

# 67<sup>th</sup> SINGLE SKY COMMITTEE

Proposed changes to Commission Implementing Regulations (EU) No 391/2013 for the 3rd Reference Period of the Performance Scheme



## Article 2 Definitions

### *Commission proposal*

*“When actual costs are lower than initially foreseen in their determined costs, Member States should have the flexibility to transfer all or part of the difference to the unit rates of N+2 without having to wait for the next Reference Period, after consultation with airspace users. To support more flexibility to charge less without having to wait for the next Reference Period, definition of 'other revenue' in Article 2(10) should be clarified.”*

### **PSOs position:**

**A symmetric possibility is necessary (i.e. when costs are higher than foreseen) to create a balanced situation.**

## Article 7 Calculation of costs

### *Commission proposal*

*“Modified Article 7(1) to request the Inflation risk sharing to limit the application of inflation to certain costs (i.e. not to depreciation costs) or to a fraction of the total costs representing those subject to inflation (i.e. such as 70%) and cap deflation to 0%.”*

### **PSOs position**

**PSOs consider the limitation the application of inflation to depreciation costs as an interesting solution.**

**Generally, during a given reference period, PSOs are in favour to remove the application of inflation risk sharing when the inflation is lower than expected. Adjustment could be made before the following reference period.**

## Article 8 Allocation of costs

### *Commission proposal*

*“The allocation of ANSPs’ cost bases between en-route and terminal is a long standing item. The current Charging Regulation provides high level principles to guide States/NSAs in making this allocation, a key principles being that ANS provided at airport (control services, flight information services including air traffic advisory services and alerting services) cannot be allocated to en-route. There might be a case to revisit these principles as well as the general provisions regarding establishment of charging zones. Special arrangement may also need to be introduced for approach services.”*

### **PSOs position**

**PSOs believe such an option should be better explained and further detail is required to be able to give a position.**

## Article 13 Traffic risk sharing

### Commission proposal

“Modified Article 13 to remove the dead band from the traffic risk sharing mechanism”

### *PSOs position*

**ANSPs have little influence on the traffic volumes and the flow of traffic. Geopolitical and other external risks create traffic pattern variations outside of the control of the ANSP: these risks must continue to be shared and risks that expose ANSPs should be diminished.**

## Article 13 Traffic risk sharing

### *Commission proposal*

*“Modified Article 13 to ensure that the limits of the traffic risk sharing mechanism is aligned with the traffic thresholds defining the validity of the performance plans and the alert thresholds. This limit will be set at 15% expressed in service units.”*

### **PSOs position**

**ANSPs have little influence on the traffic volumes and the flow of traffic. Risks that expose ANSPs should be diminished.**

**As a consequence, PSOs are opposed to a limit of 15%.**

**The 10% alert threshold is already too high and nothing is planned to avoid any threshold effect.**

# Article 13 Traffic risk sharing

## *Commission proposal*

*“Modified Article 13, with a traffic risk sharing mechanism of an asymmetric nature, stating that in drawing up performance plans as per Article 11 of the Performance Scheme, the national supervisory authorities shall:*

*impartially, independently and transparently set the keys of the mechanism as follows:*

*Case 1: In case, over a given year, the actual number of service units exceeds the forecast established in the performance plan for that year:*

*sharing keys to be within the boundaries of 30% (ANSP) / 70% (AU) to 0% (ANSP) / 100% (AU)*

*Case 2: Where, over a given year, the actual number of service units falls below the forecast established in the performance plan for that year:*

*In very specific circumstances, the ANSP could recover a maximum of 90% of the revenue loss with a corresponding increase of the determined costs.*

*In the absence of a proper justification, otherwise, the default value would be 70%.*

*The increase of the determined costs, for the sake of transparency, should take place in the year  $n+2$  (rather than, as of today, starting not earlier than year  $n+2$ ).”*

## **PSOs position**

**ANSPs have little influence on the traffic volumes and the flow of traffic. Geopolitical and other external risks create traffic pattern variations outside of the control of the ANSP: these risks must continue to be shared and risks that expose ANSPs should be diminished.**

# Article 13 Traffic risk sharing

## *Commission proposal*

*“While considering upper and lower bounds of traffic variations in full consistency with range of traffic forecasts and alert thresholds, i.e. 15% (see above) establish consultation mechanisms for appropriate involvement of stakeholders to support the setting of the keys with, in particular, the objective to develop a better understanding of available capacity and the relationship between additional traffic (relative to forecast values) and additional cost substantiate the sharing keys of the traffic risk sharing mechanism with a description of the underlying assumptions and rationale for setting these keys considering, inter alia, the overall capacity / demand situation of each individual State and traffic forecast”*

## **PSOs position**

**This introduces more complexity and administrative burden in the performance scheme.**

**ANSPs cannot be expected to dynamically amend capacity provision outside of wide parameters due to the length of time it takes to generate additional capacity and the significant social issues reduction in capacity could generate.**

**How is it possible to consider “upper and lower of traffic variation in full consistency with range of traffic forecasts” without taking into consideration the necessary adaptation to provide capacity?**

**PSOs do not consider setting keys in this way is a valid option.**

**PSOs are opposed to alert thresholds at 15%. Risks that expose ANSPs should be diminished.**

**The 10% alert threshold is already too high and nothing is planned to avoid any threshold effect.**

# Article 14 Cost sharing

## *Commission proposal*

*“The current cost sharing mechanism provides that the difference between actual and determined costs shall be ??*

*In order to simplify the setting of charges, reducing the administrative burden, and provide for a more coherent treatment of costs that takes account of the impacts of other risk sharing mechanisms, Article 14(2) is proposed to be adapted to introduce (A) a new mechanism for pensions;*

*and (B) treatment of differences in Eurocontrol's costs between planned ad actual.*

*For (A) the NSAs will be required to monitor on a yearly basis unforeseen changes in the national pension scheme (law, pension costs, market conditions) for those constituents outside of the control of the ANSP. Proposed inclusion of these variations by the NSA shall be subject to (1) a consultation mechanism with appropriate involvement of stakeholders, and*

*(2) a final audit by a chartered accountant, the report of whom shall be provided to the Commission. On demand and on the basis of the report, Air navigation service providers / national supervisory authority shall facilitate inspections by the Commission.*

*(B) may include the possibility of yearly adjustments and recognition in the unit rate for charges.*

## **PSO position:**

**How does this simplify the performance scheme?**

**The PSOs don't support this proposal. The existing regulation provides for how to handle pension costs.**

# Article 15 Incentive schemes for air navigation service providers

## *Commission proposal*

*“Devolve responsibility for development and implementation of incentive schemes to NSAs (modifying Article 15 of the Charging Regulation)*

*Require NSAs to submit schemes for approval prior to each reference period, providing a rationale (identifying the specific issues to be addressed), or explain why no scheme is necessary (to be required by new provisions in Article 15 of the Charging Regulation)*

*Specify a limited number of principles within which a scheme must comply (modifying Article 15(1) of the Charging Regulation):*

*Asymmetry, with bonus rates being below those of penalty rates o A maximum cap on penalties of 3% of ANSP revenues and on bonuses of 1% of ANSP revenues in any year*

*Stakeholders must be consulted on the issues to be addressed by the scheme and on its design”*

## **PSOs position**

**PSOs are opposed to incentive schemes and particularly on en-route delays.**

**ANSPs are only partially responsible for the performance of the ATM ANS system. Airlines, Airports and Political decisions at local and national level, have direct and major consequences on the performance of the system.**

**Even in the en-route part of the performance regulation, where the number of influencing actors is limited, we can see that the performance scheme is not able to identify this. Airlines can decide where they want to fly, at which flight level and when they want to depart. Clear examples are now available proving that the ATM performance is strongly reduced due to unilateral airline decisions.**

**The created unpredictability of the Airline behaviour has to be accommodated by ANSPs and the Network Manager. This leads to necessary margins of capacity in order to accommodate planned and daily changes in behaviour. Furthermore, the capacity changes due to weather and other unforeseen events have to be accommodated by the ANSPs and the Network Manager in everyday operations. Developing a performance scheme that doesn't take these factors into account is not advisable and can't be supported by the PSOs.**

## Article 16 Modulation of air navigation charges

### *Commission proposal*

*“Possibly considering mandating the modulation of air navigation charges. (to, inter alia, accelerating the deployment of SESAR)”*

### ***PSOs position***

**Staff organisations believe that the 2 regulations (Performance and charging) should remain distinct of SESAR initiatives and of the measurement of the efficiency of SESAR deployment.**

**The performance scheme should be output based, not input based. The deployment of SESAR common projects may or may not help contribute, and again further administrative burden placed on the reporting of SESAR common projects will distract from other areas of the scheme. The PCP regulation is separate to the Performance scheme, therefore other methods should be used to track deployment progress.**

A blue speech bubble with a white outline and a small tail pointing downwards. The word "END" is written in white, uppercase letters in the center of the bubble. The background features several concentric circles, some solid and some dashed, in a light gray color.

END