

67TH SINGLE SKY COMMITTEE

12/13 December 2017

Proposed changes to Commission Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 for the 3rd Reference Period of the Performance Scheme

The Commission is preparing for Reference Period 3 (RP3) of the Single European Sky (SES) Performance and Charging Schemes. As part of this process, it is considering options for revising Commission Implementing Regulation (EU) No 390/2013 laying down a performance scheme for air navigation services and network functions (the Performance Regulation) and Commission Implementing Regulation (EU) No 391/2013 laying down a common charging scheme for air navigation services (the Charging Regulation). Currently an impact assessment is being conducted as a process to systematically identifying and assessing the effects of regulatory changes and making sure they achieve the objectives for RP3. A workshop was held on 14th November 17 at which the opportunity was to share the first results of the impact assessment. Both the high level objectives for RP3 as presented in Working Paper 4 (RP3 policy objectives) to the ad-hoc Single Sky Committee meeting in March 2017 and the feedback collected at the above mentioned workshop set the need to:

1. Streamlining overly complex operation of the schemes while considering the need for a more effective measurement of performance,
2. Reinforcing the gate-to-gate approach and the link with the SESAR project,
3. Strengthening the role of the national supervisory (NSA) while duly considering that the degree of independence, capability and resourcing of NSAs varies considerably across Member States. This goes with strengthened consultation mechanisms and constructive customer engagement,
4. Having more consideration to the contribution of the Network Manager in the performance and charging schemes, since improved balancing of capacity vs. demand could achieve significant savings both in terms of delays and cost-efficiency,
5. Considering modifications to traffic/cost risk sharing mechanisms on a clear rationale that reflects some analysis of appropriate risk exposure for the Air Navigation Service Providers (ANSP), and
6. Improving the incentive mechanisms.

This paper aims at presenting the intended changes to Commission Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 with the objective to inform the development of the legal acts for which opinions of the Single Sky Committee will be sought at SSC68 on 13-14 March 2018. Changes are presented in tabular format presenting both the rationale for the change and the intended change in descriptive mode. Table 1 addresses the Performance Scheme while Table 2 deals with the Charging Scheme. Articles # refers to existing regulations. Eventually, the proposed legal text might include changes to Articles and Annexes that are not yet addressed herein. This, in particular, applies to measures related to simplify the operation of the schemes, in particular with Articles 13 to 15, 17 and 19 of the Performance Scheme. Those are currently being further elaborated.

1. Proposed changes to Commission Implementing Regulation (EU) No 390/2013

The list of retained measures / options and related proposed Changes to the legal text is detailed in Table 1 below:

Table 1: Proposed changes to Commission Implementing Regulation (EU) No 390/2013

| Article no. in Commission Implementing Regulation (EU) No 390/2013 | Proposed measure and Rationale for the change | Proposed Changes to the legal text |
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| <p><i>Article 1</i> <i>Subject matter and scope</i></p> | <p>With the digitalization of technology and the virtualization of the ANS infrastructure expected to contribute to the improvement of the performance of the overall European system, goes the expand the scope of those entities incurring eligible costs and participating in the defragmentation of the ANS infrastructure.</p> | <p>Article 1(2) will expand the list of providers, as appropriate.</p> |
| | <p>Current performance regulation uses the threshold of 70 000 IFR air transport movements per year to define the list of airports it applies to. However, current observed reporting practice for operational performance monitoring falls short of the aspiration since the beginning of RP2. Indeed, at present, operational information is only provided for a limited number of airports. It is arguably more important to ensure that this is of sufficient quality to provide an indication of performance levels at key locations across the SES rather than to seek information from a wider group of airports that they do not have the capacity to provide. It is therefore proposed to limit the</p> | <p>New provision in Article 1 will mention that operational performance monitoring will apply to those airports that have the greatest impact or have the most significant demand upon the ATM network. The list of airports would be based on the latest list in the NOP (the list will include the group of airports covered by the airport collaborative decision-making (A-CDM) process and airports operating the (Pilot) Common Project).</p> <p>Cost efficiency targets should however be determined by reference to those airports for which terminal air navigation service services are provided with due consideration of Article 1(5) of the Charging Regulation by which Member States may decide not to apply this regulation to air navigation services provided at airports with fewer</p> |

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| | <p>monitoring of the achievement of operational performance to those airports that have the greatest impact or have the most significant demand upon the ATM network. A possibility is to refer to the list of airports in the NOP (the list will include the group of airports covered by the airport collaborative decision-making (A-CDM)¹ process and airports operating the Pilot Common Project)</p> <p>1. Airport CDM (A-CDM) aiming at improving the overall efficiency of airport operations by optimising the use of resources and improving the predictability of events is fully implemented in 25 airports across Europe. With the Network Manager's receiving more accurate Target Take-Off Times from the airport, the en-route and sectoral planning is improved, thereby improving network operations and strengthening the gate-to-gate dimension of the performance scheme.</p> | <p>than 70 000 IFR air transport movements per year.</p> |
| <p><i>Article 2</i> <i>Definitions</i></p> | | |
| <p><i>Article 3</i> <i>Performance Review Body</i></p> | <p>If:</p> <ol style="list-style-type: none"> 1. despite actions as per Article 6 of the NF IR, measures in the NOP are either not sufficient to rectify the situation, or not implemented 2. Despite the intervention of the NSA(s), a significant and persistent drop in capacity performance is still observed | <p>New provision in Article 3 to address the role of the PRB, as informed by the NM, to assist the Commission in the identification of additional corrective measures to address the drop in capacity performance. These actions will, if required, come on top of measures that have been endorsed by the Network Management Board (NMB).</p> |

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| | the PRB, informed by the NM, shall assist the Commission in the identification of additional corrective measures. | |
| | It is proposed that the PRB relations with national supervisory authorities with respect to assistance upon the NSAs' requests as currently covered by Articles 3(6)(b) and (c) be achieved through facilitation of exchange within the forum provided by the NSA Coordination Platform (NCP). | Modified Articles 3(6)(b) and (c) so that NSAs requests for assistance from the PRB are addressed within the forum provided by the NSA Coordination Platform (NCP). |
| <i>Article 4</i> <i>National supervisory authorities</i> | | |
| <i>Article 5</i> <i>Functional airspace blocks</i> | The development of FAB-level Performance Plans has tended to weaken the link between measured performance and the contributions to performance made by individual ANSPs. This has been particularly evident in the operation of incentive mechanisms, which have resulted in some ANSPs being rewarded although overall FAB-level targets have been missed. There is therefore a case for enabling ANSPs and NSAs to re-establish the relationship between individual contributions to performance and measured outcomes while ensuring consistency in the geographical scope of local targets. This would ensure clear accountability while improving the transparency of the | Performance Plans for RP3 should be prepared on consistent basis, either at the national/charging zone level or the functional airspace block (FAB) level. This would enable Member States, through discussion, to decide the appropriate geographical scope of plans and targets according to local circumstances. Some may consider that the preparation of FAB-level plans introduces an additional layer of administration while bringing only limited benefits, while others may wish to preserve established mechanisms from cross-border cooperation embedded within a FAB organisation. Should Member States decide to continue to plan at the FAB level, evidence that (1) this delivers significant benefits; and (2) criteria set in a revised Annex II are satisfied, would need to be provided in |

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| | Performance Scheme. | the performance plans. |
| | As above | New provision in Article 5 (2) to ensure that NSAs notify the Commission in advance, nine months before the beginning of the Reference Period (<i>i.e.</i> three months before the submission of plans to the Commission), whether they intend to prepare their plans at the FAB or national/charging zone level. |
| | Regardless of their eventual geographical scope, it is recognised that the impetus towards cross-border collaboration generated by the introduction of FABs must be preserved, and consider that Member States should be permitted to continue to plan at the FAB level where they can demonstrate that this delivers significant benefits. We also suggest that cross-border initiatives should continue to be encouraged regardless of the geographical scope of Performance Plans. The potential value of new approaches to cross-border collaboration and services, for example dynamic sectorisation, was recently underlined in a paper submitted to the NSA Coordination Platform FAB Working Group, and the Performance Plans provide a critical mechanism for the realisation of such initiatives and the associated benefits. It is therefore important to ensure that they continue to be developed and applied through the SES planning framework, including in | <ul style="list-style-type: none"> • New provision in Article 5 (2) to ensure that, regardless of their geographical scope, Performance Plans include initiatives designed to support cross-border coordination and the provision of cross-border services. • Need for the performance plan template set out in Annex II to address the cross-border collaboration as above mentioned. • As above mentioned, new provision in Annex II to establish the criteria that will need to be fulfilled for the preparation of FAB-level plans. |

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| | circumstances where individual plans are prepared at the national/charging zone level. | |
| <p><i>Article 6</i> <i>Network Manager</i></p> | <p>Considering that the Network Manager has specialised functions and tasks and operates through a process of cooperative decision-making, the KPIs/PIs set out in the Network Performance Plan (NPP) and the assessment criteria for the assessment of the NPP by the Commission before approval should equally reflect this specificity.</p> <p>It is therefore proposed:</p> <ol style="list-style-type: none"> 1. That the NPP, while ensuring the achievement of the Union-wide targets, should demonstrate the individual contribution of the Network Manager to the achievement of the Union-wide targets 2. To lay down criteria for the assessment by the Commission of the NPP in a companion Annex to current Annex IV (e.g. IIIb) 3. The criteria to be set up as per 2. above are used by the Commission to assess the NPP before approval in a related Commission Implementing Decision | <p>Article 6(d) will be modified to:</p> <ul style="list-style-type: none"> • Address the specificity of performance targets related to the Network Manager (considering in particular the modifications brought to Annex I – see below) • Cross-refer to a companion Annex to current Annex IV (e.g. IIIb) laying out criteria for the assessment by the Commission of the NPP • Explicitly address the assessment process leading to the approval of the NPP (as a basis, the process should consider current Articles 14 and 15) • Mention that the NPP should be based on the offer / business plan of the NM developed at the time of the nomination • Clarify the process of assessment and adoption of the NPP |
| | The Network Operations Plan implements, at operational level, the Network Strategy Plan and the Network Performance Plan and is updated on a yearly basis. The | <p>Modified section 6 considering:</p> <ul style="list-style-type: none"> • a revised Article 6(c) to ensure that, over the duration of the |

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| | <p>Network Operations Plan, and seasonal updates, shall, with the contained capacity and flight efficiency enhancement measures planned at network level and by each Area Control Centre (ACC), enable to achieve the Union-wide en-route ATFM delay target. As such, the NOP shall ensure, over the duration of the reference period for the performance scheme, the consistency of the individual reference values with the Union-wide targets considering the latest traffic forecasts and traffic evolutions (e.g. shifts in traffic due to geopolitical situations). Article 6(c) should be amended accordingly as well as the template for the Network Performance Plan.</p> <p>In addition, considering that, providing the overall delay in the network is reduced, the Network Manager (NM) may recommend measures to offload a congested area even if this will cause (or increase) delay in the area to be on-loaded, that may eventually be rejected by the recipient neighbouring ACC (negative incentive on capacity), it is proposed to that the Network Manager facilitates a delay optimisation concept addressing a fair network delay assignment.</p> <p>Obviously, with due regard to the overriding safety objective, accepting the additional traffic would remain a prerogative of the recipient ACC/ANSP.</p> | <p>reference period for the performance scheme, the consistency of the individual reference values in the Network Operations Plan with the Union-wide targets considering the latest traffic forecasts and traffic evolutions;</p> <ul style="list-style-type: none"> • a new provision to address the support task of NM with respect to a delay reassignment process to achieve a Network ATFM (Air Traffic Flow Management) delay optimisation; and • a revised Annex III. |

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| | <p>As a result, and considering (1) the reinforced role of the NOP in continuously achieving the Union-wide targets; and (2) the task of the NM to support a delay reassignment process, Annex I should introduce (a) new (K)PI(s) capturing the Network Manager's contribution to performance. This should be related to:</p> <ol style="list-style-type: none"> 1. percentage measured as the NM en-route delay savings over the total network en-route delay 2. percentage measured as the NM arrival delay savings over the total network ATFM arrival delays 3. the efficiency in Network ATFM (Air Traffic Flow Management) delay optimisation, 4. flight efficiency savings in the strategic flight planning phase 5. impact on en-route flight efficiency of ATFM measures 6. entry times predictability for inbound flights from third countries, calculated as the aggregation per ACC of actual entry time vs. estimated entry time at a specified time before entry | |
| <p><i>Article 7</i> <i>Coordination with the European</i></p> | | |

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| <i>Aviation Safety Agency (EASA)</i> | | |
| <i>Article 8 Duration of the reference periods</i> | | |
| <i>Article 9 Key performance areas and performance indicators</i> | | |
| <i>Article 10 Union-wide performance targets</i> | NSAs should have the opportunity to provide information on local conditions that they consider should inform the setting of Union-wide targets. Any such information would need to be submitted to the Commission at least 18 months prior to the start of the Reference Period if it is to be taken into account in initial proposals for Union-wide targets (issued by the Commission 15 months in advance in accordance with Article 10 of the Performance Regulation). In preparing information for submission, it is expected that NSAs take advice from the relevant ANSPs as well as the Network Manager. | Refined provision in Article 10 to ensure that NSAs provide information to the Commission on local conditions that they consider should inform the setting of Union-wide targets at least 19 months prior to the start of the Reference Period. In preparing information for submission, NSAs should take advice from the relevant ANSPs as well as the Network Manager. This change expands on the current provision as per Annex II.1. of the Charging regulation by which air navigation service providers shall fill in a reporting table with initial forecast figures 19 months before the start of a reference period. |
| | While Article 10(4) does not currently explicitly define the nature of those alert thresholds that may trigger the | Modified Article 10(4) to propose that alert threshold(s) to be determined by the Commission, beyond which the alert mechanisms |

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| | <p>application of the alert mechanism referred to in Article 19(1), it is proposed to expand on the current provision by stating that the alert mechanism can be activated if:</p> <ol style="list-style-type: none"> 1. The actual traffic deviates from the traffic assumptions by at least xx (to be determined by Commission Implementing Decision for RP3) %; and/or 2. The variation of the reference values (targets as indicated in the Annex V of the Network Management Functions IR) , at FAB, ANSP and/or ACC level, from the seasonal updates of the NOP is beyond a threshold xx (to be determined by Commission Implementing Decision for RP3) <p>Provision of current Article 19(3) by which Member States may decide to adopt alert thresholds different from the ones in Article 10(4) would be removed since this provision has never been applied.</p> | <p>referred to in Article 19 may be activated, should address:</p> <ul style="list-style-type: none"> • Deviation of the actual traffic from the traffic assumptions (as set out in the Annex to the Commission Implementing Decision) over a given calendar year • Variation of the reference values (targets as indicated in the Annex V of the Network Management Functions IR), at FAB, ANSP and/or ACC level, from the seasonal updates of the NOP <p>In addition, the provision of current Article 19(3) by which Member States may decide to adopt alert thresholds different from the ones in Article 10(4) will be removed.</p> |
| <p><i>Article 11</i> <i>Drawing up of performance plans</i></p> | <p>As per text above with respect to Article 5 above and the geographical scope of the Performance Plan.</p> | <p>Modified Article 11(1) to reflect that some Member States may consider that the preparation of FAB-level plans introduces an additional layer of administration while bringing only limited benefits, while others may wish to preserve established mechanisms from cross-border cooperation embedded within a FAB organisation.</p> |

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| | Regardless of their eventual geographical scope, Performance Plans shall contain initiatives designed to support cross-border coordination and the provision of cross-border services (see explanation under Article 5 above). | Modified Article 11(3) to require NSAs to include an explanation of the initiatives in place or being developed to support cross-border coordination and the provision of cross border services |
| | There is the need for the performance plans to contain a description of all actions aimed at reaching the targets | Modified Article 11(3) to require that all actions aimed at reaching the targets are detailed in the performance plans. |
| | Tracking of change delivery related to SESAR deployment | Modified Article 11(3) to require NSAs to report on past and expected progress in deployment of SESAR common projects |
| | A better integration between the performance planning and monitoring processes defined by the Performance Scheme and the network planning activity undertaken by the Network Manager, provides a basis for more dynamic capacity balancing. It also increases the scope for regulatory action at the local level to ensure delivery of capacity plans, in line with the objective of strengthening the role of NSAs. This would strengthen the link between the performance plans and the NOP, making the latter a more effective tool for planning and ensuring the implementation of changes in capacity in response to changes in the level and distribution of traffic. It would | Modified Article 11(3a) to require that: <ol style="list-style-type: none"> 1. performance plans include a range of traffic forecasts expressed in service units within which plans and local targets remain valid 2. range of traffic forecasts are consistent with alert thresholds and traffic risk sharing parameters 3. traffic forecasts must be consistent with the EUROCONTROL Network Manager Statistics and Forecasting (STATFOR) forecasts (high and low) and consistent across KPAs; STATFOR traffic forecast being |

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| | also enhance the regulatory framework, with the NOP providing a trigger for enforcement at the discretion of the NSAs. Note, however, that the NOP would continue to be primarily an operational document and the Network Manager would not have any regulatory powers under the proposal. | considered by the capacity planning process of the Network Manager to generate traffic increase per ACC. Possibility for the State to deviate from STATFOR base forecast for terminal operations under specific circumstances would remain, providing a compelling argument to do so is presented in the Performance Plan. |
| | Along with modifications brought to Article 6 above, the assessment criteria to support the assessment of the NPP should be those laid down in the companion Annex to Annex IV. | Modified text in Article 11(5) to make cross-reference to the assessment criteria set out in a new Annex specific to the NPP. |
| <i>Article 12 Incentive schemes</i> | For the sake of clarity, it is proposed that all principles and provisions for the definition of the incentive schemes to be applied by Member States as part of their Performance Plan are addressed by the Charging scheme regulation. | Relevant provisions of Article 12 will be addressed in the Charging scheme regulation |
| <i>Article 13 Initial adoption of performance plans</i> | <i>Work on going</i> | <i>Work on going</i> |
| <i>Article 14 Assessment and revision of performance plans and targets</i> | <i>Work on going</i> | <i>Work on going</i> |

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| <p><i>Article 15</i></p> <p><i>Assessment of revised performance plans and targets and adoption of corrective measures</i></p> | <p><i>Work on going</i></p> | <p><i>Work on going</i></p> |
| <p><i>Article 16</i></p> <p><i>Performance plans or corrective measures adopted after the beginning of the reference period</i></p> | | |
| <p><i>Article 17</i></p> <p><i>Revision of the targets</i></p> | <p><i>Work on going</i></p> | <p><i>Work on going</i></p> |
| <p><i>Article 18</i></p> <p><i>Ongoing monitoring and reporting</i></p> | <p>Introduce enforcement measures (provision for escalation to Commission/PRB and application of defined sanctions) to be applied in circumstances where the NOP is not consistent with the Union-wide targets. The NOP will first provide a trigger for enforcement at the discretion of the NSAs. NSAs would have the power to impose financial penalties in the event that corrective measures set out in the NOP were not implemented. Such penalties should be proportional to the nature of / problem addressed by the</p> | <p>To introduce appropriate provision for a hierarchy of responses if local capacity targets are not met incl.:</p> <ul style="list-style-type: none"> • Corrective measures • Performance incentives • NSA sanctions (coupled with revision of performance plan if considered appropriate) • Escalation to Commission on advice of PRB |

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| | corrective measures and should be in addition to any payments made under incentive mechanisms in operation under the Charging Scheme. | |
| <i>Article 19 Alert mechanisms</i> | <i>Work on going</i> | <i>Work on going</i> |
| <i>Article 20 Facilitation of compliance monitoring</i> | | |
| <i>Article 21 Collection and validation of data for performance review</i> | | |
| <i>Article 22 Dissemination of information</i> | | |
| <i>Article 23 Exemptions</i> | | |
| <i>Article 24 Appeal</i> | | |

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| <i>Article 25</i> <i>Review of the scheme</i> | | |
| <i>Article 26</i> <i>Amendments to Regulation (EU) No 677/2011</i> | | |
| <i>Article 27</i> <i>Entry into force</i> | | |
| <i>Article 28</i> <i>Repeal</i> | | |
| <i>ANNEX I</i> <i>KPI and PI</i> | <p>The management of safety risk to ATM operations should be done via the EASA Safety Risk Management process in the form of an ATM safety risk portfolio used to identify actions for the European Plan for Aviation Safety (EPAS).</p> <p>This approach does not preclude the targeting of leading indicators and is compatible with improving safety through the identification and mitigation of safety risks within the system. Targeting lagging indicators needs to be avoided at organisation or State level due to possible negative effects that such an action will have on levels of reporting.</p> <p>On that basis, and to ensure proper links between the EPAS</p> | <p>Modified Section 1(1.1) to address:</p> <ol style="list-style-type: none"> 1. The minimum level of the effectiveness of safety management with regard to air navigation service providers as the only KPI 2. Relegate the percentage of application of the severity classification by air navigation service providers based on the Risk Analysis Tool (RAT) methodology as a PI <p>Modified Section 2(1.1) to:</p> <ol style="list-style-type: none"> 1. Keep the minimum level of the effectiveness of safety management with regard to air navigation service providers |

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| | <p>and Performance IR, a 2-tier approach is proposed:</p> <ul style="list-style-type: none"> • Tier 1: are indicators that monitor the Key Risk Areas (Outcomes) including both the number of occurrences and risk levels assigned to the different outcomes <ul style="list-style-type: none"> ○ Rate of Runway Incursions at an airport with any ATS and/or CNS contribution with a safety impact ○ Rate of Runway Incursions occurred in a State that includes the overall system-wide contribution with a safety impact ○ Rate of Separation Minima Infringements with any ATS and/or CNS contribution with a safety impact at the ANSP level ○ Rate of Separation Minima Infringements occurred in a State that includes the overall system-wide with a safety impact <p>It is proposed that ATM Specific Technical Occurrences should no longer come under the scope of the Performance Scheme. They should only come under the scope of the EPAS and measured as part of the ATM risk portfolio.</p> <ul style="list-style-type: none"> • Tier 2 are leading indicators that monitor the | <p>as the only KPI</p> <ol style="list-style-type: none"> 2. Demote the application of the severity classification based on the Risk Analysis Tool (RAT) and the reporting by air navigation service providers as PI 3. Remove the reporting of the level of presence and corresponding level of absence of just culture from the performance scheme <p>Modified Section 2 (1.2) to:</p> <ul style="list-style-type: none"> • Have as PIs <ul style="list-style-type: none"> ○ Rate of Runway Incursions at an airport with any ATS and/or CNS contribution with a safety impact ○ Rate of Runway Incursions occurred in a State that includes the overall system-wide contribution with a safety impact ○ Rate of Separation Minima Infringements with any ATS and/or CNS contribution with a safety impact at the ANSP level ○ Rate of Separation Minima Infringements occurred in a State that includes the overall system-wide with a safety impact • Remove the number of ATM Specific Technical |

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| | <p>resources, abilities and system processes of the ANS and network function providers and the Member State regulators that have an impact on safety performance. Only Tier 2 is subject to target setting in RP3.</p> <p>Building on the above, and now considering both EASA standardisation inspections as well as Regulation (EU) No 376/2014 (in particular the classification of occurrences per the European risk classification scheme (ERCS)), it is proposed for simplification purposes and avoidance of duplication to:</p> <ol style="list-style-type: none"> 1. Limit the effectiveness of safety management (EoSM) as KPI to air navigation service providers 2. To remove from the performance scheme the reporting by the Member States and their air navigation service providers of the level of presence and corresponding level of absence of just culture considering (i) the difficulty in assessing it; and (2) the potential to include it into the EoSM for ANSPs 3. To demote the application of severity classifications based to RAT as PI; this PI only being applicable to ANSPs considering the application of ERCS by NSAs | <p>Occurrences as PIs</p> <ul style="list-style-type: none"> • Remove the reporting by the Member States and air navigation service providers on the level of occurrence reporting, on an annual basis, aiming at measuring the level of reporting and addressing the issue of improvement of reporting culture • Add a PI as proposed by the NM on over delivery i.e. # of hours when traffic is greater than 110% of the slot rate over the total number of ATFM regulated hours. |

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| | <p>KEP does not currently allow a breakdown by reason (e.g. airspace design, civil constraints, civil/military coordination, flight planning). It is therefore proposed to use flight efficiency of the actual flight trajectory (KEA) as the single KPI^{Note 1} for the purposes of target setting in the environment KPA (while retaining efficiency based on the planned trajectory (KEP) as a performance indicator and introduction of a companion shortest constrained route indicator, allowing better identification of contributions of ANSPs and airspace users to flight efficiency.</p> <p>Airspace users have the freedom to plan a flight (which may include potential longer segments than the shortest constrained route). For example, this can include a decision to not delay a flight but take a “re-routing”.</p> <p>The shortest constrained route will not be a self-standing indicator but will be used to compute the delta between the last filed flight plan and the shortest available route measures, thereby reflecting the eventual choice of the airspace user.</p> <p><i>Note 1:</i> The algorithm takes the following components into consideration: Unit rate, Restricted danger zones that must be avoided (e.g. conflict zones), Weather conditions (to catch strong tail-wind and avoid nose-wind, e.g.</p> | <p>Modified Section 1 (2.1) to reflect the use the flight efficiency of the actual flight trajectory as the only KPI and relegate the efficiency of the planned trajectory (KEP) to the level of PI</p> <p>Modified Section 1 (2.2) to complement the KEP with the introduction of a 'new shortest constrained route indicator when the flight plan was submitted by airspace users' as a PI.</p> |

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| | Jetstreams). | |
| | <p>For descents, a significant amount of (inefficient) level flight can be observed. Together with the progressive implementation with SESAR of procedures for Continuous Descent Operations (CDO) from a defined point (2017-2021) to implementation from Top of Descent (2023-2027), the focus of the proposed measure for RP3 is on the widespread implementation of CDOs in order to reduce fuel burn but also noise emissions.</p> <p>A currently widely applied intermediate point for CDO is 7,000 feet (ft).</p> | <p>Modified Section 2(2.2) to introduce as a PI the share of flights applying Continuous Descent Operations (CDO) from higher than 7,000 ft.</p> |
| | <p>Considering the advent of Free Route Airspace (according to the ATM Master Plan, Free Route Airspace on a H24 basis should be fully implemented by 2021), planning and usage of conditional routes (CDRs) has become obsolete. It is therefore proposed to remove those performance indicators both at Union-wide and State levels.</p> <p>With respect to the effectiveness of booking procedures for flexible use of airspace (FUA), both at Union-wide, the annual monitoring report for 2016 shows a very low level of appropriate provision of information. This needs to be reinforced for RP3.</p> | <p>From section 1 (2.2) should be removed both:</p> <ul style="list-style-type: none"> • The rate of planning of conditional routes (CDRs) defined as the ratio of aircraft filing flight plans via CDRs and the number of aircraft that could have planned them. • The effective use of CDRs defined as the ratio of aircraft using CDRs and the number of aircraft that could have planned them. <p>From section 2 2(2.2) should be removed both:</p> <ul style="list-style-type: none"> • The rate of planning of conditional routes (CDRs) defined as the ratio of aircraft filing flight plans via CDRs and the |

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| | <p>Finally, the take up of released airspace by civil users, while being eventually a meaningful indicator, would require additional information on the level of the demand and the timely provision by the States to the Network Manager of all airspace management decisions and updates impacting the route availability. It is considered however that these cannot be properly integrated in the timeframe of RP3 planning but will be considered in the context of future RPs.</p> | <p>number of aircraft that could have planned them.</p> <ul style="list-style-type: none"> The effective use of CDRs defined as the ratio of aircraft using CDRs and the number of aircraft that could have planned them. <p>As a result, only the effectiveness of booking procedures for flexible use of airspace (FUA) at Union-wide and State level will remain in RP3.</p> |
| | <p>With a key objective for RP3 to ensure a better integration with network management, a metric on the level of providing the NOP-planned capacity by the respective ATSPs on the day of operation is proposed. Such a metric could serve as the required alert threshold monitor to identify continued or persistent issues in capacity deployment.</p> | <p>Modified Section 1 (3.2) to introduce a new PI related to the delivered sector opening scheme profile (# of ACC sectors per time period of the day delivered) to be checked against the planned/declared sector opening scheme profile (# of ACC sectors per time of the day planned/declared). The planned/declared number of sectors is obtained from the sector opening scheme in the NOP.</p> |
| | <p>To complement, the above measure addressing the mismatch between declared and delivered capacity profile, it is proposed to supplement existing capacity measures with new PIs:</p> <ul style="list-style-type: none"> delays in the 3-hour peak to assess the contribution to the total delay | <p>Modified Section 1 (3.2) to introduce the following additional PIs:</p> <ul style="list-style-type: none"> delays in the 3-hour peak to assess the contribution to the total delay En-route/terminal ATFM delay at weekends Delay encountered in first rotation |

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| | <ul style="list-style-type: none"> • En-route/terminal ATFM delay at weekends • Delay encountered in first rotation • Delay exceeding 15 minutes | <ul style="list-style-type: none"> • Delay exceeding 15 minutes |
| | <p>As a result of the proposed modifications to Article 6 above, and considering (1) the reinforced role of the NOP in continuously achieving the Union-wide targets; and (2) the task of the NM to administer the delay budget as a fraction of the Union-wide target, Annex I should introduce (a) new (K)PI(s) capturing the Network Manager's contribution to performance. This should be related to:</p> <ol style="list-style-type: none"> 1. percentage measured as the NM en-route delay savings over the total network en-route delay 2. percentage measured as the NM arrival delay savings over the total network ATFM arrival delays 3. the efficiency in Network ATFM (Air Traffic Flow Management) delay optimisation 4. flight efficiency savings in the strategic flight planning phase 5. impact on en-route flight efficiency of ATFM measure 6. entry times predictability for inbound flights from | <p>New section in Annex I to address NM's own (key) performance indicators to contribute to the eventual achievement of the Union-wide targets. This new section will address the NM's specific contributions to the Union-wide targets related to:</p> <ol style="list-style-type: none"> 1. percentage measured as the NM en-route delay savings over the total network en-route delay 2. percentage measured as the NM arrival delay savings over the total network ATFM arrival delay 3. the efficiency in Network ATFM (Air Traffic Flow Management) delay optimisation 4. flight efficiency savings in the strategic flight planning phase 5. impact on en-route flight efficiency of ATFM measure 6. entry times predictability for inbound flights from third countries, calculated as the aggregation per ACC of actual entry time vs. estimated entry time at a specified time before entry |

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| | third countries, calculated as the aggregation per ACC of actual entry time vs. estimated entry time at a specified time before entry | |
| | It is proposed to have the indicator on Union-wide unit cost for terminal air navigation services applying to each year of the reference period. It is also proposed to this indicator to those airports defined as modifications to Article 1. Exemption can be granted providing evidence can be provided by the NSA of an appropriate consultation process involving the airspace users. | Modified Appendix I section 1(4.2) to have the indicator on Union-wide unit cost for terminal air navigation services applying to each year of the reference period with the mention that exemption can be granted providing evidence can be provided by the NSA of an appropriate consultation process involving the airspace users. |
| | The traffic, inflation and cost risk sharing mechanisms and related carry-overs (which are only recovered in year n+2) necessitate a strict monitoring to ensure that costs to airspace users in a given year are correctly reported, It is therefore proposed to add a performance indicator addressing the true cost to airspace users by adding to the determined unit costs the adjustments in year n rather than n +2. | Add a performance indicator (Union-wide and Charging Zone levels) in Annex I on true cost to the airspace users by adding to the determined unit costs the adjustments in year n rather than n +2. |
| | With an open architecture currently made up of a mix of legacy and new architecture (e.g. SWIM), but considering the further digitalization undergone by ATM, it is proposed to add cybersecurity under the heading of the Safety KPA. As of 2 January 2020 (as per (EU) 2017/373 and | The Safety-related sections will propose a resilience-like indicator that relates to the elapsed time following a cyberattack to recover (i.e. be back to normal service operations). |

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| | <p>ATM/ANS.OR.D.010 on Security management) for Air navigation services and air traffic flow management providers and the Network Manager have to establish a security management system. However, as of today, very few ANSPs have an operational Security Operations Centre (SOC). It is proposed to start introducing Security under the Performance Scheme with a resilience indicator. Clearly the no. of detected breaches would not be a meaningful indicator since hackers targeting air traffic control systems are by definition external threats.</p> | |
| <p><i>ANNEX II</i> <i>TEMPLATE FOR</i> <i>PERFORMANCE</i> <i>PLANS</i></p> | <p>To properly ensure change management in view of, for example, (1) Introduction of new technology as per e.g. the SESAR work programme (incl. increased digitalisation, automatization, virtualization); (2) Operational improvement project (e.g. like free route airspace); (3) Social element, such as staff resourcing, some stakeholders groups have suggested a change management indicator. This is currently being discussed and matured within the EGHD and both the methodology and indicator are being developed. Considering the current maturity, it is not however proposed for RP3 to have a proper indicator to reflect change management best practice. Hence this is not proposed as an addendum to Annex I. On the other hand, it is suggested that a specific section of the Performance Plan</p> | <p>Modified Annex II to add a specific section on change management practices.</p> |

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| | encourages a greater focus on change management and the use of best practice (incl. appropriate level of staff involvement in the change process to assess impact of the proposed change on working methods and relationships). | |
| | In case the intent is to prepare performance plans at a FAB level. | New provision in Annex II to establish the criteria that will need to be fulfilled for the preparation of FAB-level plans. |
| | As per modifications to Articles 5 and 11 above in relation to the geographical coverage of the Performance Plan, there is the need for the performance plan template set out in Annex II to address the cross-border collaboration. | New sub-section in the performance plan template to address the cross-border collaboration. |
| | Along with the proposed change to Article 13 of the Charging Scheme by which responsibility for setting the parameters of the traffic risk sharing parameters would be devolved to NSAs, NSAs should, in particular, develop a better understanding of available capacity and the relationship between additional traffic (relative to forecast values) and additional cost. This element of the proposal would need to be achieved primarily through facilitation of exchange of expertise and information (in particular with NM and within the forum provided by the NSA Coordination Platform). Annex II of the regulation would be expanded to require NSAs to report on an analysis of capacity and set out the implications for accommodation of | Annex II of the regulation will be expanded to require NSAs to (1) report on an analysis of capacity and set out the implications for accommodation of variations in traffic levels; and (2) substantiate the setting of the sharing keys of the traffic risk sharing mechanism. This requirement would be separate to, but might inform, the investment plans on which NSAs are already required to report. |

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| | variations in traffic levels. This Annex would also require the NSAs to substantiate the setting of the sharing keys of the traffic risk sharing mechanism. | |
| <i>ANNEX III TEMPLATE FOR THE NETWORK PERFORMANCE PLAN</i> | | |
| <i>ANNEX IV PRINCIPLES FOR ASSESSING PERFORMANCE PLANS AND TARGETS</i> | As per the proposed modification to Article 13 of the Charging Scheme, and along the general criterion set by 1(b), "Factual analysis taking into account the overall situation of each individual State including the most recent economic developments and traffic forecast", the Commission, under Annex IV section 5, will assess the argument sustaining the setting of the traffic risk sharing mechanism keys by the NSAs. | Modified Annex IV.5. with the addition of the assessment of the justification provided by the NSA to set the keys of the traffic risk sharing mechanism considering the overall capacity / demand situation of each individual Member State and traffic forecast. |
| <i>ANNEX V LIST OF DATA TO BE PROVIDED FOR THE PURPOSE OF THIS REGULATION</i> | Data reporting requirements to be adapted based on the list of KPI / PI as per Annex I above. | |

2. Proposed changes to Commission Implementing Regulation (EU) No 391/2013

The list of retained measures / options and related proposed Changes to the legal text is detailed in Table 2 below:

Table 2: Proposed changes to Commission Implementing Regulation (EU) No 391/2013

| Article no. in Commission Implementing Regulation (EU) No 391/2013 | Proposed measure and Rationale for the change | Proposed Changes to the legal text |
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| <i>Article 1</i> <i>Subject matter and scope</i> | Subject matter and the scope to be aligned with Article 1 of the Performance Scheme. | Subject matter and the scope to be aligned with Article 1 of the Performance Scheme. |
| <i>Article 2</i> <i>Definitions</i> | <p>When actual costs are lower than initially foreseen in their determined costs, Member States should have the flexibility to transfer all or part of the difference to the unit rates of N+2 without having to wait for the next Reference Period, after consultation with airspace users.</p> <p>To support more flexibility to charge less without having to wait for the next Reference Period, definition of 'other revenue' in Article 2(10) should be clarified.</p> | Clarification brought to the definition of 'other revenue' in Article 2(10). |
| | There is a need to revisit the definition of 'restructuring costs' as per current Article 2(14) in particular, but not limited to, the meaning of 'one-time' costs. | Article 2(14) will be reworked. |
| <i>Article 3</i> <i>Terminal air</i> | Measures should facilitate and encourage introduction of market measures in all Member States. Article 3(3) and | Article 3(3) will be reworked to ensure full applicability at the time a Member State decides that terminal air navigation services or |

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| <i>navigation services and CNS, MET and AIS services subject to market conditions</i> | Annex I need to be revisited and aligned to ensure the Article can be fully applied when a Member State decides that terminal air navigation services or CNS/MET/AIS services are subject to market conditions (in particular, but not limited to providing the tender documents). In addition, application of market conditions to CNS/MET/AIS would need to be clarified. | CNS/MET/AIS services are subject to market conditions. For the latter, clarification will be provided on the application of market conditions to CNS/MET/AIS. |
| <i>Article 4 Principles of the common charging scheme</i> | While it is clear that public funding has to returned, there is currently still ambiguity over the appropriate methodology for the treatment in the calculation of unit rates. The aim for RP3 should be to ensure that such public funding of capital expenditure is properly reflected such that investment is not over-remunerated (or remunerated twice), a concern expressed by representatives of airspace users. | The treatment of public funding of investment for the purposes of calculating unit rates should be clarified, with such funding identified explicitly in the calculation in Table 2 of Annex VI of the Charging Regulation. Supplementary guidance should also be provided to ensure that public funding is treated correctly as a category of 'other revenues' under item 5 of Table 2. As such Article 4(2) and 4(3) should make a cross-reference to this guidance material. |
| <i>Article 5 Establishment of charging zones</i> | There is the need to refine the definition of a charging zone to make it operationally sound. | Refined Article 5(3). |
| <i>Article 6 Eligible services, facilities and activities</i> | There is the need to further define what is meant by 'costs stemming from international agreements' for establishment as determined costs in Article 6(2)(c). | Expand on the definition of by 'costs stemming from international agreements' in Article 6(2)(c). |

| Article no. in Commission Implementing Regulation (EU) No 391/2013 | Proposed measure and Rationale for the change | Proposed Changes to the legal text |
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| | <p>To date the provisions in Article 6(3) on usage of the revenue resulting from charges to fund common projects for network-related functions have never been used. It is proposed to clarify the scope of Article 6(3).</p> | <p>Clarify the scope of Article 6(3).</p> |
| <p><i>Article 7</i> <i>Calculation of costs</i></p> | <p>The inflation adjustment has an effect on all entities' determined costs in the current charging scheme (unlike the traffic risk sharing adjustments).</p> <p>In RP2 (although the situation in RP1 was reversed), several States have raised concern that in a situation of deflation or "continuous lower than expected" inflation, the inflation adjustment can become a serious issue as it can become significant as compared to other adjustment and even become the most important risk factor for the Member States and ANSPs alike. Indeed the inflation risk is not capped (like the traffic risk or cost risk with the cost exempt).</p> <p>It is proposed to limit the application of inflation to certain costs (i.e. not to depreciation costs) or to a fraction of the total costs representing those subject to inflation (<i>i.e.</i> such as 70%) and cap deflation to 0%.</p> | <p>Modified Article 7(1) to request the Inflation risk sharing to limit the application of inflation to certain costs (i.e. not to depreciation costs) or to a fraction of the total costs representing those subject to inflation (<i>i.e.</i> such as 70%) and cap deflation to 0%.</p> |
| | <p>Generically speaking, Article 7 in its entirety needs further scrutiny and the need for further clarifications will be</p> | <p>--</p> |

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| | addressed at the time of the legal text drafting. This will, in particular, address the difference between determined and actual costs, including for capital expenditure. | |
| | <p>To date the provisions regarding restructuring costs were not utilised (that is not to say that they were considered in some instances but dismissed due to issues with implementation). The provision should be re-visited. Article 7(4) should therefore either:</p> <ul style="list-style-type: none"> • be revisited with respect to the recovery of the restructuring costs (with companion Guidance Material), or • deleted and considered as a possible justification for revising a Performance Plan provided restructuring was unforeseeable at the time of adoption of the performance plans | Revision of Article 7(4) or deletion of 7(4) and consideration that restructuring, provided it was unforeseeable at the time of adoption of the performance plans, can be a possible justification for revising the plan. |
| <p><i>Article 8</i> <i>Allocation of costs</i></p> | <p>The allocation of ANSPs' cost bases between en-route and terminal is a long standing item. The current Charging Regulation provides high level principles to guide States/NSAs in making this allocation, a key principles being that ANS provided at airport (control services, flight information services including air traffic advisory services and alerting services) cannot be allocated to en-route.</p> | <p>Revised Article 8 with respect to:</p> <ul style="list-style-type: none"> • principles of cost allocation between en-route and terminal • establishment of charging zones |

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| | There might be a case to revisit these principles as well as the general provisions regarding establishment of charging zones. Special arrangement may also need to be introduced for approach services. | |
| <i>Article 9</i> <i>Transparency of costs and of the charging mechanism</i> | | |
| <i>Article 10</i> <i>Exemptions from air navigation charges</i> | | |
| <i>Article 11</i> <i>Calculation of en route charges</i> | | |
| <i>Article 12</i> <i>Calculation of terminal charges</i> | As per Article 15(2)(e) of Regulation (EC) No 550/2004, it is proposed to explicitly allow cross-subsidies between different terminal air navigation services. | New provision in Article 12 to explicitly allow cross-subsidies between different terminal air navigation services subject to clear justification and transparency. |
| <i>Article 13</i> <i>Traffic risk sharing</i> | Currently the dead band provides an incentive to underestimate traffic by up to 2% when preparing forecasts, since a variation between forecast and actual traffic falling outside the dead band results in additional revenue from airspace users. This practice should be | Modified Article 13 to remove the dead band from the traffic risk sharing mechanism |

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| | <p>avoided. In addition, with initial capacity plans based on the STATFOR base forecast (as per proposed change to Article 11 of the Performance Scheme above), the removal will lead to a simplification of the scheme.</p> | |
| | <p>The limits of the traffic risk sharing mechanism should be aligned with the traffic thresholds defining the validity of the performance plans and the alert thresholds. In effect, these thresholds would determine the range of traffic scenarios that could be accommodated by the performance plans through automatic adjustment of revenues without the need for reopening the plans. Based on the fact that a non-negligible number of Member States have recently observed traffic increase above the current +10% threshold as well as with the objective to support the definition of a more equitable allocation of traffic risks, it is proposed, in conjunction with the proposed removal of the dead-band, to increase the traffic threshold to 15% (thereby slightly increasing the risk exposure for the ANSPs from 4.4% to 4.5%).</p> | <p>Modified Article 13 to ensure that the limits of the traffic risk sharing mechanism is aligned with the traffic thresholds defining the validity of the performance plans and the alert thresholds. This limit will be set at 15% expressed in service units.</p> |
| | <p>Experience from RP2 suggests that ANSPs are subject to different capacity constraints (e.g. some can accommodate traffic over and above the level forecast in the performance plan without incurring significant additional costs) and have delivered different levels of efficiency, implying a</p> | <p>Modified Article 13, with a traffic risk sharing mechanism of an asymmetric nature, stating that in drawing up performance plans as per Article 11 of the Performance Scheme, the national supervisory authorities shall:</p> |

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| | <p>need for different risk sharing arrangements. The proposal is therefore to allow for a more flexible approach to setting the keys of the traffic risk sharing that could be achieved by allowing the National supervisory authorities (NSAs) to define the relevant parameters within defined constraints. Elasticity in cost to traffic together with the complementary elasticity of unit rate to traffic would therefore be adjustable across the charging zones to properly reflect the relation between capacity, demand and associated costs.</p> <p>The scheme proposed by an NSA would be asymmetric, with different values applying according to whether the ANSP experienced more or less traffic than forecast (in the case of traffic decreases, the organisation could still be expected to reduce costs).</p> <p>It would be for the NSA (based on inputs from the NM), and in discussion with the ANSP, airspace users and staff associations, to determine the appropriate values, taking account of possible traffic variation and the need to preserve capacity notwithstanding short-term changes in demand.</p> <p>The NSA would not be able to change the upper threshold within which the sharing keys applied, as this aligns with the alert thresholds and provide a common trigger for reopening performance plans, as indicated above.</p> | <ul style="list-style-type: none"> • impartially, independently and transparently set the keys of the mechanism as follows: <ul style="list-style-type: none"> Case 1: In case, over a given year, the actual number of service units exceeds the forecast established in the performance plan for that year: <ul style="list-style-type: none"> ○ sharing keys to be within the boundaries of 30% (ANSP) / 70% (AU) to 0%^{Note 1} (ANSP) / 100% (AU) Case 2: Where, over a given year, the actual number of service units falls below the forecast established in the performance plan for that year: <ul style="list-style-type: none"> ○ In very specific circumstances, the ANSP could recover a maximum of 90% of the revenue loss with a corresponding increase of the determined costs. In the absence of a proper justification, otherwise, the default value would be 70%. ○ The increase of the determined costs, for the sake of transparency, should take place in the year n+2 (rather than, as of today, starting not earlier than year n+2). <p>and, in both cases 1 and 2 above:</p> <ul style="list-style-type: none"> ○ While considering upper and lower bounds of traffic |

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| | <p>Therefore NSAs would impartially, independently and transparently set the keys of the mechanism. In doing so, the NSAs should:</p> <ul style="list-style-type: none"> • establish consultation mechanisms for appropriate involvement of stakeholders (in particular NM, air navigation service providers, airspace users, professional staff representative bodies) to grasp the fundamentals of the capacity / demand situation • make a compelling argument to be assessed by the Commission (with the support of the PRB) as per Article 14 (Assessment and revision of performance plans and targets) and the add-on of a review criterion laid down in Annex IV. <p>NSAs should develop a better understanding of available capacity and the relationship between additional traffic (relative to forecast values) and additional cost. This information should, in particular, be provided by the Network Manager. This element of the proposal would need to be achieved through guidance to support both the determination of the keys and the facilitation of exchange of expertise and information (incl. with NM).</p> | <p>variations in full consistency with range of traffic forecasts and alert thresholds, <i>i.e.</i> 15% (see above)</p> <ul style="list-style-type: none"> • establish consultation mechanisms for appropriate involvement of stakeholders (in particular NM, air navigation service providers, airspace users, professional staff representative bodies) to support the setting of the keys with, in particular, the objective to develop a better understanding of available capacity and the relationship between additional traffic (relative to forecast values) and additional cost • substantiate the sharing keys of the traffic risk sharing mechanism with a description of the underlying assumptions and rationale for setting these keys considering, <i>inter alia</i>, the overall capacity / demand situation of each individual State and traffic forecast <p>Note 1: <i>i.e.</i>, as an illustration, 100% of the additional revenue obtained by the air navigation service providers from the difference between actual and forecast service units shall result in a corresponding reduction of the determined costs.</p> |
| Article 14 Cost sharing | The current cost sharing mechanism provides that the difference between actual and determined costs shall be | In order to simplify the setting of charges, reducing the administrative burden, and provide for a more coherent treatment of |

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| | <p>retained by air navigation service providers, Member States or the qualified entities concerned.</p> <p>However, a “cost exempt” mechanism was introduced at the request of States to mitigate the risk of "uncontrollable costs" increasing unexpectedly high during a reference period. It allows for the pass through of certain costs directly to the following reference period(s). Given that a revision of the cost base is done in any case ahead of each reference period, the mechanism can be perceived an unnecessary administrative burden for States/NSAs as well as for the Commission and does not meet the “better / smarter regulation requirements” of proportionality.</p> <p>Overall, at Union-wide level it represents a very small percentage (less than 1% in RP1 and 0.3% in 2015 (with variations at State level)) of the total cost base.</p> <p>However, the biggest component of "costs exempt" to date are pension costs. Variability of pension costs (defined benefit pension schemes) represents a risk to ANSPs and new measures could be considered to deal with this particular issue outside of the current "cost exempt" mechanism.</p> | <p>costs that takes account of the impacts of other risk sharing mechanisms, Article 14(2) is proposed to be adapted to introduce (A) a new mechanism for pensions; and (B) treatment of differences in Eurocontrol's costs between planned ad actual.</p> <p>For (A) the NSAs will be required to monitor on a yearly basis unforeseen changes in the national pension scheme (law, pension costs, market conditions) for those constituents outside of the control of the ANSP. Proposed inclusion of these variations by the NSA shall be subject to (1) a consultation mechanism with appropriate involvement of stakeholders, and (2) a final audit by a chartered accountant, the report of whom shall be provided to the Commission. On demand and on the basis of the report, Air navigation service providers / national supervisory authority shall facilitate inspections by the Commission.</p> <p>(B) may include the possibility of yearly adjustments and recognition in the unit rate for charges.</p> |
| <p><i>Article 15</i> <i>Incentive schemes for</i></p> | <p>Introduction of bespoke incentive mechanisms designed by NSAs with a view to addressing problems specific to</p> | <ul style="list-style-type: none"> • Devolve responsibility for development and implementation of incentive schemes to NSAs (modifying Article 15 of the |

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| <i>air navigation service providers</i> | individual parts of the SES (particular regions of airspace) | <p>Charging Regulation)</p> <ul style="list-style-type: none"> • Require NSAs to submit schemes for approval prior to each reference period, providing a rationale (identifying the specific issues to be addressed), or explain why no scheme is necessary (to be required by new provisions in Article 15 of the Charging Regulation) • Specify a limited number of principles within which a scheme must comply (modifying Article 15(1) of the Charging Regulation): <ul style="list-style-type: none"> ○ Asymmetry, with bonus rates being below those of penalty rates ○ A maximum cap on penalties of 3% of ANSP revenues and on bonuses of 1% of ANSP revenues in any year ○ Stakeholders must be consulted on the issues to be addressed by the scheme and on its design |
| <i>Article 16 Modulation of air navigation charges</i> | Currently, modulation of air navigation charges is at the discretion of the Member States. Mandating modulation, with respect to, <i>inter alia</i> , accelerating the deployment of SESAR, is currently being explored. | Possibly considering mandating the modulation of air navigation charges. |
| <i>Article 17</i> | For the sake the simplifying the process related to the | Reconsider Annex 17 with regard to the intervention by the |

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| <i>Setting of unit rates for charging zones</i> | setting of unit rates for charging zones, the intervention of the Commission in the assessment of the unit rates should be revisited. | Commission. |
| <i>Article 18 Collection of charges</i> | | |
| <i>Article 19 Appeal</i> | | |
| <i>Article 20 Facilitation of compliance monitoring</i> | | |
| <i>Article 21 Review</i> | | |
| <i>Article 22 Entry into force and application</i> | | |
| <i>Article 23 Repeal of Commission Regulation (EC) No</i> | | |

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| <i>1794/2006</i> | | |
| <i>ANNEX I ASSESSMENT OF THE EXISTENCE OF MARKET CONDITIONS</i> | Annex I would need to be reworked on the basis of modifications brought to Article 3(3). | It is proposed to rework Annex I. |
| <i>ANNEX II TRANSPARENCY OF COSTS AND UNIT COSTS</i> | Simplification of reporting tables. | Reporting Tables provide a lot of useful information for States, NSAs, ANSPs and airspace users but have been more and more complex over the years compared to the initial ones of the first charging scheme Regulation (Regulation 1794/2006). There are many items which could be simplified, alleviating the work of ANSPs/States as well as the work of the Commission in assessing consistency of these tables while keeping the same level of information available to airspace users. There may also be a need to revisit the information provided in relation to other revenues, capex, modulation of charges and cross-subsidies within the same category of charging zones. |
| | Clarify treatment of public funding of investment programmes in calculation of unit rate | Provide for more explicit treatment of publicly funded capital costs in determination of unit costs |
| <i>ANNEX III SPECIFIC TRANSPARENCY REQUIREMENTS</i> | To date, the existence of market conditions, following assessment done by the NSA/State and approval of the Commission, was confirmed in only one Member State. The criteria for the assessment of such conditions may need | Clarify the specific transparency requirements relating to market conditions |

| Article no. in Commission Implementing Regulation (EU) No 391/2013 | Proposed measure and Rationale for the change | Proposed Changes to the legal text |
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| <i>FOR AIR NAVIGATION SERVICES PROVIDED UNDER MARKET CONDITIONS</i> | to be refined in view of RP3 following lessons learnt from the exercise. | |
| <i>ANNEX IV CALCULATION OF THE EN ROUTE SERVICE UNITS AND UNIT RATES</i> | | |
| <i>ANNEX V CALCULATION OF THE TERMINAL SERVICE UNITS AND UNIT RATES</i> | | |
| <i>ANNEX VI CHARGING MECHANISM</i> | | Reporting Tables provide a lot of useful information for States, NSAs, ANSPs and airspace users but have been more and more complex over the years compared to the initial ones of the first charging scheme Regulation (Regulation 1794/2006). There are many items which could be simplified, alleviating the work of ANSPs/States as well as the work of the Commission in assessing consistency of these tables while keeping the same level of information available to airspace users. There may also be a need to revisit the information provided in relation to other revenues, capex, |

| Article no. in Commission Implementing Regulation (EU) No 391/2013 | Proposed measure and Rationale for the change | Proposed Changes to the legal text |
|--|---|---|
| | | modulation of charges and cross-subsidies within the same category of charging zones. |
| <i>ANNEX VII COMPLEMENTARY INFORMATION</i> | | Reporting Tables provide a lot of useful information for States, NSAs, ANSPs and airspace users but have been more and more complex over the years compared to the initial ones of the first charging scheme Regulation (Regulation 1794/2006). There are many items which could be simplified, alleviating the work of ANSPs/States as well as the work of the Commission in assessing consistency of these tables while keeping the same level of information available to airspace users. There may also be a need to revisit the information provided in relation to other revenues, capex, modulation of charges and cross-subsidies within the same category of charging zones. |