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Opinion

Title **Impact Assessment on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports**
(draft version of 10 June 2008)

Lead DG **DG TREN**

1) Impact Assessment Board Opinion

(A) Context

Directive 2002/30/EC on the establishment of rules and procedures with regard to the introduction of noise-related restrictions at Community airports implements the guidelines which were endorsed by the International Civil Aviation Organisation (ICAO) in October 2001. The Directive deals in greater detail with the use of noise operating restrictions, and contains principles and rules on how to carry out the noise assessment process related to noise mitigation. In order to assess the effectiveness of the harmonisation measures the Commission had the obligation to report on the implementation of the Directive five years after the entry into force and to assess whether a new legislative proposal is appropriate. In February 2008 the European Commission adopted a report on the Directive, which was communicated to the Council and to the European Parliament. The present impact assessment accompanies a new legislative proposal.

(B) Positive aspects

The IA report is written in a clear language. Good stakeholder consultation has taken place.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report, subject to the discussions that took place in the meeting with the Board.

General recommendation: The IA report needs to clarify which precise elements of the overall problems related to air plane noise can and will be addressed by the present initiative. It now gives the impression that air plane noise in general is addressed, whereas in reality it apparently only concerns "marginally compliant" aircraft, which represents only 1% of flights. It should present the overall policy context more clearly, particularly the

policy constraints flowing from international ICAO obligations on the one hand and subsidiarity considerations on the other hand. On this basis the report should identify more clearly the relevant problem causes. This should be reflected in the definition of realistic objectives, the development of feasible policy options, and a full assessment of their impacts. This assessment should address the issue of whether a legislative response is proportionate to the problems which are being addressed, given that only 3 Member States have applied the provisions of the Directive until now.

At the meeting with the Board, DG TREN agreed to revise the report on a significant number of aspects. Given the nature of the Boards recommendations and the need for substantial restructuring, the Board would like to examine and issue an opinion on a revised version of the IA report.

Specific recommendation:

(1) Present better the policy context; clarify the precise scope of problems to be addressed and objectives to be achieved. The IA report needs to better explain which precise elements of the overall problem related to air noise will be addressed and should provide a proper justification for the possible exclusion of other parts of the problem. This can be done (i) by establishing more clearly the relevant policy framework, particularly the limitations as regards air plane operational restrictions flowing from the ICAO's balanced approach; (ii) by explaining better the respective competences of the EU and Member States (e.g. subsidiarity aspects) and (iii) by showing how the different regulatory instruments as regards air plane noise interact with each other as well as with related (complementary) instruments in the field of environmental or health protection (e.g. Directive 2002/49/EC). On the basis of this analysis, the report should clarify the appropriate level and scope of necessary regulatory intervention with respect to air plane noise issues and should clarify whether possibly a significantly more limited problem scope (e.g. further/reinforced harmonisation measures as regards noise related operating restrictions) is indicated in the present case. Such a scenario would imply not only a substantial restructuring of the problem definition section (including a discussion of the 'pros' and 'cons' of further harmonization measures) but also of all subsequent steps of the impact assessment. For instance the objective section would then have to make clear that the general objective is less the absolute reduction of the number of people affected by harmful noise but rather to contribute to this within the clear limits set by the applicable regulatory framework (recognizing international ICAO obligations on the one hand and subsidiarity considerations on the other hand). Such a significantly more modest approach would also allow the report (i) to discard up-front certain far-reaching policy options on more convincing grounds (e.g. operating restrictions greater than 10db), (ii) to present longer term Commission air noise reduction initiatives/commitments at ICAO level within the proper context and (iii) to concentrate the development and assessment of policy options on those areas where progress can realistically be made while avoiding false policy expectations among stakeholders.

(2) Assess better the control function and suspension power envisaged for the Commission. The IA report should (i) clarify the deficiencies with the current regime to assure the respect of the procedures prescribed by the Directive in the light of the past experience, (ii) set out whether measures other than the preferred measures have been considered and (iii) assess the proportionality of the envisaged suspension power in the light of the number of expected intervention cases and the corresponding administrative burden for the competent authorities.

(3) Clarify certain more specific aspects with relevance for the problem definition. Besides the more fundamental restructuring of the problem definition section, the IA report should explain within that section the apparent need (i) to establish a better link on the preparation of

action plans under the environmental noise Directive and similar consultation procedures under the present Directive; (ii) to clarify exact information requirements of Annex 2 of the Directive as regards the rules of assessment when considering a decision on operating restrictions and (iii) to increase awareness of Member States of the potential noise problems caused by night flights. If the report confirms that these problems are relevant to the action being considered, it should develop corresponding policy objectives and consistent policy options.

(D) Procedure and presentation

The IA report should provide a glossary explaining technical expressions. The executive summary should present in a succinct way all the quantitative information on compliance costs, including administrative costs, and benefits.

2) IAB scrutiny process

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