



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2013)

Opinion

Title **DG MOVE - Impact Assessment on Legislative proposals to update the regulations on Single European Sky – SES2+ (draft version of 15 March 2013)***

(A) Context

The Single European Sky (SES) initiative aims to improve the overall efficiency of the way in which European airspace is organised and managed through the reform of the air navigation services (ANS) industry. Two comprehensive legislative packages – SES I and SES2 – and over 20 Commission implementing rules and decisions have been adopted. The experiences with these packages since 2004 confirmed the validity of the principles and direction of the SES. However the initiative is experiencing significant delays in its implementation, notably in the achievement of the performance goals and the deployment of such basic elements as functional airspace blocks (FABs) and National Supervisory Authorities (NSAs). At the time of the adoption of SES2 in 2009, the legislator decided that this would be done in two stages. The Commission was asked to make proposals to align of SES and European Aviation Safety Agency (EASA) regulations, as soon as the initial set of EASA implementing measures and audit experiences concerning ANS would be in place. This impact assessment (IA) analyses options for the development of an SES2+ package which should improve SES implementation, by addressing institutional arrangements as well as further performance improvement in service provision. In addition, the SES2+ package aims to simplify the legislation by eliminating overlaps in the existing framework.

(B) Overall opinion: POSITIVE

The report should be strengthened on a number of points. First, it should better present the evidence and evaluation results underlying the identified problems, especially with respect to the implementation by Member States of the existing legislation. It should also explain the necessity to update the legislation now, as it has only been in force for one year. Second, it should more clearly define the general objective, explaining what is meant by "competitiveness improvement for the aviation sector". Third, the report should better explain how the policy scenarios have been identified, and to what extent they reflect particular stakeholder preferences. Fourth, it should present how the calculations of the expected costs and benefits of the options were made, and on the basis of which assumptions. Finally, the report should more consistently indicate the arguments behind stakeholder positions throughout the report.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

(1) Strengthen the problem definition. The problem definition should better integrate evaluation results on the practical implementation of SES2, clarifying how and to what extent the problems identified can be attributed to deficiencies in the current legislative framework. This could be achieved by firstly recalling in the policy context section what has already been agreed to in SES2 by Member States that is relevant to the issues identified in this report. Secondly, the problem sections should clearly identify why SES2 is failing to reach its intended objectives using evaluation findings from SES2. This should be further illustrated by reference to SES2 implementation problems that may be subject of infringements procedures against a number of Member States. It should clearly explain how these infringements and other implementation issues affect the effectiveness and efficiency of SES2, and why these need to be addressed at this particular point in time. Thirdly, the report should be made more concise and better integrate and reference available data to strengthen the problem definition, as regards FABs and targets. Data shortcomings should be acknowledged (e.g., there is limited information available on the performance of FABs as only one agreement is currently on track, SESAR is not operational yet so concrete results are still unknown), especially in light of the timing of this initiative.

(2) Clearly define the general objective. The report should better define and operationalise the general competitiveness objective to clarify to which aviation sector competitiveness aspects it refers to (e.g. inter-modal competitiveness within the EU or third-country competitiveness of EU carriers). In more operational terms the report should explain that it aims to reduce costs that arise from fragmentation in air traffic management in the EU's aerospace. The impacts on the relevant competitiveness aspects should be consistently followed up on in the rest of the analysis. The report should be clearer about the continued relevance of the target of 50% cost reduction in view of the fact that the original (pre-crisis) assumptions concerning traffic volumes are at least temporarily far too high.

(3) Better explain the selection of policy scenarios. The report should better explain on what basis the policy elements have been grouped together. It should briefly explain in the main text why certain policy options (such as the original objective of the 2011 Communication to create a single European governance structure) have been discarded early on in the analysis, with reference to more elaborate explanations in the annexes. It should also eliminate some inconsistencies, for example with regard to option 4.2 that is initially identified as the best one, and is subsequently discarded in favour of 4.3. The report should be clearer about the distinct character of the two main options, to bring out the inherent trade-off between aiming for the broadest possible consensus on one hand and high ambitions to improve the performance of the system on the other. In particular, the report should improve its description of the specific risks (e.g. opposition from labour unions, specific Member States) associated with the "performance optimised scenario", and present them in more neutral terms. The report should explain how a performance score board might help to improve the performance of NSAs. In general, the report provides a good overview of stakeholder opinions, but it should indicate more clearly why some stakeholders are not in favour of particular policy options.

(4) Be more concrete about the costs and benefits of the options. The report should provide a clearer explanation how the costs and benefits have been calculated, especially regarding the data supporting the comparison of the options. The report should clearly indicate the sources, assumptions, reasoning and relevance for all these figures. All

important calculations should be provided in more detail and be adequately explained in the annexes, and accurately referenced in the main text. Additionally, the report should improve its assessment of social impacts, making reference to the dialogue taking place with social partners and differentiating between the different sectors that will face losses and describing in what areas jobs are expected to be created (in line with the predicted increase in traffic growth). It should also recall that Member States have already agreed to reducing inefficiency in ANSPs in SES2 and that the job losses were already taken into account as an expected consequence that will be offset by future employment growth in the sector. In general the report should be clearer about the expected benefits (including for consumers) to provide a more balanced account of the expected effects of SES2+.

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

(D) Procedure and presentation

The IA report should be a self-standing document, and references to relevant information from previous initiatives and supporting studies should be provided throughout. If the finalisation of the supporting study brings up new evidence that would necessitate significant changes in the IA that have not been discussed with the Board the revised IA should be resubmitted to the Board to judge if an update on this Opinion would be necessary.

(E) IAB scrutiny process

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| Reference number | 2014/MOVE/001 |
| External expertise used | No |
| Date of IAB meeting | 10 April 2013 |