EUROPEAN COMMISSION

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2011/0398 (COD)

Proposal for a

REGULATION 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 Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council

{SEC(2011) 1455 final}
{SEC(2011) 1456 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1. Noise from aircraft at or around airports is a nuisance for a growing number of European citizens, especially at night, as indicated in Table 1 below. An active noise management strategy is therefore necessary to mitigate the undesired effects. Such noise strategy must, however, carefully balance the interests of the affected citizens with other interests and take due account of the knock-on effects on the capacity of the whole aviation network.

Table 1: Forecasts from the International Civil Aviation Organization (ICAO) of number of people affected by noise (in millions) in Europe – without substantial operational and technological improvements[1]

Noise level/Year	2006	2016	2026	2036
> 55 DNL	2.63	3.47	4.48	5.79
> 60 DNL	0.799	1.14	1.53	2.12
> 65 DNL	0.23	0.32	0.43	0.66

2. The introduction of operating restrictions, may have a substantial impact on business and operations, as it restricts access to an airport. Hence, the process leading to a decision on noise-related operating restrictions should be consistent, evidence-based and robust to be acceptable for all stakeholders.

3. In an effort to ensure a consistent approach to the application of noise abatement measures at air ports, the ICAO adopted a set of principles and guidance constituting the so-called "Balanced Approach" on noise managment, which encourages ICAO Contracting States:

- to mitigate aviation noise through selection of the optimum local combination from a range of measures (1) reducing noise at source (from use of quieter aircraft), (2) making best use of land (plan and manage the land surrounding airports; (3) introducing operational noise abatement procedures (by using specific runways, routes or procedures); and (4) imposing noise-related operating restrictions (such as a night ban or phasing out of noisier aircraft).

- to select the most cost-effective range of measures.

- not to introduce noise-related operating restrictions, unless the authority is in a position, on basis of studies and consultations, to determine whether a noise problem exists and having determined that an operating restriction is a cost-effective way of dealing with the problem.

4. This regulation aims to apply noise-related operating restrictions of the Balanced Approach in the EU in a consistent manner which should greatly reduce the risk of

[1] Source: CAEP/8 – Information Paper 8 – expressed in Day-Night average noise levels (DNL) – baseline scenario, without substantial technology or operational improvements – ICAO European regio

international disputes in the event that third country carriers are impacted by noise abatement measures at air ports in the Union. In addition, competent authorities will be in a better position to phase-out the noisiest aircraft in the fleet. The proposed regulation will repeal Directive 2002/30/EC which was instrumental in bringing an international dispute to an end and set the first steps in the harmonization of noise management policies, including tackling the noisiest aircraft of that time. However, the instrument needs to be adapted to the current requirements of the aviation system and the growing noise problem.

5. This regulation will ensure that the noise assessment process will become more robust. All steps in the assessment process will be clarified in order to ensure a more consistent application of the balanced approach across the Union. This proposal does not, however, stipulate noise quality objectives which continue to derive from the existing national and local rules. Instead, it aims at a system facilitating the achievement of these noise quality goals in the most cost-effective way.

6. At ICAO level the EU actively supports the development of new noise standards for aircraft and invests in new technologies through Framework Programmes and the Clean Sky project[2]. But land use planning, together with the associated insulation and compensation programmes, is a national or local competence.

7. Operational noise abatement procedures are used at all airports in different forms: noise preferential routes (where aircraft fly e.g. over least populated areas), thrust management (the more thrust, the more noise is generated but the steeper the aircraft may climb) or specific measures on the ground (e.g. use of specific taxi or runways). The EU contributes through its Single European Sky legislation, which aims at setting performance targets for air navigation service providers in the environmental field, and through the associated research programmes SESAR and Clean Sky.

8. As shown in Figure 1, the measures primarily applied at European airports are noise abatement procedures. However, in addition, operating restrictions are frequently used. The following restrictions have been introduced at the 224 EU airports assessed[3] for this report: 116 curfews[4], 52 noise limits, 51 restrictions targeted aircraft of the noise standard 'Chapter 3', 38 noise quotas and 7 noise budgets.

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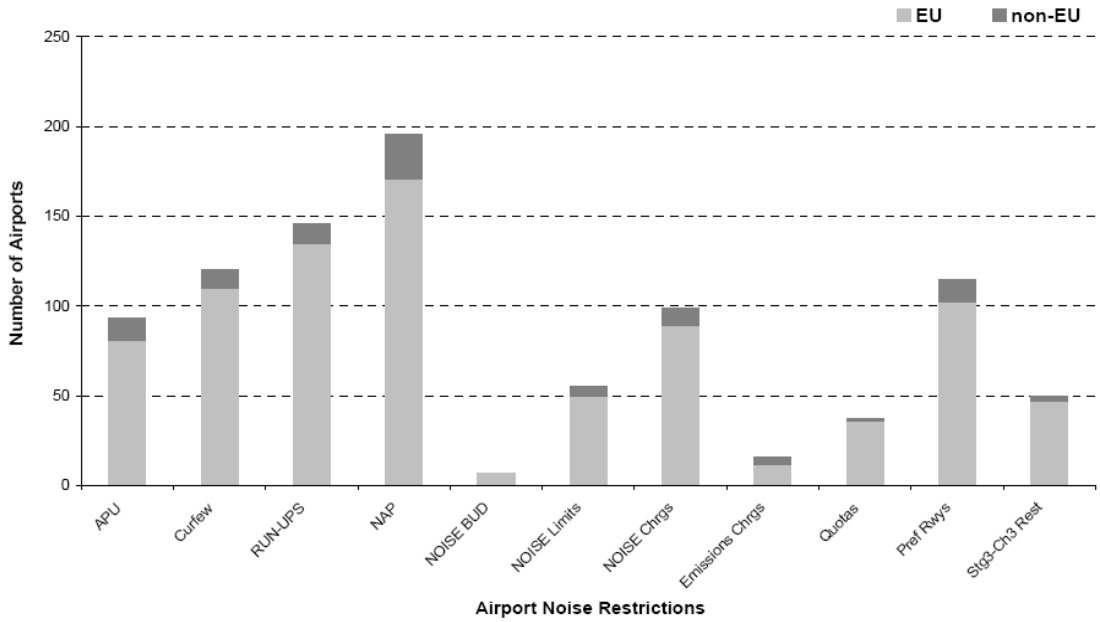
2 The Clean Sky JTI will be one of the largest European research projects ever, with a budget estimated at €1.6 billion, equally shared between the European Commission and industry, over the period 2008 - 2013.

3 The Boeing database 'Airports with Noise Restrictions' is publicly available at: http://www.boeing.com/commercial/noise/listcountry.html. Although only 69 airports are currently covered by the Directive, more airports will fall within its scope with increased traffic foreseen for the future. Therefore an overview of all 224 airports is provided.

4 Curfews limit operations during a certain period of time (noise-related restrictions on traffic).

Figure 1: Overview of current European (EU and non-EU) airport noise-related restrictions



Source: Boeing Database
Note:
APU: regulated use of auxiliary power unit (to start engines);
NAP: noise action plan;
Stg3-Ch3: phase-out of noisiest aircraft which only satisfy the old ICAO noise standard, as described in Chapter 3 of the relevant ICAO Annex.

- **European provisions on operating restrictions noise management**

9. This proposal aims to strengthen the basic logic of the ICAO Balanced Approach by making a stronger link between its pillars and by clarifying the different steps of the decision-making process when considering operating restrictions.

10. Consistent application of the approach should identify the most cost-effective solutions, tailor made to the specific airport situation. The assessment method will also take due account of the network-wide effects of noise mitigating measures.

11. The current rules cover about 70 European airports with more than 50 000 movements of civil subsonic jet aircraft per calendar year.

- **Consistency with the civil aviation policy and other objectives of the Union**

12. This initiative is consistent with other parts of European aviation policy and wider environmental policies.

13. The European aviation industry should grow in a sustainable way where economic, social and environmental aspects are appropriately balanced. Noise mitigating measures may substantially impact the capacity of the aviation network on the ground and in the air. The proposals will ensure more consistency between the noise-related actions, airport capacity and flight efficiency requirements under Single

European Sky, and the implementation of performance regulation on air traffic management. The proposals follow the logic of the gate-to-gate approach.

14. The proposal will contribute to delivering the 'National Action Plans' on air traffic noise which Member States are obliged to adopt on basis of Directive 2002/49/EC.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

15. The most affected stakeholders as regards noise and aviation are the citizens living around airports represented in local community groups, airports, aircraft operators (with air cargo as specific niche), aircraft manufacturers, local authorities (including planning authorities which also represent the wider economic interests) and independent noise councils. These stakeholders were intensely consulted:

    - in 2007 the external consultant collected responses to questionnaires, and conducted interviews with a range of stakeholders on the implementation of Directive 2002/30/EC;

    - in 2008 the Commission organised an open consultation on the ways forward to amend the Directive;

    - in 2010, all stakeholders that had previously contributed to the consultationprocess were contacted and the range of stakeholders was widened.

Summary of responses

16. The Member States stressed the need to preserve flexibility in the assessment of noise problems and the necessity to provide for transitional arrangements, to avoid duplication of efforts (e.g. environmental assessments to be re-used) and fine-tune the relation between the two Directives 2002/30/EC and 2002/49/EC, so that the same assessments can satisfy both of them; and consider the international context, with regard to the use of methods and measures.

17. The representatives of local community groups, namely the Aviation Environment Federation representing noise and environmental action groups from the UK, France and Germany, stressed the need to properly regulate (i.e. not just rely on guidelines) on the basis of a noise protection threshold; the key role of operating restrictions to improve the noise nuisance situation and incentives to replace the noisiest aircraft; and to widen the definition of marginally compliant aircraft to have a real impact.

18. Operators[5], namely the Association of European Airlines, representing the legacy airlines, and the European Express Association argued that the principles of ICAO's

[5] While this is the AEA statement, its position should represent all operators, namely ERA (regional), IACA (leisure) and ELFAA (low cost), as they are affected in quite similar ways. Only IACA may have relatively more night flights for their operations.

Balanced Approach should be correctly applied (on an airport-by-airport basis); that operational restrictions should be used to mitigate identified noise problems and as a last resort; that the method should deliver the most cost-effective measures; and that land use planning would become integrated in decisions on operating restrictions. The operators also requested a further clarification of the Directive, and reiterated the need to consider amending the definition of marginally compliant aircraft on the basis of international regulation to avoid market distortions. If regulatory action was deemed necessary, operators preferred a regulation to a directive.

19. The airports[6], represented by ACI, stressed that the full range of Balanced Approach measures should be exploited and that there is scope to widen the definition of marginally compliant aircraft.

20. The French independent noise council (ACNUSA)[7] argued for a widening of the definition of marginally compliant aircraft, the use of parameters which genuinely capture the affected population's feelings, improved modelling of airport noise and a more systematic use of noise-friendly operating procedures, such as 'continuous descent approaches'.

21. The aeronautical industry is especially involved in the development of new noise standards within the ICAO technical working groups and focuses on the need to consider interdependencies between possibly conflicting objectives like noise and CO_2 reduction and the longer-term view of standard development, where the rhythm of standard setting must keep pace with technological feasibility, and the value of the fleet over the lifetime of aircraft and should be competition neutral.

22. Finally, the local authorities of the Airports Regions Conference, who are mainly in charge of land use, highlighted their approach from an environmental capacity perspective of a region, which includes land use planning, use of appropriate indicators, a mediation process, and a need to better integrate the requirements under the environmental noise directive with the airport noise directive (2002/30/EC).

23. All in all, the proposals are generally close to the views expressed in the consultation round. The formal proposals will stress the interdependence of the different noise mitigating measures, whereby noise operating restrictions should not be considered first and foremost, but, if deemed necessary, should ne seen as an important and complementary contributor in a wider combination of cost-effective measures. The definition of marginally compliant aircraft is also made stricter, so that competent authorities again have an efficient noise mitigating instrument at their disposal.

- **Collection and use of expertise**

Scientific/expertise domains concerned

24. A general background study has been carried out to provide a quantitative as well as qualitative analysis of the impact of this revision. In addition, Eurocontrol has been

[6] The Airports Council International ACI has a specific working group on the issue.

[7] ACNUSA (together with its Walloon sister organisation) is a unique forum for tackling, in an advisory capacity, noise nuisances independently from authorities and airports.

providing more recent and detailed information on the number of flights performed by 'marginally compliant aircraft'.

Methodology used

25. The consultant organised an intensive consultation, mainly in the form of interviews with different stakeholders, as well as desk research. In addition, Eurocontrol provided up-to-date information from the relevant data warehouses.

Summary of advice received and used

26. The main conclusions were that the Directive, whilst its value is recognized in bringing an international dispute to an end [8] and introducing EU competence on operating restrictions, was not as effective in harmonizing the decision-making process as had been hoped. There was a need to update the Directive to take account of the evolving composition of the fleet, to strengthen the link between the different elements of the Balanced Approach and to bring in new legal instruments on noise management, like the environmental noise directive (2002/49/EC), the development of new noise standards or the Single European Sky performance regulation.

Means used to make the expert advice publicly available

27. The full report of the study has been published on DG MOVE's website.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

28. The proposal introduces a new regulation to replace Directive 2002/30/EC. This regulation clarifies and completes the requirements of that directive.

1. Specification of objectives to stress link with other elements of the Balanced Approach and other instruments to manage air traffic noise.

2. Definition of allocation of responsibilities.

3. Listing of general requirements to manage noise.

4. Provision of more details on the noise assessment process.

5. Specification of stakeholders to be consulted.

6. Harmonisation of data and methods.

7. Specification of notification and introduction requirements.

8. Allowing comitology to adapt reference to noise standards to new technological progress.

[8] European States were threatened with an official complaint procedure in ICAO.

9 Provision of support to competent authorites.

- **Legal basis**

The proposal is based on Article 100(2) of the Treaty on the Functionning of the European Union.

- **Subsidiarity principle**

29. The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union. The objectives of the proposal can not be sufficiently achieved by the Member States individually.

30. European action will better achieve the objectives of the proposal for the following reasons:

31. A harmonised approach to noise-related operating restrictions as part of the noise management process around European airports contributes towards improving the environmental performance of air transport operations and creates a more predictable operational environment for airline and airport operators. In addition, the harmonised assessment method should reduce the risk of bias in competition between airports or between airlines and of poor practice being implemented, which may impact not only the capacity of the airport concerned, but on overall aviation network efficiency.

32. Such an approach offers more cost-effective solutions to environmental problems around airports and avoids a patchwork of different noise requirements for operators who, by definition, operate an international network.

- **Proportionality principle**

33. The proposal complies with the proportionality principle. Whilst a regulation strictly harmonises the method to follow, it allows Member States to take into account airport-specific situations with a view to developing appropriate solutions to the noise problems on an airport-by-airport basis. The proposals do not prejudge the desired environmental objectives or the concrete measures taken.

- **Choice of instruments**

34. Proposed instrument: Regulation.

35. Other means would not be adequate for the following reasons.

- The subject of the regulation is a noise assessment method. Only a regulation guarantees full harmonisation of this method.

- The proposed assessment method is sufficiently flexible to deal with any specific airport situation and does not prejudge the desired level of protection which Member States want to guarantee their citizens, or the concrete selection of cost-effective measures.

4. BUDGETARY IMPLICATION

36. The proposal has no additional implications for the European budget. The costs associated with the right of scrutiny do not entail additional costs compared to the current financial burden in monitoring the implementation of the existing legislation, including reimbursement for committee meetings. The data bases on noise certification information already exist. The proposal introduces a more formal reference to ensure the quality of the data and the guaranteed access of interested parties. Finally, this proposal forms an integral part of work on noise management – with the associated budgets - which is already undertaken in other areas, like ICAO noise stringency development, Single Sky or SESAR.

5. ADDITIONAL INFORMATION

- **European Economic Area**

37. The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

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The European Parliament and the Council

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the Commission[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Having regard to the opinion of the Committee of the Regions[3],

Acting in accordance with the ordinary legislative procedure[4],

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 Union transport systems and protection of the environment.

(2) Sustainable development of air transport necessitates the introduction of measures aimed at reducing the noise nuisance from aircraft at airports with particular noise problems. A large number of EU citizens are exposed to high noise levels which may lead to negative health effects.

(3) Following the removal of the noisiest aircraft pursuant to Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports[5] and Directive 2006/93/EC of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aircraft covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)[6], an update of new measures is

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1 OJ C , , p. .
2 OJ C , , p. .
3 OJ C , , p. .
4 OJ C , , p. .
5 OJ L85, 28.3.2002, p.40.
6 OJ L 374, 27.12.2006; p.1.

required to enable authorities to deal with the noisiest aircraft to improve the noise climate around airports in the Union within the international framework of the Balanced Approach on Noise Management.

(4) Resolution A33/7 of the International Civil Aviation Organisation (ICAO) introduces the concept of a “Balanced Approach” to noise management and establishes a coherent method to address aircraft noise. The ICAO 'Balanced Approach' should remain the foundation of noise regulation for aviation, as a global industry. The Balanced Approach recognises the value of, and does not prejudge, relevant legal obligations, existing agreements, current laws and established policies. Incorporating the international rules of the Balanced Approach in this Regulation should substantially lessen the risks of international disputes in case third country carriers may be affected by noise-related operating restrictions.

(5) The Report from the Commission to the Council and the European Parliament on noise operating restrictions at EU Airports [7] pointed to the need to clarify in the text of the Directive the allocation of responsibilities and the precise obligations and rights of interested parties during the noise assessment process so as to guarantee that cost-effective measures are taken to achieve the noise abatement objectives.

(6) The introduction of operating restrictions by Member States at Union airports on a case-by-case basis, whilst limiting capacity, can contribute to improving the noise climate around airports. However, there is a possibility of introducing distortions of competition or hampering the overall efficiency of the Union aviation network through the inefficient use of existing capacity. Since the objectives cannot be sufficiently achieved by the Member States and can therefore be more effectively achieved by the Union by means of harmonised rules on the introduction of operating restrictions as part of the noise management process, the Union may adopt measures in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principle of proportionality, as set out in that Article,this Regulation does not go beyond what is necessary to achieve those objectives. Such harmonised method does not impose noise quality objectives, which continue to derive from Directive 2002/49/EC or other European, national or local rules, and does not prejudge the concrete selection of measures.

(7) While noise assessments should take place on a regular basis, such assessments should only lead to additional noise abatement measures if the current combination of noise mitigating measures does not achieve the noise abatement objectives.

(8) While a cost-benefit analysis provides an indication of the total economic welfare effects by comparing all costs and benefits, a cost-effectiveness assessment focuses on achieving a given objective in the most cost-effective way, requiring a comparison of only the costs.

(9) Suspension of noise mitigating measures is important to avoid unwanted consequences on aviation safety, airport capacity and competition. Whilst an appeal procedure against noise-related operating restrictions may relate to noise abatement objectives,

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[7] COM(2008)66

assessment methods and selection of cost-effective measures, the appeal may not suspend their implementation. Therefore, the Commission should well before implementation of the measures be able to use the right of scrutiny and to suspend measures deemed to produce unwanted or irreversible consequences. It is recognised that the suspension should be for a limited period.

(10) Noise assessments should build on existing information available and ensure that such information is reliable and accessible to competent authorities and stakeholders. Competent authorities should put in place the necessary monitoring and enforcement tools.

(11) It is recognised that Member States have decided on noise-related operating restrictions in accordance with national legislation based on nationally acknowledged noise methods, which may not (yet) be fully consistent with the method as described in the authoritative European Civil Aviation Conference Report Doc 29 on 'Standard Method of Computing Noise Contours around Civil Airports' nor use the internationally recognised aircraft noise performance information. However, the efficiency and effectiveness of an operating restriction, together with the efficiency and effectiveness of the relevant action plan of which the restriction is a part, should be assessed in accordance with methods prescribed in ECAC Doc 29 and the ICAO Balanced Approach. Accordingly, Member States should adapt their assessments of operating restrictions in national legislation towards full compliance with ECAC Doc 29.

(12) Centralisation of information on noise would substantially reduce the administrative burden for aircraft and airport operators alike. Such information is currently provided and managed at the individual aiport level. These data need to be put at their disposal for operational purposes. It is important to use the data bank of the European Aviation Safety Agency (the Agency) concerning noise performance certification as a validation tool with the European Organisation for the Safety of Air Navigation (Eurocontrol) data on individual flights. Such data are currently already systematically requested for central flow management purposes, but need to be specified for the purpose of this Regulation and for performance regulation of air traffic management. Good access to validated modelling data should improve the quality of mapping of noise contours of individual airports and strategic mapping to support policy decisions.

(13) In order to reflect the continuous technological progress in engine and airframe technologies and the methods used to map noise contours, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect to regularly updating the noise standards for aircraft referred to in this Regulation and the reference to the associated certification methods; amending the definitions of marginally compliant aircraft and of civil aircraft accordingly, and updating the reference to the method to computing noise contours. It is particularly important that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

(14) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should

be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.[8]

(15) The advisory procedure should be used for the adoption of implementing decisions with respect to whether the Member States that are planning to introduce operating restrictions may proceed with their introduction in the event that the Commission has suspended the operating restrictions given that those decisions are only of a limited scope.

(16) Consdidering the need for the consistent application of the noise assessment method within the EU aviation market, this Regulation sets out common rules in the field of noise operating restrictions. Directive 2002/30/EC should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject-matter, objectives and scope

1. This Regulation lays down rules on the introduction of noise-related operating restrictions in a consistent manner on an airport-by-airport basis so as to help improve the noise climate and to limit or reduce the number of people significantly affected by the harmful effects of aircraft noise, in accordance with the Balanced Approach.

2. The objectives of this Regulation are

   (a) to facilitate the achievement of specific environmental noise abatement objectives, as laid down in Union, national and local rules, and to assess their interdependence with other environmental objectives, at the level of individual airports;

   (b) to enable selection of the most cost-effective noise mitigation measures in accordance with the Balanced Approach so as to achieve the sustainable development of the airport and air traffic management network capacity from a gate-to-gate perspective.

3. This Regulation shall apply to aircraft engaged in civil aviation.

It shall not apply to aircraft engaged in military, customs, police, or similar services.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

[8] OJ L 55, 28.2.2011, p. 13.

(1) ‘Airport’ means an airport which has more than 50 000 civil aircraft movements per calendar year (a movement being a take-off or landing), taking into consideration the average number of movements of the last three calendar years before the noise assessment;

(2) ‘Balanced Approach’ means the method under which the range of available measures, namely reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions, is considered in a consistent way with the view to addressing the noise problem in the most cost-effective way on an airport by airport basis.

(3) 'Aircraft' means fixed-wing aircraft with a maximum certificated take-off mass of 34 000 kg or more, or with a certificated maximum internal accommodation for the aircraft type in question consisting of more than 19 passenger seats, excluding any seats for crew only;

(4) ‘Marginally compliant aircraft’ means civil aircaft 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 (Chicago Convention) by a cumulative margin of less than 10EPNdB (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 4 of Annex 16 to the Chicago Convention;

(5) ‘Noise-related action' means any measure that impacts the noise climate around airports, for which the principles of the ICAO Balanced Approach apply, including other non-operational actions that can affect the number of people exposed to aircraft noise;

(6) ‘Operating restrictions’ means a noise-related action that limits the access to or reduces the optimal capacity use of an airport, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, affecting the operation of civil aircraft according to time period.

Article 3

Competent authorities

1. Member States shall designate competent authorities responsible for adopting measures on operating restrictions, as well as an independent appeal body.

2. The competent authorities and the appeal body shall be independent of any organisation which could be affected by noise-related action.

3. The Member States shall notify the Commission of the names and addresses of the designated competent authorities and appeal body referred to in paragraph 1.

Article 4

General rules on aircraft noise management

1. Member States shall adopt a Balanced Approach in regard to aircraft noise management. To this end, they shall:

(a) assess the noise situation at an individual airport;

(b) define the environmental noise abatement objective;

(c) identify measures available to reduce the noise impact;

(d) evaluate the likely cost-effectiveness of the available measures;

(e) select the measures;

(f) consult the stakeholders in a transparent way on the intended actions;

(g) decide on the measures and provide for sufficient notification;

(h) implement the measures; and

(i) provide for dispute resolution.

2. Member States shall, when taking noise-related action, consider the following combination of available measures, with a view to determining the most cost-effective combination of measures:

(a) the foreseeable effect of a reduction of aircraft noise at source;

(b) land-use planning and management;

(c) noise abatement operational procedures;

(d) not as a first resort, operating restrictions.

The available measures may include the withdrawal of marginally compliant aircraft, if so deemed necessary.

3. Member States may, within the Balanced Approach, differentiate noise mitigating measures according to aircraft type, runway use and/or timeframe covered.

4. Without prejudice to paragraph 3, operating restrictions which take the form of a withdrawal of marginally compliant aircraft from airport operations shall not affect civil subsonic aircraft that comply, through either original certification or recertification, with the noise standard in Volume 1, Part II, Chapter 4 of Annex 16 to the Chicago Convention.

5. Measures or a combination of measures taken in accordance with this Regulation for a given airport shall not be more restrictive than necessary to achieve the environmental noise abatement objectives set for that airport. Operating restrictions

shall be non-discriminatory, in particular on grounds of nationality, identity or activity of aircraft operators.

6. The measures taken in accordance with this Regulation shall contribute to the 'National Action Plans' relating to noise emitted by air traffic, as mentioned in Article 8 of Directive 2002/49/EC of the European Parliament and of the Council.[9]

Article 5

Rules on noise assessment

1. The competent authorities shall assess the noise situation at airports in their territory on a regular basis, in accordance with the requirements of Directive 2002/49/EC and national or local rules. The competent authorities may call on the support of the Performance Review Body referred to in Article 3 of Commission Regulation (EU) No 691/2010.[10]

2. The competent authorities shall use the method, indicators and information described in Annex I for the assessment of the current and future noise situation.

3. When the assessment of the noise situation reveals that new measures are necessary to achieve or maintain the level of noise abatement objectives, the competent authorities shall take due account of the contribution of each type of measure under the Balanced Approach, in accordance with Annex I.

4. The competent authorities shall ensure that, at the appropriate level, a forum for technical cooperation is established between the airport operator, aircraft operator and air navigation service provider, for actions which these operators are responsible for, and taking due account of the interdependency between measures to mitigate noise and to reduce emissions. The members of this forum for technical cooperation shall regularly consult local residents or their represetntatives, and provide technical information and advice on noise mitigating measures to the competent authorities.

5. The competent authorities shall assess the cost-effectiveness of the new measures, as referred ton in paragraph 3 in accordance with Annex II. A minor technical amendment to an existing measure without substantive implications on capacity or operations is not considered as a new operating restriction.

6. The competent authorities shall organise the consultation process with interested parties in a timely and substantive manner, ensuring openness and transparency as regards data and computation methodology. Interested parties shall have at least three months prior to the adoption of the new measures to provide comments. The interested parties shall at least include:

   (a) representatives from local residents living in the surroundings of the airports affected by air traffic noise;

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9 OJ L 189, 18.7.2002, p. 12.

10 OJ L 201, 3.8.2010, p. 1.

(b) relevant airport operators;

(c) representatives of aircraft operators which may be affected by noise-related actions;

(d) relevant air navigation service providers;

(e) the Network Manager, as defined in Commission Regulation No 677/2011.[11]

7. The competent authorities shall follow up and monitor the implementation of the noise mitigating measures and take action as appropriate. They shall ensure that relevant information is provided on a regular basis to the local residents living in the surroundings of the airports.

Article 6

Noise performance information

1. Decisions on noise-related operating restrictions shall be based on the noise performance of the aircraft as determined by the certification procedure conducted in accordance with Volume 1 of Annex 16 to the Chicago Convention, fifth edition of July 2008.

2. At the request of the Commission, aircraft operators shall communicate the following noise information in respect of their aircraft that use Union airports:

(a) the tail number of the aircraft;

(b) the noise performance certificate or certificates of the aircraft used, together with the associated actual maximum take-off weight;

(c) any modification of the aircraft which influences its noise performance;

(d) aircraft noise and performance information of the aircraft for noise modelling purposes.

For each flight making use of a Union airport, aircraft operators shall communicate the noise performance certificate used and the tail number.

The data shall be provided free of charge, in electronic form and using the format specified, where applicable.

3. The Agency shall verify the aircraft noise and performance data for modelling purposes in accordance with Article 6 (1) of Regulation (EC) No 216/2008 of the European Parliament and the Council.[12]

[11] OJ L 185 ,15.7.2011, p. 1.
[12] OJ L 79, 19.3.2008, p. 1.

4. Data shall be stored in a central database and made available to competent authorities, aircraft operators, air navigation service providers and airport operators for operational purposes.

Article 7

Rules on the introduction of operating restrictions

1. Before introducing an operating restriction, the competent authorities shall give notice of six months, ending at least two months prior to the determination of the slot coordination parameters as defined in Article 2, point m) of Council Regulation EEC N° 95/93 [13] for the airport concerned for the relevant scheduling period, to the Member States, the Commission and the relevant interested parties.

2. Following the assessment carried out in accordance with Article 5, the notification of the decision shall be accompanied by a written report explaining the reasons for introducing the operating restriction, the environmental objective established for the airport, the measures that were considered to meet that objective, and the evaluation of the likely cost-effectiveness of the various measures considered, including, where relevant, their cross-border impact.

3. Where the operating restriction concerns the withdrawal of marginally compliant aircraft from an airport, no new services shall be allowed with marginally compliant aircraft at that airport six months after the notification. The competent authorities shall decide on the annual rate for removing marginally compliant aircraft from the fleet of affected operators at that airport, taking due account of the age of the aircraft and the composition of the total fleet. Without prejudice to paragraph 3 of Article 4, this rate shall not be more than 20% of that operator's fleet of marginally compliant aircraft serving that airport.

4. Any appeal against decisions on noise-related operating restrictions shall be organised in accordance with national law.

Article 8

Developing nations

1. The competent authorities may exempt marginally compliant aircraft registered in developing nations from noise operating restrictions provided that such aircraft:

   (a) are granted a noise certification to the standards specified in Chapter 3, Volume 1 of Annex 16 to the Chicago Convention.

   (b) were operated in the Union during the five-year period preceeding the entry into force of this Regulation, were on the register of the developing nation concerned and continue to be operated by a natural or legal person established in that nation.

[13] OJ L 14 22.01.1993.

2. Where a Member State grants an exemption provided for in paragraph 1, it shall forthwith inform the competent authorities of the other Member States and the Commission of the exemptions it has granted.

Article 9

Exemptions for aircraft operations of an exceptional nature

On a case by case basis, the competent authorities may authorise individual operations of marginally compliant aircraft which could not take place on the basis of the provisions of this Regulation, at airports situated in their territory.

The exemption shall be limited to:

(a) aircraft whose individual operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption;

(b) aircraft on non-revenue flights for the purpose of alterations, repair or maintenance.

Article 10

Right of scrutiny

1. At the request of a Member State or on its own initiative, and without prejudice to a pending appeal procedure, the Commission may scrutinise the decision on an operating restriction, prior to its implementation. Where the Commission finds that the decision does not respect the requirements set out in this Regulation, or is otherwise contrary to Union law, it may suspend the decision.

2. The competent authorities shall provide the Commission with information demonstrating compliance with this Regulation.

3. The Commission shall decide in accordance with the advisory procedure laid down in Article 13(2), in particular taking into account the criteria in Annex II, whether the competent authority concerned may proceed with the introduction of the operating restriction. The Commission shall communicate its decision to the Council and the Member State concerned.

4. Where the Commission has not adopted a decision within a period of six months after it has received the information referred to in paragraph 2, the competent authority may apply the envisaged decision on an operating restriction.

Article 11

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 12 concerning:

(a) amendments of the definitions of aircraft in Article 2 point (3) and of marginally compliant aircraft in Article 2 point (4);

(b) amendments and updates of the noise certification standards provided for in Articles 4 and 8; and of the certification procedure provided for in Article 6(1).

(c) amendments to the method and technical report set out in Annex I.

Article 12

Exercise of the delegation

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Article 11 shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.

3. The delegation of power referred to in Article 11 may be revoked by the European Parliament or by the Council. The revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 11 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 13

Committee

1. The Commission shall be assisted by the committee instituted by Article 25 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council.[14]

This committee is a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

[14] OJ L 293, 31.10.2008, p. 3.

3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Article 14

Information and revision

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

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

The report shall be accompanied, where necessary, by proposals for revision of this Regulation.

Article 15

Repeal

Directive 2002/30/EC is repealed with effect as from the date of entry into force of this Regulation.

Article 16

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Assessment of the noise situation at an airport

Methodology:

1. Competent authorities will use noise assessment methods which have been developed in accordance with the ECAC Report Doc 29 'Report on Standard Method of Computing Noise Contours around Civil Airports', 3rd Edition.

Indicators:

1. Air traffic noise impact will be described, at least, in terms of noise indicators L_{den} and L_{night} which are defined and calculated in accordance with Annex I to Directive 2002/49/EC.

2. Competent authorities may use additional noise indicators which have a scientific basis to reflect the annoyance of air traffic noise.

Noise management information:

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 sustainability objectives for the airport and the national context. This will include a description of the aircraft noise objectives for the airport.

1.3 Details of noise contours for the current and previous years – including an assessment of the number of people affected by aircraft noise.

1.4 A description of the existing and planned measures to manage aircraft noise already implemented in the framework of the Balanced Approach and their impact and contribution to the noise situation, which will include:

1.4.1. For reduction at source:

- Evolution of aircraft fleet and technology improvements;

- Specific fleet modernisation plans;

1.4.2. For land-use planning and management:

- Planning instruments in place, like comprehensive planning or noise zoning;

- Mitigating measures in place, like building codes, noise insulation programmes or measures to reduce areas of sensitive land use;

- Consultation process of the land-use measures;

- Follow-up of encroachment;

1.4.3. For noise abatement operational measures, to the extent that these measures do not restrict capacity of an airport:

- Use of preferential runways;

- Use of noise preferential routes;

- Use of noise abatement take-off and approach procedures.

- Indication of the extent to which these measures are regulated under environment indicators, mentioned in Annex I to Commission Regulation (EU) No 691/2010.

1.4.4. For operating restrictions:

- Use of global restrictions, like cap rules on movements or noise quotas;

- Financial instruments in place, like noise-related airport charges;

- Use of aircraft-specific restrictions, like the withdrawal of marginally compliant aircraft;

- Use of partial restrictions, making a distinction between measures at day and during the night.

2. Forecast without new measures

2.1 Descriptions of airport developments (if any) already approved and in the pipeline, for example, increased capacity, runway and/or terminal expansion, and the projected future traffic mix and estimated growth.

2.2 In the case of airport capacity extension the benefits of making that additional capacity available within the wider aviation network and the region.

2.3 A description of effect on noise climate without further measures, and of those measures already planned to ameliorate the 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 areas 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 outcome of the cost-efficiency analysis, in particular 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 An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.

3.3 Reasons for selection of the preferred option.

3.4 A non-technical summary.

ANNEX II

Assessment of the cost-effectiveness of noise-related operating restrictions

The cost-effectiveness of envisaged noise-related operating restrictions will be assessed taking due account of following elements, to the extent possible, in quantifiable terms:

1) The anticipated noise benefit of the envisaged measures, now and in the future;

2) Safety of aviation operations, including third party risk;

3) Capacity of the airport;

4) Effects on the Europan aviation network.

In addition competent authorities may take due account of following factors:

1) Health and safety of local residents living in the surroundings of the airport;

2) Environmental sustainability, including interdependencies between noise and emissions;

3) Direct, indirect and catalytic employment effects.