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COMMISSION STAFF WORKING PAPER

Summary of the Impact Assessment

Accompanying the document

Proposal for a Regulation of the European Parliament and of the Council

on common rules for the allocation of slots at European Union airports (Recast)

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1. PROBLEM DEFINITION

1.1. Sub-optimal allocation and use of airport slots

1. In 2009, 800 million passengers flew from EU airports with recognised congestion issues. The 15 largest airports handled more than half of all passenger air traffic in Europe. There are 5 EU airports among the top 25 airports in the world, measured by the total number of passengers handled. Demand currently exceeds capacity throughout most or all of the day at London Heathrow, London Gatwick, Paris Orly, Milan Linate, Düsseldorf and Frankfurt, which together handled 200 million passenger movements in 2009. Demand also exceeds capacity during peak hours at a number of other airports (e.g. Amsterdam Schiphol, Madrid Barajas, Paris Charles de Gaulle). Additional demand will outstrip new infrastructure provision in the future, so congestion will increase.

2. It is therefore imperative to use existing airport capacity as efficiently as possible. There are clear indications that the current EU slot allocation system is not optimal in the context of capacity-constrained airports.

3. Evaluation of the implementation of the current Regulation has underlined the existence of several problem areas, falling into two main categories: on the one hand, the difficulties with the current EU 'administrative' system, and, on the other, difficulties due to the fact that the system does not exploit the benefits of market-based mechanisms.

1.1.1. The current administrative system is neither complete nor fully implemented

4. Firstly, the *full independence of slot coordinators* is not sufficiently guaranteed. In some Member States, the way in which the coordination system is structured could be interpreted as limiting the independence of the coordinator, which should be beyond doubt. Additionally, the *slot coordinators do not ensure sufficient transparency of slot data*.

5. Secondly, *in its current form, the Slot Regulation is not fully compatible with the future European air traffic control system (Single European Sky).* For instance, practical examples from the ash cloud crisis and the snow crisis in relation to slots showed that the European Union is not prepared to deal with such situations.

6. Thirdly, *the 80-20 rule, whereby an airline has to use a slot for 80% of the time in a season to be granted the same slot the following year, is not tough enough*. Even at some over-subscribed airports, over 10% of the slots allocated are not used. In addition, at some airports, short series of slots can also result in inefficient capacity utilisation, by blocking capacity in the summer peak and preventing year-round services operating.

7. Finally, not all the available airport capacity is used, as indicated by the rate of *late slot hand-back*. For operational reasons, airlines normally request more slots than they really need, but evidence shows that a significant percentage of these 'excess' slots are returned too late to the pool to be allocated to another carrier. Moreover, *sanctions imposed by Member States for misuse of slots vary substantially* regarding

the types of misuses that are sanctioned and the frequency with which they are applied.

1.1.1. The legal framework is no longer adapted to the evolution of the aviation market

8. The Regulation allows exchanges of slots between airlines, but is not explicit as to whether these can be in return for monetary or other considerations. In addition, while the Regulation does not specifically allow buying and selling of slots, it does not explicitly prohibit this.

9. Secondary trading appears to offer benefits in terms of capacity utilisation. However, *it is not entirely clear to what extent secondary trading occurs* due to a lack of transparency. Further, it is not permitted at certain airports, including Paris Orly and Spanish airports. No information is available on possible *contractual constraints* in the form of covenants, which may dictate to the buyer how such slots can be used, making it difficult for competition authorities to analyse possible competition concerns.

10. *Additionally, new entrants are faced with two types of barrier*: limitations on access to the market and on expansion of their business. Historical preference means that *it is very difficult for new entrants to challenge the dominant position of the traditional incumbent airlines at the most congested airports.* Incumbents have little incentive to give up slots, even when other carriers could use them more efficiently. Consequently, at the most congested airports, the slot pool is empty or almost empty. When available, slots tend to be awarded to a proliferation of carriers, rather than to a larger carrier that may be in a stronger position to offer effective competition to the main incumbent.

11. *The problems identified affect airports*, as airport capacity is not efficiently or fully used. But they primarily affect *airlines*, as access to congested airports is limited and they cannot obtain the slots that are inefficiently used by other airlines. Airlines are also faced with different interpretations by slot coordinators, who in turn lack legal certainty as to the correct implementation of the Regulation. Finally, *consumers* are impacted by suboptimal competition, services and prices.

1.2. Analysis of subsidiarity

12. *The Slot Regulation is essential to the proper functioning of air transport*. It responds to the objective of Articles 90 and 91 of the Treaty on the Functioning of the European Union. As the subsidiarity principle applies, EU action regarding slot allocation, as part of the common air transport policy, has to be justified.

13. In the present case, this justification centres on the *need to ensure that uniform and efficient rules exist throughout Europe* in order to provide all operators with a level playing field.

14. *In achieving a true internal market for air transport*, the EU's added value should be in implementing measures that take into account the situation of different airports while *ensuring that the competition between operators is not hindered*. Individual action by Member States could prejudice the internal market.

2. OBJECTIVES OF EU INITIATIVE

15. The general objective of revising the Slot Regulation is to ensure *optimal allocation and use of airport slots in congested airports*. The specific objectives are to:

SO1. *Ensure strengthened and effectively implemented slot allocation and use*

SO2. *Enhance fair competition and the competitiveness of operators.*

The specific objectives can in turn be translated into operational objectives. For SO1, these include: reducing late hand back, increasing slot utilisation, and reducing slot misuse. For SO2: increasing the number of competitors with a stable slot portfolio, increasing the number of passengers transported and flights operated for the same airport capacity, and enlarging the slot pool.

3. POLICY OPTIONS

16. **The first possible action is repeal of the Regulation,** leaving the IATA Worldwide Scheduling Guidelines, an industry code without the force of law, as the only applicable code for the allocation of slots in Europe. All stakeholders agree that the Slot Regulation has dramatically improved the process of slot allocation in Europe, and that the amendments in 2004 were a further step in ensuring a neutral and non-discriminatory allocation process. Therefore this option has been discarded.

17. An alternative policy option would be to provide **guidance material** to supplement the existing, unchanged Regulation. Such guidance would be non-binding in nature, giving rise to a number of enforcement problems. But, most importantly, many of the key problems of sub-optimal slot allocation could not be addressed: *guidance would conflict with the existing text of the Slot Regulation*. **Therefore the only valid EU intervention should take the form of a revision of the Slot Regulation.**

18. The stakeholders' consultation and the 2011 study undertaken by Steer Davies Gleave identified a broad set of individual measures with the potential to address the many problems identified.

19. The table below sets out the policy measures retained for analysis.

Policy measures	*Content of policy measures*
	Driver 1: ***The current administrative system is neither complete nor fully implemented***
- Strengthen independence of slot coordinators and transparency of slot data	This measure strengthens organisational and functional independence. It introduces clear rules for the financing of the coordination function and the monitoring of financial resources. This measure would strengthen and/or extend the requirements to be met by coordinators regarding data.
- Ensure correct use of slots	This measure would allow slot reservation fees and penalties, and improves and strengthens the role of the coordinator in the application of Article 14.
- Integrate slot allocation in the Single European Sky	Coordinators fully cooperate with the Network Manager by providing the slot data necessary to ensure the functioning of the European Network. Airspace capacity and ground capacity are both utilised efficiently by ensuring consistency between flight plans and slots. Future performance standards for airports would require consistency between the performance targets and slot coordination parameters of the airports.
Improve slot utilisation	The measure would increase the utilisation threshold necessary to retain a slot series above the current 80 % and increase the minimum series length above the current 5.
	Driver 2: ***Legal framework is no longer adapted to the evolution of the aviation market***
Define an EU regime for secondary trading	The measure would allow secondary trading at all EU airports, to be conducted under a single uniform legal framework. Would address transparency and competition concerns by prohibiting restrictive covenants and enhancing pre- and post-trade transparency.
Improve primary allocation	Two measures have been identified: 1. Annual withdrawing and auctioning of a share of slots. Consists of withdrawing a percentage of historical slots at highly congested airports where new entry is severely restricted. Withdrawn slots are then auctioned. 2. Amending the new entrant rule: modify the definition of a new entrant by increasing the number of slots that a carrier may hold at an airport while still being considered a new entrant.

20. None of the individual policy measures presented above achieves the objective of optimal slot allocation in isolation. In order to address the sub-optimal allocation and use of slots, we propose three policy packages besides the baseline scenario.

21. The first policy package (PP1) would improve *the effectiveness of slot allocation and use within the constraints of the current administrative system.* PP1 can be seen as a standalone option.

22. The second policy package (PP2) consists of a more ambitious package of measures entailing substantial revision of the Slot Regulation. Built on PP1, it aims to *introduce market-based mechanisms for slot allocation at all congested EU airports, together with amendment of the new entrant rule, the 80-20 rule and the slot series requirements.*

23. *The third package (PP3) is the most ambitious policy package.* It comprises PP2, but would also entail the withdrawal of slots held by carriers and their allocation to the highest bidders through auctioning.

	Policy Package 1 (PP1)	***Policy Package 2 (PP2)***	***Policy Package 3 (PP3)***
Content of Policy Packages	- Strengthen independence and transparency - Ensure correct use of slots - Integrate slot allocation with Single European Sky	PP1+	PP1 +
		- Secondary trading with transparency and competition safeguards - Revision of new entrant rule- Improve slot utilisation	PP2+
			- Withdrawal of slots and auctions at the most congested airports

4. ASSESSMENT OF IMPACTS

24. While the impacts of PP1 on the use of airport capacity are limited, PP2 and PP3 will significantly improve the efficient use of airport capacity. PP2 will lead to a 1.6% growth in passengers per year whereas PP3 will lead to an increase of 1.9%-2.0%.

25. PP2 and PP3 achieve by far the greatest economic benefits. However, PP2 yields €5.3 billion in net economic benefits whereas PP3 only generates between €2.8 and 5 billion due to higher operating costs for airlines and direct implementation costs for airlines and authorities.

26. PP1 will lead to €2.4 million in administrative costs due mainly to the collection of slot data for airports other than coordinated or schedule-facilitated airports. The only costs incurred by PP2 are the costs of ensuring transparency for secondary trading (around €0.2 million). PP3 will not lead to additional costs beyond those of PP2.

27. PP3 achieves the largest increase in employment numbers, but also has the largest negative impact on regional accessibility. PP2 leads to a large increase in employment and has a limited impact on regional accessibility. PP1 has no impact on regional accessibility and has lower positive impacts on employment.

28. PP3 and PP2 would produce more negative environmental impacts than PP1.

The quantified impacts of the different policy measures and combinations are summarised in the table below.

Option/measure	Airport	Pas-sengers (%)	Flights (%)	Pas-sengers (million)	Airline operating costs (€ million)	Direct implement-ation costs (€ million)	Economic benefits (€ million)	Net economic benefits (€ million)	Employment ('000 FTEs)		Fares (%)	CO2 emissions ('000 tonnes)
									Airport	Airline		
A. Strengthening independence and transparency	Total EU-wide	n/a	n/a	n/a	n/a	8.7	n/a	n/a	0.0	0.0	0.0%	0
B. Slot reservation fees	Total EU-wide	0.3%	0.2%	3.7	0.0	4.7	868.7	864.0	2.5	4.4	-0.2%	719
C. Penalties for misuse of slots	Total EU-wide	0.1%	0.1%	1.5	0.0	19.4	352.7	333.3	1.0	1.5	-0.1%	254
PP1 (A+B+C)	**Total EU-wide**	**0.4%**	**0.3%**	**4.5**	**0.0**	**29.5**	**1 053.2**	**1 032.5**	**3.1**	**5.1**	**-0.2%**	**842**
D. Secondary trading	Total EU-wide	1.2%	0.0%	14.4	0.0	24.7	3 139.7	3 115.1	9.9	34.3	-0.6%	5 140
E. Revising new entrant rule	Total EU-wide	0.0%	0.0%	0.5	0.0	0.0	124.9	124.9	0.4	0.6	0.0%	102
	Heathrow, with mixed mode	0.2%	0.0%	0.2	0.0	0.2	22.9	23.1	0.1	0.9	-0.2%	138
F. Increasing utilisation threshold to 85%	Total EU-wide	0.1%	0.0%	0.8	0.0	0.0	184.7	184.7	0.5	0.9	0.0%	150
G. Increasing utilisation threshold to 90%	Total EU-wide	0.2%	0.1%	2.3	535.8	0.0	536.2	0.4	1.6	2.6	*-0.1%*	*431*
H. Extending minimum length of series	Total EU-wide	0.3%	0.2%	3.6	0.0	0.0	876.3	876.3	2.6	4.7	-0.2%	768
PP2 (PP1+D+E+F+H)	**Total EU-wide**	**1.6%**	**0.2%**	**23.8**	**0.0**	**75.7**	**5 354.7**	**5 279.0**	**16.4**	**45.6**	**-0.8%**	**6 988**
I. Withdrawal of grandfather rights and auctions	Heathrow	2.6% – 3.9%	-0.3% – -1.4%	1.1 – 1.8	708.1 – 2 003.3	25.4	227.6 – 386.1	-347.4 – -1 801.1	0.8 – 1.3	9.8 – 11.3	*-1.2% – -2.0%*	*1 827*
	Orly	12.4% – 13.0%	-0.3% – 0.0%	2.8 – 2.9	0.0 – 695.4	20.2 – 20.8	611.7 – 636.9	-104.6 – 616.7	2.0	4.4 – 4.5	*-8.4% – -8.7%*	*611 – 624*
PP3 (PP2+I)	**Total EU-wide**	**1.9% – 2.0%**	**0.2%**	**27.3 – 28.7**	**708.1 – 2 698.7**	**113.6 – 119.2**	**5 620.0 – 5 804.3**	**2 807.6 – 4 976.9**	**17.3 – 17.9**	**55.2 – 56.7**	**-0.8%**	**8 523 – 8 775**

Note: Financial values presented as net present values of costs/benefits 2012-2025. Non-financial values (passengers, emissions etc.) presented as annual average values 2012-2025.

Source: Impact assessment of revisions to Regulation 95/93, Steer Davies Gleave, 2011.

5. COMPARISON OF OPTIONS

29. The policy packages are assessed against the criteria of effectiveness, efficiency and coherence.

30. From an effectiveness point of view, PP2 seems the most attractive. It offers the highest potential to achieve all the specific objectives, while PP3 cannot attain the most efficient result for SO2. PP1 achieves only SO1 in full.

31. Moreover, analysis of the coherence between the different policy packages shows that, even if PP2 involves significant trade-offs between the impact on the use of airport capacity plus the positive economic and social impacts, on the one hand, and the environmental impacts on the other, the trade-offs are less than for PP3. In terms of coherence, PP1 ranks highest.

32. Finally, PP3 is also the most costly in terms of airline operating costs and direct costs, while PP1 is the cheapest and the easiest to implement.

33. In view of the above, **the recommended package is PP2** as the benefits obtained are far greater than the costs. It aims to revise the administrative system of slot allocation by introducing market-based mechanisms that can correct its deficiencies. The system would provide for strengthened independence of coordinators, improved transparency, more opportunities for new entrants and specific measures to improve slot utilisation.

6. MONITORING AND EVALUATION

34. The Commission would evaluate the implementation of the Regulation three years after its adoption by the legislator and would continuously monitor a set of core transport indicators that are already available. These indicators will be used to measure to what extent the adopted policy option achieves the specific objectives.