



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Camera Deputatilor for its Opinion on the "Better Airport package", i.e. the Communication on 'Airport policy in the EU: addressing capacity and quality to promote growth, connectivity and sustainable mobility' {COM(2011) 823 final}, the Proposal for a Regulation on groundhandling services at Union airports and repealing Council Directive 96/67/EC {COM(2012) 824 final}, the Proposal for a Regulation on common rules for the allocation of slots at European Union airports {COM(2011) 827 final}, and the Proposal for a Regulation on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at EU airports and repealing Directive 2002/30/EC {COM(2011)828 final}, and apologizes for the delay in replying. The Commission appreciates the generally favourable opinion of the Camera Deputatilor on its proposals.

The Camera Deputatilor has made a number of comments, which the Commission has carefully considered. I would like to take the opportunity here to present its position in respect to these observations.

Regarding the first point on the policy document 'Airport policy in the EU', the Commission welcomes the general support expressed by the Camera Deputatilor, which believes that the medium and long-term challenges justify the proposed measures. The Camera Deputatilor also believes that the text does not contain sufficient reference to the objective of sustainable development and that there is not enough coordination between the objective of increasing airport capacity and that of sustainable growth, in view of climate-related challenges.

Although it is true that addressing airport capacity is one of the two main objectives of the 'Better Airport package' (along with quality service) and that increasing airport capacity is an option to be considered where necessary, it should be noted that the priority is given to a

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better use of existing capacity at congested airports which should allow "for more passengers to be accommodated and transported within the same capacity constraints"¹. The Commission has carefully looked at the environmental impact of the proposed measures and expects CO₂ emissions per passenger to increase following an expected increase in long-haul traffic and increased use of larger aircraft. However, more efficient use of aircraft and better air traffic management as well as a shift to cleaner fuels will mitigate the expected increase in CO₂ emissions per passenger. In addition, the environmental impact of the airport package will be further mitigated by the general EU Emissions Trading Scheme in which aviation is included as from 2012².

Regarding the second point on groundhandling, the Commission notes the Camera Deputatilor's concern on the delegated powers given to the Commission on the basis of article 42 of the proposed regulation that sets insurance requirements for groundhandling suppliers and self-handlers (Article 22) and the suggested revised wording of this Article. Camera Deputatilor sees a risk that the requirements set by a Commission decision may not be in line with the specificities of local/small suppliers of groundhandling services. The Camera Deputatilor considers that minimum requirements should take into account each supplier's status, the offers available on the insurance market, the damage potential, and the applicable legislation. The Camera Deputatilor would therefore favour a Council regulation instead of a Commission decision to establish these minimum requirements. However, it should be noted that the items mentioned by the Camera Deputatilor and the specificities of local/small suppliers of groundhandling services can also be taken into account by the Commission in the delegated act and do not require a Council regulation. In addition, a delegated act of the Commission would have the advantage compared to a Council regulation that it would allow, if necessary, a rapid update of minimum thresholds.

In its analysis of the groundhandling proposal, the Camera Deputatilor asks for clarifications regarding several aspects of Article 7. As regards airports with annual traffic of less than two million passengers or 50,000 tons of freight, the proposed regulation does not contain any provision on the market access for third-party handling market at those airports. Therefore it is left entirely to Member States to decide whether or not to open the market for third-party handling or to limit the number of suppliers, and whether to apply or not Article 7 to these airports in case the number of suppliers is limited.

Regarding the question of who should bear the costs of the tender procedure when the tendering authority is different from the airport operator (Article 7(2)(b)), the Commission considers that it should be the tendering authority and not the airport, also in situations where such authority is a public one.

As regards the questions on Articles 7 and 13 of the proposed groundhandling regulation and their possible relations to State aids, the Commission would like to highlight that the provisions in Article 7(4) (including the notification obligation), as well as the provision in Article 13 (including the obligation of a Commission approval) already exist in the current Directive 96/67/EC on groundhandling services.

¹ Commission Staff Working Paper 'Impact Assessment' (SEC(2011)1443 final) accompanying the Slot proposal, section 5 'Analysis of impacts', paragraph 181.

² Commission Staff Working Paper 'Impact assessment' (SEC(2011)1443 final) accompanying the Slot proposal, section 5 'Analysis of impacts', paragraphs from 174 to 181 dedicated to 'Environmental impacts'.

The tender and selection procedure in Article 7 concerns the provision of groundhandling services at an airport with more than 2 million passengers annually where the Member State has limited the number of suppliers. Article 7(4) gives the Member State the possibility to include among the tender specifications for the selection procedure a public service obligation to provide groundhandling services also at another airport serving peripheral or developing regions. This other airport can be an airport with less than 2 million passengers annually. Consequently Article 7(4) also concerns airports with less than 2 million passengers annually.

Without Article 7(4) Member States would not be allowed to include among the tender specifications for an airport a public service obligation for another airport serving peripheral or developing regions.

The Camera Deputatilor also argues that if Article 7 applies to airports with annual traffic of less than two million passengers, Article 7(4) should be reconsidered as Member States are not required to notify public service compensations for airports with traffic of less than 200 000 passengers under EU State aid rules in accordance with Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union. The Commission would like to stress that the notification obligation in Article 7(4) is for information purposes to allow the Commission to have an overview of the application of this Article and not comparable to a State aid notification. More importantly, the notification obligation under Article 7(4) does not concern potential State aid granted but the fact that the tender specifications for groundhandling services at an airport include a public service obligation for another airport serving peripheral or developing regions.

Concerning Article 13, the obligation to inform the Commission and the associated Commission approval are not related to State aid considerations. This is clearly stated in the text: "This provision is without prejudice to State aid rules". Article 13 means that if a Member States organises a selection procedure to limit the number of suppliers at an airport with more than 2 million passengers (or 50,000 tons of freight), that Member State may include in the tender specifications for this selection procedure the obligation to provide groundhandling services also at another airport that must be on an island. In case a Member State chooses to do so, the Commission has to approve this.

The Commission would like to thank the Camera Deputatilor for its proposed wording on Articles 10(4) and 11(2).

Regarding the third point on slots regulation, the Commission would like to point out that EU-wide studies should not replace studies carried out at local, regional or national level. The Commission recognises that a capacity assessment of a specific airport is best carried out at the airport level. Conducting the study would remain the responsibility of the Member State concerned. However, the Commission proposes that a standard methodology for such studies be devised to better identify capacity bottlenecks at European level and to ensure the spread of best practices among the Member States. The proposal does not envisage any changes in the frequency with which studies are to be drawn up.

Regarding the fourth point on noise-related operating restrictions, the proposal establishes a framework for the decision-making process but leaves decisions on the substance firmly in the hands of the Member States. The Commission invites the Camera Deputatilor to use this framework, if the national competent authorities find it appropriate to internalise the external

cost of noise pollution, in line with the Commission's White Paper on Transport {COM(2011) 144 final}.

The Commission hopes that these explanations serve to clarify the points raised by the Camera Deputatilor and looks forward to continuing our political dialogue in future

Yours faithfully,

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Vice-President*