

**COMMISSION IMPLEMENTING REGULATION (EU) No 391/2013**

**of 3 May 2013**

**laying down a common charging scheme for air navigation services**

**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky <sup>(1)</sup> as amended by Regulation (EC) No 1070/2009 (the service provision Regulation) <sup>(2)</sup>, and in particular Article 15(4) thereof,

Whereas:

- (1) Regulation (EC) No 550/2004 requires the Commission to establish a common charging scheme for air navigation services, allowing for its uniform application in the single European sky.
- (2) The development of a common charging scheme for air navigation services provided during all phases of flight is of the utmost importance for implementation of the single European sky initiative. Such a system should help to increase transparency with regard to the determination, imposition and enforcement of charges applicable to airspace users. The system should also contribute to the safe, cost-efficient and effective provision of air navigation services to the users that finance the system and stimulate integrated service provision.
- (3) The common charging scheme should be an integral element in reaching the objectives of the performance scheme as established under Article 11 of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky <sup>(3)</sup> as amended by Regulation (EC) No 1070/2009 (the framework Regulation) and Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions <sup>(4)</sup>.
- (4) In accordance with the overall objective of improving the performance of air navigation services, the charging scheme should promote cost and operational efficiencies and should provide for the establishment of incentive schemes for air navigation service providers to support improvements in the provision of air navigation services, including the application of traffic risk sharing.

- (5) The common charging scheme should be consistent with the Eurocontrol Route Charges System and Article 15 of the 1944 ICAO Chicago Convention on International Civil Aviation (the 'Chicago Convention').
- (6) The common charging scheme should allow optimum use of airspace, taking into account air traffic flows, in particular within functional airspace blocks as established in accordance with Article 9a of Regulation (EC) No 550/2004.
- (7) Key principle of the common charging scheme is to have complete and transparent information on the cost base made available in due time to airspace users' representatives and the competent authorities.
- (8) Where it is established that terminal air navigation services and/or CNS, MET and AIS services are provided under market conditions, Member States should be able to decide for these services not to calculate determined costs, not to calculate terminal charges, not to set terminal unit rates and/or not to set financial incentives.
- (9) Due to changing nature in the operation of airports, terminal charging zones may need to be modified in the course of a reference period.
- (10) The introduction of new technologies and procedures and associate business models to stimulate integrated service provision should lead to significant cost reductions to the benefit of users. To enable these future cost reductions air navigation service providers are faced with restructuring costs to improve their business, which they may recover if a net benefit to users is demonstrated.
- (11) Incentives mechanisms to encourage better performance should have regard to the desirability of rewarding or penalising actual performance in relation to performance levels expected when the performance plan was adopted.
- (12) In order to accelerate the implementation of SESAR technologies, investments in new ATM systems and major overhaul of existing ATM systems, which have an influence on the level of performance of the European ATM network, should be eligible for cost recovery through user charges if they are consistent with the implementation of the European ATM Master Plan, in particular, through common projects as specified in Article 15a(3) of Regulation (EC) No 550/2004. Furthermore, Member States should be able to decide to modulate air navigation charges to provide incentives to equip aircraft with systems included in the common projects.

<sup>(1)</sup> OJ L 96, 31.3.2004, p. 10.

<sup>(2)</sup> OJ L 300, 14.11.2009, p. 34.

<sup>(3)</sup> OJ L 96, 31.3.2004, p. 1.

<sup>(4)</sup> See page 1 of this Official Journal.

- (13) To increase the efficiency of air navigation services and to promote their optimised use, Member States should be able to further modulate charges, taking into account the level of congestion of the network in a specific area or on a specific route at specific times.
- (14) The level of charges imposed in particular on light aircraft should not discourage the use of facilities and services necessary for safety or the introduction of new techniques and procedures.
- (15) Member States should be able to set their unit rates collectively, in particular when charging zones extend across the airspace of more than one Member State or when they are parties to a joint route charges system.
- (16) In order to improve the efficiency of the common charging scheme and to reduce the administrative and accounting workload, within a joint route charges system, Member States should be able to collect *en route* charges collectively through a single charge per flight.
- (17) Legal means should be reinforced in order to ensure the prompt and full payment of air navigation charges by users of air navigation services.
- (18) Charges to be imposed on airspace users should be established and applied in a fair and transparent manner, after consultation of users' representatives. Such charges should be reviewed on a regular basis.
- (19) Commission Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services<sup>(1)</sup> as amended by Commission Regulation (EU) No 1191/2010 of 16 December 2010<sup>(2)</sup> should be repealed with effect of 1 January 2015.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### Article 1

##### Subject matter and scope

1. This Regulation lays down the measures for the development of a common charging scheme for air navigation services.
2. This Regulation shall apply to air navigation services provided by air traffic service providers designated in accordance with Article 8 of Regulation (EC) No 550/2004 and by providers of meteorological services, if designated in accordance with Article 9(1) of that Regulation, for general air traffic within the ICAO EUR and AFI regions where

Member States are responsible for the provision of air navigation services. It shall also apply to the Network Manager established in accordance with Article 3 of Commission Regulation (EU) No 677/2011<sup>(3)</sup>.

3. Member States may apply this Regulation to air navigation services provided in airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States accordingly.

4. Member States may apply this Regulation to providers of air navigation services which have received permission to provide air navigation services without certification, in accordance with Article 7(5) of Regulation (EC) No 550/2004.

5. Subject to Article 1(4) of Implementing Regulation (EU) No 390/2013, Member States may decide not to apply this Regulation to air navigation services provided at airports with fewer than 70 000 IFR air transport movements per year.

Member States shall inform the Commission of that decision.

#### Article 2

#### Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 shall apply.

In addition the following definitions shall apply:

- (1) 'user of air navigation services' means the operator of the aircraft at the time when the flight was performed or, if the identity of the operator is not known, the owner of the aircraft, unless it can be proved that another person was the operator at that time;
- (2) 'airspace users' representative' means any legal person or entity representing the interests of one or several categories of users of air navigation services;
- (3) 'IFR' means Instrument Flight Rules, as defined in Annex 2 of the Chicago Convention (Tenth Edition – July 2005);
- (4) 'VFR' means Visual Flight Rules, as defined in Annex 2 of the Chicago Convention (Tenth Edition – July 2005);
- (5) '*en route* charging zone' means a volume of airspace for which a single cost base and a single unit rate are established;
- (6) 'terminal charging zone' means an airport or a group of airports for which a single cost base and a single unit rate are established;
- (7) 'determined cost' means costs pre-determined by a Member State as referred to in Article 15(2)(a) of Regulation (EC) No 550/2004;

<sup>(1)</sup> OJ L 341, 7.12.2006, p. 3.

<sup>(2)</sup> OJ L 333, 17.12.2010, p. 6.

<sup>(3)</sup> OJ L 185, 15.7.2011, p. 1.

- (8) 'reference period' means the reference period for the performance scheme provided for in Article 11(3)(d) of Regulation (EC) No 549/2004 and Article 8 of Implementing Regulation (EU) No 390/2013;
- (9) 'IFR air transport movement' means the sum of take-offs and landings performed under instrument flight rules, calculated as the yearly average over the three years preceding the submission of the performance plan;
- (10) 'other revenue' means revenues obtained from public authorities, including the financial support from Union assistance programmes such as the Trans-European transport network (TEN-T), Connecting Europe Facility (CEF) and the Cohesion Fund, revenues obtained from commercial activities and/or, in the case of terminal unit rates, revenues obtained from contracts or agreements between air navigation service providers and airport operators;
- (11) 'performance plan' means a performance plan prepared and adopted in accordance with the provisions of Articles 11 to 16 of Implementing Regulation (EU) No 390/2013;
- (12) 'actual cost' means costs actually incurred in a year for the provision of air navigation services subject to a final audit;
- (13) 'CNS, MET and AIS services' means communication, navigation and surveillance services, meteorological services for air navigation and aeronautical information services;
- (14) 'restructuring costs' means significant one-time costs incurred by air navigation service providers in the process of restructuring by way of introducing new technologies and procedures and associate business models to stimulate integrated service provision where the Member State wishes to recover the costs in one or more reference periods. They may include costs incurred in compensating employees, closing air traffic control centres, shifting activities to new locations and, writing off assets and/or acquiring strategic participations in other air navigation service providers.
- (b) not to set financial incentives for these services in the key performance areas of capacity and environment in accordance with Article 15 of this Regulation;
- and, with regard to terminal air navigation services;
- (c) not to calculate terminal charges in accordance with Article 12 of this Regulation;
- (d) not to set terminal unit rates in accordance with Article 17 of this Regulation.
2. For the purpose of establishing that some or all of their terminal air navigation services or CNS, MET and AIS services are subject to market conditions, Member States shall carry out a detailed assessment against all the conditions laid down in Annex I to this Regulation. This assessment shall include consultation with the airspace users' representatives.
3. The Member States referred to in paragraph 1 shall submit to the Commission, no later than 19 months before the beginning of a reference period or the date of application of decisions taken in accordance with paragraph 1, a detailed report on the content and results of the assessment referred to in paragraph 2. That report shall be supported by evidence, including the tender documents if applicable, justification for the selection of the service provider, a description of the arrangements imposed on the selected service provider to ensure that terminal air navigation services or CNS, MET and AIS services are provided in a cost-efficient manner and the outcome of the consultation with the airspace users' representatives. The report shall provide full reasons for the Member State's conclusions.
4. Where the Commission agrees that market conditions have been established in accordance with the requirements of Annex I, it shall notify the Member State concerned within four months after receiving the report. This period of four months is extended to six months after receiving the report, if the Commission considers that additional evidence is required to determine whether market conditions have been established.

### Article 3

#### **Terminal air navigation services and CNS, MET and AIS services subject to market conditions**

1. Without prejudice to the application of the principles referred to in Articles 14 and 15 of Regulation (EC) No 550/2004 and subject to the assessment referred to in paragraph 2, Member States may decide before the start of a reference period or in justified cases during the reference period, that some or all of their terminal air navigation services or CNS, MET and AIS services are subject to market conditions. In such case, the provisions of this Regulation apply, but the Member States concerned may decide with regard to these services:

- (a) not to calculate determined costs in accordance with Article 7 of this Regulation;

5. The Member State's report and the Commission decision referred to in paragraph 4 shall be valid for the duration of the reference period concerned and shall be publicly available and a reference to them shall be published in the *Official Journal of the European Union*.

## Article 4

**Principles of the common charging scheme**

1. The common charging scheme shall be subject to the principles established in Article 15 of Regulation (EC) No 550/2004.
2. The determined costs of *en route* air navigation services shall be financed by *en route* charges imposed on users of air navigation services in accordance with the provisions of Chapter III and/or other revenues.
3. The determined costs of terminal air navigation services shall be financed by terminal charges imposed on users of air navigation services, in accordance with the provisions of Chapter III, and/or other revenues.
4. Paragraphs 2 and 3 shall be without prejudice to the financing of exemptions of certain users of air navigation services through other sources of funding in accordance with Article 10.
5. The common charging scheme shall provide for transparency and consultation with airspace users' representatives on the cost bases and on the allocation of costs among different services.
6. Revenues derived through *en route* or terminal charges set in accordance with Articles 11 and 12 of this Regulation shall not be used to finance commercial activities of air navigation service providers.

## Article 5

**Establishment of charging zones**

1. Member States shall establish charging zones in the airspace falling under their responsibility where air navigation services are provided to airspace users.
2. The charging zones shall be defined in a manner consistent with air traffic control operations and services, after consultation with the airspace users' representatives.
3. An *en route* charging zone shall extend from the ground up to, and including, upper airspace. In complex terminal areas, Member States may establish a specific zone within a charging zone.
4. Where charging zones extend across the airspace of more than one Member State, the Member States concerned shall ensure consistency and uniformity in the application of this Regulation to the airspace concerned.

5. A terminal charging zone may be modified in the course of a reference period. In that case, Member States shall:

- (a) provide the Commission with the relevant cost and traffic data in order to allow it to rebuild consistent cost and traffic data series reflecting the situation before and after the change occurs, and carry out its performance monitoring tasks in accordance with Article 18 of Implementing Regulation (EU) No 390/2013;
- (b) consult airspace users' representatives and report their comments to the Commission;
- (c) provide the Commission with an assessment of the impact of the changes on the terminal air navigation services cost-efficiency targets and performance monitoring and indicate how it shall carry out the performance monitoring during the rest of the reference period.

## CHAPTER II

**THE COSTS OF AIR NAVIGATION SERVICE PROVISION**

## Article 6

**Eligible services, facilities and activities**

1. Air navigation service providers referred to in Article 1(2) and (4) shall establish the costs incurred in the provision of air navigation services in relation to the facilities and services provided for and implemented under the ICAO Regional Air Navigation Plan, European Region, in the charging zones under their responsibility.

Those costs shall include administrative overheads, training, studies, tests and trials as well as research and development allocated to these services.

2. Member States may establish the following costs as determined costs, in accordance with Article 15(2)(b) of Regulation (EC) No 550/2004, where they occur as a result of the provision of air navigation services:

- (a) costs incurred by the relevant national authorities;
- (b) costs incurred by the qualified entities referred to in Article 3 of Regulation (EC) No 550/2004;
- (c) costs stemming from international agreements.

3. In accordance with Article 15a(3) of Regulation (EC) No 550/2004, part of the revenue resulting from the charges may be used to fund common projects for network-related functions that are of particular importance for improving the overall performance of air traffic management and air navigation services. In such cases, Member States shall put in place comprehensive and transparent accounting practices to ensure that airspace users are not charged twice. Determined costs resulting from a common project shall be clearly identified in accordance with Annexes II and VII.

4. Investments in new ATM systems and major overhauls of existing ATM systems are eligible insofar they are consistent with the implementation of the European ATM Master Plan, and, in particular, through the common projects specified in Article 15a(3) of Regulation (EC) No 550/2004.

#### Article 7

##### Calculation of costs

1. The determined costs and actual costs shall include the costs relating to eligible services, facilities and activities referred to in Article 6 of this Regulation and established in accordance with the accounting requirements laid down in Article 12 of Regulation (EC) No 550/2004.

The non-recurring effects resulting from the introduction of International Accounting Standards may be spread over a period not exceeding 15 years.

Without prejudice to Articles 17 and 19 of Implementing Regulation (EU) No 390/2013, the determined costs shall be fixed prior to the beginning of each reference period as part of the performance plan for each calendar year during the reference period and in both real and nominal terms. For each year in the reference period, the difference between the determined costs expressed in nominal terms prior to the reference period and the determined costs adjusted on the basis of the difference between the actual inflation recorded by the Commission in the Eurostat Harmonised Index of Consumer Price as published in April of year *n* and the inflation assumption as specified in the performance plan for the year preceding the reference period and for each year of the reference period, shall be carried over in year *n*+2 for the calculation of the unit rate.

Determined costs and actual costs shall be calculated in national currency. Where a common charging zone with a single unit rate has been established for a functional airspace block, the Member States concerned shall ensure conversion of national costs into euro or the national currency of one of the Member States concerned so as to ensure a transparent calculation of the single unit rate in application of the third subparagraph of Article 17(1) of this Regulation. Those Member States shall notify the Commission and Eurocontrol accordingly.

2. The costs referred to in paragraph 1 shall be broken down into staff costs, other operating costs, depreciation costs, cost of capital and exceptional items including non-recoverable taxes and customs duties paid, and all other related costs.

Staff costs shall include gross remuneration, overtime payments, and employers' contributions to social security schemes as well as pension costs and other benefits. Pension costs may be calculated using prudent assumptions based on the governance of the scheme or on national law, as appropriate. Those assumptions shall be detailed in the performance plan.

Other operating costs shall include costs incurred for the purchase of goods and services used to provide air navigation services, in particular outsourced services, external staff,

material, energy, utilities, rental of buildings, equipment and facilities, maintenance, insurance costs and travel expenses. Where an air traffic service provider purchases other air navigation services, the service provider shall include the actual expenditure for those services in its other operating costs.

Depreciation costs shall relate to the total fixed assets in operation for air navigation service purposes. Fixed assets shall be depreciated in accordance with their expected operating life, using the straight-line method applied to the costs of the assets being depreciated. Historic or current cost accounting may be applied for the calculation of the depreciation. The methodology shall not be altered during the duration of the depreciation and shall be consistent with the cost of capital applied (nominal cost of capital for historic cost accounting and real cost of capital for current cost accounting). Where current cost accounting is applied, the equivalent historic cost accounting figures shall also be provided to allow for comparison and assessment.

The cost of capital shall be equal to the product of:

- (a) the sum of the average net book value of fixed assets and possible adjustments to total assets determined by the national supervisory authority and used by the air navigation service provider in operation or under construction and of the average value of the net current assets, excluding interest-bearing accounts, that are required for the provision of air navigation services; and
- (b) the weighted average of the interest rate on debts and of the return on equity. For air navigation service providers without any equity capital, the weighted average shall be calculated on the basis of a return applied to the difference between the total of the assets referred to in point (a) and the debts.

Exceptional items shall consist of non-recurring costs relating to the provision of air navigation services during the same year.

Any adjustment beyond the provisions of the International Accounting Standards shall be specified in the performance plan for review by the Commission and in the additional information to be provided in accordance with Annex II.

3. For the purposes of calculating the cost of capital as set out in paragraph 2, the factors to which weight is to be given shall be based on the proportion of financing through either debt or equity. The interest rate on debts shall be equal to the weighted average interest rate on debts of the air navigation service provider. The return on equity shall be that provided in the performance plan for the reporting period and shall be based on the actual financial risk incurred by the air navigation service provider as assessed prior to the reference period.

When the assets do not belong to the air navigation service provider, but are included in the calculation of the cost of capital, Member States shall ensure that the costs of these assets are not recovered twice.

4. The calculation of actual costs may include the recovery of restructuring costs of air navigation service providers incurred in reference periods precedent to the reference period(s) of recovery and subject to a business case demonstrating a net benefit to users over time.

The national supervisory authority shall submit to the Commission the business case, a recovery plan for the restructuring costs and the results of a consultation with airspace users' representatives on the business case and the recovery plan for the restructuring costs.

Where the Commission finds that the expected net benefit to users over time is demonstrated, it shall notify the Member State concerned thereof within five months after receiving the submission by the national supervisory authority.

Where the Commission finds that the expected net benefit to users over time is not demonstrated, it shall decide in accordance with the procedure referred to in Article 5(2) of Regulation (EC) No 549/2004 within five months after receiving the submission by the national supervisory authority that the restructuring costs of air navigation service providers shall not be recovered and notify the Member State concerned thereof.

The Member State concerned shall report on the evolution of the restructuring costs and the net benefits to users in its annual report following Article 18(4) of Implementing Regulation (EU) No 390/2013.

#### Article 8

##### Allocation of costs

1. The costs of eligible services, facilities and activities within the meaning of Article 6 shall be allocated in a transparent way to the charging zones in respect of which they are actually incurred.

Where costs are incurred across different charging zones, they shall be allocated in a proportional way on the basis of a transparent methodology pursuant to Article 9.

2. The cost of terminal services shall be related to the following services:

- (a) aerodrome control services, aerodrome flight information services including air traffic advisory services and alerting services;
- (b) air traffic services related to the approach and departure of aircraft within a certain distance of an airport on the basis of operational requirements;
- (c) an appropriate allocation of all other air navigation services components, reflecting a proportionate distribution between *en route* and terminal services.

For the purposes of paragraph 2(b) and (c), Member States shall, before the start of each reference period, define the criteria used to allocate costs between terminal and *en route* services for each airport and inform the Commission accordingly.

3. The cost of *en route* services shall be related to the costs referred to in paragraph 1 with the exclusion of the costs referred to in paragraph 2.

4. If exemptions are granted to VFR flights in accordance with Article 10, the air navigation service provider shall identify the costs of air navigation services provided to VFR flights and separate them from the costs provided to IFR flights. These costs may be established through a marginal cost methodology taking into account the benefits to IFR flights stemming from the services granted to VFR flights.

#### Article 9

##### Transparency of costs and of the charging mechanism

1. Member States shall, in a coordinated manner, at the latest seven months before the start of each reference period, invite the airspace users' representatives to a consultation on determined costs, planned investments, service unit forecasts, charging policy and resulting unit rates. They shall be assisted by the air navigation service providers. Member States shall, in a transparent manner, establish their national or functional airspace blocks costs in accordance with Article 6 and make available their unit rates to airspace users' representatives, the Commission and, where applicable, to Eurocontrol.

During the reference period, Member States shall, on an annual basis and in a coordinated manner, invite the airspace users' representatives to a consultation on any deviation from the forecast, especially with regard to:

- (a) actual traffic and costs compared to forecast traffic and determined costs;
- (b) the implementation of the traffic risk-sharing mechanism set out in Article 13;
- (c) the implementation of the cost sharing mechanism set out in Article 14;
- (d) the incentive schemes set out in Article 15;
- (e) the modulation of charges set out in Article 16.

The consultation may be organised on a regional basis. Airspace user representatives shall retain the right to request that more consultations be held. User consultation shall also be organised systematically following the activation of an alert mechanism as provided for in Articles 17 and 19 of Implementing Regulation (EU) No 390/2013 generating a revision of the determined unit cost(s).

2. The information referred to in paragraph 1 shall be based on the reporting tables and detailed rules set out in Annexes II, VI and VII. Where it is established in accordance with Article 3 that terminal air navigation services or CNS, MET and AIS services are subject to market conditions, the information referred to in paragraph 1 shall be based on the reporting tables and detailed rules set out in Annex III. The relevant documentation shall be made available to the airspace users' representatives, the Commission, Eurocontrol and to the national supervisory authorities three weeks before the consultation meeting. For the annual consultation referred to in the second subparagraph of paragraph 1, the relevant documentation shall be made available to the airspace users' representatives, the Commission, Eurocontrol and to the national supervisory authorities each year, no later than 1 June.

3. In order to allow reporting on the achievement of performance as established in Article 18(4) of Implementing Regulation (EU) No 390/2013, Member States shall make available to the Commission and Eurocontrol, by 1 June of each year, their actual costs incurred during the previous year and the difference between the actual costs and the determined costs contained in the performance plan by making use of the reporting tables and detailed rules set out in Annexes II, VI and VII. Those Member States that have decided that terminal air navigation services or CNS, MET and AIS services are subject to market conditions in accordance with Article 3 shall provide this information by making use of the reporting tables and detailed rules set out in Annex III.

#### CHAPTER III

### THE FINANCING OF AIR NAVIGATION SERVICE PROVISION THROUGH AIR NAVIGATION CHARGES

#### Article 10

#### Exemptions from air navigation charges

1. Member States shall exempt from en route charges:
  - (a) flights performed by aircraft with a maximum authorised take-off weight which is less than two metric tons;
  - (b) mixed VFR/IFR flights in the charging zones where they are performed exclusively under VFR and where a charge is not levied for VFR flights;
  - (c) flights performed exclusively for the transport, on official mission, of reigning Monarchs and their immediate family, Heads of State, heads of Government and Government Ministers; in all cases, the exemption must be substantiated by the appropriate status indicator or remark on the flight plan;
  - (d) search and rescue flights authorised by the appropriate competent body.

2. Member States may exempt from en route charges:

- (a) military flights performed by military aircraft of any country;

- (b) training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew, where this is substantiated by an appropriate remark on the flight plan; flights must be performed solely within the airspace of the Member State concerned and must not serve for the transport of passengers and/or cargo, nor for positioning or ferrying of the aircraft;
- (c) flights performed exclusively for the purpose of checking or testing equipment used or intended to be used as ground aids to air navigation, excluding positioning flights by the aircraft concerned;
- (d) flights terminating at the airport from which the aircraft has taken off and during which no intermediate landing has been made;
- (e) VFR flights;
- (f) humanitarian flights authorised by the appropriate competent body;
- (g) customs and police flights.

3. Member States may exempt from terminal charges the flights referred to in paragraph 1 and 2.

4. The costs incurred for exempted flights shall be composed of:

- (a) the costs of exempted VFR flights as identified in Article 8(4); and
- (b) the costs of exempted IFR flights which shall be calculated as the product of the costs incurred for IFR flights and the ratio of the number of exempted service units to the total number of service units, with the total number of service units consisting of the service units in respect of IFR flights, as well as the service units in respect of VFR flights, where these are not exempted. The costs incurred for IFR flights shall be equal to the total costs less the costs of VFR flights.

5. Member States shall ensure that air navigation service providers are reimbursed for the services they have provided to exempted flights.

#### Article 11

#### Calculation of en route charges

1. Without prejudice to the possibility pursuant to Article 4(2) of financing *en route* air navigation services through other revenues, the *en route* charge for a specific flight in a specific *en route* charging zone shall be equal to the product of the unit rate established for that *en route* charging zone and the *en route* service units for that flight.

2. The unit rate and the *en route* service units shall be calculated in accordance with Annex IV.

### Article 12

#### Calculation of terminal charges

1. Without prejudice to the possibility pursuant to Article 4(3) of financing terminal air navigation services through other revenues, the terminal charge for a specific flight in a specific terminal charging zone shall be equal to the product of the unit rate established for this terminal charging zone and the terminal service units for that flight. For charging purposes, approach and departure shall count as a single flight. The unit to be counted shall be either the arriving or the departing flight.

2. The unit rate and the terminal service units shall be calculated in accordance with Annex V.

### Article 13

#### Traffic risk sharing

1. A traffic risk-sharing mechanism shall apply in accordance with the principles referred to in Article 12 of Implementing Regulation (EU) No 390/2013.

2. The following costs shall not be submitted to traffic risk-sharing and shall result in an increase or reduction of the determined costs in (a) subsequent year(s) irrespective of traffic evolution:

- (a) the determined costs established in accordance with Article 6(2) with the exception of agreements relating to cross border air traffic service provision;
- (b) the determined costs for meteorological services;
- (c) the adjustment due to differences between forecasted and actual inflation as referred to in Article 7(1);
- (d) the recovery of restructuring costs, if authorised in accordance with Article 7(4);
- (e) the carry-over resulting from the implementation of the traffic risk-sharing mechanism;
- (f) the carry-overs authorised from the previous reference period resulting from the implementation of the cost sharing mechanism referred to in Article 14;
- (g) bonuses or penalties resulting from financial incentive schemes referred to in Article 15;
- (h) the over-or under-recoveries that may result from the modulation of air navigation charges in application of Article 16;
- (i) the over-or under-recoveries resulting from traffic variations;

- (j) for the second reference period, the over- or under-recoveries incurred by Member States up to and including the year 2011 in respect to *en route* and 2014 in respect to terminal air navigation services.

In addition, Member States may exempt from traffic risk-sharing the determined costs of providers of air navigation services which have received permission to provide air navigation services without certification, in accordance with Article 7(5) of Regulation (EC) No 550/2004.

3. Where, over a given year  $n$ , the actual number of service units does not exceed or fall below the forecast established in the performance plan for that year  $n$  by more than 2 %, the additional or lost revenue of the air navigation service provider in respect of determined costs shall not be carried over.

4. Where, over a given year  $n$ , the actual number of service units exceeds the forecast established in the performance plan for that year  $n$  by more than 2 %, a minimum of 70 % of the additional revenue obtained by the air navigation service provider(s) concerned in excess of 2 % of the difference between the actual service units and the forecast in respect of determined costs established in the performance plan shall result in a corresponding reduction of the determined costs of year  $n+2$ .

Where, over a given year  $n$ , the actual number of service units falls below the forecast established in the performance plan for that year  $n$  by more than 2 %, a maximum of 70 % of the revenue loss incurred by the air navigation service provider(s) concerned in excess of 2 % of the difference between the actual service units and the forecast in respect of determined costs established in the performance plan shall result in a corresponding increase of the determined costs starting not earlier than year  $n+2$ .

5. Where, over a given year  $n$ , the actual number of service units is lower than 90 % of the forecast established in the performance plan for that year  $n$ , the full amount of the revenue loss incurred by the air navigation service provider(s) concerned in excess of 10 % of the difference between the actual service units and the forecast in respect of determined costs established in the performance plan shall result in a corresponding increase of the determined costs starting not earlier than year  $n+2$ .

Where, over a given year  $n$ , the actual number of service units exceed 110 % of the forecast established in the performance plan for that year  $n$ , the full amount of the additional revenue obtained by the air navigation service provider(s) concerned in excess of 10 % of the difference between the actual service units and the forecast in respect of determined costs established in the performance plan shall result in a corresponding reduction of the determined costs of year  $n+2$ .



6. In the case of terminal air navigation services, Member States may decide for airports with fewer than 225 000 IFR air transport movements per year not to apply the provisions of paragraphs 3, 4 and 5 above. Member States shall inform the Commission of that decision within two months following publication of this Regulation.

#### Article 14

##### Cost sharing

1. A cost-sharing mechanisms shall apply in accordance with the following principles:

- (a) where, over the whole reference period, actual costs fall below the determined costs established at the beginning of the reference period, the resulting difference shall be retained by the air navigation service provider, Member State or qualified entity concerned;
- (b) where, over the whole reference period, actual costs exceed the determined costs established at the beginning of the reference period, the resulting difference shall be borne by the air navigation service provider, Member State or qualified entity concerned.

2. Costs exempt from the application of paragraphs 1(a) and 1(b):

- (a) The cost-sharing arrangements in paragraphs 1(a) and 1(b) shall not apply to the difference between determined costs and actual costs with regard to cost items for which the air navigation service provider, Member State or qualified entities concerned have taken reasonable and identifiable steps to manage but which may be deemed to be outside their control as a result of:

- (i) unforeseen changes in national pensions law, pension accounting law or pension costs resulting from unforeseen financial market conditions;

- (ii) significant changes in interest rates on loans, which finance costs arising from the provision of air navigation services;

- (iii) unforeseen new cost items not covered in the performance plan, but required by law;

- (iv) unforeseen changes in national taxation law;

- (v) unforeseen changes in costs or revenues stemming from international agreements.

- (b) Without prejudice to Article 7(1), third subparagraph, each cost item included under paragraph 2(a) shall be determined by the national supervisory authority and the performance plan shall specify for each cost item in relation to the previous reference period:

- (i) a full description of the cost item;

- (ii) the cost attributed to this item in the performance plan;

- (iii) the justification why the cost item is considered to be eligible within the scope of paragraph 2(a) rather than paragraphs 1(a) and 1(b);

- (iv) the underlying external events or circumstances outside the control of the national supervisory authorities, air navigation service provider or qualified entity concerned that triggered a variation between actual and determined costs related to this cost item;

- (v) actions taken to manage the cost risk associated with this item.

- (c) The differences between the actual costs and the determined costs in respect to these items shall be identified and explained in accordance with Annex VII.2.

- (d) Where, over the whole reference period, as a result of deducting costs from the scope of paragraph 2(a), actual costs are lower than the determined costs established at the beginning of the reference period, the resulting difference shall be returned to airspace users through a carry over to the following reference period(s).

- (e) Where, over the whole reference period, as a result of including costs within the scope of paragraph 2(a), actual costs exceed the determined costs established at the beginning of the reference period, the resulting difference shall be passed on to airspace users through a carry over to the following reference period(s).

- (f) The national supervisory authority concerned shall establish each year that the variation of actual costs against determined costs is actually the result of relevant events or circumstances set out in paragraph 2(a) and in line with the provision of paragraph 2(b). It shall further verify that the variation in costs to be passed on to users is specifically identified and categorised. It shall inform airspace users and report to the Commission about the outcome of its assessment on an annual basis. Where the Commission finds, within six months after receiving the annual assessment report of the national supervisory authority concerned, that the assessment report does not establish that the variation of actual costs against determined costs is actually the result of relevant events or circumstances set out in paragraph 2(a) and in line with the provision of paragraph 2(b), it shall decide in accordance with the procedure referred to in Article 5(2) of Regulation (EC) No 549/2004 that the Member State(s) concerned shall not be allowed to apply the provisions of paragraph 2 in respect to the variation of actual costs against determined costs, in part or in whole according to its findings.

- (g) The amounts carried over shall be specified by factors and described in the additional information to be provided in accordance with Annex VI.

#### Article 15

##### Incentive schemes for air navigation service providers

1. Member States shall adopt financial incentives for their air navigation service providers in the key performance area of capacity and may adopt such financial incentives in the key performance area of environment in accordance with Article 12 of Implementing Regulation (EU) No 390/2013. These incentives shall consist in bonuses for exceeding and penalties for under-achieving target levels of performance and are to be added to or deducted from the adopted determined costs according to the level of performance achieved.

Such financial incentive schemes shall conform to the following principles:

- (a) the unit rate of year  $n+2$  shall be adjusted to provide for a bonus for exceeding or penalty for under-achievement according to the actual performance level of the air navigation service provider in year  $n$  against the relevant target;
- (b) the applicable level of bonuses and penalties shall be commensurate with the targets to be reached and the performance achieved. There shall be no bonuses for performance that is at or below that expected in performance targets;
- (c) The applicable level of bonuses and penalties shall be equal;
- (d) the maximum amount of aggregate bonuses and the maximum amount of aggregate penalties shall not exceed 1 % of the revenue from air navigation services in year  $n$ ;
- (e) the performance variation levels and the applicable level of bonuses and penalties shall be determined following the consultation referred to in Article 9 and shall be set by the performance plan;
- (f) in case of targets at the level of functional airspace blocks, bonuses and penalties shall be applied to the air navigation service providers concerned;
- (g) for the key performance area of capacity, the target levels of performance may be adjusted to cover only delay causes related to ATC capacity, ATC routing, ATC staffing, ATC equipment, airspace management and special event with the codes C, R, S, T, M and P of the ATFCM user manual.

2. National supervisory authorities shall monitor the proper implementation of these incentive schemes by air navigation service providers.

#### Article 16

##### Modulation of air navigation charges

1. Member States, following the offer to consult provided for in Article 9 may, at national or functional airspace block level and on a non-discriminatory and transparent basis, modulate air navigation charges incurred by airspace users to reflect their efforts made in particular to:

- (a) optimise the use of air navigation services;
- (b) reduce the environmental impact of flying;
- (c) reduce the overall costs of air navigation services and increase their efficiency, in particular by modulating charges according to the level of congestion of the network in a specific area or on a specific route at specific times.

The modulation of charges shall not result in any overall change in revenue for the air navigation service provider. Over- or under recoveries shall be passed on to the following period.

2. Air navigation charges may also be modulated, on a non-discriminatory and transparent basis, to accelerate the deployment of SESAR ATM capabilities. The modulation may in particular aim at giving incentives to equip aircraft with systems included in the common projects referred to in Article 15a(3) of Regulation (EC) No 550/2004.

3. The modulation of air navigation charges means a variation of the *en route* charge and/or the terminal charge calculated on the basis of the provisions of Articles 11 and 12.

4. National supervisory authorities shall monitor the proper implementation of the modulation of air navigation charges by air navigation service providers.

#### Article 17

##### Setting of unit rates for charging zones

1. Member States shall ensure that unit rates are set for each charging zone on an annual basis. Without prejudice to paragraph 2, unit rates shall not be modified in the course of a year.

Unit rates shall be set in accordance with the following process:

- (a) For each year of the reference period, unit rates for year  $n$  shall be calculated by 1 November of year  $n-1$  on the basis of the determined unit costs contained in the performance plan and the adjustments set out in paragraph 2.2 of Annex IV and of Annex V of this Regulation.
- (b) Unit rates for year  $n$  shall be submitted by the Member State to the Commission by 1 June of year  $n-1$  following the requirements of Articles 9(1) and 9(2).

- (c) The Commission shall assess these unit rates against the provisions of this Regulation and Implementing Regulation (EU) No 390/2013.
- (d) Where the Commission finds that the unit rates comply with the provisions of this Regulation and Implementing Regulation (EU) No 390/2013, it shall notify the Member State concerned accordingly within four months after submission of the unit rates.
- (e) Where the Commission finds that the unit rates do not comply with the provisions of this Regulation and Implementing Regulation (EU) No 390/2013, it shall, within four months after submission of the unit rates, inform the Member State concerned accordingly, which shall within one month submit to the Commission revised unit rates.
- (f) Member States shall inform the Commission and Eurocontrol, where appropriate, of the unit rates for each charging zone at the latest by 1 November of year n-1.

Unit rates shall be set in national currency. Where Member States which form part of a functional airspace block decide to establish a common charging zone with a single unit rate, that unit rate shall be set in euro or in the national currency of one of the Member States concerned. The Member States concerned shall notify the Commission and Eurocontrol of the applicable currency.

2. Where performance plans are adopted after 1 November of the year preceding the year in which the reference period begins or revised in accordance with Articles 17 and 19 of Implementing Regulation (EU) No 390/2013, unit rates shall be recalculated where necessary on the basis of the final adopted plan or the applicable corrective measures. To this effect, and in accordance with Article 16 of Implementing Regulation (EU) No 390/2013, Member States shall calculate and apply their unit rate in accordance with the adopted performance plan as early as possible in the course of the first year of the reference period or the first year of the application of the revised performance plans and targets. The difference in revenue due to the temporary application of the initial unit rate shall be carried over in the calculation of the unit rate of the following year. For the first year of the reference period or the first year of the application of the revised performance plans and targets, the traffic risk-sharing mechanism provided for in Article 13 shall be applied on the basis of the determined costs and service units contained in the final adopted performance plan and of the actual service units for the year.

#### Article 18

##### Collection of charges

1. Member States may collect charges through a single charge per flight. Where charges are billed and collected on a regional basis, the billing currency may be the euro and an administrative unit rate for billing and collection costs may be added to the unit rate concerned. Member States shall ensure that the amounts collected on their behalf are used to finance the costs determined in accordance with the provisions of this Regulation.

2. Users of air navigation services shall promptly and fully pay all air navigation charges.

3. Member States shall ensure that effective enforcement measures are applied. These measures may include denial of services, detention of aircraft or other enforcement measures in accordance with applicable law.

#### CHAPTER IV

##### FINAL PROVISIONS

##### Article 19

##### Appeal

Member States shall ensure that decisions taken pursuant to this Regulation are properly explained and are subject to an effective review and/or appeal procedure.

##### Article 20

##### Facilitation of compliance monitoring

Air navigation service providers shall facilitate inspections and surveys by the national supervisory authority concerned or by a qualified entity acting on the supervisory authority's behalf, including site visits. The authorised persons shall be empowered:

- (a) to examine the relevant accounting documents, asset books, inventories and any other material relevant to the establishment of air navigation charges;
- (b) to take copies of or extracts from such documents;
- (c) to ask for oral explanations on site;
- (d) to enter relevant premises, land or vehicles.

Such inspections and surveys shall be carried out in compliance with the procedures in force in the Member State in which they are to be undertaken.

##### Article 21

##### Review

The review by the Commission of the performance scheme, referred to in Article 24 of Implementing Regulation (EU) No 390/2013 shall include the traffic risk-sharing mechanism set out in Article 13, the cost sharing mechanism set out in Article 14, the incentive schemes established pursuant to Article 15, the modulation of charges pursuant to Article 16, and their impact and effectiveness in achieving the set performance targets.

##### Article 22

##### Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. This Regulation shall apply from the second reference period as defined in Article 8 of Implementing Regulation (EU) No 390/2013 and during that period. With regards to the application of the performance scheme, in order to allow the adoption of Union-wide targets provided for in Article 10(2) of Implementing Regulation (EU) No 390/2013 before the start of the second reference period and the preparation and adoption of performance plans in accordance with the provisions of Implementing Regulation (EU) No 390/2013 Articles 1(5), 3, 7(4), 9, 14(2)(b)-(f) and 17, as well as the Annexes of this Regulation shall apply from the date of entry into force of this Regulation.

*Article 23*

**Repeal of Commission Regulation (EC) No 1794/2006**

Commission Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services shall be repealed with effect from 1 January 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 May 2013.

*For the Commission*  
*The President*  
José Manuel BARROSO

## ANNEX I

**ASSESSMENT OF THE EXISTENCE OF MARKET CONDITIONS FOR THE PROVISION OF TERMINAL AIR NAVIGATION SERVICES AND/OR CNS, MET AND AIS SERVICES IN ACCORDANCE WITH ARTICLE 3**

The conditions to be assessed for determining whether terminal air navigation services and/or CNS, MET and AIS services are provided under market conditions are as follows:

1. The extent to which service providers can freely offer to provide or withdraw the provision of these services:
    - (a) the existence or otherwise of any significant legal or economic barriers that would prevent a service provider from offering to provide or withdrawing the provision of these services;
    - (b) the contract duration; and
    - (c) the existence of a procedure allowing assets and staff to be transferred from one air navigation service provider to another.
  2. The extent to which there is a free choice in respect to service provider, including, in the case of airports, the option to self-supply:
    - (a) the existence or otherwise of legal, contractual or practical barriers to change service provider or in the case of terminal air navigation services to move towards self-supply of air navigation services by airports;
    - (b) the role of airspace users' representatives in selecting the service provider.
  3. The extent to which it can be chosen from a range of service providers:
    - (a) the existence of a public tendering process (not applicable in case of self-supply);
    - (b) if applicable, evidence of alternative service providers participating in the tendering process and having provided services in the past, including the option of self-supply for the airport.
  4. For terminal air navigation services, the extent to which airports are subject to commercial cost pressures or incentive-based regulation:
    - (a) whether airports actively compete for airline business;
    - (b) the extent to which airports bear the air navigation service charge;
    - (c) whether airports operate in a competitive environment or under economic incentives designed to cap prices or otherwise incentivise cost reductions.
  5. Where the provider of terminal air navigation services or CNS, MET and AIS services also provides *en route* air navigation services, these activities shall be subjected to separate accounting and reporting.
  6. For terminal air navigation services, the assessment in this Annex shall be carried out at each individual airport, as appropriate.
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## ANNEX II

**TRANSPARENCY OF COSTS AND UNIT COSTS**

## 1. REPORTING TABLE

Member States as well as air navigation service providers shall each fill in the reporting table in this Annex for each charging zone under their responsibility and for each year of the reference period. Member States shall also provide a consolidated reporting table for each charging zone under their responsibility.

A consolidated table shall be filled in for each airport subject to the provisions of this Regulation. For airports with less than 70 000 IFR air transport movements per year being calculated as the average over the previous three years, costs may be presented in a consolidated way.

When a charging zone extends across the airspace of more than one Member State, they shall fill in the table jointly in accordance with the arrangements referred to in Article 5(4).

Actual costs shall be established on the basis of the final audited accounts. The costs shall be established in accordance with the business plan required by the certificate and reported in the currency in which they are established in accordance with Article 7(1), fourth subparagraph.

Actual service units shall be established on the basis of the figures provided by the entity that is billing and collecting charges. Any difference from these figures shall be duly justified in the additional information.

In order to facilitate the establishment by the Commission of Union-wide performance targets and without prejudice to the performance plans to be adopted, Member States as well as air navigation service providers shall fill in a reporting table with initial forecast figures 19 months before the start of a reference period.

Table 1 - Total Costs and Unit Costs

Charging zone name					Period of reference: N - N+4					
Currency										
Entity name:										
<b>Determined costs (performance plan)</b>					<b>Actual costs</b>					
<b>Cost details</b>	<b>N</b>	<b>N+1</b>	<b>N+2</b>	<b>N+3</b>	<b>N+4</b>	<b>N</b>	<b>N+1</b>	<b>N+2</b>	<b>N+3</b>	<b>N+4</b>
<b>1. Detail by nature (in nominal terms)</b>										
1.1 Staff										
1.2 Other operating costs <sup>(1)</sup>										
1.3 Depreciation										
1.4 Cost of capital										
1.5 Exceptional items										
1.6 Total costs										
Total % n/n-1										
Staff % n/n-1										
Other op. % n/n-1										
<b>2. Detail by service (in nominal terms)</b>										
2.1 Air Traffic Management										
2.2 Communication <sup>(2)</sup>										
2.3 Navigation <sup>(2)</sup>										
2.4 Surveillance <sup>(2)</sup>										
2.5 Search and rescue										
2.6 Aeronautical Information <sup>(2)</sup>										
2.7 Meteorological services <sup>(2)</sup>										
2.8 Supervision costs										
2.9 Other State costs <sup>(1)</sup>										
2.10 Total costs										
Total % n/n-1										
ATM % n/n-1										
CNS % n/n-1										
<b>3. Complementary information (in nominal terms)</b>										
<b>Average asset base</b>										
3.1 Net book val. fixed assets										
3.2 Adjustments total assets										
3.3 Net current assets										
3.4 Total asset base										
<b>Cost of capital %</b>										
3.5 Cost of capital pre tax rate										
3.6 Return on equity										
3.7 Average interest on debts										
<b>Cost of common projects</b>										
3.8 Total costs of common projects										





## 2. ADDITIONAL INFORMATION

In addition, Member States as well as air navigation service providers shall each provide at least the following information:

- (a) description of the methodology used for allocating costs of facilities or services between different air navigation services based on the list of facilities and services listed in ICAO Regional Air Navigation Plan, European Region (Doc 7754), and a description of the methodology used for allocating those costs between different charging zones;
  - (b) description of the methodology and assumptions used to establish the costs of air navigation services provided to VFR flights, when exemptions are granted for VFR flights in accordance with Article 10;
  - (c) further to Article 7(2), description and justification of any adjustment beyond the provisions of the International Accounting Standards;
  - (d) description and explanation of the method adopted for the calculation of depreciation costs: historic costs or current costs. When current cost accounting is adopted, provision of comparable historic cost data;
  - (e) justification for the cost of capital, including the components of the asset base, the possible adjustments to total assets and the return on equity;
  - (f) total costs per airport for each airports with fewer than 70 000 IFR air transport movements per year, when these are provided in a consolidated way in the reporting table;
  - (g) definition of the criteria used to allocate costs between terminal and *en route* services for each airport within the scope of this Regulation;
  - (h) breakdown of the meteorological costs between direct costs and 'MET core costs' defined as the costs of supporting meteorological facilities and services that also serve meteorological requirements in general. These include general analysis and forecasting, surface and upper-air observation networks, meteorological communication systems, data processing centres and supporting core research, training and administration;
  - (i) description of the methodology used for allocating total MET costs and MET core costs to civil aviation and between charging zones;
  - (j) as requested in point 1, 19 months before the start of a reference period, description of the reported forecast costs and traffic;
  - (k) description of the reported actual costs and the difference from the determined costs, for each year of the reference period;
  - (l) description of the reported actual service units and the differences both against the forecast and compared with the figures provided by Eurocontrol, as appropriate, for each year of the reference period;
  - (m) every year of the reference period, the difference between the investments of the air navigation service providers recorded in the performance plans and the actual spending, as well as the difference between the planned date of entry into operation of these investments and the actual situation.
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Table B

Organisation: Charging zone: Airport name:		Year		n						
Airport i		(n-3)	(n-2)	(n-1)	(n)	(n+1)	(n+2)	(n+3)	(n+4)	(n+5)
Annual Price (a)										
Unit of Output (b)										
Unit Price										

### 1.2. Additional information

In addition, Member States shall provide at least the following information:

- (a) description of the criteria used for allocating costs of facilities or services between different air navigation services based on the list of facilities and services listed in ICAO Regional Air Navigation Plan, European Region (Doc 7754);
- (b) description and explanation of differences between planned and actual figures for year (n-1) in respect to all data provided in Tables A and B;
- (c) description and explanation of five year planned costs and investments in relation to expected traffic;
- (d) description and explanation of the method adopted for calculating depreciation costs: historic costs or current costs;
- (e) justification for the cost of capital, including the components of the asset base.

### 2. THE FINANCING OF AIR NAVIGATION SERVICES

Air navigation service providers shall provide a description of the way or ways in which the costs of air navigation services are financed in respect to each charging zone.

## ANNEX IV

## CALCULATION OF THE EN ROUTE SERVICE UNITS AND UNIT RATES

1. Calculation of *en route* service units

- 1.1. The *en route* service unit shall be calculated as the product of the distance factor and the weight factor for the aircraft concerned. The total *en route* service units shall consist of the total service units in respect of IFR flights, as well as the service units in respect of VFR flights, where these are not exempted in accordance with Article 10.
- 1.2. The distance factor shall be obtained by dividing by one hundred the number of kilometres flown in the great circle distance between the entry and the exit point of the charging zones, according to the latest known flight plan filed by the aircraft concerned for air traffic flow purposes.
- 1.3. If the exit and entry point of a flight are identical in a charging zone, the distance factor shall be equal to the distance in the great circle distance between these points and the most distant point of the flight plan multiplied by two.
- 1.4. The distance to be taken into account shall be reduced by 20 kilometres for each take-off from and for each landing on the territory of a Member State.
- 1.5. The weight factor, expressed as a figure taken to two decimal places, shall be the square root of the quotient obtained by dividing by fifty the number of metric tons in the maximum certificated take-off weight of the aircraft as shown in the certificate of airworthiness or any equivalent official document provided by the aircraft operator. Where this weight is unknown, the weight of the heaviest aircraft of the same type known to exist shall be used. Where an aircraft has multiple certificated maximum take-off weights, the maximum one shall be used. Where an aircraft operator operates two or more aircraft which are different versions of the same type, the average of the maximum take-off weights of all his aircraft of that type shall be used for each aircraft of that type. The calculation of the weight factor per aircraft type and per operator shall be effected at least once a year.

2. Calculation of *en route* unit rates

- 2.1. The *en route* unit rate shall be calculated before the beginning of each year of the reference period.
- 2.2. It shall be calculated by dividing the forecast number of total *en route* service units for the relevant year as defined in the performance plan into the algebraic sum of the following elements:
  - (i) the determined costs, expressed in nominal terms of the relevant year as defined in the performance plan;
  - (ii) the adjustment of the difference between forecasted and actual inflation as referred to in Article 7(1);
  - (iii) the recovery of restructuring costs, if authorised in accordance with Article 7(4);
  - (iv) the carry-overs resulting from the implementation of the traffic risk-sharing mechanism referred to in Article 13;
  - (v) the carry-overs from the previous reference period resulting from the implementation of the cost sharing mechanism referred to in Article 14;
  - (vi) bonuses and penalties resulting from the financial incentive schemes referred to in Article 15;
  - (vii) the over-or under-recoveries that may result from the modulation of air navigation charges in application of Article 16;
  - (viii) the over-or under-recoveries resulting from traffic variations;
  - (ix) for the first two reference periods, the over- or under-recoveries incurred by Member States up to and including the year 2011;
  - (x) a deduction of other revenue.

## ANNEX V

**CALCULATION OF THE TERMINAL SERVICE UNITS AND UNIT RATES****1. Calculation of terminal service units**

- 1.1. The terminal service unit shall be equal to the weight factor for the aircraft concerned.
- 1.2. The weight factor, expressed as a figure taken to two decimal places, shall be the quotient, obtained by dividing by fifty the number of metric tons in the highest maximum certified take-off weight of the aircraft, referred to in Annex IV point 1.5, to the power of 0,7.

**2. Calculation of terminal unit rates**

- 2.1. The terminal unit rate shall be calculated before the beginning of each year of the reference period.
  - 2.2. It shall be calculated by dividing the forecast number of total terminal service units for the relevant year as defined in the performance plan into the algebraic sum of the following elements:
    - (i) the determined costs, expressed in nominal terms, of the relevant year as defined in the performance plan;
    - (ii) the adjustment of the difference between forecasted and actual inflation as referred to in Article 7(1);
    - (iii) the recovery of restructuring costs, if authorised in accordance with Article 7(4);
    - (iv) the carry-overs resulting from the implementation of the traffic risk-sharing mechanism referred to in Article 13, if applicable;
    - (v) the carry-overs from the previous reference period resulting from the implementation of the cost sharing mechanism referred to in Article 14;
    - (vi) bonuses and penalties resulting from the financial incentive schemes referred to in Article 15;
    - (vii) the over-or under-recoveries that may result from the modulation of air navigation charges in application of Article 16;
    - (viii) the over-or under-recoveries resulting from traffic variations;
    - (ix) for the first two reference periods, the over- or under-recoveries incurred by Member States up to and including the year 2014;
    - (x) a deduction of other revenue.
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## ANNEX VI

**CHARGING MECHANISM**

## 1. REPORTING TABLE

Member States as well as air navigation service providers shall each fill in the reporting table in this Annex for each charging zone under their responsibility and for each reference period. Member States shall also provide a consolidated table for each charging zone under their responsibility.

When a charging zone extends across the airspace of more than one Member State, they shall fill in the table jointly in accordance with the provisions of Article 5(4).

Table 2 - Unit rate calculation

Charging zone name : Entity name:	Period of reference : N - N+4				
Unit rate calculation	N	N+1	N+2	N+3	N+4
<p><b>1. Determined costs in nominal terms and inflation adjustment</b></p> <p>1.1 Determined costs in nominal terms - VFR excl. - Table 1  1.2 Actual inflation rate - Table 1  1.3 Forecast inflation rate - Table 1  1.4 Inflation adjustment <sup>(1)</sup> : year n amount to be carried over</p> <p style="text-align: center;"><b>2. Forecast and actual total service units</b></p> <p>2.1 Forecast total service units (performance plan)  2.2 Actual total service units  2.3 Actual / forecast total service units (in %)</p> <p style="text-align: center;"><b>3. Costs subject to traffic risk sharing</b></p> <p>3.1 Determined costs in nominal terms - VFR excl. (reported from Table 1)  3.2 Inflation adjustment : amount carried over to year n  3.3 Traffic : amounts carried over to year n  3.4 Traffic risk sharing : add. revenue carried over to year n  3.5 Traffic risk sharing : revenues losses carried over to year n  3.6 Costs exempt from cost sharing : amounts carried over to year n  3.7 Bonus or penalty for performance  3.8 Over(-) or under(+) recoveries <sup>(2)</sup> : amounts carried over to year n  3.9 Total for the calculation of year n unit rate  3.10 Traffic risk sharing : add. rev. year n to be carried-over  3.11 Traffic risk sharing : revenue loss year n to be carried-over  3.12 Over/under recoveries from traffic variations n to be carried-over</p> <p style="text-align: center;">Parameters for traffic risk sharing</p> <p>3.13 % additional revenue returned to users in year n+2  3.14 % loss of revenue borne by airspace users</p> <p style="text-align: center;"><b>4. Costs not subject to traffic risk sharing</b></p> <p>4.1 Determined costs in nominal terms - VFR excl. (Table 1)  4.2 Inflation adjustment : amount carried over to year n  4.3 Traffic : amounts carried over to year n  4.4 Costs exempt from cost sharing : amounts carried over to year n  4.5 Restructuring costs : amounts carried over to year n  4.6 Over(-) or under(+) recoveries <sup>(2)</sup> : amounts carried over to year n  4.7 Total for the calculation of year n unit rate  4.8 Over/under recoveries from traffic variations n to be carried-over</p> <p style="text-align: center;"><b>5. Other revenues - applied unit rate (in national currency)</b></p> <p>5.1 Total other revenues  5.3 of which Union assistance programmes  5.4 of which National public funding  5.5 Commercial activities  5.6 Other other revenues  5.7 Grand total for the calculation of year n unit rate  5.8 Year n unit rate (in national currency)  5.9 ANSP component of the unit rate  5.10 MET component of the unit rate  5.11 NSA-State component of the unit rate  5.12 Year n unit rate that would have applied without other revenues</p>					

Costs, revenues and other amounts in '000 Euro - Service units in '000

<sup>(1)</sup> Cumulated impact of yearly differences between actual and forecast inflation – adjustment of the total determined costs

<sup>(2)</sup> Over/under recoveries incurred up to the year of entry into force of the determined cost method

## 2. ADDITIONAL INFORMATION

In addition, Member States concerned shall collect and provide at least the following information:

- (a) description and rationale for establishment of the different charging zones, in particular with regard to terminal charging zones and potential cross-subsidies between airports;
  - (b) description of the policy on exemptions and description of the financing means to cover the related costs;
  - (c) description of the other revenues, if any, broken down between the different categories indicated in Article 2(10);
  - (d) description and explanation of incentives applied to users of air navigation services under Article 15;
  - (e) description and explanation of the modulation of air navigation charges applied under Article 16.
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*ANNEX VII***COMPLEMENTARY INFORMATION****1. REPORTING TABLE**

Member States shall fill in the reporting table in this Annex for each charging zone under their responsibility and for each year of the reference period.



Traffic risk sharing loss Year N-4								
Traffic risk sharing loss Year N-3								
Traffic risk sharing loss Year N-2								
Traffic risk sharing loss Year N-1								
Traffic risk sharing loss Year N								
Traffic risk sharing loss Year N+1								
Traffic risk sharing loss Year N+2								
<b>Total Traffic Risk sharing loss adjustment</b>								
Costs exempted from cost sharing Year N-5								
Costs exempted from cost sharing Year N-4								
Costs exempted from cost sharing Year N-3								
Costs exempted from cost sharing Year N-2								
Costs exempted from cost sharing Year N-1								
<b>Total costs exempted from cost sharing</b>								
O-u recoveries before determined costs Year 2005								
O-u recoveries before determined costs Year 2006								
O-u recoveries before determined costs Year 2007								
O-u recoveries before determined costs Year 2008								
O-u recoveries before determined costs Year 2009								
O-u recoveries before determined costs Year 2010								
O-u recoveries before determined costs Year 2011								
O-u recoveries before determined costs Year 2012 (TNC only)								
O-u recoveries before determined costs Year 2013 (TNC only)								
O-u recoveries before determined costs Year 2014 (TNC only)								
<b>Total carry-overs</b>								

## 2. ADDITIONAL INFORMATION

In addition, Member States shall provide at least the following information:

- (a) breakdown of the costs of common projects per individual project;
  - (b) description of the amounts resulting from uncontrollable costs factors by nature and by factor, including the rationale and the changes in underlying assumptions;
  - (c) description of the carry-overs of over- or under-recoveries incurred by Member States up to the year 2011 for *en route* charges and up to the year 2014 for terminal charges;
  - (d) description of carry-overs resulting from the traffic risk-sharing mechanism in accordance with Article 13;
  - (e) description of carry-overs resulting from the cost sharing mechanism in accordance with Article 14(2).
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