

**Amendment to the proposal for a Council Regulation on common rules for the allocation of slots at
Community airports**

(92/C 206/07)

COM(92) 257 final

(Submitted by the Commission on 29 June 1992 pursuant to Article 149 (3) of the EEC Treaty)

COMMISSION TEXT ⁽¹⁾

AMENDMENTS

Amendment No 1

Title

**Proposal for a Council Regulation on common rules for the
allocation of slots at Community airports**

Title

**Proposal for a Council Regulation 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;

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 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;

Third recital

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;

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;

⁽¹⁾ OJ No C 43, 19. 2. 1991, p. 3.

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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 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;

Ninth recital

Whereas it is Community policy to lower barriers to competition and to encourage entrance into the market, as provided for in 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;

Tenth recital

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;

Eleventh recital

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;

Fourteenth recital

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;

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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,

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 or general aviation,

Amendment No 12

Article 1

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

Article 1

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:

- (i) not holding more than three slots on any day at a coordinated airport and requesting further slots for services on that day; or
- (ii) 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;

Article 2 (b)

(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;

Article 2 (c)

(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;

COMMISSION TEXT

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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;

Article 2 (f)

- (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.

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- (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.

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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, nondiscriminatory and transparent way.

Article 6 (2) ⁽¹⁾

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, nondiscriminatory and transparent way in accordance with the applicable rules of Community competition law.

Amendment No 19

Article 5 (5) (a)

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

Article 5 (5) (a)

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

⁽¹⁾ Article 5 of the Commission text becomes Article 6.

COMMISSION TEXT

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

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

Amendment No 20

Article 6

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.

Article 5⁽¹⁾

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.

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.

Article 7

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.

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Amendment No 22

Article 8

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.

Article 8

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 nonscheduled services.

⁽¹⁾ Article 6 of the Commission text becomes Article 5.

COMMISSION TEXT

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

AMENDMENTS

- (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 nonscheduled 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 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.

Article 9 (1)

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 utilized 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-utilization can be justified *inter alia* on the grounds of the grounding of an aircraft type, or the closure of an airport or airspace.

Article 9 (2)

2. Any slot not utilized 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-utilization can be justified *inter alia* on the grounds of the grounding of an aircraft type, or the closure of an airport or airspace.

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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.

Article 9 (3)

3. Slots placed in the pools 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.

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 six slots on any given day.

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 four 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 two 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.

Article 9 (8)

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 two 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.

Article 9 (9)

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.

Article 10 (6)

6. At the request of any Member State or the third country concerned 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.

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. 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.

Article 11 (2)

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.

Article 12 (1)

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.

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Amendment No 34

ANNEX

Paragraph 5, second subparagraph

(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.

Deleted.

Amendment No 36

ANNEX

Paragraph 6 (f)

- (f) flexibility — to achieve optimum utilization of the available capacity. Coordinators should apply a certain degree of flexibility when allocating slots. Airlines do not always operate exactly to the timing 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.

ANNEX

Paragraph 6 (f)

- (f) flexibility — to achieve optimum utilization 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;
- (iv) 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.

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Amendment No 37

ANNEX

Paragraph 6 (g)

(new)

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