

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(92) 257 final

Brussels, 26 June 1992

Amendment to the proposal for a

COUNCIL REGULATION (EEC)

on common rules for the allocation of slots
at Community airports

(presented by the Commission pursuant to Article 149(3)
of the EEC-Treaty)

EXPLANATORY MEMORANDUM

1. On 30 January 1991 the Commission presented its proposal for a council Regulation on common rules for the allocation of slots at Community airports (1).
2. After discussions between the Commission and the rapporteur, the Committee of Transport and Tourism approved a compromise position and all the amendments were, subject to minor modifications, accepted by the Commission.
3. On 13 December 1991, at its plenary Session, the European Parliament approved the proposal with amendments.

Amendments number 1, 3 and 12 clarify the scope of the proposal and set the principle that unless an airport is "coordinated", airlines can freely schedule their flights.

The Commission agrees to the Parliament's amendments on the definition of congested and coordinated airports (amendments 14 and 15 respectively) as well as to the amendments on scheduling committee (amendments 18, 20 and 22).

A reference to the applicable competition rules has been added to ensure that airport users are not given final control over the allocation of slots through general guidelines laid down by the scheduling committee.

The Parliament has also suggested to extend the regulation to the smaller carriers, business aviation and general aviation and this is acceptable by the Commission (amendments 8 and 11).

Amendments number 7, 10, 28, 29, 32 and 33 are proposed to apply the regulation without discrimination towards third countries.

With amendments 2, 9, 13, 16, 19, 21, 25 and 27 the Parliament has provided a more specific wording with some minor editorial changes.

(1) COM(90) 576 final, 30 January 1991

Amendment to the proposal for a

COUNCIL REGULATION (EEC)

on common rules for the allocation of slots
at Community airports

Text proposed by the Commission¹

Text amended by Parliament

(Amendment No. 1)

Title

Proposal for a Council regulation (EEC) on common rules for the allocation of slots at Community airports

Proposal for a Council regulation (EEC) on common rules for the allocation of slots at coordinated Community airports

(Amendment No. 2)

First recital

Whereas there is a growing imbalance between the expansion of the air transport system in Europe and the availability of adequate airport infrastructure to meet that demand; whereas there is, as a consequence, an increasing number of congested airports in the Community;

Whereas there is a growing imbalance between the expansion of the air transport system in Europe and the availability of adequate airport infrastructure to meet that demand; whereas there are indications that there will be, as a consequence, an increasing number of congested airports in the Community;

(Amendment No. 3)

Third recital

Whereas the requirement of neutrality is best guaranteed when the decision to coordinate an airport is taken by the Member State responsible for that airport on the basis of objective criteria;

Whereas the requirement of neutrality is best guaranteed when the decision to designate an airport as coordinated is taken by the Member State responsible for that airport on the basis of objective criteria;

¹ OJ No. C 43, 19.2.1991, p. 3

(Amendment No. 4)
New recital after third recital

Whereas this regulation applies only to airports falling within the specific definition of coordinated in Article 2;

(Amendment No. 5)
Fourth recital a (new)

Whereas the Commission should study the reasons for congestion at European airports with a view to finding ways and means to increase capacity;

(Amendment No. 6)
Fourth recital b (new)

Whereas the Member State Governments and airport authorities should consider increasing their airport infrastructure expenditure so as to increase the capacity of European airports;

(Amendment No. 7)
Ninth recital

Whereas it is Community policy to lower barriers to competition and to encourage entrance into the market, as provided for in Council Regulation (EEC) No 2343/90 and whereas these objectives require strong support for carriers who intend to start operations on intra-Community routes with limited competition;

Whereas it is Community policy to lower barriers to competition and to encourage entrance into the market, as provided for in Council Regulation (EEC) No 2343/90 and whereas these objectives require strong support for carriers who intend to start operations on routes with limited competition;

(Amendment No. 8)
Tenth recital

Whereas it is necessary to require Member States or their appointees to ensure that a minimum number of slots are available for operations on intra-Community routes even where an airport is held to be congested;

Whereas it is necessary to require Member States or their appointees to ensure that a number of slots are also available, even where an airport is held to be congested, for the smaller carriers, business aviation and general aviation as well as for new entrants;

(Amendment No. 9)
Eleventh recital

Whereas any withdrawal of grandfather rights should respect the principle of proportionality and should therefore be limited to the number of slots necessary to meet the needs of new entrants at the airport in question, while ensuring that all incumbent carriers at that airport are treated in a comparable manner, taking into account the number of slots used by each, and avoiding unnecessary disturbances of existing arrangements;

Whereas any withdrawal of grandfather rights is only acceptable in exceptional situations where no other solution can be found and should respect the principle of proportionality and should therefore be limited to the number of slots necessary to meet the needs of new entrants at the airport in question, while ensuring that all incumbent carriers at that airport are treated in a comparable manner, taking into account the number of slots used by each, and avoiding unnecessary disturbances of existing arrangements;

(Amendment No. 10)
Fourteenth recital

Whereas it is appropriate for the Community to offer new entrant air carriers from third countries treatment comparable to that offered by those countries to Community air carriers;

Whereas it is appropriate for the Community to offer air carriers from third countries treatment comparable to that offered to Community air carriers, provided that those countries offer Community carriers such treatment at their own airports ;

(Amendment No. 11)
Fifteenth recital

Whereas the adoption of a regulation for the allocation of slots at Community airports should not have a negative effect on the operations of small air carriers;

Whereas the adoption of a regulation for the allocation of slots at Community airports should not have a negative effect on the operations of small air carriers or general aviation;

(Amendment No. 12)
Article 1

This Regulation shall apply to the allocation of slots at Community airports.

This Regulation shall apply to the allocation of slots at coordinated Community airports.

(Amendment No. 13)
Article 2(b)

(b) 'new entrant' means an air carrier

- not holding more than three slots on any day at a coordinated airport and requesting further slots for services on that day, or
- not holding more than 30% of slots held by all air carriers on a day at a coordinated airport or at another airport in the same airport system and requesting further slots at that airport during that day to commence services falling within the scope of Regulation (EEC) 2343/90 on a route on which at most two other air carriers are exercising third or fourth freedom traffic rights between the airports concerned during that day;

(b) 'new entrant' means an air carrier which

- i. does not hold more than four slots on any day at a coordinated airport and is requesting further slots for services on that day, or
- ii. does not hold more than 30% of all slots on a day at a coordinated airport or at another airport in the same airport system and is requesting further slots at that airport during that day to commence a service on a route on which at most two other air carriers exercise traffic rights between the airports concerned during that day;

(Amendment No. 14)
Article 2(c)

(c) 'congested airport' means an airport where the capacity for more than one hour on any day does not meet the demand or forecast demand;

(c) 'congested airport' means an airport where

(i) there are delays of more than one hour to published operating schedules on more than 75% of incoming and outgoing flights, for more than one hour of the day, on any day of the week, during at least 50% of a scheduling period, or

(ii) for more than one hour on any day the capacity in any of the following areas - ATC, runways, other ground facilities including access, environmental restrictions - does not meet the demand or forecast demand;

(Amendment No. 15)
Article 2(f)

(f) 'coordinated airport' means an airport where, in order to land or take off, it is necessary for an air carrier to have a slot allocated by an airport coordinator;

(f) 'coordinated airport' means a congested airport designated as coordinated where, in order to land or take off, it is necessary for an air carrier to have a slot allocated by an airport coordinator;

(Amendment No. 16)
Article 2(h)

(h) 'historical precedence' means a slot that has been operated by an air carrier as cleared by the coordinator and which entitles that airline to the same slot in the next equivalent season.

(h) 'historical precedence' means a slot that has been operated by an air carrier as cleared by the coordinator and which entitles that air carrier to the same slot in the next equivalent season.

(Amendment No. 17)

Article 3(1)

1. Member States shall permit air carriers with a valid route licence to freely schedule and operate their services to and from Community airports which are not coordinated in accordance with Article 4.

1. Member States shall permit air carriers with a valid appropriate licence to freely schedule and operate their services to and from Community airports which are not coordinated in accordance with Article 4.

(Amendment No. 18)

Article 5(2)*

2. The coordinator shall be responsible for the allocation of slots at the coordinated airport(s) and shall act in accordance with this Regulation in a neutral, non-discriminatory and transparent way.

2. The coordinator shall be responsible for advising the scheduling committee(s) and for the allocation of slots, taking into account the general guidelines laid down by the scheduling committee, at the coordinated airport(s) and shall act in accordance with this Regulation in a neutral, non-discriminatory and transparent way in accordance with the applicable rules of Community Competition law.

* (Article 5(2) of the Commission text becomes Article 6(2))

(Amendment No. 19)

Article 5(5), introductory phrase and point (a)*

5. The coordinator shall at any time make available for review to all interested parties the following information:

(a) historical slots by airline, chronologically, for all air carriers at the airport,

5. The coordinator shall at any time make available for review to all interested parties the following information:

(a) historical slots by air carrier, chronologically, for all air carriers at the airport,

* (Article 5(5) of the Commission text becomes Article 6(5))

(Amendment No. 20)
Article 6, first paragraph*

When a Member State has decided to designate an airport as coordinated according to Article 4(1) and (2), it may set up a scheduling committee that will assist, in a consultative capacity, the coordinator referred to in Article 5. Participation in this committee shall at least be open to the air carriers using the airport(s) repeatedly, the airport authorities concerned and representatives of the air traffic control.

When a Member State has designated an airport as coordinated according to Article 4, it shall set up a scheduling committee in accordance with the applicable rules of Community Competition law to lay down general guidelines for the allocation of slots in each scheduling period and to supervise the work of the coordinator. This committee shall meet at least twice a year. Participation in this Committee shall at least be open to the air carriers using the airport(s) repeatedly and the airport and air traffic control authorities concerned.

* (Article 6 of the Commission text becomes Article 5)

(Amendment No. 21)
Article 7

At a coordinated airport the airport authority in cooperation with representatives of the air traffic control, and, where applicable, subject to the approval of the Member State, shall determine the airport capacity twice yearly after consultation with customs and immigration authorities and the airlines using the airport and/or their representative association following internationally established methods. The possibilities of accommodating the different types of aviation shall be examined individually.

This information shall be provided to the airport coordinator in good time before coordination takes place.

At a coordinated airport the airport authority in cooperation with the air traffic control, and, where applicable, subject to the approval of the Member State, shall determine the airport capacity twice yearly after consultation with customs and immigration authorities and the air carriers using the airport and/or their representative association following internationally established methods. The possibilities of accommodating the different types of aviation shall be examined individually.

This information shall be provided to the airport coordinator in good time before coordination takes place.

1. Air carriers requesting slots at a coordinated airport shall submit to the airport coordinator all information requested by the airport coordinator

2(a) Without prejudice to the application of Articles 85 and 86 of the Treaty and of Article 9 of this Regulation, a slot that has been operated by an air carrier as cleared by the coordinator shall entitle that air carrier to the same slot in the equivalent period and days of operation of the next equivalent season. This historical precedence shall apply only to scheduled services and programmed non-scheduled services.

(b) In a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, the airport coordinator shall give preference to commercial air services and in particular scheduled services and programmed non-scheduled services

(c) The airport coordinator shall also take into account the additional priority rules set out in the Annex to this Regulation.

3. If a requested slot cannot be accommodated the airport coordinator shall inform the requesting airline of the reasons therefor and shall indicate the nearest alternative slot.

4. The airport coordinator shall, at all times, endeavour to accommodate ad hoc slot requests for any type of aviation including general aviation. To this end the slots available in the pool referred to in Article 9 of this Regulation but not yet allocated can be used as well as slots liberated at short notice.

1. Air carriers requesting slots at a coordinated airport shall submit to the airport coordinator all information requested by the airport coordinator

2(a) Without prejudice to the application of Articles 85 and 86 of the Treaty and of Article 9 of this Regulation, a slot that has been operated by an air carrier as cleared by the coordinator shall entitle that air carrier to claim and be allocated the same slot in the equivalent period and days of operation of the next equivalent season. This historical precedence shall apply only to scheduled services and programmed non-scheduled services.

(b) In a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, preference shall be given to commercial air services and in particular scheduled services and programmed non-scheduled services

(c) The airport coordinator shall also take into account the additional priority rules set out in the Annex to this Regulation.

3. If a requested slot cannot be accommodated the airport coordinator shall inform the requesting air carrier of the reasons therefor and shall indicate the nearest alternative slots.

4. The airport coordinator shall, at all times, endeavour to accommodate ad hoc slot requests for any type of aviation including general aviation. To this end the slots available in the pool referred to in Article 9 of this Regulation but not yet allocated can be used as well as slots liberated at short notice (casual slots).

5. The Commission shall establish, after consultations with air carriers, airport coordinators, and airport authorities, minimum requirements for the automated systems to be used by the airport coordinators in order to ensure the proper implementation of Articles 5 and 8.

5. The Commission shall establish, after consultations with airport coordinators and scheduling committees, minimum requirements for the automated systems to be used by the airport coordinators in order to ensure the proper implementation of Articles 5, 6 and 8.

(Amendment No. 23)
Article 9(1)

1. At a coordinated airport a pool should be set up containing newly created slots, unused slots and slots which have been given up by a carrier during or by the end of the season.

1. At a coordinated airport a pool should be set up for each time period coordinated containing newly created slots, unused slots and slots which have been given up by a carrier during or by the end of the season

(Amendment No. 24)
Article 9(2)

2. Any slot not utilised more than 65% of the allocated period can be withdrawn and placed in the slot pool referred to in paragraph 1 for reallocation, unless the non-utilisation can be justified inter alia on the grounds of the grounding of an aircraft type, or the closure of an airport or airspace.

2. Any slot not utilised more than 75% of the allocated period can be withdrawn and placed in the slot pools referred to in paragraph 1 for reallocation, unless the non-utilisation can be justified inter alia on the grounds of the grounding of an aircraft type, or the closure of an airport or airspace.

(Amendment No. 25)

Article 9(3)

3. Slots placed in the pool shall be distributed among applicant carriers. At least 50% of these slots shall be allocated to new entrants with priority in the order set out in the Annex.

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(Amendment No. 26)

Article 9(5)

5. The new entrants referred to in paragraph 4 are entitled to as many slots as are needed to meet the existing services of the other air carrier(s) operating on that route to a maximum of 6 slots on any given day.

5. The new entrants referred to in paragraph 4 are entitled to as many slots as are needed to meet the existing services of the other air carrier(s) operating on that route to a maximum of 4 slots on any given day.

(Amendment No. 27)

Article 9(8)

8. When the slots made available in accordance with paragraphs 2 and 4, are not used or are given up within a period of 2 years, they shall be returned to their original holder. Where this rule cannot be applied or where the original holder does not wish to use the slot, it shall be placed in the slot pool.

8. When the slots made available in accordance with paragraphs 2 and 4, are not used or are withdrawn under paragraph 2 or are given up within a period of 2 years, they shall be returned to their original holder. Where this rule cannot be applied or where the original holder does not wish to use the slot, it shall be placed in the slot pool.

(Amendment No. 28)

Article 9(9)

9. At the request of any Member State or on its own initiative, the Commission shall examine the application of this Article in any particular case and within two months decide whether it is correctly applied. The Commission shall communicate its decision to the Council and to the Member States.

9. At the request of any Member State or the third country concerned or on its own initiative, the Commission shall examine the application of this Article in any particular case and within two months decide whether it is correctly applied. The Commission shall communicate its decision to the Council and to the Member States.

(Amendment No. 29)

Article 10(6)

6. At the request of any Member State or on its own initiative, the Commission shall examine the application of paragraphs 2 and 4 in any particular case and within two months decide whether these paragraphs are correctly applied. The Commission shall communicate its decision to the Council and to the Member States.

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(Amendment No. 30)

Article 10(7)

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

7. Any Member State may refer the Commission's decision to the Council within a time limit of one month. The Council, acting by a qualified majority, may take a different decision within a period of one month. The Member State responsible for the congested airport concerned shall ensure prompt application of the decision.

(Amendment No. 31)
Article 11(-1) (new)

-1. The Member States and the Commission shall ensure that this Regulation is applied without discrimination against air carriers from third countries.

(Amendment No. 32)
Article 11(2)

2. Whenever it appears to the Commission, either on the basis of information received in accordance with paragraph 1 or on the basis of other information, that a third country, with respect to the allocation of slots at congested airports,

- (a) does not grant Community air carriers treatment comparable to that granted by Member States to air carriers from that country, or
- (b) does not grant Community air carriers de facto national treatment, or
- (c) grants air carriers from other third countries more favourable treatment than Community air carriers,

the Commission may initiate negotiations in order to remedy the situation.

2. If a third country, with respect to the allocation of slots at congested airports,

- (a) does not grant Community air carriers treatment comparable to that granted by Member States to air carriers from that country, or
- (b) does not grant Community air carriers de facto national treatment,
- (c) grants air carriers from other third countries more favourable treatment than Community air carriers,

the Commission may, subject to a prior decision of the Council, initiate negotiations in order to remedy the situation.

(Amendment No.33.)
Article 12(1)

1. The Commission shall submit a report to the Council on the operation of this Regulation within two years after its entry into force.

1. The Commission shall submit a report to the Council and to the European Parliament and Economic and Social Committee on the operation of this Regulation within two years after its entry into force.

(Amendment No34)
Annex, paragraph 5, second paragraph (new)

In the event of a curfew at one airport creating a slot problem elsewhere, priority should be given to the airline whose schedule is constrained by the curfew.

(Amendment No.35)
Annex, paragraph 6(c)

(c) Curfews - in the event of a curfew at one airport creating a slot problem elsewhere, priority should be given to the airline whose schedule is constrained by the curfew.

(c) Deleted

(Amendment No.36)
Annex, paragraph 6(f)

(f) Flexibility - to achieve optimum utilisation of the available capacity. Coordinators should apply a certain degree of flexibility when allocating slots. Airlines do not always operate exactly to the timings published in schedules. Weather, winds, variations in flight times, ATC or technical problems are some of the reasons for such deviations. Coordinators should take account of this by:

- (i) applying runway restrictions in time intervals of at least 10 minutes;
- (ii) measuring hourly movement rates at not less than 30 minutes intervals (e.g. 1200-1259 + 1230-1329);
- (iii) using overbooking profiles based on past experience.

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- (iii) using overbooking profiles based on past experience.

(iiia) creating maximum potential for using casual slots for short-notice business flights if such flights are ready to depart but they have been allocated a later specific slot.

(Amendment No.37)
Annex, paragraph 6(fa) (new)

(fa) Noise emissions - quieter aircraft are to be preferred to noisier aircraft, e.g. Chapter 3 over Chapter 2.

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