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### OUTCOME OF PROCEEDINGS

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Of: Working Party on Aviation

Date : 29 January 2002

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No. Cion prop. 15014/01 AVIATION 126 CODEC 1321

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Subject : **Proposal for a Directive of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports**

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On 29 January 2002, the Working Party on Aviation continued its examination of the above proposal. The draft Directive as it results from this meeting is set out in the Annex to this document. Modifications with respect to doc. 5480/02 AVIATION 8 CODEC 68 are indicated in bold and strike-through characters. Individual positions of delegations are reflected in the footnotes.

UK, supported by NL, presented a suggestion to make the draft Directive “lighter” by deleting Articles 3, 4, 5, 7 and 12, suppressing parts of Articles 2, 6, 9, 10 and 11, and modifying (the remaining parts of) Articles 6 and 8. The various elements of the UK suggestion are reflected in the footnotes to the Annex. D, DK, I, IRL, A and S showed some interest in this suggestion. F preferred to continue to work on the text at hand. CION warned that the UK suggestion would lead to an unbalanced text. According to CION, this suggestion would result in Member States applying their own rules instead of a Community approach, which could create all sorts of undesirable effects.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports <sup>1</sup>**

**(Text with EEA relevance) <sup>2</sup>**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission <sup>3</sup>,

Having regard to the Opinion of the Economic and Social Committee <sup>4</sup>,

Having regard to the Opinion of the Committee of the Regions <sup>5</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>6</sup>,

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<sup>1</sup> F suggested the following title: "*Directive of the European Parliament and of the Council on combating aircraft noise at Community airports*".

<sup>2</sup> At this stage, each delegation maintains a general scrutiny reservation. DK also has a parliamentary scrutiny reservation.

<sup>3</sup> OJ C , , p. .

<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , , p. .

<sup>6</sup> OJ C , , p. .

<sup>1</sup> [Whereas:

- (1) A key objective of the common transport policy is sustainable development. This requires an integrated approach aimed at ensuring both the effective functioning of the Community's transport systems and the protection of the environment.
- (2) Sustainable development of air transport necessitates the introduction of measures aimed at reducing the noise nuisance from aeroplanes at airports with particular noise problems.
- (3) A new, more stringent noise certification standard, defined in Chapter 4 of Volume 1, Part II of Annex 16 to the Convention on International Civil Aviation, has been established within the framework of the International Civil Aviation Organisation (ICAO) and will contribute to an improvement in the noise climate around airports in the longer term.
- (4) The Chapter 4 standard has been established for certification of aeroplanes and not as a basis for the introduction of operating restrictions.
- (5) The gradual removal of Chapter 2 aeroplanes in application of Directive 92/14/EEC <sup>2</sup> will be completed on 1 April 2002 and new measures will be required to prevent a deterioration in the noise climate after 2002, assuming continued growth of air transport in Europe.
- (6) The use of aeroplanes with a better environmental performance can contribute to a more effective use of available airport capacity and facilitate airport infrastructure development in line with market requirements.

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<sup>1</sup> The recitals have not yet been discussed.

<sup>2</sup> OJ L 76, 23.3.1992, p. 21 as amended by Council Directive 98/20/EC, OJ L 107, 7.4.1998, p. 4.

- (7) A common framework of rules and procedures for the introduction of operating restrictions at Community airports, as part of a balanced approach on noise management, will help safeguard internal market requirements by introducing similar operating restrictions at airports with broadly comparable noise problems. This includes assessment of the noise impact at an airport and evaluation of the measures available to alleviate that impact, and selection of the appropriate mitigation measures with the goal of achieving the maximum environmental benefit most cost effectively.
- (8) Council Regulation (EC) No 2408/92<sup>1</sup> provides in Articles 8 and 9 for, inter alia, publication and examination of operating restrictions: the relationship of those provisions with this Directive should be set out.
- (9) The legitimate interest of the air transport sector in applying cost-effective solutions for meeting noise management goals should be recognised.
- (10) The 33rd ICAO Assembly adopted Resolution A33/7 introducing the concept of a "balanced approach" to noise management, thereby establishing a policy approach to address aeroplane noise, including international guidance for the introduction of operating restrictions on an airport-by-airport basis. The "balanced approach" concept of aeroplane noise management comprises four principle elements and requires careful assessment of all different options to mitigate noise, including reduction of aeroplane noise at source, land-use planning and management measures, noise abatement operational procedures and operating restrictions, without prejudice to relevant legal obligations, existing agreements, current laws and established policies.

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<sup>1</sup> OJ L 240, 24.8.92, p. 8.

- (11) Directive 2002/-/EC <sup>1</sup>, which is a horizontal measure covering all modes of transport, has introduced a common approach for the assessment and management of environmental noise. It aims at monitoring the environmental problem caused by noise in major agglomerations and in the vicinity of main transport infrastructures, including airports, at making information on environmental noise and its effects available to the public, and at requesting competent authorities to draw up action plans with a view to preventing and reducing environmental noise where necessary and to preserving environmental noise quality where it is good.
- (12) Directive 85/337/EEC <sup>2</sup> already provides for a comprehensive assessment of airport projects including noise mitigation. This can be considered as meeting, in part, the assessment requirements of this Directive in the case of airport infrastructure extension projects.
- (13) Such an assessment may demonstrate that the objectives can only be achieved by a restriction on new services and the gradual withdrawal of aeroplanes that meet the Chapter 3 noise certification standard by a small margin.
- (14) The particular noise problems of airports which are located in the centre of large conurbations ("city airports") should be recognised by allowing for the introduction of more stringent rules.
- (15) It is necessary to finalise the indicative list of city airports on the basis of information to be provided by Member States.
- (16) The extension of airport infrastructure should be facilitated with a view to safeguarding the sustainable development of air transport activities.

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<sup>1</sup> OJ L ...

<sup>2</sup> OJ L 175, 5.7.1985, p. 40 as amended by Council Directive 97/11/EC, OJ L 73, 14.3.1997, p. 5.

- (17) It is necessary to allow for the continuation of existing airport-specific noise management measures and for certain technical changes to operating restrictions of a partial nature.
- (18) Undue economic hardship for operators from developing nations should be avoided by allowing for the granting of exemptions where appropriate, and such provision should include safeguards to avoid abuse.
- (19) It is necessary to ensure transparency and consultation of all parties involved in conjunction with proposals on noise-related measures, including the introduction of new operating restrictions.
- (20) Operators should be given a reasonable period of advance notice when new operating restrictions are to be introduced.
- (21) Provision should be made to ensure the right of appeal against the introduction of operating restrictions.
- (22) The Directive is in accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty. The introduction of operating restrictions at Community airports can contribute to the objective of preventing a worsening of the noise climate around airports, but there is a possibility of introducing distortions of competition. The objective can therefore, be more effectively achieved by the Community by means of harmonised rules on the introduction of operating restrictions as part of the noise management process. The Directive confines itself to the minimum required in order to achieve this objective and does not go beyond what is necessary for that purpose.
- (23) In accordance with Article 2 of Decision 1999/468/EC of 28 June 1999<sup>1</sup> laying down the procedures for the exercise of implementing powers conferred on the Commission, certain measures for the implementation of this Directive should be adopted by use of the advisory procedure provided for in Article 3 of that Decision.

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<sup>1</sup> OJ L 184, 17.7.1999, p. 23-26.

- (24) Since certain measures necessary for the implementation of this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision.
- (25) The measures provided for by the present Directive supersede those provided for by Regulation (EC) No 925<sup>1</sup> of 29 April 1999 on the registration and operation within the Community of certain types of civil subsonic jet aeroplanes which have been modified and recertificated as meeting the standards of volume I, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993). That Regulation should therefore be repealed,]

HAVE ADOPTED THIS DIRECTIVE:

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<sup>1</sup> OJ L 120, 8.5.99, p. 47.

## *Article 1*

### **Objectives**

The objectives of this Directive are:

- (a) to lay down rules for the Community to facilitate <sup>1</sup> the introduction of operating restrictions <sup>2</sup> in a consistent manner at airport level so as to help [prevent a worsening of the noise climate and to] <sup>3</sup> limit or reduce the number of people significantly affected by the harmful effects of aircraft noise <sup>4</sup>;
- (b) to provide a framework which safeguards internal market requirements by ensuring that similar solutions <sup>5</sup> are applied if similar noise problems are identified at airports <sup>6</sup>;
- (c) to facilitate a sustainable development of airport capacity;
- (d) to facilitate the achievement of specific noise abatement objectives at the level of individual airports <sup>7</sup>;
- (e) to enable the selection of available measures with the goal of achieving maximum environmental benefit in the most cost-effective manner.

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<sup>1</sup> It was commented that the word "facilitate" was not appropriate in this context, as the Directive lays down rules making the introduction of operating restrictions more difficult.  
<sup>2</sup> D wanted a definition of the aircraft the operating of which was to be restricted.  
<sup>3</sup> A wondered if the words in square brackets were useful, since only an improvement in the situation was aimed at.  
<sup>4</sup> F suggested merging paragraphs (a) and (b).  
<sup>5</sup> NL, supported by B/D and UK, commented that the expression "similar solutions" was inappropriate, as there was no guarantee that such a result would be attained.  
<sup>6</sup> I suggested deleting this paragraph as its content was already found in paragraph (a).  
<sup>7</sup> The Presidency suggested the following alternative wording: "to reduce noise at certain airports".



*Article 2*  
**Definitions**

For the purposes of this Directive:

- (a) "*airport*" shall mean a civil airport which has more than 50 000 movements of **civil jet aeroplanes** <sup>1</sup> per **calendar** year (a movement being a take-off or landing), **taking into consideration the average of the last three calendar years before the application of the rules of this Directive to the airport at hand** <sup>2</sup>, ~~excluding those purely for training purposes on light aircraft~~;
- (b) "*city airport*" shall mean an airport in the centre of a large conurbation, providing ~~predominantly~~ <sup>3</sup> point-to-point intra-European service, where a significant number of people are objectively affected by aircraft noise and where any incremental increase in aircraft movements represents a particularly high annoyance in the light of the extreme noise situation. An airport may qualify as a city airport only if there is an alternative airport also serving that city <sup>4</sup>. These airports are listed in Annex 1; <sup>5</sup>
- (c) "*civil subsonic jet aeroplanes*" shall mean aeroplanes with a maximum certificated take-off mass of 34 000 kg or more, or with a certified maximum internal accommodation for the aeroplane type in question consisting of more than 19 passenger seats, excluding any seats for crew only;

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<sup>1</sup> Addition inserted following a request by NL supported by 9 delegations; F and CION tabled a scrutiny reservation, since they wanted to verify this definition in the light of definitions used in other documents and rules.

<sup>2</sup> Presidency suggestion following a request by UK.

<sup>3</sup> The Presidency suggested deleting this word, in order to make the definition stricter. D opposed, CION tabled a scrutiny reservation.

<sup>4</sup> I suggested that the definition should also refer to the size of a city-airport, which is necessarily small.

<sup>5</sup> F and I tabled a reservation with respect to this definition, since these delegations felt that the definition might be too wide, so covering more airports than those listed in Annex 1 (which in itself would be acceptable). I might present an alternative draft.

- (d) "*marginally compliant aeroplanes*" shall mean civil subsonic jet aeroplanes, that meet the Chapter 3 certification limits laid down in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation by a cumulative margin of not more than 5EPNdB (Effective Perceived Noise in decibels), whereby the cumulative margin is the figure expressed in EPNdB obtained by adding the individual margins (i.e. the differences between the certificated noise level and the maximum permitted noise level ) at each of the three reference noise measurement points as defined in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation;
- (e) "*operating restrictions*" shall mean noise-related action that limits or reduces access of civil subsonic **jet**<sup>1</sup> aeroplanes to an airport<sup>2</sup>. It includes operating restrictions aimed at the withdrawal from operations of marginally compliant aeroplanes at specific airports as well as operating restrictions of a partial nature, affecting the operation of civil subsonic aeroplanes according to time period;<sup>3</sup>
- (f) "*interested parties*" shall mean natural or legal persons **who have or represent legitimate rights or interests that are** affected or likely to be affected by, ~~or having an interest in~~ the introduction of, noise reduction measures, including operating restrictions;<sup>4</sup>
- (g)<sup>5</sup>

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<sup>1</sup> Addition following a suggestion by CION.

<sup>2</sup> D suggested making reference here to the definition in (d).

<sup>3</sup> UK suggested to delete this definition.

<sup>4</sup> This redrafted text is a Presidency suggestion. F, I, A, UK and CION tabled (positive) scrutiny reservations.

<sup>5</sup> D suggested the addition of a new definition (g) on the competent authority: "*Competent authority*" shall mean the authority in a Member State responsible for giving certification to airports." IRL opposed this definition.

*Article 3*

**Competent authorities**<sup>1</sup>

Member States shall designate the ~~independent~~ competent authorities responsible for matters falling within the scope of this Directive.<sup>2</sup>

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<sup>1</sup> The modification of ‘authority’ (singular) in “authorities” (plural) and the deletion of the word “independent” in Article 3 are a Presidency suggestion. I, IRL, GR, FIN and S could accept.

<sup>2</sup> D suggested deleting this Article and introducing a new definition in Article 2(g). L, NL, A and UK felt that the Article was not necessary. NL observed that in case the Article be maintained, the Presidency suggestion of deleting the word “independent” was helpful. CION observed that the Article is useful because of indicating who is responsible. CION insisted that it was not intended that Member States create a new authority.

## Article 4 <sup>1</sup>

### General rules on aircraft noise management

1. Member States shall ~~ensure that the competent authorities~~ <sup>2</sup> adopt a balanced approach by considering the available measures to address the noise problem at an airport in their territory, namely the foreseeable effect of a reduction of aeroplane noise at source, land-use planning and management, noise abatement operational procedures and other possible noise management measures, such as economic incentives and operating restrictions.<sup>3</sup>
2. When considering <sup>4</sup> operating restrictions, ~~the Member States competent authorities~~ <sup>5</sup> shall take into account the likely costs and benefits of the various measures available as well as airport-specific characteristics.
3. Measures or a combination of measures taken under this Directive shall not be more restrictive than necessary in order to achieve the environmental objective established for a specific airport. They shall be non-discriminatory on grounds of nationality or identity of air carrier.<sup>6</sup>

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<sup>1</sup> UK suggested deleting this Article. IRL tabled a scrutiny reservation.

<sup>2</sup> The deletion is a Presidency suggestion.

<sup>3</sup> In case this Article be maintained, UK felt that the paragraph needed to be considered further in the light of ICAO Resolution A33/7. NL and UK added that adoption of the "balanced approach" by the competent authorities as laid down in this paragraph would seem to go beyond what was required by Resolution A33/7. B tabled a scrutiny reservation.

<sup>4</sup> F suggested the addition of "daytime or night-time" (for pedagogical reasons). FIN felt that such addition might restrict the meaning of the paragraph.

<sup>5</sup> Presidency suggestion.

<sup>6</sup> A, supported by D, felt that this paragraph should state that existing rights would be upheld, as had been provided for in Resolution A33/7. D added that the wording of the present Article 7 was not adequate for this purpose.

CIION explained that for reasons of legal procedure, the reference to upholding of rights appeared not in the enacting terms of the Directive but in recital 10.

*Article 5*

**Rules on assessment** <sup>1</sup>

1. **While adopting a decision for operating restrictions, Member States will take into account the information as specified in Annex 2. This information must be provided in an appropriate form depending on the characteristics and the size of the airport.** <sup>2</sup>
  
2. Where airport projects are subject to an environmental impact assessment in application of Directive 85/337/EEC as amended by Directive 97/11/EC, the assessment carried out in conformity with the provisions of Council Directive 85/337/EEC shall be considered as equivalent to and meeting the requirements of the provisions laid down in paragraph 1 provided that the assessment includes the elements in Annex 2 to this Directive. <sup>3</sup>

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<sup>1</sup> UK and NL suggested deletion of this Article.

<sup>2</sup> The new text of this paragraph is a Presidency suggestion, which is based on the suggestion tabled by the Presidency at the meeting (and which was accepted by I and FIN, while being positively received by D, F, IRL, A, S and CION, who tabled a scrutiny reservation) and taking into account comments by GR and P.

<sup>3</sup> D stated that it might come up with an alternative drafting suggestion for this paragraph.

Article 6

**Rules on the introduction of operating restrictions aimed at the withdrawal of marginally compliant aeroplanes<sup>1</sup>**

1. If the assessment of all available measures [carried out in conformity with the requirements of Article 5]<sup>2</sup> demonstrates that the achievement of the objectives of this Directive requires [, after consideration of operating restrictions of a partial nature,]<sup>3</sup> the introduction of operating restrictions aimed at the withdrawal of marginally compliant aeroplanes, the following rules shall apply instead of the procedure provided for in Article 9 of Regulation (EC) No 2408/92 at the airport under consideration:
  - (a) 6 months after the completion of the assessment and decision [by a competent authority]<sup>4</sup> on the introduction of an operating restriction, no **additional new**<sup>5</sup> services shall be allowed with marginally compliant aeroplanes at that airport;
  - (b) not less than one year ~~thereafter~~ **this six months' period,**<sup>6</sup> each operator may be required [by the competent authority]<sup>7</sup> to remove marginally compliant aeroplanes from his **services at that airport** ~~fleet~~ at an annual rate of not more than 20% of **the initial total number** ~~that operator's fleet~~ of marginally compliant aeroplanes **of that operator** serving the **concerned** airport<sup>8</sup>. ~~The rate of removal shall take into account the age of the aeroplanes and the composition of the total fleet.~~<sup>9</sup>

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<sup>1</sup> UK suggested replacing the title of this Article with the following: “Rules on the withdrawal of marginally compliant aeroplanes”.

<sup>2</sup> UK suggested deleting these words. CION and I opposed.

<sup>3</sup> UK suggested deleting these words. CION and I opposed.

<sup>4</sup> UK suggested deleting the reference to “competent authority”.

<sup>5</sup> Presidency suggestion following observations by I, NL and FIN.

<sup>6</sup> Presidency suggestion following an observation by NL.

<sup>7</sup> UK suggested deleting the reference to “competent authority”.

<sup>8</sup> Presidency suggestion following observations by ES, I, F and NL.

<sup>9</sup> I and CION may come up with new drafting suggestions for this sentence.

2. [Subject to the rules in assessment in Article 5, [city] <sup>1</sup> ] <sup>2</sup> airports listed in Annex 1 may introduce measures that are more stringent in terms of the definition of marginally compliant aeroplanes provided that these measures do not affect civil subsonic jet aeroplanes that comply, through either original certification or re-certification, with the noise standards in Volume I, Part II, Chapter 4 of Annex 16 to the Convention on International Civil Aviation.
- <sup>3</sup> 3. The Commission shall, at the request of a Member State or on its own initiative, examine the application of paragraphs 1 and 2, and, within three months of receipt of a request and after consulting the Committee referred to in Article 12(1) in accordance with the procedure laid down in Article 12(3), decide whether the Member State concerned may pursue the introduction of the operating restriction.. The Commission shall communicate its decision to the Council and the Member States.

Any Member State may refer the Commission's decision to the Council within one month. The Council, acting by a qualified majority, may take a different decision within a period of one month.

This Article shall not affect Article 8 of Regulation (EEC) No 2408/92.

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<sup>1</sup> F tabled a reservation. This delegation, supported by ES, wants only the list of Annex 1, not the definition of city airports (see Article 2 above). D/A/S/UK and CION opposed this position. They prefer a clear definition explaining which airports are on the said list.

<sup>2</sup> UK suggested deleting the first 9 words of paragraph 6 (2).

<sup>3</sup> NL tabled a scrutiny reservation. D, NL and UK suggested deleting this paragraph.

*Article 7*<sup>1</sup>

**Existing operating restrictions**<sup>2</sup>

Article 5 shall not apply to:

- (a) operating restrictions that were already **established** ~~in force~~<sup>3</sup> on the date of entry into force of this Directive;
- (b) technical<sup>4</sup> changes to operating restrictions of a partial nature that do not have any significant cost implications for the airline operators at any given Community airport and that have been introduced after the entry into force of this Directive.

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<sup>1</sup> UK suggested deleting this Article.

<sup>2</sup> D, with the support of B/DK/NL/A, felt that this Article should more closely reflect the wording of Resolution A33/7, especially the last recital of Appendix E of this Resolution, which speaks of States being obliged to honour “legal obligations, laws, existing arrangements and established policies”. The Legal Service of CION referred to recital 10 of the present Directive, and explained that the operative part of the Directive could not contain an exception for the (national) laws of the Member States, since that would mean that Community law would be made subject to national law, which is contrary to the principle of primacy of Community law. D indicated that they were not convinced by this explanation.

<sup>3</sup> Presidency suggestion.

<sup>4</sup> D suggested deleting the word "technical".



*Article 8*<sup>1</sup>

**Developing nations**

1. **[Marginally compliant]**<sup>2</sup> aeroplanes registered in developing nations and listed in Annex 3 shall be exempted from the provisions of Article 6(1) and (2) provided that:
  - (a) such aeroplanes, granted noise certification to the standards specified in Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, were operated **at the particular airport in the Community**<sup>3</sup> between 1 January 1996 and 31 December 2001 ("the reference period"), and
  - (b) these aeroplanes were, in the reference period, on the register of the developing nation concerned and they continue to be operated by **the same**<sup>4</sup> natural or legal person established in that nation.
  
2. [Any Member State granting an exemption shall forthwith inform the competent authorities of the other Member States and the Commission of the exemptions it has granted, including such details as are specified in Annex 3.]<sup>5</sup>

[*Article 8 a*]<sup>6</sup>

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<sup>1</sup> ES requested a maximum deadline of 10 years for compliance, UK requested 5 years. According to I, it depends on the country.

<sup>2</sup> Presidency suggestion. IRL would like to delete these words.

<sup>3</sup> Presidency suggestion following a comment by F.

<sup>4</sup> Presidency suggestion following a suggestion by B, supported by D; CION tabled a scrutiny reservation.

<sup>5</sup> It was pointed out that this paragraph could be deleted in view of the changes operated in paragraph 1.

<sup>6</sup> The Presidency suggested inserting a new Article 8 a, providing a generic exemption with respect to emergency flights, flights in the framework of a humanitarian mission, etc. D, ES, I and NL reacted positively to this suggestion.

*Article 9*

**Consultation and transparency**

Member States shall ensure that a consultation procedure relating to the application of Articles 5<sup>1</sup> and 6 and involving all interested parties is established.<sup>2</sup> [Competent authorities should ensure openness and transparency as regards data and computation methodology within the limits of commercial confidentiality.]<sup>3</sup>

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<sup>1</sup> UK requested the deletion of the reference to Article 5.

<sup>2</sup> F, supported by FIN and UK, felt that a procedure "involving all interested parties" ran the risk of too many parties having to be consulted. F suggested to modify the text as follows: "*Member States shall ensure that a consultation procedure of interested parties for the application of Articles 5 and 6 is established.*"

I suggested first awaiting agreement on the definition concerned in Article 2(f).

F and FIN tabled scrutiny reservations.

CION explained that the term "interested parties" came from the Aarhus Convention.

<sup>3</sup> UK suggested deleting this sentence.

*Article 10*

**Public notice**

1. Member States shall ensure that [when competent authorities decide]<sup>1</sup> on the introduction of any new operating restriction, public notice is given to all interested parties ~~at least~~:
  - (a) 6 months before the entry into force of the measures in Article 6(1)(a);
  - (b) one year before the entry into force of the measures in Article 6(1)(b) and 6(2).
2. Any Member State shall forthwith inform the other Member States and the Commission of any new operating restriction<sup>2</sup> it intends<sup>3</sup> to introduce at an airport in its territory.

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<sup>1</sup> UK asked to delete these words.

<sup>2</sup> D asked for the insertion of "within the meaning of this Directive".

<sup>3</sup> NL asked for "intends" to be replaced by "has decided".

*Article 11*<sup>1</sup>

**Right of appeal**

Member States shall ensure that any interested party<sup>2</sup> has the right to appeal against the measures taken pursuant to Articles 6 and 7b<sup>3</sup> before a ~~law national~~-court<sup>4</sup> or an independent public authority other than the one that has adopted the contested measure.<sup>5</sup>

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<sup>1</sup> F tabled a scrutiny reservation.

<sup>2</sup> Several delegations find this too broadly phrased, giving too many parties a right of appeal.

<sup>3</sup> Presidency suggestion following a request by UK.

<sup>4</sup> Presidency suggestion following a request by UK.

<sup>5</sup> UK, supported by DK, commented that there was no right of appeal against the non-introduction of a restriction measure, and requested that this be provided for. F and I observed that such is not possible in their national legal systems, since the authority which has the power, but not the obligation to act, can not be challenged for not having acted. NL tabled a scrutiny reservation.

Article 12<sup>1</sup>

**Committee**

1. The Commission shall be assisted by the Committee instituted by Article 11 of Regulation (EC) No 2408/92.

[..]<sup>2</sup>

2. The Committee may be consulted by the Commission on any matter concerning the application of this Directive.
3. When reference is made to this paragraph, the advisory procedure laid down in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.
4. When reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.

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<sup>1</sup> UK requested to delete this Article.

<sup>2</sup> F presented a suggestion for a new paragraph in the following sense: “*The Committee takes note of the studies undertaken by the Member States in accordance with Article 5, and of the measures taken, or intended to be taken, on the basis of these studies.*” CION could accept.

*Article 13*

**Information and revision**

Member States shall upon request submit information on the application of this Directive to the Commission.

No later than 5 years after the entry into force of this Directive the Commission shall report to the European Parliament and to the Council on the application of this Directive.

The report shall be accompanied, where necessary, by proposals for revision of the Directive.

It shall contain an assessment of the effectiveness of this Directive, in particular the need to revise the definition of marginally compliant aeroplanes as laid down in Article 2(d).

*Article 14*

**Repeal**

Regulation (EC) No 925/1999 is repealed as from the date of entry into force of this Directive.<sup>1</sup>

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<sup>1</sup> F observed that there would be a period of legal void between the date of repeal of the hushkits Regulation and the implementation of the present Directive.

*Article 15*

**Implementation**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 2003 at the latest<sup>1</sup>. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

*Article 16*

**Entry into force**

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

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<sup>1</sup> D commented that this date could be difficult for the German authorities in view of the next elections for the *Bundestag* (German Federal Parliament). B, I and NL tabled scrutiny reservations. I could accept the date if CION would be flexible in 2003, and if it would refrain from quickly starting Court proceedings in case of non-implementation. UK could accept as a target date.

*Article 17*  
**Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament  
The President

For the Council  
The President



ANNEX 1<sup>1</sup>

List of city airports

Berlin-Tempelhof  
Stockholm Bromma  
London City  
Belfast City

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<sup>1</sup> F does not want the definition of city airports.  
UK does not want this definition to be deleted.  
Presidency might put forward a new compromise definition which is acceptable for both.

## ANNEX 2

### Information referred to in Article 5(1)

#### 1. Current inventory

- 1.1 A description of the airport including information about its size, location, surroundings, air traffic volume and mix.
- 1.2 A description of the environmental objectives for the airport and the national context.
- 1.3 Details of noise contours for the current and previous years – including an assessment of the number of people affected by aircraft noise. Description of the computational method used to develop the contours.
- 1.4 A description of measures to ameliorate aircraft noise already implemented: for example, information on land-use planning and management; noise insulation programmes; operating procedures such as PANS-OPS; operation restrictions such as noise limits, night limits/curfew, noise charges; preferential runway use, noise preferred routes/ track-keeping; and noise monitoring.

#### 2. Forecast without new measures

- 2.1 Descriptions of airport developments (if any) already approved and in the programme, for example, increased capacity, runway and/or terminal expansion, and the projected future traffic mix and estimated growth.
- 2.2 In case of airport capacity extension the benefits of making that additional capacity available.
- 2.3 A description of effect on noise climate without further measures, and of those measures already planned to ameliorate that noise impact over the same period.
- 2.4 Forecast noise contours – including an assessment of the number of people likely to be affected by aircraft noise - distinguish between established residential area and newly constructed residential areas.
- 2.5 Evaluation of the consequences and possible costs of not taking action to reduce the impact of increased noise – if it is expected to occur.

### 3. Assessment of additional measures

3.1 Outline of the additional measures available and an indication of the main reasons for their selection. Description of those measures chosen for further analysis and information on the cost of introducing these measures; the number of people expected to benefit and timeframe; and a ranking of the overall effectiveness of particular measures.

3.2 Assessment of the cost/effectiveness or cost/benefit of the introduction of specific measures, taking account of the socio-economic effects of the measures on the users of the airport: operators (passenger and freight); travellers and local communities.

3.3 An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.

3.4 Reasons for selection of the preferred option.

3.5 A non-technical summary.

### 4. Relation with the (proposed) Directive relating to the Assessment and Management of Environmental Noise [COM (2000) 468]

4.1 When and where noise maps or action plans have been prepared under the terms of the Environmental Noise Directive these will be used for providing the information required in this Annex.

4.2 The assessment of noise exposure (i.e. noise contours and number of people affected) shall be carried out using at least the common noise indicators Lden and Lnight as specified in the Environmental Noise Directive, where available.

### ANNEX 3<sup>1</sup>

#### List of marginally compliant aeroplanes from developing nations (by geographical region)

Note: Exemptions for aeroplanes in this Annex are granted within the general framework of the United Nations policies and decisions (e.g. sanctions, embargo, etc.)

Type	Registration	Cumulative margin (in EPNdB)	Operator
<b><u>ACAC and AFCAC</u></b>			
<b>Egypt</b>			
B707-300F-cargo	SU-AVZ	2.5	Air Memphis
B747-300	SU-GAL	3.4	Egyptair
B747-300	SU-GAM	3.4	Egyptair
<b>Morocco</b>			
B747-200	CN-RME	0.6	Royal Air Maroc
<b>Angola</b>			
B747-300	D2-TEA	3.4	TAAG
B747-300	D2-TEB	3.4	TAAG
IL62M	D2-TIF	0.1	TAAG
<b>Gabon</b>			
B747-200	F-ODJG	3.4	Air Gabon

<sup>1</sup> Member States are invited to check this list and inform the Council secretariat general of any omissions. CION agreed with Member States that this list, which was drawn up by a consultant, has mainly an indicative value. CION underlined that the list can be adapted in accordance with Article 8.

<b>Ghana</b>			
DC8-62F cargo	9G-BAN	1.1	Continental
B747-200F Cargo	9G-MKI	2.3	MK Airlines
B747-200F Cargo	9G-MKJ	2.6	MK Airlines
B747-200F Cargo	9G-MKL	?	MK Airlines
DC8-62F Cargo	9G-MKG	1.4	MK Airlines
DC8-62F Cargo	9G-MKH	1.4	MK Airlines
DC8-62F Cargo	9G-MKK	1.2	MK Airlines
<b>South Africa</b>			
B747SP	ZS-SPA	4.9	SAA
B747SP	ZS-SPC	4.9	SAA
B747SP	ZS-SPE	4.9	SAA
B747-300	ZS-SAC	3.4	SAA
B747-300	ZS-SAJ	3.4	SAA
B747-300	ZS-SAT	3.4	SAA
B747-300	ZS-SAU	3.4	SAA
B747-300	ZS-SKA	3.4	SAA
B747-300	ZS-SKB	3.4	SAA
B767-200	ZS-SRB	4.2	SAA
B767-200	ZS-SRC	4.2	SAA
<b><u>LACAC</u></b>			
<b>Cuba</b>			
IL62M	CU-T-1217	0.1	Cubana
IL62M	CU-T-1225	0.1	Cubana
IL62M	CU-T-1280	0.1	Cubana
IL62M	CU-T-1282	0.1	Cubana
IL62M	CU-T-1283	0.1	Cubana
IL62M	CU-T-1284	0.1	Cubana

<b>Argentina</b>			
B747-200	LV-MLO	2.4	Aerolíneas Argentinas
B747-200	LV-MLP	2.4	Aerolíneas Argentinas
B747-200	LV-MLR	2.4	Aerolíneas Argentinas
B747-200	LV-OEP	2.4	Aerolíneas Argentinas
B747-200	LV-OEZ	2.4	Aerolíneas Argentinas
B747-200	LV-OPA	2.4	Aerolíneas Argentinas
B747-200	LV-YPC	2.4	Aerolíneas Argentinas

**Eastern Europe (except members of ECAC or of the proposed European Common Aviation Area)**

<b>Bosnia-Herzegovina</b>			
Yak 42	T9-ABD	5.0	Air Bosnia
Yak 42	T9-ABF	5.0	Air Bosnia
<b>Georgia</b>			
IL62M	UK 86577	0.1	Airzena Georgian AL
<b>Kazakhstan</b>			
TU 154M	UN 85719	1.6	Aero Eko
TU 154M	UN 85780	1.6	Aero Eko
TU 154M	UN 85781	1.6	Aero Eko
Yak42	UN 42338	5.0	Irtysh Avia
Yak42	UN 42342	5.0	Irtysh Avia
Yak42	UN 42407	5.0	Irtysh Avia
Yak42	UN 42447	5.0	Irtysh Avia
Yak42	UN 42448	5.0	Irtysh Avia
<b>Kyrgyzstan</b>			
TU 154M	EX 85718	1.6	Kyrgyzstan AL
TU 154M	EX 85762	1.6	Kyrgyzstan AL
IL62M	EX 62100	0.1	Quadrotour Aero

<b>Fyrom</b>			
DC9-32	Z3-AAB	0.2	MAT Macedonian AL
DC9-32	Z3-ARE	0.2	MAT Macedonian AL
<b>Tajikistan</b>			
TU 154M	E 85651	1.6	Tajik Air
TU 154M	E 85691	1.6	Tajik Air
<b>Turkmenistan</b>			
Yak 42	EZ-J672	5.0	Turkmenistan AL
Yak 42	EZ-J673	5.0	Turkmenistan AL
Yak 42	EZ-J674	5.0	Turkmenistan AL
<b>Uzbekistan</b>			
IL62M	UK 86573	0.1	Uzbekistan AL
IL62M	UK 86578	0.1	Uzbekistan AL
IL62M	UK 86579	0.1	Uzbekistan AL
IL62M	UK 86932	0.1	Uzbekistan AL
IL62M	UK 86933	0.1	Uzbekistan AL
<b>Federal Republic of Yugoslavia</b>			
DC10-30	YU-AMB	1.1	JAT
DC9-32	YU-AJI	0.2	JAT
DC9-32	YU-AJL	0.2	JAT



**Rest of the World**

**China**

B747-200 cargo	B 2446	3.4	Air China
B747-200 cargo	B 2448	3.4	Air China
B747-200 cargo	B 2450	3.4	Air China
B747-200 cargo	B 2462	3.4	Air China

**Iran**

B747-200	EP-IAG	0.6	Iran Air
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