computing noise contours~~ **method and technical report relating to the assessment of the noise situation at an airport**. It is particularly important that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council. [Am. 8]
- (13a) ***In order to ensure legal certainty and planning reliability, operating restrictions and decisions on the operation of airports, including court decisions and the outcome of mediation processes which were already introduced or under examination before the entry into force of this Regulation, should not be subject to this Regulation but should be dealt with under existing rules.*** [Am. 9]
- (16) Considering the need for the consistent application of the noise assessment method within the Union aviation market, this Regulation sets out common rules in the field of noise operating restrictions. Directive 2002/30/EC should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject-matter, objectives and scope

1. This Regulation lays down **the** rules on the introduction of noise-related operating restrictions in a consistent manner on an airport-by-airport basis **and where a noise problem has been identified** so as to help improve the noise climate and to limit or reduce the number of people significantly affected by ~~the harmful effects of~~ aircraft noise, in accordance with the Balanced Approach. [Am. 11]
2. The objectives of this Regulation are:
 - (a) to facilitate the achievement of specific environmental noise abatement objectives, as laid down in Union, national ~~and~~ **or** local rules, and to assess their interdependence with other environmental objectives, **including health aspects**, at the level of individual airports; and [Am. 12]
 - (b) to enable selection of the most cost-effective noise mitigation measures, **taking account of health, economic and social aspects**, in accordance with the Balanced Approach so as to achieve the sustainable development of the airport and air traffic management network capacity from a gate-to-gate perspective. [Ams 44 and 48]
3. This Regulation shall apply to aircraft **flights** engaged in civil aviation. [Am. 14]

It shall not apply to aircraft **flights** engaged in military, customs, police, or similar services. [Am. 15]

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Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (1) 'Airport' means an airport which has more than 50 000 civil aircraft movements per calendar year (a movement being a take-off or landing), taking into consideration the average number of movements of the last three calendar years before the noise assessment;
- (2) 'Balanced Approach' means the ~~method~~ **process established by ICAO in Volume 1, Part V of Annex 16 to the Convention on International Civil Aviation (Chicago Convention)** under which the range of available measures, namely reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions, is considered in a consistent way with the view to ~~addressing the~~ **minimising noise problem in the most cost-effective way taking account, inter alia, of health and economic aspects,** on an airport by airport basis **in order to safeguard the health of citizens living in nearby areas.** [Ams 45 and 49]
- (3) 'Aircraft' means fixed-wing aircraft with a maximum certificated take-off mass of 34 000 kg or more, or with a certificated maximum internal accommodation for the aircraft type in question consisting of more than 19 passenger seats, excluding any seats for crew only;
- (4) 'Marginally compliant aircraft' means ~~civil aircraft that meet the~~ **are certified in accordance with** Chapter 3 ~~certification~~ limits laid down in Volume 1, Part II, Chapter 3 of Annex 16 to the Chicago Convention by a cumulative margin of less than ~~10 EPNdB~~ **8 EPNdB** (Effective Perceived Noise in decibels **Decibels**), ~~whereby~~ **during a transitional period of four years after ...⁽¹⁾ and by a cumulative margin of less than 10 EPNdB following the end of that transitional period.** The cumulative margin is the figure expressed in EPNdB obtained by adding the individual margins (i.e. the differences between the certificated noise level and the maximum permitted noise level) at each of the three reference noise measurement points as defined in Volume 1, Part II, ~~Chapter 4~~ **Chapter 3** of Annex 16 to the Chicago Convention; [Am. 17]
- (5) 'Noise-related action' means any measure that impacts the noise climate around airports, for which the principles of the ICAO Balanced Approach apply, including other non-operational actions that can affect the number of people exposed to aircraft noise;
- (6) 'Operating restrictions' means a noise-related action that limits the access to or reduces the optimal capacity use of an airport, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, ~~affecting the operation of civil aircraft according to~~ **which for example apply for an identified time period during the day or only for certain runways at the airport.** [Am. 18]

Article 3

Competent authorities **and right of appeal**

1. Member States **in which an airport is located** shall designate **one or more** competent authorities responsible for ~~adopting measures on~~ **following the process of adoption of** operating restrictions, as well as an independent appeal body, **in accordance with national laws and practices.**
2. The competent authorities and the appeal body shall be independent of any organisation which could be affected by noise-related action.
3. The Member States shall notify **in a timely manner** the Commission of the names and addresses of the designated competent authorities and appeal body referred to in paragraph 1. **The Commission shall publish that information.**
4. **Member States shall ensure the right to appeal against the operating restrictions adopted pursuant to this Regulation before the appeal body, in accordance with national legislation and procedures.** [Am. 19]

⁽¹⁾ **Date of entry into force of this Regulation.**

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Article 4

General rules on aircraft noise management

1. Member States shall ~~adopt a~~ **implement the** Balanced Approach in regard to aircraft noise management, **on an airport-to-airport basis, within the scope of this Regulation.** To this end, they shall **assess the noise situation at an individual airport in accordance with Directive 2002/49/EC, including harmful effects on human health. Where a noise problem is identified, they shall:** [Am. 20]

- (a) ~~assess the noise situation at an individual airport;~~ **ensure that the noise abatement objective for that airport, taking account, as appropriate, of Article 8 of and Annex V to Directive 2002/49/EC, is defined;**
- (b) ~~define the environmental noise abatement objective;~~ [Am. 21]
- (c) identify measures available to reduce the noise impact;
- (d) ~~evaluate~~ **carry out a formal and comprehensive assessment of** the likely cost-effectiveness of the available measures; [Am. 22]
- (e) select the measures;
- (f) consult the stakeholders in a transparent way on the intended actions;
- (g) decide on the measures and provide for sufficient notification;
- (h) implement the measures; and
- (i) provide for dispute resolution.

2. Member States shall, when taking noise-related action, consider the following combination of available measures, with a view to determining the most cost-effective combination of measures:

- (a) the foreseeable effect of a reduction of aircraft noise at source;
- (b) land-use planning and management;
- (c) noise abatement operational procedures, **including the guidance of take-off and landing routes;** [Am. 23]
- (d) not as a first resort, operating restrictions.

The available measures may include the withdrawal of marginally compliant aircraft, if deemed necessary. **Member States may offer economic incentives to encourage aircraft operators to use less noisy aircraft during the transitional period referred to in point 4 of Article 2.** [Am. 24]

3. Member States may, within the Balanced Approach, differentiate noise mitigating measures according to aircraft ~~type~~ **noise performance**, runway use, **flight path** and/or timeframe covered. [Am. 25]

4. Without prejudice to paragraph 3, operating restrictions which take the form of a withdrawal of marginally compliant aircraft from airport operations shall not affect civil subsonic aircraft that comply, through either original certification or recertification, with the noise standard in Volume 1, Part II, Chapter 4 of Annex 16 to the Chicago Convention.

5. Measures or a combination of measures taken in accordance with this Regulation for a given airport shall ~~not be more restrictive than necessary~~ **be appropriate** to achieve the environmental noise abatement objectives set for that airport. Operating restrictions shall be non-discriminatory, in particular on grounds of nationality, identity or activity of aircraft operators, **and shall be non-arbitrary.** [Am. 26]

6. The measures taken in accordance with this Regulation shall contribute to the 'National Action Plans' relating to noise emitted by air traffic, as referred to in Article 8 of Directive 2002/49/EC.

6a. The Member States shall adopt, speedily and without any undue delay, the necessary legislative measures for the application of this Article. [Am. 27]

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Article 5

Rules on noise assessment

1. The competent authorities shall ~~assess~~ **ensure that** the noise situation at airports ~~in their territory~~ **for which they are responsible is assessed** on a regular basis, in accordance with the requirements of Directive 2002/49/EC and national or local rules. The competent authorities may call on the support of the Performance Review Body referred to in Article 3 of Commission Regulation (EU) No 691/2010 of 29 July 2010 laying down a performance scheme for air navigation services and network functions ⁽¹⁾.

2. The competent authorities shall use the method, indicators and information set out in Annex I for the assessment of the current and future noise situation.

3. ~~When the~~ **If that** assessment of the noise situation reveals **indicates** that new ~~measures are necessary to achieve or maintain the level of~~ **operating restriction measures may be required to address a** noise abatement objectives **problem at an airport**, the competent authorities shall **ensure that**:

(a) **the method, indicators and information set out in Annex I are applied to** take due account of the contribution of each type of measure under the Balanced Approach; ~~in accordance with Annex I.~~

(b) **at the appropriate level, technical cooperation is established between the airport operators, aircraft operators and air navigation service providers to examine measures to mitigate noise. The competent authorities shall also ensure that local residents, or their representatives, and relevant local authorities are consulted, and that technical information on noise mitigating measures is provided to them;**

(c) **the cost-effectiveness of any new operating restriction is assessed, in accordance with Annex II. Minor technical amendments to existing measures without substantive implications on capacity or operations shall not be considered as new operating restrictions;**

4. ~~The competent authorities shall ensure that, at the appropriate level, a forum for technical cooperation is established between the airport operator, aircraft operator and air navigation service provider, for actions which these operators are responsible for, and taking due account of the interdependency between measures to mitigate noise and to reduce emissions. The members of this forum for technical cooperation shall regularly consult local residents or their representatives, and provide technical information and advice on noise mitigating measures to the competent authorities.~~

5. ~~The competent authorities shall assess the cost-effectiveness of the new measures, as referred to in paragraph 3 in accordance with Annex II. A minor technical amendment to an existing measure without substantive implications on capacity or operations is not considered as a new operating restriction.~~

6. ~~The competent authorities shall organise~~

(d) the consultation process with interested parties **is organised** in a timely and substantive manner, ensuring openness and transparency as regards data and computation methodology. Interested parties shall have at least three months prior to the adoption of the new ~~measures~~ **operating restrictions** to provide comments. The interested parties shall at least include:

(a) ~~representatives from local residents living in the surroundings of the airports affected by air traffic noise;~~

(b) ~~relevant airport operators;~~

(c) ~~representatives of aircraft operators which may be affected by noise-related actions;~~

(d) ~~relevant air navigation service providers;~~

(e) ~~the Network Manager, as defined in Commission Regulation No 677/2011.~~⁽²⁾

⁽¹⁾ OJ L 201, 3.8.2010, p. 1.

⁽²⁾ OJ L 185, 15.7.2011, p. 1.

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- (i) *local residents, living in the vicinity of the airports, affected by air traffic noise or their representatives and representatives of the relevant local and regional authorities;*
- (ii) *representatives of local businesses based in the surroundings of the airports whose operations are affected by air traffic and the operation of the airport;*
- (iii) *relevant airport operators;*
- (iv) *representatives of aircraft operators which may be affected by noise-related actions;*
- (v) *relevant air navigation service providers;*
- (vi) *the Network Manager, as defined in Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions ⁽¹⁾;*
- (vii) *where applicable, the designated slots coordinator.*

7. The competent authorities shall follow up and monitor the implementation of the noise mitigating measures and take action as appropriate. They shall ensure that relevant information is ~~provided on a regular basis to the~~ **made available on-line, thus allowing** local residents living in the surroundings of the airports **and other interested parties to access the information freely.**

The relevant information shall include:

- (a) *information on alleged infringements due to changes in flight paths, in terms of their impact and the reasons why such change were made;*
- (b) *the criteria used when distributing and managing traffic in each airport, to the extent that those criteria may have an environmental or noise impact.*

8. **The competent authorities shall ensure that the operators of airport facilities install computerised noise measuring systems at different points close to flight paths which affect or are likely to affect the local population. The data collected by those noise measuring systems may be consulted via the internet.** [Am. 28]

Article 6

Noise performance information

1. Decisions on noise-related operating restrictions shall be based on the noise performance of the aircraft as determined by the certification procedure conducted in accordance with Volume 1 of Annex 16 to the Chicago Convention, fifth edition of July 2008.

2. At the request of the Commission, **and if the Agency does not already have the information requested**, aircraft operators shall communicate the following noise information in respect of their aircraft that use Union airports:

- (a) the tail number of the aircraft;
- (b) the noise ~~performance~~ certificate or certificates of the aircraft used, together with the associated actual maximum take-off weight;
- (c) any modification of the aircraft which influences its noise performance **and is recorded in its noise certificate.**
- ~~(d) aircraft noise and performance information of the aircraft for noise modelling purposes.~~

~~For each flight making use of a Union airport, aircraft operators shall communicate the noise performance certificate used and the tail number.~~

Each time an operator changes the noise certificate used for an aircraft, it shall inform the Commission.

⁽¹⁾ OJ L 185, 15.7.2011, p. 1.

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The data shall be provided ~~free of charge~~, in electronic form and using the format specified, where applicable. **The Commission shall bear any costs for providing those data.**

3. **Modelling of airport community noise shall be based on manufacturer-provided aircraft noise and performance data recommended for use by the international community and made available through ICAO.** The Agency shall verify the aircraft noise and performance data for modelling purposes in accordance with Article 6(1) of Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency ⁽¹⁾. **The Agency shall refer to the established ICAO Committee on Aviation Environmental Protection Modelling and Databases Group's process to determine data validity and best practices and ensure continued harmonisation across international airworthiness agencies.**

4. Data shall be stored in a central database and made available to competent authorities, aircraft operators, air navigation service providers and airport operators for operational purposes. [Am. 29]

Article 7

Rules on the introduction of operating restrictions

1. Before introducing an operating restriction, the competent authorities shall give notice ~~of six~~ **three months before**, ending at least two months prior to the determination of the slot coordination parameters as defined in point (m) of Article 2 of Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports ⁽²⁾ for the airport concerned for the relevant scheduling period, to the Member States, the Commission and the relevant interested parties.

2. Following the assessment carried out in accordance with Article 5, the notification of the decision shall be accompanied by a written report explaining the reasons for introducing the operating restriction, the ~~environmental noise~~ **abatement** objective established for the airport, the measures that were considered to meet that objective, and the evaluation of the likely cost-effectiveness of the various measures considered, including, where relevant, their cross-border impact.

3. Where the operating restriction concerns the withdrawal of marginally compliant aircraft from an airport, no new services shall be allowed with marginally compliant aircraft at that airport six months after the notification, **ending at least two months prior to the determination of the slot coordination parameters as referred to in paragraph 1.** The competent authorities shall decide on the annual rate for removing marginally compliant aircraft ~~from the fleet of affected operators at that airport, taking due account of the age of the aircraft and the composition of the total fleet.~~ Without prejudice to paragraph 3 of Article 4, this rate shall not be more than 20% of that operator's fleet of. **This annual rate shall not be more than 25 % of the movements and shall be applied uniformly to each affected operator with reference to its number of movements with marginally compliant aircraft serving at that airport.**

4. ~~Any appeal against decisions on noise-related operating restrictions shall be organised in accordance with national law.~~ [Am. 30]

Article 8

Developing nations

1. The competent authorities may exempt marginally compliant aircraft registered in developing nations from noise operating restrictions provided that such aircraft:

- (a) are granted a noise certification to the standards specified in Chapter 3, Volume 1 of Annex 16 to the Chicago Convention.
- (b) were operated in the Union during the five-year period preceeding the entry into force of this Regulation, were on the register of the developing nation concerned and continue to be operated by a natural or legal person established in that nation.

2. Where a Member State grants an exemption provided for in paragraph 1, it shall forthwith inform the competent authorities of the other Member States and the Commission of the exemptions it has granted.

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

⁽²⁾ OJ L 14, 22.1.1993, p. 1.

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Article 9

Exemptions for aircraft operations of an exceptional nature

On a case-by-case basis, the competent authorities may authorise individual operations of marginally compliant aircraft which could not take place on the basis of the provisions of this Regulation, at airports situated in their territory.

The exemption shall be limited to:

- (a) aircraft whose individual operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption;
- (b) aircraft on non-revenue flights for the purpose of alterations, repair or maintenance;
- (ba) aircraft on flights operated for humanitarian or diplomatic purposes. [Am. 31]**

Article 10

Right of scrutiny

1. At the request of a Member State or on its own initiative, and without prejudice to a pending appeal procedure, the Commission may ~~scrutinise the decision on an~~ **within a period of two months after the day on which it receives notice, as referred to in Article 7(1), evaluate the process for the introduction of a noise-related** operating restriction, ~~prior to its implementation.~~ Where the Commission finds that the ~~decision~~ **introduction of a noise-related operating restriction** does not ~~respect~~ **follow** the ~~requirements~~ **process** set out in this Regulation, ~~or is otherwise contrary to Union law, it may suspend the decision~~ **the Commission may notify the relevant competent authorities accordingly. The relevant competent authorities may take the Commission's opinion into account.**

2. The competent authorities shall provide the Commission with information demonstrating compliance with this Regulation.

~~3. The Commission shall decide in accordance with the advisory procedure laid down in Article 13(2), in particular taking into account the criteria in Annex II, whether the competent authority concerned may proceed with the introduction of the operating restriction. The Commission shall communicate its decision to the Council and the Member State concerned.~~

4. Where the Commission has not ~~adopted a decision~~ **notified its opinion** within a period of ~~six~~ **two** months after it has received the ~~information~~ **notice, as** referred to in ~~paragraph 2~~ **Article 7(1)**, the competent authority may apply the envisaged decision on an operating restriction. **[Am. 32]**

Article 11

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 12 concerning:

- (a) ~~amendments of the definitions of aircraft in Article 2 point (3) and of marginally compliant aircraft in Article 2 point (4);~~ **[Am. 33]**
- (b) amendments and updates of the noise certification standards provided for in Articles 4 and 8; and of the certification procedure provided for in Article 6(1).
- (c) amendments to the method and technical report set out in Annex I.

Article 12

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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2. The power to adopt delegated acts referred to in Article 11 shall be conferred **on the Commission** for an ~~indefinite~~ **a** period of ~~time~~ **five years** from the date of entry into force of this Regulation. [Am. 34]

3. The delegation of power referred to in Article 11 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 11 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

~~Article 13~~

~~Committee~~

~~1. The Commission shall be assisted by the committee instituted by Article 25 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council.⁽¹⁾~~

~~This committee is a committee within the meaning of Regulation (EU) No 182/2011.~~

~~2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.~~

~~3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request. [Am. 35]~~

Article 14

Information and revision

Member States shall submit information on the application of this Regulation to the Commission upon request.

No later than five years after the entry into force of this Regulation, the Commission shall report to the European Parliament and to the Council on the application of this Regulation.

The report shall be accompanied, where necessary, by proposals for revision of this Regulation.

Article 14a

Transitional provisions

Operating restrictions and decisions on the operation of airports, including court decisions and the outcome of mediation processes which were introduced or under examination before the entry into force of this Regulation shall not be subject to this Regulation. They shall, to the extent that Directive 2002/30/EC is applicable, continue to be subject to that Directive and, where applicable, the national rules transposing it. The effects of Directive 2002/30/EC shall therefore be maintained for such measures. A minor technical amendment to the existing measure without substantive implications on capacity or operations shall not be considered as a new operating restriction. [Am. 36]

Article 15

Repeal

Directive 2002/30/EC is repealed with effect as from the date of entry into force of this Regulation.

⁽¹⁾ OJ L 293, 31.10.2008, p. 3.

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Article 16

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the European Parliament
The President

For the Council
The President

ANNEX I

Assessment of the noise situation at an airport

Methodology:

1. Competent authorities will use noise assessment methods which have been developed in accordance with ~~the ECAC Report Doc 29 Report on Standard Method of Computing Noise Contours around Civil Airports, 3rd Edition~~ **Annex II to Directive 2002/49/EC. [Am. 37]**

Indicators:

1. Air traffic noise impact will be described, at least, in terms of noise indicators L_{den} and L_{night} which are defined and calculated in accordance with Annex I to Directive 2002/49/EC.
2. Competent authorities may use additional noise indicators which have a scientific basis to reflect the annoyance of air traffic noise.

Noise management information:

1. Current inventory
 - 1.1. A description of the airport including information about its size, location, surroundings, air traffic volume and mix.
 - 1.2. A description of the ~~environmental sustainability~~ **noise abatement** objectives for the airport and the national context. ~~This will include a description of the aircraft noise objectives for the airport.~~ **[Am. 38]**
 - 1.3. Details of noise contours for the current and **at least the** previous **two** years, including an assessment of the number of people affected by aircraft noise, **carried out in accordance with Annex III to Directive 2002/49/EC.** **[Am. 39]**
 - 1.4. A description of the existing and planned measures to manage aircraft noise already implemented in the framework of the Balanced Approach and their impact and contribution to the noise situation, which will include:
 - 1.4.1. For reduction at source:
 - Evolution of aircraft fleet and technology improvements;
 - Specific fleet modernisation plans;

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1.4.2. For land-use planning and management:

- Planning instruments in place, such as comprehensive planning or noise zoning;
- Mitigating measures in place, such as building codes, noise insulation programmes or measures to reduce areas of sensitive land use;
- Consultation process of the land-use measures;
- Follow-up of encroachment;

1.4.3. For noise abatement operational measures, to the extent that those measures do not restrict capacity of an airport:

- Use of preferential runways;
- Use of noise preferential routes;
- Use of noise abatement take-off and approach procedures.
- Indication of the extent to which those measures are regulated under environment indicators, referred to in Annex I to Regulation (EU) No 691/2010.

1.4.4. For operating restrictions:

- Use of global restrictions, such as cap rules on movements or noise quotas;
- Financial instruments in place, such as noise-related airport charges;
- Use of aircraft-specific restrictions, such as the withdrawal of marginally compliant aircraft;
- Use of partial restrictions, making a distinction between measures at day and during the night.

2. Forecast without new measures

- 2.1. Descriptions of airport developments (if any) already approved and in the pipeline, for example, increased capacity, runway and/or terminal expansion, ~~and the~~ **approach and take-off forecasts**, projected future traffic mix and estimated growth **and a detailed study of the noise impact on the surrounding area caused by expanding the capacity, runways and terminals and by modifying flight paths and approach and take-off routes.** [Am. 40]
- 2.2. In the case of airport capacity extension the benefits of making that additional capacity available within the wider aviation network and the region.
- 2.3. A description of effect on noise climate without further measures, and of those measures already planned to ameliorate the noise impact over the same period.
- 2.4. Forecast noise contours — including an assessment of the number of people likely to be affected by aircraft noise — distinguish between established residential areas ~~and~~ newly constructed residential areas **and planned future residential areas that have already been granted authorisation by the competent authorities.** [Am. 41]
- 2.5. Evaluation of the consequences and possible costs of not taking action to reduce the impact of increased noise, if it is expected to occur.

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3. Assessment of additional measures
- 3.1. Outline of the additional measures available and an indication of the main reasons for their selection. ~~Description of those measures chosen for further analysis and information on the outcome of the cost-efficiency analysis, in particular the cost of introducing these measures; the number of people expected to benefit and timeframe; and a ranking of the overall effectiveness of particular measures.~~ [Am. 42]
- 3.2. An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.
- 3.3. Reasons for selection of the preferred option.
- 3.4. A non-technical summary.

ANNEX II

Assessment of the cost-effectiveness of noise-related operating restrictions

The cost-effectiveness of envisaged noise-related operating restrictions will be assessed taking due account of following elements, to the extent possible, in quantifiable terms:

- 1) The anticipated noise benefit, **including the health benefit**, of the envisaged measures, now and in the future;
- 2) ~~Safety of aviation operations, including third party risk;~~ **Health and safety of local residents living in the surroundings of the airport;**
- 3) ~~Capacity of the airport;~~ **Safety of aviation operations, including third party risk;**
- 4) ~~Effects on the European aviation network.~~ **Direct, indirect and catalytic employment and economic effects, including potential effects on regional economies;**
- 4a) **Impact on working conditions at airports;**
- 4b) **Capacity of the airport;**
- 4c) **Effects on the European aviation network;**
- 4d) **Environmental sustainability, including interdependencies between noise and emissions.**

~~In addition competent authorities may take due account of following factors:~~

- 1) ~~Health and safety of local residents living in the surroundings of the airport;~~
 - 2) ~~Environmental sustainability, including interdependencies between noise and emissions;~~
 - 3) ~~Direct, indirect and catalytic employment effects.~~ [Am. 43]
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