



Annex II

**Suggestions for amendments to the European Commission's
Proposal for a Regulation of the European Parliament and of the Council
amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC)
No 551/2004 and (EC) No 552/2004 in order to improve the performance
and sustainability of the European aviation system**

Regulation (EC) No 550/2004 – The Service Provision Regulation

Article 4 paragraph 2 (a)	
Safety requirements	
European Commission text	IATA proposed amendment
The Commission shall, in accordance with the procedure referred to in Article 5(3) of the framework Regulation, adopt implementing rules incorporating the relevant provisions of the Eurocontrol safety regulatory requirements (ESARRs) and subsequent amendments to those requirements falling within the scope of this Regulation, where necessary with appropriate adaptations and improvements.	Delete
Justification	
In line with the Commission's proposal COM(2008)390, the scope of the European Aviation Safety Agency (EASA) should be extended to cover ATM and aerodrome safety regulation. Accordingly, EASA should replace the Eurocontrol's Safety Regulatory Unit and ESSARs will be replaced with implementing rules under the EASA framework. In order to ensure a smooth transition, the EASA implementing rules should initially be based on ESARRs.	

Article 15 paragraph 2 (a)

Charging schemes - principles

European Commission text	IATA proposed amendment
<p>(a) The cost to be shared among airspace users shall be the determined cost of providing air navigation services, including appropriate amounts for interest on capital investment and depreciation of assets, as well as the costs of maintenance, operation, management and administration;</p>	<p>(a) The cost to be shared among airspace users shall be the determined cost of providing air navigation services, including appropriate amounts for interest on capital investment and depreciation of assets, as well as the costs of maintenance, operation, management and administration. <u>The determined costs will be derived from the performance targets set in accordance with Article 11 of Regulation 549/2004 and shall contribute to the cost efficiency of providing air navigation service as provided for in Article 14 of Regulation 550/2004.</u></p>
Justification	
<p>As stated in article 11 of Regulation of Framework Regulation 549/2004 and Article 14 of Regulation 550/2004 the charging scheme should be cost efficient provided that performance targets are met.</p>	

Article 15 paragraph 2 (d)

Charging schemes - principles

European Commission text	IATA proposed amendment
<p>(d) cross-subsidy shall not be allowed between en-route services and terminal services. <i>It shall be allowed between different air navigation services in either one of those two categories only when justified for objective reasons, subject to clear identification;</i></p>	<p>(d) cross-subsidy shall not be allowed between en-route services and terminal services.</p>
Justification	
<p>Cross subsidies between en route and terminal services should not be allowed because they distort competition. The proposed amendment removes the ability to allow cross subsidies between terminal services and en route or between either of the two services. Charges should be fully transparent and cost related.</p>	

Article 15 paragraph 3 (c)

Charging schemes - principles

European Commission text	IATA proposed amendment
(c) Air navigation services may produce sufficient revenues to provide for a reasonable return on assets to contribute towards necessary capital improvements;	(c) Air navigation services may produce sufficient revenues to provide for a reasonable return on assets to contribute towards necessary capital improvements, <u>provided agreed performance targets are met</u> ;
Justification	
Revenues generated by air navigation services may include a reasonable return on assets ONLY provided that performance targets are met.	

Article 15 paragraph 4

Charging schemes - principles

European Commission text	IATA proposed amendment
<p>4. The Commission may decide, in accordance with the procedure referred to in Article 5(3) of the framework Regulation, <i>that charges shall be used to finance common projects designed to assist specific categories of</i> airspace users and/or air navigation service providers in order to improve collective air navigation infrastructures, the provision of air navigation services and the use of airspace, in particular those that may be required for the implementation of the ATM Master Plan. Such decisions shall identify the common project and specify in particular the timetable for implementation, <i>the cost to be charged to airspace users and its allocation amongst Member States.</i></p>	Deleted
Justification	
<p>Implementation of the ATM Master Plan will require significant resources to develop and implement the new airborne and ground based equipment required (29 billion EURO). Airlines are already paying 7.8 billion EURO/per year (2006 figure) for air navigation services.</p> <p>Properly structured financing packages for aviation infrastructure investments will ensure that the costs of financing are kept to a minimum while users only pay for the investments on an as-used basis. It is unjustified and unnecessary to expect airlines/passengers to pre-finance investments. Moreover, pre-financing through user charges is more expensive than other forms of financing and is unfair because there is no guarantee that those paying today will be the same as those using the investments in future. Providing an up-front pool of money that does not need to be paid back gives inefficient, inadequate incentives to ensure that the investments will be delivered in a cost-effective and timely manner. Finally, such pre-financing is simply unaffordable to the airline community in the face of economic recession, high fuel prices and costly environmental policies (ETS, taxation).</p> <p>In order to deliver the operational, economic, safety and environmental advantages from the SES it is essential that Common Projects use public funding wherever necessary and that the initial investment required is not pre-financed through user charges.</p> <p>ICAO Doc 9082/7 protects the users from being charged for facilities that do not exist or are not provided. Such principle is commonly applied at worldwide level to set charges and prevails to the principle of pre-funding of projects, which IATA strongly objects.</p>	

Article 18a paragraph 1

Review

European Commission text

IATA proposed amendment

1. As part of the periodical review referred to in Article 12(2) of the framework Regulation and ***no more than four years*** after the entry into force of this Regulation, the Commission shall finalise a prospective study on the conditions for the future application of market principles to the provision and designation of services in the fields of communication, navigation, surveillance, meteorology and aeronautical information.

1. As part of the periodical review referred to in Article 12(2) of the framework Regulation and 1 year after the entry into force of this Regulation, the Commission shall finalise a prospective study on the conditions for the future application of market principles to the provision and designation of services in the fields of communication, navigation, surveillance, meteorology and aeronautical information.

Justification

The unbundling of ancillary ATM services (communication, navigation, surveillance, meteorology and aeronautical information) from the core Air Traffic Control service should be accelerated, so that these services become subject to full competition and consequently more cost-efficient.

Article 6 paragraph 6	
Network management and design	
European Commission text	IATA proposed amendment
6. Member States shall entrust Eurocontrol with the performance of air traffic flow management as specified in an implementing rule adopted in accordance with the procedure referred to in Article 5(3) of the framework regulation and in conformity with the requirements laid down by the Commission pursuant to Article 9.	6. Member States shall entrust Eurocontrol <u>or another competent independent entity</u> with the performance of air traffic flow management as specified in an implementing rule adopted in accordance with the procedure referred to in Article 5(3) of the framework regulation and in conformity with the requirements laid down by the Commission pursuant to Article 9.
Justification	
It is not necessary to include separate provision for Eurocontrol to undertake flow management functions. In common with previous amendments, whilst Eurocontrol is well placed to provide flow management at present it may not be the case in the long term. In order to simplify the wording of Article 6 the requirement for flow management to be undertaken can be included in point 2 c) of Article 6. The functions under point 2c) can be entrusted to Eurocontrol so it will achieve the same aim as point 6 without enshrining Eurocontrol in the regulation.	

Article 9 paragraph 3	
Air traffic flow management	
European Commission text	IATA proposed amendment
3. The implementing rules shall include consistency between flight plans and airport <i>slots</i> and the necessary coordination with adjacent regions.	Deletion
Justification	
The EU Slot allocation regulation (Council Regulation (EEC) No 95/93) already provides tools to address any “abuse” of the slot allocation system, including those circumstances where airport slots and the flight plan filed do not align. These measures are practical, effective and proportionate and any additional implementation rules are neither required nor justified.	