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Objet:	Proposition modifiée de règlement du Parlement européen et du Conseil relatif à la mise en œuvre du ciel unique européen (refonte) <ul style="list-style-type: none">• Proposition de compromis de la Présidence pour certaines provisions du chapitre III

En vue de la réunion du groupe aviation du 24 mai 2022, les délégations trouveront, en annexe, de nouveaux compromis proposés par la présidence sur les aspects suivants :

1. Sur la possibilité d'avoir des plans de performance séparés dans certaines circonstances pour les services en-route et les services terminaux ;
2. Sur la possibilité de soumettre un plan de performance conjoint ;
3. Sur les circonstances locales à prendre en compte pour évaluer un plan comme cohérent avec les objectifs fixés au niveau de l'UE par dérogation aux autres critères d'évaluation, concernant un ou plusieurs objectifs ;
4. Sur la fixation de principes de haut niveau relatifs à la répartition des coûts entre zones tarifaires en-route et zones tarifaires terminales.

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TREE.2.A LIMITE

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Presidency proposals for compromises on certain aspects of the performance scheme
with a view to the Aviation Working Party planned on 24th May 2022

Reference document : ST 11637/21 ADD1 REV3

I. Introduction

Following both the answers by the delegations to the PCY questionnaire in the Aviation Working Party on 3rd May and the technical meeting on 11th May between the PCY and the rapporteurs of the Parliament on SES recast and the related regulation amending EASA “basic” regulation 2018/1139, the PCY has committed to explore possible compromise proposals for a number of the main features of the performance scheme (Article 10 to 18 of the recast).

For each item hereunder, the text of the compromise proposal should be understood as principles, with a level of accuracy sufficient to be unambiguous, while possibly calling for a more detailed drafting and positioning within the regulation.

These compromise items are not meant to cover all issues requiring finding a compromise on articles relating to the performance scheme (Article 10 to 18) in the SES recast regulation, inter alia the respective roles of the air traffic service providers (ATSPs) and the national supervisory authorities (NSAs).

II. Compromise proposals

1. *About the possibility to have distinct performance plans for en-route and for terminal services under certain conditions.*

Article 13(1) (line 213) could be split into two sub-parts. Article 13(1) would be dealing with the number of performance plans. The other provisions on the roles of ATS providers and NSAs from drafting to submitting performance plans would follow on the next paragraphs start in line 214.

(1) For each reference period, one performance plan shall be established for each designated air traffic service provider for the en-route and terminal services for which that air traffic service provider has been designated in respect of all the air traffic services that service provider provides and, where applicable, procures from other providers.

Notwithstanding the first sub-paragraph, an air traffic service provider designated for en-route services may agree with the relevant national supervisory authority that a separate plan shall be established for the terminal services for which it has been designated.

A performance plan shall also be established for each air traffic service provider that has been designated for terminal services but not for en-route services.

2. *As regards joint performance plans, specifying cooperation agreements or other underlying conditions that allow submitting a joint performance plan, and the fact that, for en-route services, joint operational performance targets (capacity, climate/environment) are then mandatory, while cost-efficiency performance targets remain separate: one for each charging zone.*

In Article 13, a provision should be introduced, meaning as follows.

(i) Several Member States may agree, including with the en-route service providers they have designated, that one performance plan is submitted for the en-route services and, as appropriate, the terminal services for which those air traffic service providers have been designated, where:

- the airspaces controlled by the air traffic service providers concerned are adjacent;
- an agreement between the air traffic service providers concerned, on the one hand, and an agreement between the Member States concerned, on the other hand, are signed for improving air traffic management through cooperation initiatives, covering at least the duration of the reference period, and;
- the intention to submit a joint performance plan is made public at least 9 months before the start of the reference period.

(ii) In such case, the performance plan shall contain joint targets for capacity and for climate/environment, covering the whole en-route airspace controlled by those air traffic service providers, without prejudice to specific individual reference values for each air traffic service provider concerned, enabling the economic incentives to apply individually as appropriate.

NOTE: If a compromise is found on this possibility, then the Council would accept that no reference to Functional Airspace Blocks as such would appear in the regulation, according to the outcome the Aviation Working Party on 3rd May.

3. ***About the local circumstances to be taken into account in assessing a plan as coherent with the EU-wide target by derogation from the other assessment criteria, as regards one or more performance targets. (Local circumstances must be understood as different from exceptional circumstances that justify the possibility to amend the EU-wide targets and all performance plans, or a given performance plan, during a performance period.)***

Local circumstances preventing one or more of the local targets to be consistent with the EU-wide targets may be taken into consideration to derogate from the criteria defined in Article 13 (3) including where:

- (a) The Network Manager has determined that the level of traffic complexity justifies that the en-route air traffic service provider has a number of operational staff per traffic unit amongst the three highest for all en-route charging zones covered by this regulation
(Note: 28 en-route charging zones are concerned);
- (b) A plan for hiring and training operational staff is required in order to fill a gap in qualified operational staff, which cannot be fulfilled by the last year of the reference period for reaching the level deemed necessary for delivering the required capacity level;
- (c) A modernisation investment plan covering core systems and/or buildings used for air traffic control is necessary that implies an increase of the total of depreciation and capital costs by more than [20%] over the reference period compared with the previous reference period, or by more than [20%] for the year of the reference period compared with the last year of the previous reference period.
(Note: new line 219a).

4. ***On the setting of high-level principles for the allocation of costs between en-route and terminal charging zones. (ref. line 228).***

After Article 13 (1a), insert a paragraph Article 13 (1a1) reading:

“No later than 18 months before the end of the reference period following the adoption of this regulation, the Commission shall review the national criteria to allocate costs common to en-route and terminal air navigation services.

Building on this review, and after consulting the NSAs and the stakeholders, the Commission shall issue a decision adopted under examination procedure, establishing general principles to be applied by the NSAs when setting the national cost allocation criteria, no later than 9 months before the start of next reference period.

Where the need appears to update these principles, the Commission shall proceed according to the same two steps, where the first reference period mentioned hereabove is replaced by the reference period following the ongoing one.”
