

**Enclosure 2**

**SINGLE EUROPEAN SKY MANDATES  
FORMAL CONSULTATION**

***DRAFT IMPLEMENTING RULES ON  
A COMMON CHARGING SCHEME FOR AIR  
NAVIGATION SERVICES***

**DRAFT**

**COMMISSION REGULATION (EC) N°...  
of (Date)**

**laying down implementing rules for the development of a common  
charging scheme for air navigation services  
(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof;

Having regard to Regulation (EC) No 549/2004<sup>1</sup> of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky ("the framework Regulation"), in particular Article 8 (Implementing rules) thereof;

Having regard to Regulation (EC) No 550/2004<sup>2</sup> of the European Parliament and of the Council on the provision of air navigation services in the Single European Sky ("the service provision Regulation"), and in particular Articles 14, 15 and 16 (charging schemes) thereof;

Whereas:

- (1) The accession of the Community to EUROCONTROL is an important component in the creation of a pan-European airspace.
- (2) In the implementation of the Single European Sky, the Community should, where appropriate, develop the highest level of cooperation with EUROCONTROL in order to ensure regulatory synergies and consistent approaches and to avoid any duplication between the two sides.
- (3) An efficient common charging scheme for air navigation services provided during all phases of flight is of the utmost importance for the implementation of the Single European Sky.
- (4) Pursuant to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Protocol signed in Brussels on 12 February 1981, as further revised by the Protocol consolidating the EUROCONTROL Convention of 27 June 1997, EUROCONTROL has established a joint system for the establishment, billing and collection of route charges on behalf of its Contracting Parties.
- (5) Air navigation service providers offer certain facilities and services directly related to the operation of aircraft, the costs of which they should be able to recover according to the "user pays" principle, which is to say that airspace users should pay for the costs they generate at, or as close as possible to, the point of use.
- (6) The charging scheme should be consistent with the policies laid down by the International Civil Aviation Organisation and with the EUROCONTROL charging scheme for route charges and encourage the safe, efficient and effective provision of air navigation services.

---

<sup>1</sup> O J L 96, 31.3.2004, p. 1

<sup>2</sup> O J L 96, 31.3.2004, p. 1

- (7) The establishment and imposition of charges on airspace users should be fair and transparent and be reviewed by the competent bodies on a regular basis.
- (8) There should be scope for modulating charges that contribute to maximising system-wide capacity and reducing delays. Financial incentives may be a useful way of accelerating the introduction of ground-based or airborne equipment that increases capacity, of rewarding high performance or of offsetting the inconvenience of choosing less desirable routings.
- (9) Charges provide Member States and air navigation service providers with sufficient revenues to meet their public service obligations and to comply with the common requirements referred to in Article 6 of the service provision Regulation.
- (10) It is desirable to reinforce the legal means necessary to ensure the prompt and full payment of air navigation charges by airspace users.
- (11) It is desirable to reconfigure the airspace into functional airspace blocks with a view to achieving maximum capacity and efficiency of the air traffic management network. The charging scheme should encourage Member States to divide their airspace into charging areas that are consistent with air traffic control operations.
- (12) It is necessary to establish requirements for complete and transparent information to be made available within specified timescales to airspace users and the competent authorities.
- (13) Charges shall not be imposed in such a way as to discourage the use of facilities and services necessary for safety or the introduction of new techniques and procedures.
- (14) The implementing rules provided for in this Regulation are in accordance with the opinion of the Single Sky Committee established by Article 5 (1) of the framework Regulation.

HAVE ADOPTED THIS REGULATION:

**Article 1**  
**Scope and objectives**

1. The objectives of this Regulation are to enhance the common charging scheme covering all phases of flight, to achieve greater transparency with respect to the determination, imposition and enforcement of charges to airspace users and to provide a framework for incentives and projects which will encourage the safe, efficient and effective provision of air navigation services.
2. Within the scope of the framework Regulation and of the service provision Regulation, and in accordance with the common charges scheme, this Regulation lays down the rules for the establishment of the full costs of air navigation services, their imposition through air navigation charges in accordance with the economic regulatory regimes adopted by Member States, the enforcement of charges through reinforced judicial and administrative recovery, improved transparency and consultation with airspace users, compliance monitoring, mechanisms for the formulation of incentives and the identification of projects beneficial to air navigation.
3. The common charging scheme shall apply to air navigation services that are made available for and directly related to general air traffic, as defined in Article 2 in order to ensure the safe and efficient movement of aircraft during all phases of operations. This Regulation shall not apply to air navigation services made available at aerodromes with less than [10.000] annual departing and arriving IFR flight movements.

**Article 2**  
**Definitions**

For the purpose of this Regulation, the definitions as set out in Article 2 of the framework Regulation, are complemented as follows:

1. “ATM” means Air traffic management. ATM is divided into air traffic services, air traffic flow management and airspace management. Air traffic services comprise air traffic control service (area control service, approach control service, aerodrome control service), flight information service including air traffic advisory service, and alerting service.  
  
Air traffic management facilities include related centres or units, their premises, the equipment, including, where employed, flight and radar processing equipment and the air traffic services personnel used to carry out air traffic management functions.
2. “CNS” means Communication, Navigation and Surveillance systems, including ground and/or satellite-based aeronautical communications (both air-ground and ground-ground), navigation and surveillance systems necessary for safety and regularity of flights.  
  
CNS comprises all facilities and personnel employed to operate these facilities and provide related services, including maintenance.
3. “MET” means Meteorological services, comprising the services provided in accordance with ICAO provisions in Annexes, Procedures for Air Navigation Services (PANS) and Air Navigation Plan Publications (ANPPs).
4. “AIS” means Aeronautical Information Services that have the objective of ensuring the flow of information necessary for the safety, regularity and efficiency of air navigation.

Aeronautical information services comprise the staff, facilities and equipment employed to collect, collate, edit, publish and distribute aeronautical information.

5. “SAR” means Search and Rescue Services provided to aviation. Search and rescue services and facilities comprise rescue co-ordinating centres, rescue sub-centres if any, long, medium and short-range aircraft, rescue boats and vessels, mountain rescue units and any other units, forces or facilities which are designed primarily or exclusively, or which are available to perform aeronautical search and rescue functions when required.
6. “Common charging scheme” means the system established pursuant to the EUROCONTROL Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and the Multilateral Agreement relating to route charges of 12 February 1981 as enhanced by the provisions of this Regulation.
7. "Functional airspace block" means an airspace block based on operational requirements, reflecting the need to ensure more integrated management of the airspace regardless of existing boundaries, established in accordance with the Regulation on the organisation and use of the airspace in the Single European Sky (“the airspace Regulation”).
8. "General air traffic" means all movements of civil aircraft, as well as all movements of State aircraft (including military, customs and police aircraft) when these movements are carried out in conformity with the procedures of ICAO.
9. “IFR” means Instrument Flight Rules.

Instrument flight rules allow an aircraft to be flown in weather conditions that do not meet the minima specified for Visual Meteorological Conditions (VMC). These are referred to as Instrument Meteorological Conditions (IMC).

Instrument Meteorological Conditions vary according to the type of electronic navigation aids available in the aircraft and at airports of departure and destination, the location and height of terrain and obstructions in its vicinity, and qualifications of crew and aircraft. In such conditions the pilot will control the attitude, altitude, and course of the aircraft by using its flight instruments. Minimum separation from other aircraft, terrain and obstructions is provided by ATS.

10. “VFR” means Visual Flight Rules (VFR).

VFR refers to a set of regulations under which a pilot may operate when weather conditions, expressed in terms of visibility, distance from cloud, and ceiling, are equal to or better than specified minima, called Visual Meteorological Conditions (VMC).

Under VFR, the pilot controls the attitude of the aircraft by reference to the ground, although this may be supplemented by referring to the instrument panel. A pilot flying under VFR is required to keep a minimum distance from clouds, other aircraft, terrain and obstructions and must stay in areas where the visibility meets minimum requirements (VMC).

There may be other requirements that vary from one State to another, such as not flying over a solid layer of clouds, or not flying at night.
11. “Airspace users” means, in the context of this Regulation, aircraft operators.
12. “Economic regulator” means the individual or body mandated by a Member State to administer the system of economic regulation established in accordance with this Regulation.

**Article 3**  
**Determination of costs**

1. The full annual costs of air navigation services, for each financial year, shall be established in accordance with Articles 12 and 15 of the service provision Regulation.
2. These costs shall be established for the period 1 January to 31 December.
3. The annual full costs of each of the following air navigation services listed below shall be established:
  - Air traffic management services (ATM);
  - Communication, navigation and surveillance services (CNS);
  - Meteorological services for air navigation (MET);
  - Aeronautical information services (AIS);
  - Search and rescue services (SAR).
4. The annual full costs in respect of the national supervisory authorities and/or recognised organisations, EUROCONTROL as well as other costs, including for regulatory purposes, that Member States incur in relation to the provision of air navigation services shall also be established.
5. In accordance with Article 12(3) of the service provision Regulation, air navigation service providers shall identify the costs of air navigation services made available to airspace users and the costs of non-air navigation services separately.

The full costs of air navigation services shall comprise direct costs and indirect costs, including administrative overheads, training, studies, tests and trials as well as research and development allocated to these services on the basis of transparent methodologies. The full costs of non-air navigation services shall be determined similarly.
6. The full costs of air navigation services shall comprise staff costs, other operating costs, depreciation costs, cost of capital and exceptional items. Costs shall include related non-recoverable taxes and customs duties paid.
7. Air navigation service providers shall be considered as taxable persons for value added tax. Member States shall adopt the necessary regulations and administrative provisions to harmonise the conditions under which the supply of air navigation services shall be subject to value added tax, in accordance with the Sixth Council Directive on value added tax<sup>3</sup>.
8. Staff and other operating costs, depreciation costs and exceptional items incurred for providing air navigation services shall be established in accordance with the International Accounting Standards adopted by the Community<sup>4</sup>, to the maximum possible extent.
  - (a) Staff costs shall include gross remunerations including payments for overtime, employers' contributions to social security schemes as well as pension costs and other benefits.
  - (b) Other operating costs shall include costs incurred through the purchase of goods and services used to provide air navigation services. They include outsourced services such as communications, external staff such as consultants, material, energy, utilities, rental of buildings, equipment and facilities, maintenance, insurance costs.

<sup>3</sup> O J L 145, 13.6.1977, as amended

<sup>4</sup> O J L 243, 11.9.2002

- (c) Depreciation costs shall relate to the total fixed assets in operation for air navigation services purposes. Fixed assets shall be depreciated in accordance with their expected operating life. The method of depreciating fixed assets shall be the straight-line method applied to historic cost values.
  - (d) Exceptional items are non-recurring costs in relation to the provision of air navigation services that have occurred in the year, including the write-off of bad debts.
9. The cost of capital shall be equal to the product of the rate of return on capital employed and of the asset base that is required for providing air navigation services.
- a) The asset base shall consist of the average net book value of fixed assets in operation or under construction, and of the average value of the net current assets, for the year.
    - i In order to account for the cost of capital, air navigation service providers shall maintain a file of fixed assets. This file shall be organised in such a manner as to support Member States' economic oversight, consultation with airspace users, performance review and cost allocation.
    - ii The net current assets taken into account in the asset base shall be established in relation to the charges for the corresponding services or bundles of services. Except for services subject to an independent economic regulation as referred to in Article 10, these net current assets shall include a net provision for related amounts carried over from previous financial years as a result of differences between actual costs incurred and revenues.
  - b) The rate of return on capital employed applied to the asset base shall be the weighted average of the return on equity and of interest rates on debt. The return on equity shall take account of the financial risk of providing air navigation services.
10. In order to fulfil the above requirements and those of the subsequent articles, air navigation service providers shall operate an adequate cost accounting system.

**Article 4**  
**En route and aerodrome air navigation charges**

1. Air navigation charges shall comprise en route air navigation charges and charges for air navigation services made available at aerodromes.
2. Air navigation services made available at aerodromes are services exclusively needed for arriving and departing flights. They shall comprise:
  - Aerodrome control services, flight information services including air traffic advisory services, and alerting services;
  - Final approach services using dedicated resources at aerodrome level;
  - Communication, navigation, and surveillance services that are required for landing and take off;
  - Local access to aeronautical information, pre-flight information service and, where applicable, the preparation of any aeronautical information relating to this aerodrome;
  - MET services exclusively needed to meet aeronautical requirements and comprising meteorological observations and reports for the aerodrome air traffic service units, aerodrome and low-level wind shear warnings, aerodrome climatological information, aerodrome forecasts, landing forecasts and forecasts for take-off, aerodrome weather watch, as well as briefing, consultation and access to meteorological information for the benefit of arriving and departing flights;
  - SAR facilities and services designated exclusively to perform aeronautical search and rescue functions.
3. En route air navigation services shall consist of all air navigation services except those made available at aerodromes to arriving and departing flights, as defined in paragraph 2.
4. For the purpose of charging en route air navigation services, the airspace falling under Member States' responsibility shall be divided into charging volumes.
5. The Member States concerned shall jointly establish the charging volumes of airspace that extend across the airspace falling under the responsibility of more than one Member State. They shall conclude agreements and shall make all necessary arrangements to ensure compliance with this Regulation. They shall inform the Commission, EUROCONTROL, ICAO and other Member States accordingly.
6. Charging volumes of airspaces shall be defined in consistency with air traffic control operations and services made available to airspace users.
7. A functional airspace block established in accordance with Article 5 of the airspace Regulation shall be considered as a charging volume of airspace.
8. Member States shall consult airspace users before defining and subsequently modifying charging volumes of airspace. Impact assessments on air navigation charges shall be made available to airspace users in due time before the consultations. Member States shall provide airspace users with, and make public, written reports on the outcome of the consultations.

**Article 5**  
**Cost allocation**

1. The costs to be allocated among airspace users shall be the annual costs of providing air navigation services as defined in Article 3.
2. Air navigation service providers shall identify the annual full costs for the provision of:
  - Air navigation services made available to arriving and departing flights, at each aerodrome;
  - En route air navigation services made available within each charging volume of airspace.
3. For each aerodrome and for each charging volume of airspace, the costs of air navigation services shall be allocated between services made available to airspace users operating under Instrument Flight Rules (IFR) and those made available to users operating under Visual Flight Rules (VFR). Costs allocated to services made available to users operating under IFR shall be the direct costs plus a portion of indirect costs allocated to these services on the basis of transparent methodologies. Costs allocated to services made available to airspace users operating under VFR shall be similarly defined.
4. The costs referred to in Article 3(4) shall be allocated between air navigation services made available at aerodromes and en route air navigation services, as well as between IFR and VFR traffic, as appropriate.
5. Where a portion of the MET core costs is attributed to civil aviation, Member States shall do so in a fully transparent manner by identifying the MET core costs, by identifying all user groups to which these costs are allocated and finally by establishing the appropriate basis for the allocation. The portion of the total core costs attributed to civil aviation shall be allocated between air navigation services made available at aerodromes and en route air navigation services, as well as between IFR and VFR traffic.
6. Where a portion of the costs of search and rescue facilities and services that are not designated exclusively to perform aeronautical search and rescue functions is attributed to civil aviation, Member States shall do so in a fully transparent manner by identifying the costs of these facilities and services, by identifying all user groups to which these costs are allocated and finally by establishing the appropriate basis for the allocation. The portion of the costs of search and rescue facilities and services that are not designated exclusively to perform aeronautical search and rescue functions to civil aviation shall be allocated between air navigation services made available at aerodromes and en route air navigation services, as well as between IFR and VFR traffic.

**Article 6**  
**Charging principles**

1. The costs of air navigation services made available to airspace users for their flights performed under IFR shall be recovered by means of:
  - a) A single en route charge per flight, that is the sum of the en route charges accruing for that flight in the different charging volumes of airspace as defined by the Member States, and
  - b) Charges for air navigation services made available to arriving and departing flights, at each aerodrome or group of aerodromes.

2. Charges for en route air navigation services shall be levied as a single charge on the basis of the distance flown within each charging volume of airspace and of the aircraft weight.

The distance flown and the aircraft weight shall be taken into account by means of a distance factor and of a weight factor, respectively. The number of service units for the flight shall be equal to the product of the distance factor in the charging volume of airspace and of the weight factor.

The distance factor shall be obtained by dividing by one hundred the number of kilometres in the great circle distance between the point of entry into a given volume of airspace and the point of exit from that airspace.

The weight factor 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.

For each charging volume of airspace, the charge shall be equal to the product of the unit rate for the charging volume to airspace and of the number of service units for the flight.

3. Charges for air navigation services made available at each aerodrome or group of aerodromes shall be levied as a charge per arriving and departing flight and taking account of the aircraft weight by applying the same weight factor as for en route air navigation services.

The number of service units for the flight shall be equal to the weight factor.

For each departure or arrival, the charge shall be equal to the product of the unit rate for the aerodrome in question and of the number of service units for the flight.

4. The costs of en route air navigation services made available to flights performed under VFR shall be recovered from airspace users by means of a charge per flight or by means of an annual charge.
5. Flights performed partly under VFR within a given charging volume of airspace shall be subject to en route air navigation charges levied for IFR flights.
6. For the purpose of charging air navigation services made available at aerodromes, Member States may define groups of aerodromes. Where applicable, Member States shall justify cross-subsidy between aerodromes for objectives reasons.

Member States shall consult airspace users before defining or subsequently modifying groups of aerodromes. Impact assessments on air navigation charges shall be made available to airspace users in due time before consultations. Member States shall provide airspace users with, and make public, written reports on the consultations.

**Article 7**  
**Calculation of unit rates**

1. Member States shall calculate a unit rate of charge for each charging volume of airspace and for each aerodrome or group of aerodromes.
2. Except for services subject to an independent economic regulation as referred to in Article 10, the unit rate shall be calculated for each charging volume of airspace and for each aerodrome or group of aerodromes, by dividing the corresponding forecast number of service units into the corresponding forecast full costs for the same year. For the calculation of the unit rate, amounts carried over from previous financial years as a result of differences between actual costs incurred and revenues shall be added to the forecast full costs for the year, to ensure that only actual full costs are eventually recovered.

**Article 8**  
**Adoption and approval of unit rates**

1. Each Member State shall, on an annual basis :
  - a) prior to the approval of the unit rates for the common charging scheme, adopt the unit rates in respect of en route air navigation services;
  - b) adopt and approve the unit rates in respect of air navigation services made available at aerodromes.
2. Notwithstanding the above provision, Member States may set their unit rates in advance for a period not exceeding five years.

The cumulated amounts as results of differences between actual revenues and costs incurred for the years preceding that period, and that have not yet been carried forward, shall be carried over to that period.

3. Member States setting their unit rates in advance for a period not exceeding five years and, where applicable, independent regulators as referred to in Article 10, shall conduct periodic reviews of air navigation charges and shall set in advance, for a period not exceeding five years, conditions to determine the level of the unit rate in each year of the period. In the event of exceptional circumstances, an interim adjustment to these conditions may be introduced.
4. Prior to the beginning of each period, or when an interim adjustment is introduced, the Member State shall ensure that:
  - a) Adequate information is made available to airspace users to enable them to participate in informed consultation;
  - b) There is appropriate and meaningful consultation between the air navigation service provider and airspace users and, where applicable, the independent regulator, so as to determine sound and justifiable projections and principles to be applied in setting regulatory conditions on the level of the unit rate.

**Article 9**  
**Incentives**

1. Member States may implement incentive schemes on a non-discriminatory basis to support improvements in the provision of air navigation services, such as increased system-wide capacity and reduction of delays, while maintaining an optimum safety level.
2. Incentive schemes may apply to:
  - a) Air navigation service providers for specific projects or investment approved by Member States on the basis of comprehensive economic appraisals taking account of the full costs of the projects or investments including restructuring costs and write-off of redundant fixed assets, and of the resulting savings or benefits expected over their operating lives.

Member States may implement these incentives either through grants, subsidised loans, temporary fiscal reductions, or, notwithstanding the provisions of Article 3(9), through temporary higher remuneration of the capital invested in the specific projects.
  - b) Air navigation service providers, for performances and services delivered within a certain time frame and subject to an independent economic regulation as referred to in Article 10.
  - c) Airspace users with a view to optimising the use of air navigation services, through modulations of air navigation charges.
3. Any incentive scheme shall be limited in time, scope and amount. The savings generated by the operational efficiency improvements shall at least offset the cost of incentives within a reasonable timeframe.
4. Member States implementing an incentive scheme shall ensure that:
  - a) Comprehensive and transparent accounting of the incentive scheme has been arranged;
  - b) Both the project or investment and the incentive scheme have been subject to advance, transparent and substantive user consultation.
5. During the period of application of an incentive scheme, Member States concerned shall regularly inform airspace users, the Commission and EUROCONTROL on its impact on air navigation charges, on the related investments and on the benefits arising from these investments.

**Article 10**  
**Economic oversight**

1. Member States are responsible for the economic oversight of the provision of air navigation services with the objectives, in particular, to:
  - Ensure that there is no distortion of competition between air transport undertakings;
  - Ensure that there is no abuse of dominant position resulting from statutory monopolies of the provision of air navigation services;
  - Ensure the transparency as well as the availability and presentation of the relevant financial and operational data required to determine the basis for charges;
  - Ensure the delivery of cost-efficient air navigation services;
  - Ensure that targets relating to quality and level of services are met;
  - Encourage investments to meet future demand;
  - Ensure that the views of airspace users are adequately taken into account through effective consultation.

Member States shall exercise their economic oversight in accordance with their national legislation.

In exercising this responsibility, Member States shall ensure the transparency of their own processes by making public their related decisions and the reasons for them, in good time and to all parties concerned.

2. Where Member States set up an independent economic regulator, separate from air navigation service providers and airspace users, and whose objectives include the provision of incentives through the charging mechanism to encourage an efficient and effective service at the lowest possible cost, Member States shall ensure that the independent regulator has not a conflict of interest in respect to the financial performance of either air navigation service providers or airspace users.
3. Before implementing an independent economic regulation or subsequently revising the independent regulator's objectives and duties, Member States shall consult air navigation service providers, airspace users, the Commission and EUROCONTROL. Following this consultation, Member States shall publish the independent regulator's objectives and duties.
4. Member States shall make provision for a suitable appeal mechanism where this is consistent with their national legal systems.

**Article 11**  
**Common projects**

1. Within their respective competences, the Commission, EUROCONTROL and Member States may identify common projects designed to assist specific categories of airspace users and/or air navigation service providers in order to improve collective air navigation infrastructures, the provision of air navigation services and the use of airspace.
2. The merit of each common project shall be assessed on the basis of an independent comprehensive economic appraisal which will take into account the full cost of the investment and operations, including restructuring costs and write-off of redundant fixed assets, and of the resulting savings expected over its operating life.
3. Member States shall launch common projects, provided that:
  - Comprehensive and transparent accounting of the entire project has been arranged;
  - The investment and operating costs and the expected economic benefits have been subject to advance, transparent and substantive user consultation, and to the maximum extent possible, in agreement with airspace users.
4. Air navigation service providers shall make use of facilities or services resulting from common projects and leading to lower operating costs. Duplicated facilities shall be decommissioned and duplicated services shall be discontinued within a reasonable timeframe.
5. Member States concerned shall regularly inform the Commission, EUROCONTROL and airspace users on the progress of each common project and shall report on its financing.

**Article 12**  
**Transparency**

1. In accordance with Article 12 of the Service Provision Regulation, Member States shall ensure that air navigation service providers prepare annual audited financial statements and accounts reflecting clearly the separation of the air navigation services and activities, and explaining the methodology of allocation used.
2. For the purpose of transparency and effective consultation with airspace users on air navigation charges, Member States shall ensure that information is consolidated per charging volume of airspace, as defined in Article 4, and per aerodrome or group of aerodromes, according to standard templates defined in Annex 1 of this Regulation. These templates shall include:
  - a) Historical information on revenues and costs associated with air navigation services as well as explanations on differences between budgeted and actual figures;
  - b) Five-year forecast information on planned costs and services units;
  - c) Planned unit rates including all the supporting information for their calculation;
  - d) Information on the justification for the cost of capital, including the components of the asset base, as defined in Article 3;
  - e) Description of the methods used for allocating costs as defined in Article 5.

Information about costs related to air navigation services shall be disclosed separately for each air navigation service provider and broken down according to the services defined in Article 3(3).

3. This information shall be made available to the Commission, EUROCONTROL and airspace users. This information shall be made available in due time before the consultation as defined in Article 13, but in any case by 1 June with respect to historic information, and by the end of October for forecast information and planned unit rates.
4. This information shall not be considered as information of a confidential nature as identified in Article 18 of the service provision Regulation.
5. Without prejudice to Article 6 of the service provision Regulation, air navigation service providers shall complement the information as defined in this article with appropriate information on their plans to meet projected demand and performance objectives.

### **Article 13** **Consultation of airspace users**

1. Member States and air navigation service providers shall consult airspace users before any changes to the system or unit rates are introduced. The purpose of such consultations is to provide sufficient information to airspace users relating to the proposed unit rates and to give proper consideration to the views of airspace users and the effect the air navigation charges will have on them.
2. Member States and air navigation service providers shall consult airspace users on costs, quality and performances of air navigation services. Related data, including actual and forecast costs, revenue and traffic data as disclosed in accordance with Article 12 as well as impact assessments where appropriate shall be made available to airspace users in due time before the consultation.
3. Consultations at national level shall precede consultations falling within the remit of EUROCONTROL.
4. Member States and air navigation service providers shall provide airspace users with, and make public, written reports on consultations at the national level. Member States shall explain or justify the decisions taken following consultation that are at variance with the views of airspace users.

### **Article 14** **Exemptions**

1. Member States may exempt certain categories of flights from the payment of air navigation charges. These exemptions shall be granted in accordance with the common charging scheme.
2. The costs in respect of exempted IFR flights shall be calculated on the basis of service units generated by exempted flights and of applicable unit rates.
3. Member States shall pay air navigation service providers for the cost of exemptions granted to certain categories of flights, in a transparent manner.
4. Air navigation service providers shall report annually to the national supervisory authorities, the Commission and EUROCONTROL on the cost of exempted flights and on the related payments made by Member States.

**Article 15**  
**Enforcement**

1. Without prejudice to Council Regulation No 2407/92 on licensing of air carriers<sup>5</sup>, and to the common charging scheme, Member States shall establish further enforcement measures in order to ensure prompt and full payment of air navigation charges by airspace users.
2. To this effect, Member States and/or air navigation service providers shall [deny the provision of air navigation services in the airspace under their responsibility to defaulting airspace users (to be further developed)]. The State and/or service provider shall act upon the request of EUROCONTROL in respect of the recovery of air navigation charges falling within the latter's remit.
3. Member States shall inform EUROCONTROL on the enforcement measures applied and on enforced recovery actions taken at the request of EUROCONTROL.

**Article 16**  
**Compliance monitoring**

1. In the context of the inspections and surveys referred to in Article 2(2) of the service provision Regulation, national supervisory authorities shall verify compliance with the requirements of this Regulation on a regular basis and at least once per year.
2. National supervisory authorities shall be in a position to verify compliance with the requirements of this Regulation at the request of airspace users on a particular allegation of non-compliance or non-application.
3. Where the inspections carried out in accordance with paragraph 1 reveal that the requirements of the present regulation are not complied with, national supervisory authorities shall take a decision within one month requesting the service provider to take corrective action within a given timeframe. The decision shall immediately be notified to the Commission and EUROCONTROL.
4. Without prejudice to paragraphs 1, 2 and 3 above and Article 16(2) of the service provision Regulation, EUROCONTROL shall also provide for ongoing and ad-hoc reviews of compliance when requested by Member States, the Commission or users organisations, in accordance with the common charging scheme.

**Article 17**  
**Transitional arrangements**

Article 4(4) shall enter into force only X months after the publication of the regulation governing the functional airspace blocks in the Official Journal of the European Union.

---

<sup>5</sup> OJL 240, 24.08.1992

**Article 18**  
**Entry into force**

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

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

- end -

DRAFT

## STANDARD TEMPLATE

## Article 12(2)

State(s) :

Charging volume of airspace/aerodrome/group of aerodromes:

Issued by:

For the purpose of transparency and effective consultation with airspace users on air navigation charges, in accordance with Article 12(2), Member States shall consolidate information per charging volume of airspace, as defined in Article 4, and per aerodrome or group of aerodromes, according to this standard template.

Templates shall be accompanied by comments explaining the submitted figures, the calculation of the cost of capital and the methodologies of allocation used. Other supporting documents including Published accounts and reconciliations between Published accounts and submitted figures shall be made available on request. Detailed financial information at air navigation service provider level, including that provided for performance review, shall complement these data.

**Table n°1: UNIT RATE CALCULATION**  
Per charging volume of airspace/aerodrome/group of aerodromes

	(n-2) A	(n-1) A	(n) A	(n+1) F	(n+2) F	(n+3) P	(n+4) P	(n+5) P	(n+6) P
<b>Unit rate (in euros)</b>									
(a) Total costs (1) excl. Eurocontrol costs	% i/i-1								
(b) Eurocontrol costs	% i/i-1								
(c) Costs VFR (2)	% i/i-1								
(d) IFR cost-base = (a)+(b)-(c)	% i/i-1								
(e) Amounts carried-over to year i	% i/i-1								
(f) Total IFR service units (3)	% i/i-1								
(g) Unit Rate = [(d)-(e)] / (f)	% i/i-1								

(1) As presented in national currency in Table(s) 2

(2) Costs allocated to VFR flights that are not charged like IFR flights

(3) Including service units in respect of VFR flights charged like IFR flights

<b>Unit rate (in national currency)</b>									
(h) Exchange rate (1 EUR=)	% i/i-1								
(i) Unit Rate	% i/i-1								

<b>Balance to be carried over (in national currency)</b>									
(j) Charges billed to users	% i/i-1								
(k) Revenue foregone for exempted IFR flights	% i/i-1								
(l) IFR cost-base = (d)*(h)	% i/i-1								
(m) Amounts carried-over to year i = (e)*(h)	% i/i-1								
(n) Balance of year i = (j)+(k)- [(l)-(m)]	% i/i-1								

**Table n°2-# : TOTAL COSTS (excluding EUROCONTROL costs)**  
**Per charging volume of airspace/aerodrome**

**Charging volume of airspace volume/aerodrome-#:**

(n-2) A	(n-1) A	(n) A	(n+1) F	(n+2) F	(n+3) P	(n+4) P	(n+5) P	(n+6) P
---------	---------	-------	---------	---------	---------	---------	---------	---------

**By nature (in national currency)**

Staff	% i/i-1								
Other Operating Costs	% i/i-1								
Depreciation	% i/i-1								
Cost of Capital	% i/i-1								
Exceptional items	% i/i-1								
Total costs	% i/i-1								

**By service (in national currency)**

ATM	% i/i-1								
CNS	% i/i-1								
AIS	% i/i-1								
MET (1)	% i/i-1								
MET core services	% i/i-1								
SAR (2)	% i/i-1								
SAR other (3)	% i/i-1								
NSA and other States costs (4)	% i/i-1								
Total costs	% i/i-1								

(1) MET services exclusively needed to meet aeronautical requirements, core services excluded

(2) SAR facilities and services designated exclusively to perform aeronautical SAR functions

(3) SAR facilities and services that are not designated exclusively to perform aeronautical SAR functions

(4) National supervisory authorities and/or other recognised organisations, other costs incurred by the State(s)

(n-2) A	(n-1) A	(n) A	(n+1) F	(n+2) F	(n+3) P	(n+4) P	(n+5) P	(n+6) P
---------	---------	-------	---------	---------	---------	---------	---------	---------

**Complementary information on the cost of capital (in national currency)**

Average operating capital	% i/i-1								
Of which, average long term assets	% i/i-1								
Cost of capital before tax (%)	% i/i-1								

**Table n°3-# : Commentary**  
**Per charging volume of airspace/aerodrome**