

DISCUSSION PAPER

MINIMUM SERVICE LEVELS – PROPOSED ACTIONS

- Submitted by the Network Manager -

EXECUTIVE SUMMARY

At the request of DG MOVE, initial work has been carried out on the promotion of a minimum level of service in ATM. The paper reviews the current situation and some particular issues relating to the subject and identifies some potential options for further consideration.

RECOMMENDATION

The Members of the Network Management Board are invited to **provide feedback** on initial ideas presented by Network Manager, provide guidance and additional recommendations for further work on this sensitive topic.

1. INTRODUCTION

- 1.1. The European ATM network has suffered for many years as a result of instances of Industrial Action affecting ATC services. This had led to severe disruption to airline operations in terms of forced cancellations, delays and costly re-routings. Although industrial action events occur on a small number of occasions each year and are of limited duration (a few hours to 48 hours) the impact of each event can be of major proportions. ATFM delay due to industrial action has been a significant contributor in the failure to meet the EU SES performance target for ATFM delay in 2014 and 2015.
- 1.2. DG MOVE has requested that the EUROCONTROL Network Manager to provide data as to delays and flight inefficiencies of industrial action on the network and ideas of possible mitigation of network impact. DG MOVE has also recently written to NMB Chair and Network Manager to investigate the opportunities and issues associated with the establishment of a Minimum Service Level for ATM.
- 1.3. This discussion paper briefly reviews the current situation and some particular issues relating to the subject, before considering work that would need to be carried out in order to move towards some solutions. The focus of the paper is primarily technical.
- 1.4. NMB guidance and direction on the way forward is requested.

2. CURRENT SITUATION

- 2.1. In 2012 the NM compiled a repository of arrangements for Industrial action by means of a questionnaire to all ANSPs. 31 responses were received. 7 ANSPs ensure that all overflights are accepted during industrial action. Approximately 50% of replies indicated that there is no service guaranteed for overflights and that the ability to handle such traffic depends on the nature of the action, meaning it cannot be predicted in advance.
- 2.2. Out of the major ANSPs that have been affected by Industrial action, two (France and Spain) ensure minimum service provision but there are no specific measures to cater for overflights. Such measures do, however, exist in Italy and Greece. For France, the minimum level of service is decided on a case by case basis but generally requires the cancellation of a high percentage of flights landing/departing French airports to prevent astronomical delays for the flights which eventually are permitted to operate over French airspace.
- 2.3. The right to strike in ATS services is explicitly recognised in all countries, except for one non EU country where ATS services are considered an essential service and industrial action is not permitted. More than 70% of the ANSPs have specific laws or regulations defining the conditions for exercising the right to strike in ATS. In most of these cases these conditions cover advance strike notice, conciliation and arbitration rules and negotiation and mediation requirements. There is a wide variation in legal measures requiring a level of service which must be provided, and whether ATS staff can legally be requisitioned to ensure this level of service. 5 ANSPs reported that there is a defined legal minimum level of service.
- 2.4. The NMB considered the 2012 results of the industrial action repository. The NMB acknowledged the significant impact of industrial action on overall network performance and that it would prevent the achievement of performance targets.

Neither NM nor NMB are in a position directly to force a change in national strike provisions. Therefore the issues were referred to the EC for consideration by the appropriate bodies there.

- 2.5. The Network Manager implemented measures for better coordination in the preparation for operations during the affected period and for implementing network solutions to reduce impact during industrial actions. It also promoted best practices for the most effective way of managing the huge delays generated and even more importantly, for recovery to normal operations at network level in the shortest possible time.

3. EFFECTS OF INDUSTRIAL ACTION

- 3.1. The table below shows the effect of industrial action on ATFM en-route delays over the last 4 years.

| Year | Avg Enroute ATFM delay per flight (min) | Avg Daily Traffic | Avg delay due Industrial Action ATC (min) | ATC Disruptions Percentage of enroute dealy |
|------|---|-------------------|---|---|
| 2012 | 0,63 | 26427 | 0,06 | 14% |
| 2013 | 0,53 | 26215 | 0,07 | 19% |
| 2014 | 0,61 | 26685 | 0,07 | 15% |
| 2015 | 0,73 | 27094 | 0,05 | 10% |

- 3.2. The impact on the overall ATFM delay target (0,5) is clear from the above table. Industrial action contributed to 7.2% (522,000 minutes) of total en-route delay in 2015: in addition 80,000 minutes of indirect delays in the neighbouring ACCs due to on-loading traffic.

- 3.3. A characteristic of industrial action is the very significant effect it has over a short duration affecting a significant sub-region of the network. An example of significant industrial action that occurred during 2015 is used to illustrate the effects. During April 2015 industrial action affecting the French Air Traffic Services occurred over a two day period. Approximately 4900 flights (almost 9% of normal demand) failed to operate (cancelled or not filed) More than 375000 minutes of direct en-route ATFM delay due to industrial action was recorded over the two days.

- 3.3. Industrial action also forces flights to file alternative routes avoiding the impacted airspace. This not only leads to ATFM delays in the adjacent airspaces (see above) but also has very significant flight efficiency penalties that are more difficult to quantify.

4. NM MITIGATIONS

- 4.1. NM has concentrated its effort in mitigating the effects of industrial action:
- a) Ensuring that adequate advance notice of the operational measures is provided to all airspace users.
 - b) Coordinating with all ANSPs to ensure acceptable reroutings are made available
 - c) Improving the ATFM delays of individual flights that are heavily affected.

- d) Ensuring an accurate demand picture through the use of flight confirmation messages, etc.
 - e) Working closely with the operational management and flow management positions of the ACCs affected (It should be noted that these staff are in a very difficult position during these disruptions).
 - f) Extensive teleconferencing to ensure up to date information and coordination.
 - g) Full debriefing following each event for lessons learnt.
- 4.2. Whereas these efforts with the cooperation and collaboration of Airspace Users and neighbouring ANSPs (within and adjacent to the NM area) can help mitigate the effects, such mitigations will inevitably be marginal in the absence of some more potent network measures.
- 4.3. Delay data directly attributable to all the industrial action with a network impact between 2012 and 2016 can be found at **Annex** to this paper.

5. **ICAO GUIDANCE**

- 5.1. The ICAO Annex 11 (Air Traffic Services) provides some guidance material on the subject. There are not however any standard or recommended practices (SARP) on the subject.

Preparation of general contingency plans for introduction in respect of generally foreseeable events such as industrial action or labour unrest affecting the provision of air traffic services and/or supporting services.

In recognition of the fact that the world aviation community is not party to such disputes, States providing services in airspace over the high seas or of undetermined sovereignty should take appropriate action to ensure that adequate air traffic services will continue to be provided to international civil aviation operations in non-sovereign airspace.

*For the same reason, **States providing air traffic services in their own airspace or, by delegation, in the airspace of (an)other State(s) should take appropriate action to ensure that adequate air traffic services will continue to be provided to international civil aviation operations concerned, which do not involve landing or take-off in the State(s) affected by industrial action.***

6. **EU PROVISIONS**

- 6.1. EUROCONTROL analysis indicates that there are no applicable EU wide regulations dealing with guaranteed service provision specifically during industrial action situations. The Common Requirements Regulation (EU No 1035/2011) only requires air navigation service providers to have in place contingency plans for all the air navigation services they provide in the case of events which result in significant degradation or interruption of their operations without requiring a level of minimum service or specifically addressing industrial action.
- 6.2. The Commission's Aviation Strategy for Europe promotes the exchange of best practices between Member States in order to ensure a minimum level of service in managing European airspace, allowing at least for the movement of overflights (flights crossing the airspace of an affected state or area).

7. POTENTIAL OPTIONS FOR FURTHER CONSIDERATION

- 7.1. A number of approaches that might contribute to alleviating the effects of industrial action are listed below. They include;
- a) All States in the NM area to ensure adequate air traffic services for all flights not involved in landing or taking off from their territory. In addition to ICAO obligations, provisions at EU level for EU states and those states which are party to the Common Aviation Agreement should be considered.
 - b) Feasibility of technical solutions which would allow for discussion on the scope for any alternative or delegated service provision arrangement in the event of industrial action.
 - c) NMF and Performance Scheme Regulatory provisions
 - i. obliging ANSPs to publish guaranteed service levels in advance of any occurrence of industrial action
 - ii. ensure that primary and reactionary delay associated with any industrial action be assigned to the ANSP where the industrial action occurs
 - iii. ensure that flight efficiency impact is assigned to the ANSP where the industrial action occurs
 - iv. extension of the incentive mechanisms to include penalties for lack of service provision
 - d) Other regulatory provisions
 - i. Review of the cancellation and delay (primary and reactionary) provisions of EC regulation 261/2004
- 7.2. Legal considerations would complement any further work from an operational and technical level in order to have a detailed assessment of the viability of any of these options.

8. CONCLUSIONS

- 8.1. Industrial action affecting the air traffic services has been a significant and repetitive problem in the European ATM network. It significantly impacts the ATFM delay and flight efficiency targets. More importantly it leads to cancellation or non-operation of large numbers of flights.
- 8.2. The potential options above should be considered for further elaboration and renewed considerations at next NMB.

9. RECOMMENDATION

The Members of the Network Management Board are invited to **provide feedback** on initial ideas presented by Network Manager, provide guidance and additional recommendations for further work on this sensitive topic.

Summary Table of Industrial Action affecting ATC services 2012 to 2015

| Year | Country | Dates | Reduction in Flights | Effect on ATFM Delay | |
|---------|--------------------|------------------------|-----------------------------|--|----------|
| 2012 | Cyprus | 27-Jan | None | 700 min. | |
| | France | 29-Feb | None | 45,754 min | |
| | Cyprus | 2,3,7,8 Mar | None | 3170 min | |
| | France | 22-Mar | None | 1,074 min | |
| | France | 2-3 April | 4918 flights | 445,783 min | |
| | Portugal | 12-13 April | None | 6,504 min | |
| | Portugal | 19-20 April | None | 10,145 min | |
| | Portugal | 11-May | None | 8,357 min | |
| | Portugal | 17-18 May | None | 1,723 min | |
| | Portugal | 24-25 May | None | 18,954 min | |
| | Greece | 26-Sep | 274 flights in LG | 4,700 min | |
| | Greece | 18-Oct | 40 flights | 1403 min | |
| | France | 23-24 Oct | None | 69,300 min | |
| | Greece | 06-Nov | None | 617 min | |
| | European strike | 14-Nov | 1400 flights in LE, LF & LP | 5098 min | |
| | France | 15-Nov | 250 flights | 49251 min | |
| 2013 | France | 10 - 14 Jan | None | 4498 min | |
| | France | 30 Jan - 1 Feb | None | 13339 min | |
| | France | 05-Mar | None | 3227 min | |
| | France | 09-Apr | None | 2881 min | |
| | France | 11 - 12 June | 5500 flights | 625,572 min | |
| | France | 10-Sep | 450 | 53000 min | |
| | France | 10-Oct | 400 | 140000 min | |
| | France | 15-Oct | None | 2526 min | |
| | Italy | 18-Oct | 200 | 5560 min | |
| | European strike | 29-31 January 2014 | 750 | 70,683 min | |
| 2014 | France | 17-18 March 2014 | 1300 | 100,000 min | |
| | France | 20-Mar | 514 | 16,789 min | |
| | France | 14 -16 May 2014 | 9% reduction in France | 126,145 min | |
| | France and Belgium | 24-26 June 2014 | 2,500 to 3,000 flights | 401,575 min direct. 98,709 min indirect | |
| | Italy | 06-Sep | | 12,000 min | |
| | Greece | 26 - 27 November 2014 | 460 | | |
| | Belgium | 8 and 15 December 2014 | Unknown | 290, 830 | |
| | Italy | 12-Dec | 1000 | 1,173 min | |
| | 2015 | Italy | 16-Jan | Unknown | 6500 min |
| | | Italy | 17-Feb | 150 flights | 3500 min |
| Italy | | 20-Mar | Unknown | 4489 min | |
| France | | 8-10 April | 3,400 flights | 391,000 direct. 51,715 minutes in adjacent ACCs | |
| Spain | | 11/12, 25/26 July | Not known. | 8500 | |
| Romania | | 15-Jul | Not known. | Bucharest - 3,259 minutes. Belgrade - 3,275 minutes. | |
| Greece | | 05-Aug | Not known. | 4,831 minutes | |
| Spain | | 26-Sep | Not known. | 4100 | |
| France | | 08-Oct | Not known. | 66,800 minutes France. 16,000 minutes. Adjacent | |
| France | | 23-27 November | Not known. | 65,000 minutes direct. 5000 adjacent | |