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INDUSTRY CONSULTATION BODY

POSITION PAPER

European Commission's Aviation Package

This document sets out the ICB's position on the Aviation Package. It is intended to inform the Commission, Council and Parliament of the industry's broad support for the proposed measures and suggestions for improvement.

1 Purpose

- 1.1 The aviation industry is currently experiencing turbulent times with high fuel prices leading to increased financial difficulty for the airlines and lower predictions for growth. The industry must react urgently to reduce costs and improve efficiency, not least to reduce the environmental impact per flight.
- 1.2 On the 25th June 2008, the College of Commissioners adopted an Aviation Package¹ consisting of four pillars:
- § A proposal to amend the SES regulations².
 - § A proposal to extend the EASA system³.
 - § Information on the SESAR ATM Master Plan⁴.
 - § Endorsement of the action plan for airport capacity, efficiency and safety in Europe⁵.
- 1.3 The ICB broadly welcomes the contents of the Aviation Package as creating the correct momentum for change including the proposed performance scheme, network management function, extension of EASA and emphasis on achieving additional airport capacity and Functional Airspace Blocks (FAB). The ICB particularly welcomes the recognition of its role in providing strategic advice to the Commission on the implementation of the Single European Sky.
- 1.4 This document sets out the ICB's position on the Aviation Package and is intended to inform the Commission, Council and Parliament of the industry's broad support for the proposed measures and suggestions for improvement.

2 Proposals to amend the SES regulations

2.1 Framework regulation

Performance scheme

- 2.1.1 The proposed new article 11 of the framework regulation establishes a performance scheme and associated performance review body. The ICB supports the creation of such a performance scheme as an enabler of improved performance⁶.
- 2.1.2 It is important, however, that national/regional targets are consistent with network-wide targets. This will require an effective and efficient consultation process at European, regional and national levels to ensure that targets and objectives of individual ANSPs are compatible and complementary to SES objectives.

¹ COM(2008) 389/2

² COM(2008) 388

³ COM(2008) 390

⁴ SEC(2008) 2082 I/II

⁵ COM(2006) 819

⁶ ETF have expressed a concern over the social implications of incentives for ANSP performance.

- 2.1.3 The ICB welcomes the application of the ‘appropriate key performance areas’ defined in the ICAO Global ATM Operating Concept⁷. However, few are mature enough to produce appropriate targets.
- 2.1.4 The ICB believes that emphasis should initially be placed on cost effectiveness, capacity, safety and environmental impact before moving on to the other areas. Target setting must include appropriate balance between the various key performance areas reflecting the diversity of operations across Europe.
- 2.1.5 It is important that targets are only imposed when measures are sufficiently mature – for example there are no currently quantified safety and environment targets and further work is required in these areas; the ICB notes that whilst the emphasis on environmental impact is necessary it must not reduce operational safety.
- 2.1.6 The ICB believes that safety targets can only be set and achieved once incident reporting and safety management systems have been introduced in all European States. Due to different legal systems across Europe, the data currently collected is incomplete. Just Culture must be implemented in all Member States to ensure open and complete safety reporting.

Performance Review Body

- 2.1.7 The ICB believes that a truly independent and appropriately resourced performance review body is required to monitor and assess the performance of the system reporting directly to the European Commission and include provision for an appeals process.
- 2.1.8 The ICB wishes to stress that this performance review body must be independent and separate from the organisations whose performance is assessed (in terms of governance, location and staff). This independence is integral to the credibility of the review process.

Just Culture and Safety Management

- 2.1.9 For the reasons described in paragraph 2.1.6, the ICB believes that achievement of Just Culture should be central to the aims of the package including the implementation of Safety Management Systems and incident reporting.
- 2.1.10 The uniform implementation of Just Culture, as endorsed by the High Level Group, is a necessary pre-cursor to the availability of safety statistics. This will enable the proposed performance scheme to reliably monitor safety achievements and to set safety targets and ultimately enhance safety.

⁷ ICAO Document No 9854, First Edition 2005.

ANSP governance

- 2.1.11 The Communication does not mention ANSP governance; but the application of incentive schemes must be linked to appropriate governance models which should not be an impediment to performance improvement.
- 2.1.12 The governance of service provision should empower ANSP management to operate in a business-like way within an agreed regulatory framework to enable service providers to work in the same direction to improve performance, for example to enable closer co-operation between service providers and the creation of FABs.
- 2.1.13 SES II objectives will not be achieved without addressing ANSP governance issues.

2.2 Service Provision Regulation

Functional Airspace Blocks

- 2.2.1 The ICB welcomes the importance placed on the implementation of effective FABs within the Communication and the proposed article 9a in the Service Provision Regulation replacing the previous article 9 of the Airspace Regulation.
- 2.2.2 The ICB supports the wider definition of FABs and the timetable for FAB development. The ICB feels it is important that EC and Member States take measures to address the hurdles to FAB implementation including sovereignty, liability and full integration of the military. The ICB would also like to see additional initiatives to ensure a more common interpretation of FABs whilst recognising that one size does not fit all and that individual FABs must reflect the diversity of operations and respond to local customer requirements.
- 2.2.3 With these issues in mind, the ICB is disappointed that the Commission has not followed through with the High Level Groups recommendations concerning a Aviation System Coordinator in order to support FAB development.

Route charges⁸ and common projects

- 2.2.4 The proposed amendment to article 15 of the Service Provision Regulation continues to include the concept of using route charges to fund common projects to ‘...assist specific categories of airspace users and/or air navigation service providers in order to improve collective air navigation infrastructures...’.
- 2.2.5 The ICB does not support the use of charges to finance common projects and wishes to emphasise the ICB’s general support for the Airspace User position on ATM financing, namely that Airspace Users should not pre-finance the investments required by SESAR.
- 2.2.6 The ICB does, however, acknowledge the existing difficulty in funding new technologies and incentive programmes. The lack of adequate funding mechanisms is a risk to the deployment of the first SESAR implementation package (IP1) and the subsequent phases of SESAR deployment. In order to investigate and recommend potential solutions, the ICB has established an

⁸ EUMETNET have expressed concern over the proposed amendments to article 12 of the service provision regulation which they feel does not take the specificity of MET service provision into account.

Economics Task Force including representatives of the ICB, the Single Sky Committee, the European Commission, Eurocontrol and the SESAR JU.

2.3 Airspace Regulation

Network management function

2.3.1 The ICB agrees with the need for network management functions as set out in the proposed article 6 of the Airspace Regulation. However, the ICB notes that:

- § Whilst the text does not specify which bodies will become responsible for individual network management functions, the allocation of such tasks needs to take account of the full involvement of industry in the governance of such functions. Industry must be involved in the definition of the required functions.
- § The ICB feels that clear roles and responsibilities must be assigned at EU, regional and local levels in a manner appropriate to the experience and capability of those involved.
- § The principle of ensuring clear separation between service provision and regulatory activities must apply to network management functions; the industry should be part of the governance of the service provision functions.

Reform of Eurocontrol

2.3.2 The ICB would like to emphasise the importance of reforming Eurocontrol in line with the text of the Communication (ie *“the internal reform of the organisation should align governance structures with the Single European Sky with a view to (i) complying with the requirements for network tasks; and (ii) reinforcing industry involvement in line with the common transport policy”*).

2.3.3 Specifically, the ICB recommends that Eurocontrol should only take over certain functions if accompanied by:

- § full separation of service provision and regulatory activities; and
- § necessary changes in governance, particularly to enable industry to steer the provision of services critical to industry's performance.

2.4 Interoperability Regulation

2.4.1 The ICB believes that the modernisation of ATM must be achieved in line with the ICAO framework and the ICAO Global Concept as set out in the SESAR Definition Phase and SESAR ATM Master Plan.

2.4.2 The ICB is disappointed that the Aviation Package contains little mention of the Interoperability Regulation; in the light of experience with the existing regulation and the emerging requirements of SESAR, the ICB believes that the Aviation Package offers an opportunity to review and amend the Interoperability Regulation in order to support timely development of Implementing Rules and Community Specifications.

3 Extension of the EASA system

3.1 The ICB fully supports extending the EASA system to cover the whole air transport sector in Europe. This is an important element of the total system approach and an enabler for a more coherent regulatory framework for ATM in Europe.

3.2 The ICB fully agrees with the High Level Group's recommendation:

Deliver continuously improving safety: Require states to apply safety management principles consistently and, in particular, facilitate the uniform application of 'just culture' principles. Empower EASA as the single EU instrument for aviation safety regulation including airports and ATM, and ensure that EASA is funded and resourced accordingly. Prepare for the SESAR challenge by timely certification processes. Ensure that states' safety oversight is harmonised and that cooperation between national authorities is stimulated to achieve overall higher levels of performance.

3.3 The ICB stresses that:

- § EASA should prioritise risk reduction and require the implementation of Safety Management Systems by service providers and operators.
- § Political commitment is required to ensure that the necessary resources (financial and staff competence) are made available to ensure a smooth transition to the extension of EASA competence.
- § A clear roadmap is required to define the transition to future arrangements for the safety regulation of ATM and airports, including the development of agreed safety responsibility to EASA, including transfer of competence from Eurocontrol, as well as an assessment of the suitability of the supporting processes and their amendment, as appropriate. EASA should make use of appropriate safety expertise in existing bodies.
- § EASA should concentrate on establishing technical competence in the safety regulation of ATM and Airports before seeking further extension of the EASA system.

4 SESAR ATM Master Plan

4.1 The ICB supports the SESAR Programme as the means for achieving a co-ordinated and synchronised modernisation of European ATM in line with defined performance targets. The ICB notes that a lack of adequate funding mechanisms for SESAR deployment is a significant risk to deployment which must be addressed (see Section 2.2.6).

5 Airport capacity

5.1 Lack of airport capacity is a recognised risk to meeting future performance targets. The ICB welcomes the recognition of the importance of airport capacity and its inclusion as one of the four pillars of SES II and in particular the need to align airport capacity with ATM capacity.

6 Achieving success

- 6.1 The ICB believes that the success of the first package of the Single European Sky legislation would have been greater if more emphasis had been placed on the change management required to achieve implementation.
- 6.2 The proposals contained within the Aviation Package, in particular the introduction of the performance scheme and the deployment of the SESAR programme, will lead to significant and necessary change within the industry. However, there is no significant mention of change management within the Aviation Package - for example how changes in the operational concept including staffing and resourcing will be managed during the implementation phase. Strong coordination of the change processes will be required to ensure uniform application in all Member States.
- 6.3 The ICB notes that SES implementation will require the involvement of all the stakeholders at European, regional and national levels (ANSPs, users, staff, airports, supply industry and Member States).
- 6.4 The ICB therefore welcomes the emphasis placed on consultation - in particular the strengthening of the role of the ICB (amendment to article 6 of the Framework Regulation) and the civil aviation social dialogue committee, set up under Commission Decision 98/500/EC (amendment to article 10 of the Framework Regulation).
- 6.5 The ICB believes, however, that there is also scope for further strengthening the strategic role for the Single Sky Committee in monitoring the progress and achievement of SES objectives.
- 6.6 The ICB is committed to the implementation of the Single European Sky and will ensure strong industry input during the development of the detailed Implementing Rules required by the proposed legislation.

7 Requested action

- 7.1 The ICB welcomes the contents of the Aviation Package and urges decision makers to support the implementation of a truly Single European Sky.
- 7.2 The proposed regulations are a solid starting point for negotiations between the Council, Parliament and Commission during the co-decision process. The ICB believes that improvements could be made and requests that all parties take account of the comments raised in this paper during the legislative process.