

Noise-related operating restrictions at Community airports - consultation paper

Contents

- Directive 2002/30/EC - response required by the end of October 20022**
- Introduction 2
- Background 3
- To which airports does the Directive apply? 3
- General Approach to Implementing the Directive 4
- Who then should make the assessments? 4
- Environmental objectives 5
- Noise measurement 5
- Exemptions 5
- Appeals 6
- Enforcement 6
- Other Issues 6
- Conclusion 6
- Annex A 8**
- Annex B - List of Consultees 16**
- Annex C - The consultation criteria 18**

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Directive 2002/30/EC - response required by the end of October 2002

Proposals for implementing European Directive 2002/30/EC on rules and procedures for introducing noise-related operating restrictions at Community airports

Introduction

1. This Directive repeals the EU's so-called Hushkits Regulation EU 925/1999 and replaces it with an airport based approach to noise management. It came into force on 28 March 2002. Member States are required to introduce the legal and administrative provisions necessary to comply with it by 28 September 2003.

2. This document outlines the Governments proposals for implementing the Directive in the UK, and invites comments. A decision will be taken on the most appropriate legal mechanism to implement the Directive in the light of consultation responses.

3. A copy of the Directive is attached at annex A. You are advised to consider the full text of the Directive before responding. A list of consultees is attached at Annex B.

4. In particular this document seeks views on:

(i) Whether the general approach, outlined in paragraphs 11 and 12, is appropriate. Essentially this would mean the Secretary of State for Transport would maintain responsibility for noise issues at the designated airports¹¹ and the individual airport operator would do so at all other airports.

(ii) Following on from this, whether the Secretary of State and airport operators, as competent authorities, should exercise the responsibilities under the Directive detailed in paragraphs 13 and 14.

(iii) Who should be the authority responsible for granting exemptions for a) developing countries (paragraph 17); and b) aircraft operations of an exceptional nature (paragraph 18).

(iv) What should be the appeals procedure required under the Directive (paragraphs 20-22).

(v) Who should be the body responsible for the enforcement of the Directive under UK legislation (paragraph 23).

(vi) The need for further information and guidance (paragraph 24).

Any views you may have on other issues concerned with the implementation and administration of this Directive are also welcome.

Background

5. The International Civil Aviation Organisation (ICAO) unanimously adopted a resolution (A33-7) on environmental policies and practices at its 33rd Assembly in September/October 2001. It represents the most up-to-date international agreement on environmental policy for aviation. Among other things Resolution A33-7 emphasises the need for states to adopt a **balanced approach** to aircraft noise management.

6. The balanced approach comprises four **equally important** elements:

- reducing noise at source (taking account of the effect of existing and foreseeable noise standards for engines)

- using operational noise abatement procedures (in other words flying aircraft as quietly as possible, consistent with safe operation)

- using land-use planning and management policies to prevent or limit noise sensitive development around airports

- restricting, and *in extremis* banning, aircraft from operating (operating restrictions).

7. The Directive builds upon the operating restrictions part of Resolution A33-7. While the Directive is consistent with the Resolution and shares many common features, the two are not absolutely identical. The Directive introduces some refinements to reflect the European situation, such as the concept of *marginally compliant* subsonic jet aeroplanes. And to enable local solutions to be developed to local problems where appropriate, it allows member states some flexibility in *how* the Directive is implemented and administered. This consultation is concerned with how UK should use this flexibility, *not* with the content of the Directive itself.

To which airports does the Directive apply?

8. The Directive applies to civil airports in the EU with more than 50,000 movements a year by civil subsonic jet aircraft with a maximum take-off mass of 34,000 kg or more, or with more than 19 passenger seats. The airports below appear to be those in the UK that currently meet the definition, although others could do so in future as air traffic grows:

Birmingham
Edinburgh
London Gatwick
London Heathrow
London Stansted
Glasgow
Luton
Manchester

Statistics of aircraft movements within this definition are not currently collated. Your views on who this responsibility should rest with would be welcomed.

The Directive also applies to two "city airports" in the UK - Belfast City and London City - and contains provisions to enable further city airports to be added.

9. Note especially that the Directive does **not** require any action to counter noise to be taken at these ten airports. Rather it *prescribes a process to be followed* in the event such action is contemplated. In essence, when changes to existing measures, or the introduction of new measures, to control noise are being contemplated at these airports it requires:

- assessment of a range of options in order to find the most appropriate measure(s) for managing noise at the individual airport.
- certain information (detailed in Annex II of the Directive) to be taken into account where operating restrictions appear necessary and justified on the basis of the assessment. This information is basically an

inventory of current noise mitigation measures, and a forecast of the noise effect at the airport with and without the introduction of the proposed new measures. The information must be collected and considered so far as appropriate and possible for the operating restrictions concerned and the characteristics of the airport.

10. The Directive requires that any operating restrictions aimed at withdrawing noisy aircraft at individual airports are limited to **marginally compliant** types, defined as *civil subsonic jet aeroplanes that meet the ICAO certification limits laid down in Chapter 3 of Annex 16 by a cumulative margin of not more than 5 Effective Perceived Noise in decibels* (EPNdB levels are weighted to simulate how the human ear hears aircraft noise). City airports may adopt a more stringent definition of "marginally compliant aeroplane". Aircraft certified or recertified as meeting the ICAO Chapter 4 standards, which comes into effect for new aeroplane types from 1 January 2006, cannot be withdrawn for noise reasons at any airport to which the Directive applies.

General Approach to Implementing the Directive

11. At present the Secretary of State for Transport is responsible for aircraft noise policy at national level. But the Secretary of State is only directly involved in measures to control aircraft noise at Heathrow, Gatwick and Stansted airports which are designated under Section 80 for noise purposes (Section 78) of the Civil Aviation Act 1982. At all other UK airports, the Government currently looks to the airport operator to achieve a reasonable balance between the legitimate needs of operations at the airport and the legitimate interests of those affected by them and any conditions as to noise applied by virtue of the development planning system. The rationale is that, given the wide variation in circumstances, measures to counter the noise impact are best discussed and resolved locally. Designation under the 1982 Act remains as a last resort if the Secretary of State considers that direct intervention from central government is necessary to deal with a local noise problem.

12. Given this, and the specialised and relatively limited scope of the Directive, the Government does not believe it necessary or justifiable to establish a new body to act as a "competent authority" to oversee its implementation. We believe rather that in implementing the Directive we should build on existing practice and expertise as much as possible. This will capitalise on experience of managing aircraft noise and minimise the cost of implementation.

Who then should make the assessments?

13. The Government proposes that responsibility for undertaking the assessments required by the Directive and for reaching any consequent decision about operating restrictions (which may include prohibiting the noisiest aircraft from the airport either at certain times or completely) should rest with:

- ***the Secretary of State for Transport***, in the case of airports designated for the purposes of Section 78 of the Civil Aviation Act 1982 (currently the three London airports - Heathrow, Gatwick and Stansted)
- ***the airport operator***, in the case of all other (i.e. non-designated) airports to which the Directive applies.

The Directive does not refer to ground noise and the airport operator would continue to be responsible for dealing with ground noise in all cases, including at the designated airports.

14. It would reasonably follow that the Secretary of State or the airport operator (as appropriate), who would be "competent authorities" under Article 3 of the Directive, and as such, should also deal with some other associated requirements, including

setting out the environmental objective(s) for the airport in so far as they relate to noise (see paragraph 15 below)

adopting a balanced approach to dealing with noise problems at the airport (Article 4.1)

taking into account the likely costs and benefits of the various measures available as well as "airport-specific characteristics" (Article 4.2).

ensuring the measures taken are no more restrictive than necessary to meet the airports environmental objective and do not discriminate between different carriers or manufacturers on grounds of nationality or identity (Article 4.3)

proposing operating restrictions based on the noise performance of the aircraft as determined by the ICAO certification procedure, as appropriate (Article 4.4)

taking account of the information in Annex II of the Directive, as far as appropriate and possible, when considering operating restrictions on aircraft (Article 5)

following the rules on assessment and consulting interested parties (Article 5,6 & 10)

giving public notice, including reasons, to all interested parties (which include the European Commission and other member states) on introducing at the airport any new operating restriction aimed at withdrawing marginally compliant aircraft (Article 11)

Environmental objectives

15. The Directive does not set environmental objectives but makes it clear that action taken to deal with noise at an airport needs to be related to the environmental objective(s) of that airport (Article 4(3)). Subject to any planning or other relevant conditions, airport operators in the UK are currently free to set (and review) their objectives in consultation with interested parties, including local residents, taking into account the Governments wider environmental policy objectives and to relevant guidance that may emanate from other authoritative sources such as ICAO. At the airports affected by the Directive consultation is normally given effect through an airport consultative committee. The Department encourages the airport operator to publish its objectives and progress towards their realisation as part of the operators annual reporting on environmental matters. These arrangements are not currently subject to central direction and the Directive would not seem to justify changing this, but your views would be welcome.

Noise measurement

16. There may be merit in encouraging competent authorities to carry out noise assessments using the *Lden* and *Lnight* metrics as this will be required by the separate EU Directive 2002/49/EC relating to the assessment and management of environmental noise^[2] and should be used 'where available' as stated in paragraph 4.2 of Annex II of Directive 2002/30/EC. Although the requirements 2002/49/EC do not apply until 2006, *Lden* and *Lnight* information will be available from an earlier date.

Exemptions

Developing Country Exemptions

17. Article 8 exempts marginally compliant aircraft registered in developing countries from a withdrawal decision up to 2012. This exemption is restricted to aircraft certificated to Chapter 3 standards and used at the airport concerned between 1 January 1996 and 31 December 2001. The aircraft must also have been on the register of the developing country then and continue to be operated by a recognised body established in that country. The Directive does not offer a definition of a "developing country", but this issue arose in implementing the phase-out of Chapter 2 aircraft and one possibility would be to adopt the definition used then. Under Directive 92/14/EC a developing nation was defined as a state which appears either in Part 1 of the current OECD list of developing states and/or the United Nations Development programme and United Nations Less Developed Country lists. Views on whether this definition or some other should be used would be welcome.

Exemptions for aircraft operations of an exceptional nature

18. Under Article 9 Member States may authorise, in individual cases, the operation of marginally compliant aeroplanes at airports which could not otherwise be permitted. The grounds under which these exemptions may be granted is limited by the Directive. Such authorisation must be limited to aircraft whose individual operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption, and to aircraft on non-revenue flights for the purpose of alterations, repair or maintenance.

19. The Government currently envisages that requests for exemption are likely to be few not least because such aircraft would almost certainly be able to use another airport where their operation is not prohibited. Some experience in authorising exemptions on similar grounds was garnered during the phase-out of Chapter 2 aircraft and largely resides in the Civil Aviation Authority (CAA). The Government therefore considers that the CAA under Article 9 might be an appropriate body for deciding whether particular aircraft or movements qualify for exemptions. In the case of such exemptions, the CAA could, as under the Chapter 2 arrangements, be required to consult the Secretary of State first if they are minded to authorise an exemption. At non-designated airports, operators themselves could perhaps be another possibility for taking decisions on whether to authorise exemptions, again with a requirement to consult the Secretary of State if minded to authorise such an exemption. Consultees may have views on these or perhaps other suggestions.

Appeals

20. Article 12 requires an appeal procedure against decisions to introduce operating restrictions aimed at the withdrawal of marginally compliant aircraft and certain (minor) changes to existing operating restrictions under Articles 6 & 7(b). The Directive requires that the appeals body cannot be the same body which took the decision and the choice should accord with national legislation and practice. The appeals body in the UK could be the courts, independent arbitrators or mediators, the CAA, perhaps the Secretary of State or a body set up specifically to deal with such appeals.

21. It seems unlikely that the total number of decisions would be large. That suggests it would be difficult to justify establishing a new dedicated appeals body. The independence of the Secretary of State could be open to challenge and in some cases he could not act anyway if, as proposed, he himself were partly responsible for taking the decision being appealed. The Government suggests appeal body should be an arbitrator or mediator agreed between the parties to the dispute or, in the absence of such agreement, the courts.

22. In addition to views on this proposal, comments on the appropriate procedure would also be appreciated. For example, should there be a time limit for lodging an appeal and if so what? What if any safeguard could be considered against an appeal being entered merely automatically or mischievously?

Enforcement

23. Under existing UK legislation the CAA (or someone authorised by the CAA) has powers to request that noise certification documents be produced, to inspect aircraft and ultimately to prevent non-compliant aeroplanes from taking off or landing at UK airports. The Government therefore considers that, in the unlikely event an aircraft operator failed to comply with a notified decision prohibiting the aircraft at a particular airport, the Authority could similarly be the appropriate body for enforcement purposes. But could airports enforce their decisions themselves? What would be the advantages/disadvantages? And is there some other body that could be considered?

Other Issues

24. If further clarification or advice on other aspects of implementing of the Directive might be helpful please let us know. We will then try to identify the most appropriate way to meet the requirement, if necessary, in consultation with the European Commission and others.

Conclusion

25. Please send any comments you may have to myself at the above address by the end of October 2002 at the latest. If you would like further information, please contact either myself or Matthew Griffin [telephone

020 7944 4874, email
matthew.griffin@dft.gsi.gov.uk].

The consultation document has been drafted in accordance with the Cabinet Offices Code of practice on written consultation. A copy of the criteria from the Code is attached at Annex C at the end of this document. The code may be viewed on the Cabinet Offices web site at:
<http://www.cabinet-office.gov.uk/servicefirst/index/consultation.htm>

If you have any complaints about the consultation process, these should be addressed to Michael Prior at The Office of the Deputy Prime Minister, 6/J10, Eland House, Bressenden Place, London, SW1E 5DU or by email michael.prior@odpm-dft.gsi.gov.uk.

Please note that your responses may be made public, unless you explicitly request that it should not. Copies of responses will be made available on request following the close of the consultation. An administrative charge may apply.

Yours faithfully,

L Britton
Aviation Environmental Division 1

[1] For an explanation of the term designated airport see para. 11

[2] This Directive concerns noise from road, rail and major airports (defined differently from "airport" in 2002/30/EC) and from industry. It requires the determination of exposure to environmental noise through noise mapping and the adoption of local action plans based on these mapping results to prevent or reduce environmental noise where necessary. Further information on 2002/49/EC can be obtained from Ed Beard at the Department for Environment Food and Rural Affairs, Zone4/H16, Ashdown House, 123 Victoria Street, London, SW1E 6DE.
(tel 020 7944 3107, fax 020 7944 6300), or e-mail at Edmund.Beard@defra.gsi.gov.uk)

Annex A

Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Having regard to the opinion of the Committee of the Regions (3),

Acting in accordance with the procedure laid down in Article 251 of the Treaty (4), Whereas:

- (1) A key objective of the common transport policy is sustainable development. This requires an integrated approach aimed at ensuring both the effective functioning of the Community's transport systems and the protection of the environment.
- (2) Sustainable development of air transport necessitates the introduction of measures aimed at reducing the noise nuisance from aircraft at airports with particular noise problems.
- (3) A new, more stringent noise certification standard, defined in Volume 1, Part II, Chapter 4 of Annex 16 to the Convention on International Civil Aviation, has been established within the framework of the International Civil Aviation Organisation (ICAO) and will contribute to an improvement in the noise climate around airports in the longer term.
- (4) The Chapter 4 standard has been established for certification of aircraft and not as a basis for the introduction of operating restrictions.
- (5) The gradual removal of Chapter 2 aeroplanes pursuant to Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)(5) will be completed on 1 April 2002 and new measures will be required to prevent a deterioration in the noise climate after 2002, assuming continued growth of air transport in Europe.
- (6) The use of aeroplanes with a better environmental performance can contribute to a more effective use of available airport capacity and facilitate airport infrastructure development in line with market requirements.
- (7) A common framework of rules and procedures for the introduction of operating restrictions at Community airports, as part of a balanced approach on noise management, will help safeguard internal market requirements by introducing similar operating restrictions at airports with broadly comparable noise problems. This includes assessment of the noise impact at an airport and evaluation of the measures available to alleviate that impact, and selection of the appropriate mitigation measures with the goal of achieving the maximum environmental benefit most cost effectively.
- (8) Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes (6) provides in Articles 8 and 9 for, *inter alia*, publication and examination of new operating restrictions: the relationship of those provisions with this Directive should be set out.
- (9) The legitimate interest of the air transport sector in applying cost-effective solutions for meeting noise management goals should be recognised.
- (10) The 33rd ICAO Assembly has adopted Resolution A33/7 introducing the concept of a "balanced approach" to noise management, thereby establishing a policy approach to address aeroplane noise, including international guidance for the introduction of operating restrictions on an airport-by-airport basis. The "balanced approach" concept of aircraft noise management comprises four principal elements and

requires careful assessment of all different options to mitigate noise, including reduction of aeroplane noise at source, land-use planning and management measures, noise abatement operational procedures and operating restrictions, without prejudice to relevant legal obligations, existing agreements, current laws and established policies.

(11) The balanced approach is an important step towards achieving noise reduction. But if effective and sustainable noise-reduction is to be achieved, more stringent technical standards, such as more stringent noise standards for aircraft combined with action to take noisy aircraft out of service, will also be necessary.

(12) A Directive of the European Parliament and of the Council on the assessment and management of environmental noise (7) which is a horizontal measure covering all modes of transport has introduced a common approach for the assessment and management of environmental noise. It aims at monitoring the environmental problem caused by noise in major agglomerations and in the vicinity of main transport infrastructures, including airports, at making information on environmental noise and its effects available to the public, and at requesting competent authorities to draw up action plans with a view to preventing and reducing environmental noise where necessary and to preserving environmental noise quality where it is good.

(13) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (8) already provides for a comprehensive assessment of airport projects including noise mitigation. This can be considered as meeting, in part, the assessment requirements of this Directive in the case of airport infrastructure extension projects.

(14) Such an assessment may demonstrate that the objectives can only be achieved by a restriction on new services and the gradual withdrawal of aeroplanes that meet the Chapter 3 noise certification standard by a small margin.

(15) The particular noise problems of airports which are located in the centre of large conurbations ("city airports") should be recognised by allowing for the introduction of more stringent rules.

(16) It is necessary to finalise the indicative list of city airports on the basis of information to be provided by Member States.

(17) The extension of airport infrastructure should be facilitated with a view to safeguarding the sustainable development of air transport activities.

(18) It is necessary to allow for the continuation of existing airport-specific noise management measures and for certain technical changes to operating restrictions of a partial nature.

(19) Undue economic hardship for operators from developing countries should be avoided by allowing for the granting of exemptions where appropriate, and such provision should include safeguards to avoid abuse.

(20) It is necessary to ensure transparency and consultation of all interested parties regarding proposals for noise-related measures, including the introduction of new operating restrictions.

(21) Operators should be given a reasonable period of advance notice when new operating restrictions are to be introduced.

(22) Provisions should be adopted to ensure the right of appeal against the introduction of operating restrictions to an appeal body, which may be a court.

(23) The Directive is in accordance with the principles of Subsidiarity and proportionality as set out in Article 5 of the Treaty. The introduction of operating restrictions at Community airports can contribute to the objective of preventing a worsening of the noise climate around airports, but there is a possibility of introducing distortions of competition. The objective can therefore be more effectively achieved by the Community by means of harmonised rules on the introduction of operating restrictions as part of the noise management process. The Directive confines itself to the minimum required in order to achieve this objective and does not go beyond what is necessary for that purpose.

(24) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (9).

(25) The measures provided for by this Directive supersede those provided by Council Regulation (EC) No 925/1999 of 29 April 1999 on the registration and operation within the Community of certain types of civil subsonic jet aeroplanes which have been modified and recertificated as meeting the standards of volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993) (10). That Regulation should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The objectives of this Directive are

- (a) to lay down rules for the Community to facilitate the introduction of operating restrictions in a consistent manner at airport level so as to limit or reduce the number of people significantly affected by the harmful effects of noise;
- (b) to provide a framework which safeguards internal market requirements;
- (c) to promote development of airport capacity in harmony with the environment;
- (d) to facilitate the achievement of specific noise abatement objectives at the level of individual airports;
- (e) to enable measures to be chosen from those available with the aim of achieving maximum environmental benefit in the most cost-effective manner.

Article 2

Definitions

For the purpose of this Directive:

- (a) "Airport" shall mean a civil airport within the Community which has more than 50 000 movements of civil subsonic jet aeroplanes per calendar year (a movement being a take-off or landing), taking into consideration the average of the last three calendar years before the application of the rules of this Directive to the airport in question;
- (b) "City airport" shall mean an airport in the centre of a large conurbation, of which no runway has a take-off run available of more than 2 000 metres and which provides only point-to-point services between or within European states, where a significant number of people are objectively affected by aircraft noise and where any incremental increase in aircraft movements represents a particularly high annoyance in the light of the extreme noise situation. These airports are listed in Annex I. That Annex may be amended in accordance with the procedure laid down in Article 13(3);
- (c) "Civil subsonic jet aeroplanes" shall mean aeroplanes with a maximum certificated take-off mass of 34 000 kg or more, or with a certified maximum internal accommodation for the aeroplane type in question consisting of more than 19 passenger seats, excluding any seats for crew only;
- (d) "Marginally compliant aircraft" shall mean civil subsonic jet aeroplanes, that meet the certification limits laid down in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation by a cumulative margin of not more than 5EPNdB (Effective Perceived Noise in decibels), whereby the cumulative margin is the figure expressed in EPNdB obtained by adding the individual margins (i.e. the differences between the certificated noise level and the maximum permitted noise level) at each of the three reference noise measurement points as defined in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation;

(e) "Operating restrictions" shall mean noise related action that limits or reduces access of civil subsonic jet aeroplanes to an airport. It includes operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, affecting the operation of civil subsonic aeroplanes according to time period;

(f) "Interested parties" shall mean natural or legal persons affected or likely to be affected by, or having a legitimate interest in the introduction of, noise reduction measures, including operating restrictions;

(g) "Balanced approach" shall mean an approach under which Member States shall consider the available measures to address the noise problem at an airport in their territory, namely the foreseeable effect of a reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions.

Article 3

Competent authorities

Member States shall ensure that there are competent authorities responsible for matters falling within the scope of this Directive.

Article 4

General rules on aircraft noise management

1. Member States shall adopt a balanced approach in dealing with noise problems at airports in their territory. They may also consider economic incentives as a noise management measure.
2. When considering operating restrictions, the competent authorities shall take into account the likely costs and benefits of the various measures available as well as airport specific characteristics.
3. Measures or a combination of measures taken under this Directive shall not be more restrictive than necessary in order to achieve the environmental objective established for a specific airport. They shall be non-discriminatory on grounds of nationality or identity of air carrier or aircraft manufacturer.
4. Performance-based operating restrictions shall be based on the noise performance of the aircraft as determined by the certification procedure conducted in accordance with Volume 1 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993).

Article 5

Rules on assessment

1. When a decision on operating restrictions is being considered, the information as specified in Annex II shall, as far as appropriate and possible, for the operating restrictions concerned and for the characteristics of the airport, be taken into account.
2. Where airport projects are subject to an environmental impact assessment pursuant to Directive 85/337/EEC, the assessment carried out in accordance with that Directive shall be considered as meeting the requirements of paragraph 1, provided that the assessment has taken into account as far as possible the information as specified in Annex II to this Directive.

Article 6

Rules on the introduction of operating restrictions aimed at the withdrawal of marginally compliant aircraft

1. If the assessment of all available measures, including operating restrictions of a partial nature, carried out in conformity with the requirements of Article 5 demonstrates that the achievement of the objectives of this Directive requires the introduction of restrictions aimed at the withdrawal of marginally compliant aircraft, the following rules shall apply instead of the procedure laid down in Article 9 of Regulation (EEC) No 2408/92 at the airport under consideration:

(a) six months after the completion of the assessment and decision on the introduction of an operating restriction, no services over and above those operated in the corresponding period of the previous year shall be allowed with marginally compliant aircraft at that airport;

(b) not less than six months thereafter, each operator may be required to reduce the number of movements of his marginally compliant aircraft serving that airport at an annual rate of not more than 20 % of the initial total number of these movements.

2. Subject to the rules on assessment of Article 5, city airports listed in Annex I may introduce measures that are more stringent, in terms of the definition of marginally compliant aircraft provided that these measures do not affect civil subsonic jet aeroplanes that comply, through either original certification or recertification, with the noise standards in Volume 1, Part II, Chapter 4 of Annex 16 to the Convention on International Civil Aviation.

Article 7

Existing operating restrictions

Article 5 shall not apply to:

(a) operating restrictions that were already established on the date of entry into force of this Directive;

(b) minor technical changes to operating restrictions of a partial nature that do not have any significant cost implications for the airline operators at any given Community airport and that have been introduced after the entry into force of this Directive.

Article 8

Exemption for aircraft registered in developing countries

Marginally compliant aircraft registered in developing countries shall, for a period of 10 years after the entry into force of this Directive, be exempted from the provisions of Article 6, provided that:

(a) such aircraft, granted noise certification to the standards specified in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, were used at the airport concerned in the Community between 1 January 1996 and 31 December 2001 ("the reference period"), and

(b) these aircraft were, in the reference period, on the register of the developing country concerned and that they continue to be operated by a natural or legal person established in that country.

Article 9

Exemption for aircraft operations of an exceptional nature

In individual cases, Member States may authorise, at airports situated in their territory, individual operations of marginally compliant aircraft which could not take place on the basis of the other provisions of this Directive.

This exemption is limited to:

(a) aircraft whose individual operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption;

(b) aircraft on non-revenue flights for the purpose of alterations, repair or maintenance.

Article 10

Consultation and transparency

Member States shall ensure that, for the application of Articles 5 and 6, procedures for consultation of interested parties are established in accordance with applicable national law.

Article 11

Prior notice

1. Member States shall ensure that on the introduction of any new operating restriction, public notice, including an explanation of the reasons for introducing it taking into account the appropriate elements of the balanced approach, is given to all interested parties:

- (a) six months before the entry into force of the measures referred to in Article 6 (1)(a);
- (b) one year before the entry into force of the measures referred to in Article 6(1)(b) and (2);
- (c) in the case of measures under Article 6, two months before the scheduling conference for the relevant scheduling-period.

2. Member States shall forthwith inform the other Member States and the Commission of any new operating restriction within the meaning of this Directive that they have decided to introduce at an airport in their territory.

Article 12

Right of appeal

Member States shall ensure the right to appeal against the measures taken pursuant to Article 6 and Article 7(b) before an appeal body other than the authority that has adopted the contested measure, in accordance with national legislation and procedures.

Article 13

Committee

1. The Commission shall be assisted by the Committee instituted by Article 11 of Regulation (EEC) No 2408/92.
2. The Committee may be consulted by the Commission on any matter concerning the application of this Directive.
3. When reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
4. The Committee shall take note of the assessments undertaken by the Member States in accordance with Article 5, and of the measures taken, or intended to be taken, on the basis of these assessments.

Article 14

Information and revision

Member States shall upon request submit information on the application of this Directive to the Commission.

No later than five years after the entry into force of this Directive the Commission shall report to the European Parliament and to the Council on the application of this Directive.

The report shall be accompanied, where necessary, by proposals for revision of the Directive.

It shall contain an assessment of the effectiveness of this Directive, in particular the need to revise the definition of marginally compliant aircraft as laid down in Article 2(d) in favour of a more stringent requirement.

Article 15

Repeal

Regulation (EC) No 925/1999 shall be repealed as from the date of entry into force of this Directive.

Article 16

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 28 September 2003 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 17

Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 18

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 26 March 2002.

For the European Parliament
The President
P. Cox

For the Council
The President
F. Álvarez-Cascos Fernández

(1) OJ C 75 E, 26.3.2002, p. 318.

(2) Opinion delivered on 20 March 2002 (not yet published in the Official Journal).

(3) Opinion delivered on 14 March 2002 (not yet published in the Official Journal).

(4) Opinion of the European Parliament of 13 March 2002 (not yet published in the Official Journal).

Council Decision of 26 March 2002.

(5) OJ L 76, 23.3.1992, p. 21. Directive as last amended by Commission Regulation (EC) No 991/2001 (OJ L 138, 22.5.2001, p. 12).

(6) OJ L 240, 24.8.1992, p. 8.

(7) This Directive is being drawn up and will apply after its adoption.

(8) OJ L 175, 5.7.1985, p. 40. Directive as amended by Council Directive 97/11/EC, (OJ L73, 14.3.1997, p. 5).

(9) OJ L 184, 17.7.1999, p. 23.

(10) OJ L 115, 4.5.1999, p. 1.

ANNEX I

List of city airports

Berlin-Tempelhof
Stockholm Bromma
London City
Belfast City

ANNEX II

Information referred to in Article 5(1)

1. Current inventory

1.1. A description of the airport including information about its capacity, location, surroundings, air traffic volume and mix and runway mix.

1.2. A description of the environmental objectives for the airport and the national context.

1.3. Details of noise contours for the current and previous years - including an assessment of the number of people affected by aircraft noise. Description of the computational method used to develop the contours.

1.4. A description of measures to reduce aircraft noise already implemented: for example, information on land-use planning and management; noise insulation programmes; operating procedures such as PANS-OPS; operation restrictions such as noise limits, night limits/curfew, noise charges; preferential runway use, noise preferred routes/track keeping, and noise monitoring.

2. Forecast without new measures

2.1. Descriptions of airport developments (if any) already approved and in the programme, for example, increased capacity, runway and/or terminal expansion, and the projected future traffic mix and estimated growth.

2.2. In case of airport capacity extension, the benefits of making that additional capacity available.

2.3. A description of effect on noise climate without further measures, and of those measures already planned to lessen that noise impact over the same period.

2.4. Forecast noise contours - including an assessment of the number of people likely to be affected by aircraft noise - distinguish between established residential areas and newly constructed residential areas.

2.5. Evaluation of the consequences and possible costs of not taking action to lessen the impact of increased noise - if it is expected to occur.

3. Assessment of additional measures

3.1. Outline of the additional measures available as part of the different options mentioned in Article 4(1) and in particular an indication of the main reasons for their selection. Description of those measures chosen for further analysis and fuller information on the cost of introducing these measures; the number of people expected to benefit and timeframe; and a ranking of the overall effectiveness of particular measures.

3.2. Assessment of the cost/effectiveness or cost/benefit of the introduction of specific measures, taking account of the socio-economic effects of the measures on the users of the airport: operators (passenger and freight); travellers and local communities.

3.3. An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.

3.4. Reasons for selection of the preferred option.

3.5. A non-technical summary.

4. Relation with the Directive of the European Parliament and of the Council on the assessment and management of environmental noise

4.1. When and where noise maps or action plans have been prepared under the terms of the said Directive these will be used for providing the information required in this Annex.

4.2. The assessment of noise exposure (i.e. establishment of noise contours and number of people affected) shall be carried out using at least the common noise indicators Lden and Lnight as specified in the above mentioned Directive, where available.

Annex B - List of Consultees

Aberdeen Airport
Belfast City Airport
Belfast International Airport
Birmingham International Airport
Bournemouth International Airport
Bristol International Airport
Cardiff International Airport
East Midlands International Airport
Edinburgh Airport
Glasgow Airport
Humberside Airport
Inverness Airport
Kent International Airport
Leeds-Bradford Airport
London City Airport
London Gatwick Airport
London Heathrow Airport
London-Luton Airport
London-Stansted Airport
Manchester Airport Plc
Newcastle International Airport
Norwich Airport
Southampton International Airport
Southend Airport
Teeside International Airport

Airfields Environmental Trust
Airport Operators Association (AOA)
Airports Policy Consortium c/o Surrey County Council
Airportwatch
Association of International Courier & Express Services (AICES)
Aviation Environmental Federation (AEF)
Belfast City Airport Consultative Committee
Birmingham Airport Consultative Committee
British Airports Authority (BAA)
British Air Transport Association (BATA)
British Cargo Airline Alliance (BCAA)
Board of Airline Representatives in the UK (BARUK)
Charter Airline Group of the UK
Civil Aviation Authority (CAA)
Department for Environment Food and Rural Affairs (DEFRA)
Department of Regional Development Northern Ireland
Department of Trade and Industry (DTI)
Edinburgh Airport Consultative Committee
European Commission (DG TREN)
European Regions Airline Association
Federation of Heathrow Anti-Noise Groups
Foreign and Commonwealth Office (FCO)
Freedom to Fly Coalition
Gatwick Airport Consultative Committee
Gatwick Area Conservation Campaign (GACC)
Glasgow Airport Consultative Committee

Green Skies Alliance
Heathrow Airport Consultative Committee
Heathrow Association for the Control of Aircraft Noise (HACAN)
International Air Transport Association (IATA)
London City Airport Consultative Committee
Luton Airport Consultative Committee
Manchester Consultative Committee
National Assembly for Wales
North West Essex & East Herts Preservation Association
Rolls Royce Plc
Royal Aeronautical Society
Scottish Executive
Stansted Airport Consultative Committee
Strategic Aviation Special Interest Group (SASIG)

Annex C - The consultation criteria

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage
2. It should be clear who is being consulted, about what questions, in what time scale and for what purpose
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain
4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.