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COMMISSION REGULATION (EU) No 691/2010

of 29 July 2010

laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services

(Text with EEA relevance)

(OJ L 201, 3.8.2010, p. 1)

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►**M3**	Commission Implementing Regulation (EU) No 1035/2011 of 17 October 2011	L 271	23	18.10.2011
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COMMISSION REGULATION (EU) No 691/2010

of 29 July 2010

laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of 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 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 (the framework Regulation) ([1]) and in particular Article 11 thereof,

Whereas:

(1) Regulation (EC) No 549/2004 requires that a performance scheme for air navigation services and network functions be set up by means of implementing rules.

(2) The performance scheme should contribute to the sustainable development of the air transport system by improving overall efficiency of the air navigation services across the key performance areas of safety, environment, capacity and cost-efficiency, in consistency with those identified in the Performance Framework of the ATM Master Plan, all having regard to the overriding safety objectives.

(3) The performance scheme should provide for indicators and binding targets on key performance areas whereby required safety levels are fully achieved and maintained while allowing for performance target setting in other key performance areas.

(4) The performance scheme should be set up and operated with a long-term view on the high-level societal goals.

(5) The performance scheme should address air navigation services in a gate-to-gate approach including airports with a view to improving the overall performance of the network.

(6) The interdependencies between the national and functional airspace block levels and the network level, as well as the interdependencies between performance targets, all having regard to the overriding safety objectives, should be duly taken into account in the preparation and monitoring of the performance scheme.

([1]) OJ L 96, 31.3.2004, p. 1.

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(7) The performance plans should register the commitment of Member States, for the duration of the reference period, to achieve the objectives of the single European sky and the balance between the needs of all airspace users and supply of services provided by air navigation service providers.

(8) National Supervisory Authorities have a key role to play in the implementation of the performance scheme. Member States should therefore ensure that they are in a position to effectively carry out these additional responsibilities.

(9) The performance plans should describe the measures, such as incentives schemes, aimed at driving the behaviour of stakeholders towards improving performance at national, functional airspace block and European levels.

(10) In circumstances that were unforeseeable at the moment of adopting the performance plans and that are both insurmountable and outside the control of the Member States and the entities subject to the performance targets, the establishment of appropriate alert mechanisms should allow the implementation of adequate measures aiming at preserving the safety requirements as well as the continuity of service provision.

(11) Effective stakeholder consultations should take place at national and/or functional airspace block level, as well as at European Union level.

(12) Having due regard to military mission effectiveness, civil-military cooperation and coordination are of utmost importance in order to achieve the performance objectives.

(13) The performance scheme should be without prejudice to the provisions of Article 13 of Regulation (EC) No 549/2004 aiming at safeguarding essential security or defence policy interests.

(14) Key performance indicators should be selected for being specific and measurable and allowing the allocation of responsibility for achieving the performance targets. The associated targets should be achievable, realistic and timely and aim at effectively steering the sustainable performance of air navigation services.

(15) The implementation of binding performance targets supported by incentives that can be of financial nature requires appropriate link with Commission Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services ([1]).

([1]) OJ L 341, 7.12.2006, p. 3.

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(16) The establishment and implementation of key performance indicators and of performance targets require the appropriate consistency with the safety objectives and standards laid down in Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC ([1]), and its implementing rules together with the measures taken by the European Union to achieve and maintain these objectives.

(17) During the reference periods an effective performance monitoring process should be put in place to ensure that the evolution of performance allows meeting the targets and if necessary introducing appropriate measures.

(18) When adopting European Union-wide performance targets for the first reference period, due account should be taken by the Commission of the actual financial situation of the air navigation service providers resulting in particular from cost-containment measures already taken, in particular since 2009, as well as possible over or under recoveries of route charges to be carried over from preceding years. Due account should also be taken of the progress already achieved by the existing functional airspace blocks.

(19) Pursuant to Article 11(1) of Regulation (EC) No 549/2004, this Regulation should apply to the air traffic management network functions referred to in Article 6 of Regulation (EC) No 551/2004 of the European Parliament and of the Council ([2]) through an appropriate amendment of this Regulation.

(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 necessary measures to improve the overall performance of air navigation services and network functions for general air traffic within the ICAO EUR and AFI regions where Member States are responsible for the provision of air navigation services with a view to meeting the requirements of all airspace users.

([1]) OJ L 79, 19.3.2008, p. 1.
([2]) OJ L 96, 31.3.2004, p. 20.

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2. For the purpose of target setting, this Regulation shall apply to the air navigation services provided by air traffic service providers designated in accordance with Article 8 of Regulation (EC) No 550/2004 of the European Parliament and of the Council [1] and by providers of meteorological services, if designated in accordance with Article 9(1) of that Regulation.

3. Member States may decide not to apply this Regulation to terminal air navigation services provided at airports with less than 50 000 commercial air transport movements per year. They shall inform the Commission thereof. Where none of the airports in a Member State reaches the threshold of 50 000 commercial air transport movements per year, performance targets shall apply as a minimum to the airport with the highest commercial air transport movements.

4. Where a Member State considers that some or all of its terminal air navigation services are submitted to market conditions it shall assess in accordance with the procedures laid down in Article 1(6) of Regulation (EC) No 1794/2006, and with the support of the national supervisory authority, no later than 12 months before the start of each reference period, whether the conditions laid down in Annex I of that Regulation are met. Where the Member State finds that these conditions are met, regardless of the number of commercial air transport movements served, it may decide not to set determined costs under that Regulation nor apply binding targets to the cost efficiency of those services.

5. Pursuant to Article 11(6)(c)(ii) of Regulation (EC) No 549/2004 and Article 15(2)(a) and (b) of Regulation (EC) No 550/2004, and without prejudice to Article 4(2) of the present Regulation, target setting on cost-efficiency shall apply to all determined costs chargeable to airspace users.

6. Member States may also apply this Regulation:

(a) in airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States thereof, and without prejudice to the rights and duties of Member States under the 1944 Chicago Convention on international civil aviation (the Chicago Convention);

(b) to providers of air navigation services which have received the permission to provide air navigation services without certificate, in accordance with Article 7(5) of Regulation (EC) No 550/2004.

[1] OJ L 96, 31.3.2004, p. 10.

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7. Notwithstanding the protection of information provisions of Directive 2003/42/EC of the European Parliament and of the Council [1] and its implementing Regulations Commission Regulations (EC) No 1321/2007 [2] and (EC) Nos 1330/2007 [3], the requirements related to the provision of data as defined in Chapter V shall apply to national authorities, air navigation service providers, airport operators, airport coordinators and air carriers under the conditions set out in Annex IV.

Article 2

Definitions

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

In addition, the following definitions shall apply:

(a) 'Airport operator' means the 'managing body of an airport' as defined in Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports [4];

(b) 'Data' means qualitative, quantitative and other relevant information related to air navigation performance collected and systematically processed by, or on behalf of, the Commission for the purpose of the implementation of the performance scheme;

(c) 'Performance indicators' means the indicators used for the purpose of performance monitoring, benchmarking and reviewing;

(d) 'Key performance indicators' means the performance indicators used for the purpose of performance target setting;

(e) 'Commercial air transport movements' means the sum of take-offs and landings involving the transport of passengers, cargo or mail, for remuneration or hire, calculated as an average over the three years preceding the adoption of the performance plan, regardless of the maximum take-off mass and the number of passenger seats used;

(f) 'Binding target' means a performance target adopted by Member States as part of a national or functional airspace block performance plan and subject to an incentive scheme providing for rewards, disincentives and/or corrective action plans;

(g) 'Air carrier' means an air transport undertaking with a valid operating license issued by a Member State in accordance with European Union Law;

(h) 'Airspace users' representative' means any legal person or entity representing the interests of one or several categories of users of air navigation services;

[1] OJ L 167, 4.7.2003, p. 23.
[2] OJ L 294, 13.11.2007, p. 3.
[3] OJ L 295, 14.11.2007, p. 7.
[4] OJ L 14, 22.1.1993, p. 1.

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(i) ‘Determined costs’ means the costs as defined in Article 15(2)(a) and (b) of Regulation (EC) No 550/2004;

(j) ‘National authorities’ means the regulatory authorities at national or functional airspace block level whose costs are eligible for recovery from airspace users when they are incurred in relation with the provision of air navigation services in application of Article 5(2) of Regulation (EC) No 1794/2006;

(k) ‘Just culture’ means a culture in which front line operators or others are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated;

(l) ‘Airport coordinator’ means the function established at coordinated airports in application of Regulation (EEC) No 95/93;

(m) ‘Performance Monitoring’ means the continuous process of collecting and analysing data in order to measure the actual output of a system versus predefined targets.

Article 3

Performance Review Body

1. Where the Commission decides to designate a Performance Review Body to assist it in the implementation of the performance scheme, such designation shall be for a fixed term consistent with the reference periods.

2. The Performance Review Body shall have the appropriate competence and impartiality to carry out independently the tasks assigned to it by the Commission, in particular in the applicable key performance areas.

3. The Performance Review Body shall assist the Commission in the implementation of the performance scheme, in particular in the following tasks:

(a) the collection, examination, validation and dissemination of performance-related data;

(b) the definition of new or the adaptation of key performance areas, in consistency with those identified in the Performance Framework of the ATM (Air Traffic Management) Master Plan, as referred to in Article 8(1) and the related key performance indicators;

(c) for the second reference period and beyond, the definition of appropriate key performance indicators in order to cover in all key performance areas the performance of the network functions and of air navigation services both in en route and terminal services;

(d) the setting up or the revision of European Union-wide performance targets;

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(e) the setting up of the thresholds for activating the alert mechanisms as referred to in Article 9(3);

(f) the consistency assessment of adopted performance plans, including performance targets, with the European Union-wide targets;

(g) where appropriate, the consistency assessment of the alert thresholds adopted in application of Article 18(3) with the European Union-wide alert thresholds referred to in Article 9(3);

(h) where appropriate, the assessment of the revised performance targets or the corrective measures taken by the Member States concerned;

(i) the monitoring, benchmarking and reviewing of the performance of air navigation services, at national or functional airspace block and European Union level;

(j) the monitoring, benchmarking and reviewing of the performance of the network functions;

(k) the ongoing monitoring of the overall performance of the ATM network, including the preparation of annual reports to the Single Sky Committee;

(l) the assessment of the achievement of the performance targets at the end of each reference period with a view to preparing the following period;

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(m) the assessment of the performance plan of the Network Manager, including its consistency with the European-Union wide performance targets.

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4. Upon the Commission's request, the Performance Review Body shall provide ad hoc information or reports on performance related issues.

5. The Performance Review Body may report and make recommendations to the Commission for the improvement of the scheme.

6. As regards relations with national supervisory authorities:

(a) In order to exercise its function of ongoing monitoring of the overall performance of the ATM network, the Performance Review Body shall obtain from the national supervisory authorities the information necessary in relation with the national or functional airspace block performance plans.

(b) The Performance Review Body shall assist the national supervisory authorities upon their request by providing an independent view of the national or functional airspace block performance issues such as factual comparisons between air navigation service providers operating in similar environments (benchmarking), analyses of changes in performance over the last five years, or analyses of forward-looking projections.

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(c) National supervisory authorities may request the assistance of the Performance Review Body for the definition of ranges of indicative values for national or functional airspace block target setting, taking into account the European perspective. Such values shall be available to national supervisory authorities, air navigation service providers, airport operators and airspace users.

7. The Performance Review Body shall cooperate as appropriate with the European Aviation Safety Agency for the tasks referred to in paragraph 3 when they are related to safety, to ensure consistency with the objectives and standards established and implemented in accordance with Regulation (EC) No 216/2008.

8. In order to exercise its function of ongoing monitoring of the overall performance of the air traffic management network, the Performance Review Body shall develop appropriate working arrangements with the air navigation service providers, airport operators, airport coordinators and air carriers.

Article 4

National supervisory authorities

1. The national supervisory authorities shall be responsible for the elaboration, at national or functional airspace block level, of the performance plans, the performance oversight and the monitoring of performance plans and targets. In carrying out these tasks, they shall act impartially, independently and transparently.

2. Member States shall ensure that national supervisory authorities have, or have access to, the necessary resources and capabilities in all the key performance areas to carry out the tasks provided for in this Regulation, including the investigation powers to perform the tasks referred to in Article 19.

3. Where a Member State has more than one national supervisory authority, it shall notify the Commission which national supervisory authority is responsible for the national coordination and relations with the Commission for the implementation of this Regulation.

Article 5

Functional airspace blocks

1. Member States shall encourage close cooperation between their national supervisory authorities with a view to establishing a performance plan at functional airspace block level.

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2. Where Member States decide to adopt a performance plan at functional airspace block level, they shall:

(a) ensure that the performance plan conforms to the template laid down in Annex II;

(b) notify the Commission which national supervisory authority or body is responsible for the coordination within the functional airspace block and the relations with the Commission for the implementation of the performance plan;

(c) make appropriate arrangements to ensure that:

(i) a single target is established for each key performance indicator;

(ii) the measures referred to in Article 11(3)(d) of Regulation (EC) No 549/2004 are defined and applied during the reference period when targets are not met. For this purpose the annual values in the performance plan shall be used;

(iii) the consequences for meeting or not meeting the targets are suitably allocated within the functional airspace block;

(d) be jointly responsible for the achievement of the performance targets set for the functional airspace block;

(e) in the case where no common charging zone has been established within the meaning of Article 4 of Regulation (EC) No 1794/2006, aggregate the national cost-efficiency targets and provide for information a global figure demonstrating the cost efficiency effort at functional airspace block level.

3. Where Member States of a functional airspace block do not adopt a performance plan with targets at functional airspace block level, they shall communicate for information to the Commission aggregated performance targets highlighting the consistency at functional airspace block level with the European Union-wide performance targets.

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Article 5a

Network Manager

1. The Network Manager established by Article 3 of Commission Regulation (EU) No 677/2011 ([1]) shall carry out the following tasks in relation to the performance scheme:

(a) support the Commission by providing relevant input for the preparation of European Union-wide performance targets before the reference periods and for monitoring during the reference period. In particular, the Network Manager shall draw the Commission's attention to any significant and persistent drops in operational performance;

(b) in accordance with Article 20(5), provide access for the Commission to all data listed in Annex IV;

([1]) OJ L 185, 15.7.2011, p. 1.

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(c) support Member States and air navigation service providers in reaching their performance target during reference periods;

(d) elaborate a performance plan, which shall be adopted as part of the Network Strategy Plan before the beginning of each reference period. This performance plan shall be public and shall:

(i) contain an environment performance target that shall be consistent with the European Union-wide performance target for the entire reference period, with annual values to be used for monitoring purposes;

(ii) contain performance targets for other relevant key performance areas, consistent with the European Union-wide performance targets for the entire reference period, with annual values to be used for monitoring purposes;

(iii) contain a description of the actions planned to meet the targets;

(iv) contain, where necessary or where decided by the Commission, additional key performance indicators and targets.

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Article 6

Coordination with the European Aviation Safety Agency (EASA)

In application of Article 13a of Regulation (EC) No 549/2004 and in accordance with Regulation (EC) No 216/2008, the Commission shall coordinate as appropriate with the EASA:

(a) the safety aspects of the performance scheme, including the setting-up, revision and implementation of key safety performance indicators and European Union-wide safety performance targets as well as the provision of proposals for appropriate actions and measures following the activation of an alert mechanism;

(b) the consistency of the safety key performance indicators and targets with the implementation of the European Aviation Safety Programme as may be adopted by the European Union.

Article 7

Duration of the reference periods

1. The first reference period for the performance scheme shall cover the calendar years 2012 to 2014 included. The following reference periods shall be of five calendar years, unless decided otherwise through amendment of this Regulation.

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2. The same reference period shall apply to European Union-wide performance targets and the national or functional airspace blocks performance plans and targets.

Article 8

Key performance areas and performance indicators

1. For the purpose of target-setting, the possible addition and adaptation of other key performance areas pursuant to Article 11(4)(b) of Regulation (EC) No 549/2004 shall be decided by the Commission in accordance with the procedure referred to in Article 5(3) of that Regulation.

2. For the purpose of target-setting, to each key performance area shall correspond one or a limited number of key performance indicators. The performance of air navigation services shall be assessed by means of binding targets for each key performance indicator.

3. The key performance indicators for European Union-wide target setting, selected for each key performance area, are in Annex I Section 1.

4. The key performance indicators used for establishing the performance targets for the national or functional airspace blocks are in Annex I Section 2.

5. The key performance indicators shall not be changed in the course of a reference period. Changes shall be adopted by amendment of this Regulation at the latest six months before adopting new European Union-wide performance targets.

6. In addition to the key performance areas and key performance indicators referred to in this Article, Member States, at national or functional airspace block level, may decide to set up and use additional performance indicators and associated targets to those set out in Annex I Section 2 for their own performance monitoring and/or as part of their performance plans. These additional indicators and targets shall be supportive of the achievement of the European Union-wide, and resulting national or functional airspace block level targets. They may for example integrate and describe the civil-military or meteorological dimension of the performance plan. These additional indicators and targets may be accompanied by appropriate incentive schemes decided at national or functional airspace block level.

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CHAPTER II

THE PREPARATION OF PERFORMANCE PLANS

Article 9

European Union-wide performance targets

1. The Commission shall adopt European Union-wide performance targets, in accordance with the procedure referred to in Article 5(3) of Regulation (EC) No 549/2004, taking into account the relevant inputs from national supervisory authorities and after consultation of the stakeholders as referred to in Article 10 of that Regulation, other relevant organisations as appropriate and the European Aviation Safety Agency for the safety aspects of the performance.

2. European Union-wide targets shall be proposed by the European Commission at the latest 15 months before the beginning of the reference period and adopted at the latest 12 months before the beginning of the reference period.

3. Together with the adoption of the European Union-wide performance targets, the Commission shall define for each key performance indicator alert thresholds beyond which the alert mechanisms referred to in Article 18 may be activated. Alert thresholds for the cost-efficiency key performance indicator shall cover both traffic and costs evolution.

4. The Commission shall substantiate each European Union-wide performance target with a description of the assumptions and rationale used for setting up these targets, such as the use made of inputs from national supervisory authorities and other factual data, traffic forecasts and, where appropriate, expected levels of efficient determined costs for the European Union.

Article 10

Elaboration of performance plans

1. The national supervisory authorities, at either national or functional airspace block level, shall draw up performance plans containing targets consistent with the European Union-wide performance targets and the assessment criteria set out in Annex III. There shall be only one performance plan per Member State or per functional airspace block when the Member States concerned decide to elaborate a performance plan at functional airspace block level in application of Article 5(1) and (2).

2. To support the preparation of the performance plans the national supervisory authorities shall ensure:

(a) that the air navigation service providers communicate relevant elements of their business plans, prepared in consistency with the European Union-wide targets;

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(b) consultation of the stakeholders in accordance with Article 10 of Regulation (EC) No 549/2004 on the performance plan and targets. Adequate information shall be provided to stakeholders at least three weeks prior to the consultation meeting.

3. The performance plans shall contain, in particular:

(a) the traffic forecast, expressed in service units, to be served for each year of the reference period, with the justification of the figures used;

(b) the determined costs for air navigation services costs set by Member State(s) in accordance with the provisions of Article 15(2)(a) and (b) of Regulation (EC) No 550/2004;

(c) a description of investment necessary to achieve the performance targets with a description of their relevance in relation with the European ATM Master Plan and their coherence with the main areas and directions of progress and change as set out therein;

(d) performance targets in each relevant key performance area, set by reference to each key performance indicator, for the entire reference period, with annual values to be used for monitoring and incentive purposes;

(e) a description of the civil-military dimension of the plan describing the performance of flexible use of airspace (FUA) application in order to increase capacity with due regard to military mission effectiveness, and if deemed appropriate, relevant performance indicators and targets in consistency with the indicators and targets of the performance plan;

(f) a description and justification of how the performance targets referred to in (d) reconcile and contribute to the European Union-wide performance targets;

(g) clear identification of the different entities, accountable for meeting the targets and their specific contribution;

(h) a description of the incentive mechanisms to be applied on the various accountable entities to encourage achievement of the targets over the reference period;

(i) the measures taken by the national supervisory authorities to monitor the achievement of the performance targets;

(j) a description of the outcome of the stakeholder consultation, including the issues raised by the participants as well as the actions agreed.

4. The performance plans shall be based on the template set out in Annex II and may, if the Member States so decide in application of Article 8(6), contain additional indicators with associated targets.

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Article 11

Incentive schemes

1. The incentive schemes applied by Member States as part of their performance plan, shall comply with the following general principles:

(a) they shall be effective, proportional, and credible and shall not be changed during the reference period;

(b) they shall be implemented on a non-discriminatory and transparent basis to support improvements in the performance of service provision;

(c) they shall be part of the regulatory environment known *ex ante* by all stakeholders and be applicable during the entire reference period;

(d) they shall drive behaviour of entities subject to target setting with a view to achieving a high level of performance and meeting the associated targets.

2. Incentives on safety targets shall aim at encouraging that required safety objectives are fully achieved and maintained while allowing for performance improvements in other key performance areas. They shall not be of financial nature and shall consist in action plans with deadlines and/or associated measures in application of Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services [1] and/or implementing rules resulting from Regulation (EC) No 216/2008.

3. Incentives on cost-efficiency targets shall be of financial nature and shall be governed by ►C1 appropriate provisions in Article 11a of Regulation (EC) No 1794/2006 ◄. They shall consist in a risk-sharing mechanism, at national or functional airspace block level.

4. Incentives on capacity targets may be of financial nature or of other nature, such as corrective action plans with deadlines and associated measures, which may include bonuses and penalties, adopted by Member States. Where the incentives are of financial nature, they shall be governed by the provisions of Article 12 of Regulation (EC) No 1794/2006.

5. Incentives on environment targets shall aim at encouraging the achievement of required environmental performance levels while allowing for performance improvements in other key performance areas. They shall be of financial or non-financial nature and shall be decided by Member States taking account of local circumstances.

[1] OJ L 335, 21.12.2005, p. 13.

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6. In addition, Member States, at national or functional airspace block level, may establish or approve incentives schemes on airspace users, as provided for in Article 12 of Regulation (EC) No 1794/2006.

CHAPTER III

THE ADOPTION OF PERFORMANCE PLANS

Article 12

Initial adoption of performance plans

Upon proposal of the national supervisory authorities, Member States, at national or functional airspace block level, shall adopt and communicate to the Commission, at the latest six months after adoption of the European Union-wide targets, their performance plans containing binding performance targets.

Article 13

Assessment of performance plans and revision of the targets

1. The Commission shall assess the performance plans, their targets and in particular their consistency with, and adequate contribution to, the European Union-wide performance targets, on the basis of the criteria laid down in Annex III, taking into appropriate account the evolution of the context that may have occurred between the date of adoption of the European Union-wide targets and the date of assessment of the performance plan.

2. Where performance targets contained in a performance plan are found consistent with, and adequately contributing to, the European Union-wide targets, the Commission shall notify ►C1 the Member State(s) concerned ◄ thereof at the latest four months after reception of the plan.

3. Where performance target(s) contained in a performance plan is/are found not to be consistent with, and adequately contributing to, the European Union-wide targets, the Commission may, at the latest four months after reception of the plan and in accordance with the procedure referred to in Article 5(2) of Regulation (EC) No 549/2004, decide to issue a recommendation to the Member State(s) concerned to adopt revised performance target(s). Such decision shall be taken after consultation of the Member State(s) concerned, and shall identify precisely which target(s) has/have to be revised as well as the rationale of the Commission's assessment.

4. In such case, at the latest two months after the issuance of the recommendation, the Member State(s) concerned shall adopt revised performance targets, taking due account of the Commission's views, together with the appropriate measures for reaching those targets and shall notify the Commission thereof.

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Article 14

Assessment of the revised performance targets and adoption of corrective measures

1. Within ►M4 four months ◄ after notification, the Commission shall assess the revised performance targets and in particular their consistency with, and adequate contribution to, the European Union-wide performance targets, on the basis of the criteria laid down in Annex III.

2. Where the revised targets referred to in Article 13(4) are found consistent with, and adequately contributing to, the European Union-wide targets, the Commission shall notify ►C1 the Member State(s) concerned ◄ thereof at the latest ►M4 four months ◄ after reception of the revised targets.

3. Where the revised performance targets and the appropriate measures are still not consistent with, and adequately contributing to, the European Union-wide targets, the Commission may decide, at the latest ►M4 four months ◄ after reception of the revised targets and in accordance with the procedure referred to in Article 5(3) of Regulation (EC) No 549/2004, that the Member State(s) concerned shall take corrective measures.

4. Such decision shall identify precisely which target(s) has/have to be revised and the rationale of the Commission's assessment. It may contain the level of performance expected for those targets in order to allow the Member State(s) concerned to take the appropriate corrective measures, and/or contain suggestions for such appropriate measures.

5. At the latest two months after the Commission's decision, the corrective measures adopted by the Member State(s) concerned shall be communicated to the Commission, together with the elements showing how consistency with the Commission's decision is ensured.

Article 15

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Performance plans or corrective measures adopted after the beginning of the reference period

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Performance plans or corrective measures adopted after the beginning of the reference period as a result of the implementation of the procedures set out in Articles 13 and 14 shall apply retroactively as from the first day of the reference period.

Article 16

Revision of the European Union-wide targets

1. The Commission may decide to revise the European Union-wide targets in accordance with the procedure referred to in Article 5(3) of Regulation (EC) No 549/2004:

(a) before the beginning of the reference period when it has substantial evidence that the initial data, assumptions and rationales used for setting the initial European Union-wide targets are no longer valid;

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(b) during the reference period, as a result of the application of an alert mechanism as referred to in Article 18.

2. A revision of the European Union-wide targets may result in amendment of the existing performance plans. In such case the Commission may decide an appropriate adjustment of the time schedule set up in Chapters II and III of this Regulation.

CHAPTER IV

MONITORING OF THE ACHIEVEMENT OF PERFORMANCE

Article 17

Ongoing monitoring and reporting

1. The national supervisory authorities, at national or functional airspace block level, and the Commission shall monitor the implementation of the performance plans. If during the reference period targets are not met, the national supervisory authorities shall apply the appropriate measures defined in the performance plan with a view to rectifying the situation. For this purpose the annual values in the performance plan shall be used.

2. Where the Commission witnesses a significant and persistent drop in performance in a Member State or a functional airspace block, affecting other States parties to the single European sky and/or the entire European airspace, it may request the Member States concerned and national or functional airspace block supervisory authority or body concerned to define, apply and communicate to the Commission appropriate measures to achieve the targets set in their performance plan.

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2a. The Commission shall monitor the implementation of the performance plan of the Network Manager. If during the reference period targets are not met, the Commission shall apply the appropriate measures specified in the performance plan with a view to rectifying the situation. For this purpose, the annual values in the performance plan shall be used.

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3. The Member States shall report to the Commission on the monitoring by their national or functional airspace block supervisory authorities of the performance plans and targets at least on an annual basis and when performance targets risk not being achieved. The Commission shall report to the Single Sky Committee on the achievement of performance targets at least on an annual basis.

Article 18

Alert mechanisms

1. Where, due to circumstances that were unforeseeable at the beginning of the period and are at the same time insurmountable and outside the control of the Member States, alert threshold(s) referred to in Article 9(3) is/are reached at European Union level, the Commission shall review the situation in consultation with the Member States

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through the Single Sky Committee and provide proposals for appropriate actions within three months, which may include the revision of the European Union-wide performance targets and as a consequence revision of the national or functional airspace block performance targets.

2. Where, due to circumstances that were unforeseeable at the beginning of the period and are at the same time insurmountable and outside the control of the Member States and the entities subject to the performance targets, alert threshold(s) referred to in Article 9(3) is/are reached at national or functional airspace block level, the national supervisory authority or body concerned shall review the situation liaising with the Commission and may provide proposals for appropriate measures within three months, which may include the revision of the national or functional airspace block performance targets.

3. Member States, at national or functional airspace block level, may decide to adopt alert thresholds different from the ones referred to in Article 9(3), in order to take account of local circumstances and specificities. In such case, these thresholds shall be set out in the performance plans and consistent with the thresholds adopted pursuant to Article 9(3). The deviations shall be supported by detailed justification. When these thresholds are activated, the process set out in paragraph 2 shall apply.

4. Where the implementation of an alert mechanism entails revision of performance plans and targets, the Commission shall facilitate such revision through an appropriate adjustment of the time schedule applicable in accordance with the procedure referred to in Chapters II and III of this Regulation.

Article 19

Facilitation of compliance monitoring

Air navigation service providers shall facilitate inspections and surveys by the Commission and the national supervisory authority(ies) responsible for their oversight, by a qualified entity acting on the latter's behalf, or by EASA in so far as relevant, including site visits. Without prejudice to the oversight powers conferred upon the national supervisory authorities and the EASA the authorised persons shall be empowered:

(a) to examine, in relation with all key performance areas, the relevant documents and any other material relevant to the establishment of performance plans and targets;

(b) to take copies of or extracts from such documents;

(c) to ask for an oral explanation on site.

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.

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CHAPTER V

COLLECTION, VALIDATION, EXAMINATION, EVALUATION AND DISSEMINATION OF INFORMATION RELATED TO AIR NAVIGATION PERFORMANCE FOR THE SINGLE EUROPEAN SKY

Article 20

Collection and validation of data for performance review

1. In addition to the data already collected by the Commission through other European Union instruments and which may also be used for performance review, national authorities, air navigation service providers, airport operators, airport coordinators and air carriers shall ensure the provision to the Commission of the data referred to in Annex IV according to the requirements set out in this Annex.

2. National authorities may delegate or reorganise in full or in part the task of providing the data between their national supervisory authorities, air navigation service providers, airport operators and airport coordinators, with a view to taking into account local specificities and existing reporting channels.

3. The data providers shall take the necessary measures to ensure the quality, validation and timely transmission of the data, including evidence of their quality checks and validation processes, explanations to specific requests of the European Commission related to the quality of the data and, where necessary, action plans to improve data quality. The data shall be provided free of charge, in electronic form where applicable using the format specified by the Commission.

4. The Commission shall assess the quality and validate the data transmitted according to paragraph 1. When the data do not allow proper use for performance review, the Commission may take appropriate measures to assess and improve the quality of the data in cooperation with Member States, and in particular their national supervisory authorities.

5. For the purpose of this Regulation, performance related data referred to in paragraph 1 that is already provided to Eurocontrol shall be deemed to be provided to the Commission. Where this is not the case, the Commission and Eurocontrol shall make the necessary arrangements to ensure that such data is made available to the Commission under the same requirements as described in paragraph 3.

6. Whenever significant new data requirements are identified or insufficient quality data is to be expected, the Commission may carry out pilot studies to be completed on a voluntary basis by the Member States before new data requirements are introduced by amendment of this Regulation. Such pilot studies will be carried out in order to assess the feasibility of the relevant data collection, taking into consideration the benefits of the availability of the data in relation to the collection costs and the burden of respondents.

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Article 21

Dissemination of information

1. The Commission shall disseminate general information for the purpose of the objectives set out in Article 11 of Regulation (EC) No 549/2004 in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ([1]), in particular its Article 4, and with Article 18 of Regulation (EC) No 550/2004.

2. The information included in Article 3(3)(a) shall be publicly available to the interested parties concerned, in particular by electronic means.

3. The annual reports referred to in Article 3(3)(k) shall be publicly available. A reference to those reports shall be published in the *Official Journal of the European Union*. The Commission may decide to provide other general information on a regular basis to the interested parties concerned, in particular by electronic means.

4. The European Union-wide targets referred to in Article 9 and a reference to the adopted performance plans referred to in Chapter III shall be publicly available and published in the *Official Journal of the European Union*.

5. Individual access to specific information, such as validated data and statistics, shall be granted to the data provider to whom the information and activities directly relate.

CHAPTER VI

FINAL PROVISIONS

Article 22

Appeal

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

Article 23

Transitional measures

Where Member States decide to adopt a performance plan with targets at functional airspace block level in the course of the first reference period, they shall ensure that:

(a) the plan supersedes the national plans as from 1 January of one of the years of the reference period;

(b) the duration of the plan does not exceed the remaining duration of the reference period;

([1]) OJ L 145, 31.5.2001, p. 43.

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(c) the plan demonstrates that its performance targets are at least as ambitious as the consolidation of the former national targets.

Article 24

Review of the scheme

The Commission shall review the effectiveness of the process by 1 July 2013. By the end of 2014 and regularly thereafter, the Commission shall review the performance scheme, and in particular analyse the impact, the effectiveness and scope of that system, taking appropriate account of work carried out by ICAO in this field.

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Article 26

Entry into force

1. This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

2. Chapter V shall apply as from 1 January 2011. The first reference period shall start from 1 January 2012.

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

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ANNEX I

KEY PERFORMANCE INDICATORS (KPI)

Section 1: For European Union-wide target setting:

1. SAFETY KEY PERFORMANCE INDICATORS

(a) The first European Union-wide safety KPI shall be the minimum level of the first safety key performance indicator defined in Section 2, point 1(a) below for air navigation services providers and national supervisory authorities respectively.

(b) The second European Union-wide safety key performance indicator shall be the percentage of application of the severity classification of Risk Analysis Tool as defined in Section 2, point 1(b) below in States where this Regulation applies, to allow harmonised reporting of severity assessment of Separation Minima Infringements, Runway Incursions and ATM Specific Technical Events.

(c) The third European Union-wide safety key performance indicator shall be the minimum level of the measure of the just culture at the end of the reference period as defined in Section 2, point 1(c) below.

There shall be no European Union-wide targets for the above key performance indicators in the first reference period. During the first reference period, the Commission shall use the data collected to validate these key performance indicators and assess them with a view to ensuring that safety risk is adequately identified, mitigated and managed. On this basis, the Commission shall adopt new safety key performance indicators if necessary, by revision of this Annex.

2. ENVIRONMENT INDICATOR

2.1. For the first reference period:

The first European Union-wide environment KPI shall be the average horizontal en route flight efficiency, defined as follows:

— the average horizontal en route flight efficiency indicator is the difference between the length of the en route part of the actual trajectory and the optimum trajectory which, in average, is the great circle,

— ‘en route’ is defined as the distance flown outside a circle of 40 NM around the airport,

— the flights considered for the purpose of this indicator are:

(a) all commercial IFR (Instrumental Flight Rules) flights within European airspace;

(b) where a flight departs or arrives outside the European airspace, only that part inside the European airspace is considered,

— circular flights and flights with a great circle distance shorter than 80NM between terminal areas are excluded.

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The second European Union-wide environment KPI shall be the effective use of the civil/military airspace structures, e.g. CDRs (Conditional Routes). For the first reference period, this indicator shall be monitored by the Commission. Target setting shall start as from the second reference period.

2.2. As from the second reference period, a third European Union-wide environment KPI shall be developed to address the specific airport air navigation services (ANS)-related environment issues.

3. CAPACITY INDICATOR

3.1. For the first reference period:

The European Union-wide capacity KPI shall be the minutes of en route ATFM (Air Traffic Flow Management) delay per flight, defined as follows:

(a) the en route ATFM delay is the delay calculated by the central unit of ATFM as defined in Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management ([1]) and expressed as the difference between the take-off time requested by the aircraft operator in the last submitted flight plan and the calculated take-off time allocated by the central unit of ATFM;

(b) the indicator includes all IFR flights within European airspace and covers ATFM delay causes;

(c) the indicator is calculated for the whole calendar year.

In order to prepare the development of a second European Union-wide capacity KPI, the Commission shall collect, consolidate and monitor as from the first reference period:

(a) the total of ATFM delays attributable to terminal and airport air navigation services;

(b) the additional time in the taxi out phase;

(c) for airports with ►C1 more than 100 000 commercial movements ◄ per year the additional time for ASMA (Arrival Sequencing and Metering Area).

3.2. As from the second reference period, a second European Union-wide capacity indicator shall be developed on the basis of the monitoring described in point 3.1 to address the specific airport ANS-related capacity issues.

4. COST-EFFICIENCY INDICATOR

4.1. For the first reference period:

The European Union-wide cost-efficiency KPI shall be the average European Union-wide determined unit rate for en route air navigation services, defined as follows:

(a) the indicator is the result of the ratio between the determined costs and the forecast traffic, expressed in service units, expected for the period at European Union level, as contained in the Commission's assumptions for establishing the European Union-wide targets in application of Article 9(4);

(b) the indicator is expressed in euros and in real terms;

([1]) OJ L 80, 26.3.2010, p. 10.

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(c) the indicator is provided for each year of the reference period.

For the first reference period, terminal air navigation services costs and unit rates shall be collected, consolidated and monitored by the Commission in accordance with Regulation (EC) No 1794/2006.

4.2. As from the second reference period, the second European Union-wide cost-efficiency key performance indicator shall be the average European Union determined unit rate for terminal air navigation services.

Section 2: For national or Functional Airspace Block (FAB) target setting:

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1. SAFETY KEY PERFORMANCE INDICATORS

(a) The first national/FAB safety KPI for the first reference period shall be the effectiveness of safety management as measured by a methodology based on the ATM Safety Framework Maturity Survey.

With regard to Member States and their national supervisory authorities and air navigation service providers, certified to provide air traffic services or communication, navigation and surveillance services, this KPI shall be measured by the level of implementation of the following Management Objectives:

— Safety policy and objectives;

— Safety risk management;

— Safety assurance;

— Safety promotion;

— Safety Culture.

(b) The second national/FAB safety KPI for the first reference period shall be the application of the severity classification below based on the Risk Analysis Tool methodology to the reporting of, as a minimum, three categories of occurrences: Separation Minima Infringements, Runway Incursions and ATM-specific occurrences at all Air Traffic Control Centres and at airports. Member States may decide not to apply the method at airports with less than 50 000 commercial air transport movements per year.

When reporting the above occurrences Member States and air navigation service providers shall use the following severity classes:

— Serious incident

— Major incident

— Significant incident

— No safety effect

— Not determined; for example insufficient information available, or inconclusive or conflicting evidence precluded such determination.

Reporting on the application of the method shall be done for individual occurrences.

(c) The third national/FAB safety KPI for the first reference period shall be the reporting by the Member States and their air navigation service providers through a questionnaire established in accordance with paragraph (e), which measures the level of presence and corresponding level of absence of just culture.

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(d) During the first reference period, there will be no EU wide safety performance targets. However, Member States may set targets corresponding to these Safety KPIs.

(e) In order to facilitate the implementation and measurement of the safety KPIs, EASA – in consultation with the Performance Review Body - shall adopt before the start of the first reference period acceptable means of compliance and guidance material in accordance with the procedure adopted under Article 52 of Regulation (EC) No 216/2008.

(f) Eurocontrol shall provide, in a timely manner, the information needed for the development of the documents referred to in point (e), including at least the specification of the Risk Analysis Tool methodology and its further development and the details of the methodology of the Safety Framework Maturity Survey and its weighting factors.

(g) The yearly measurement of the KPIs referred to in points (a) and (c) (questionnaires on effectiveness of safety management and just culture) by national supervisory authorities and air navigation service providers shall be reported to the EASA for the previous year by the national supervisory authorities before 1st February of each year. These yearly measurements shall be used as input for the monitoring functions described in points (h) and (i). If any changes in the yearly measurement of the KPIs occur the national supervisory authorities shall present those changes before the next yearly report is being due.

(h) National supervisory authorities shall monitor the implementation and measurement of the safety KPIs by air navigation service providers, in accordance with the procedures for safety oversight established in Commission Implementing Regulation (EU) No 1034/2011 ([1]).

(i) In the context of its standardisation inspections the EASA shall monitor the implementation and measurement of the safety KPIs by national supervisory authorities, in accordance with the working methods referred to in Article 24 of Regulation (EC) No 216/2008. The EASA shall inform the Performance Review Body of the outcome of these inspections.

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2. ENVIRONMENT INDICATOR

2.1. For the first reference period, there shall be no mandatory national/FAB environment KPI.

Without prejudice to the local prescriptions on environment, Member States shall also collaborate with the Commission in view of the setting up of an environment KPI to address the specific airport ANS-related environment issues and which shall be implemented as from the second reference period.

2.2. For the second reference period, the national/FAB environment KPI shall be the development of a national/FAB improvement process on route design before the end of the reference period, including the effective use of the civil/military airspace structures (e.g. CDRs).

3. CAPACITY INDICATOR

3.1. For the first reference period:

The national/FAB capacity KPI shall be the minutes of en route ATFM delay per flight. It is defined as follows:

(a) the indicator is defined as in Section 1, point 3.1;

(b) the indicator is given for each year of the reference period.

([1]) OJ L 271, 18.10.2011, p. 15.

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In order to prepare the development of a second national/FAB capacity KPI, Member States shall report as from the first reference period:

(a) the total of ATFM delays attributable to terminal and airport air navigation services;

(b) the additional time in the taxi out phase;

(c) for airports with ►C1 more than 100 000 commercial movements ◄ per year the additional time for ASMA (Arrival Sequencing and Metering Area).

3.2. As from the second reference period, a second national/FAB capacity KPI shall be implemented to address the specific terminal and airport-related capacity issues.

4. COST-EFFICIENCY INDICATOR

4.1. For the first reference period, the national/FAB cost-efficiency KPI shall be the national/FAB determined unit rate for en route air navigation services, defined as follows:

(a) the indicator is the result of the ratio between the determined costs and the forecast traffic contained in the performance plans in accordance with Article 10(3)(a) and (b);

(b) the indicator is expressed in national currency and in real terms;

(c) the indicator is provided for each year of the reference period.

In addition, States shall report their terminal air navigation services costs and unit rates in accordance with Regulation (EC) No 1794/2006 and shall justify to the Commission any deviation from the forecasts.

4.2. As from the second reference period, ►C1 a second national/FAB cost-efficiency KPI ◄ shall be implemented: the national/FAB determined unit rate(s) for terminal air navigation services.

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ANNEX II

TEMPLATE FOR PERFORMANCE PLANS

The national/functional airspace block performance plans shall be based on the following structure:

1. INTRODUCTION

1.1. Description of the situation (scope of the plan, entities covered, national or FAB plan, etc.)

1.2. Description of the macroeconomic scenario for the reference period including overall assumptions ►C1 (traffic forecast, etc.) ◄

1.3. Description of the outcome of the stakeholder consultation to prepare the performance plan (main issues raised by the participants and if possible agreed compromises).

2. PERFORMANCE TARGETS AT NATIONAL AND/OR FUNCTIONAL AIRSPACE BLOCK LEVEL

2.1. Performance targets in each key performance area, set by reference to each key performance indicator, for the entire reference period, with annual values to be used for monitoring and incentive purposes:

(a) **Safety**

— effectiveness of safety management: national/FAB targets as defined in accordance with Annex I, Section 2, point 1(a) for each year of the reference period (optional in the first reference period),

— application of the severity classification of the Risk Analysis Tool: national/FAB targets as defined in accordance with Annex I, Section 2, point 1(b) for each year of the reference period (yes/no values),

— just culture: national/FAB targets as defined in accordance with Annex I, Section 2, point 1(c) for each year of the reference period (optional in the first reference period);

(b) **Capacity**

— minutes of en route ATFM delay per flight;

(c) **Environment**

— description of the national/FAB improvement process on route design (optional in the first reference period);

(d) **Cost-efficiency**

— determined costs for en route and terminal air navigation services set in accordance with the provisions of Article 15(2)(a) and (b) of Regulation (EC) No 550/2004 and in application of the provisions of Regulation (EC) No 1794/2006 for each year of the reference period,

— en route service units forecast for each year of the reference period,

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— as a consequence, the determined unit rates for the reference period,

— description and justification of the return on equity of the air navigation service providers in relation with the actual risk incurred,

— description of investment necessary to achieve the performance targets with a description of their relevance in relation with the European ATM Master Plan and their coherence with the main areas and directions of progress and change as set out therein.

2.2. Description and explanation of the consistency of the performance targets with the European Union-wide performance targets.

2.3. Description and explanation of the carry-overs from the years before the reference period.

2.4. Description of the parameters used by the Member States in the setting of risk-sharing and incentives.

3. CONTRIBUTION OF EACH ACCOUNTABLE ENTITY

3.1. Individual performance targets for each accountable entity.

3.2. Description of the incentive mechanisms to be applied on each entity to encourage the targets being met over the reference period.

4. MILITARY DIMENSION OF THE PLAN

Description of the civil-military dimension of the plan describing the performance of flexible use of airspace (FUA) application in order to increase capacity with due regard to military mission effectiveness, and if deemed appropriate, relevant performance indicators and targets in consistency with the indicators and targets of the performance plan.

5. ANALYSIS OF SENSITIVITY AND COMPARISON WITH THE PREVIOUS PERFORMANCE PLAN

5.1. Sensitivity to external assumptions.

5.2. Comparison with previous performance plan (not applicable for first reference period).

6. IMPLEMENTATION OF THE PERFORMANCE PLAN

Description of the measures put in place by the national supervisory authorities to achieve the performance targets, such as:

— monitoring mechanisms to ensure that the ANS safety programmes and business plans are implemented,

— measures to monitor and report on the implementation of the performance plans including how to address the situation if targets are not met during the reference period.

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ANNEX III

PRINCIPLES TO ASSESS CONSISTENCY BETWEEN EUROPEAN UNION-WIDE AND NATIONAL OR FUNCTIONAL AIRSPACE BLOCK PERFORMANCE TARGETS

The Commission shall use the following assessment criteria:

1. **General criteria**

   (a) Compliance with the requirements related to the preparation and adoption of the performance plan and in particular assessment of the justifications provided in the performance plan;

   (b) Factual analysis taking into account the overall situation of each individual States;

   (c) The interrelations between all performance targets;

   (d) The standards of performance at the start of the reference period and the resulting scope for further improvement;

2. **Safety**

   (a) Effectiveness of safety management: the additional margin for both air navigation service providers and national supervisory authorities, used in the performance plan and assessed by the Commission, shall be equal or higher than to the scores of the corresponding European Union-wide indicator at the end of the reference period (optional in the first reference period);

   (b) Application of the severity classification of the Risk Analysis Tool: consistency of the local key performance indicator as defined in Annex I, Section 2, point 1(b) with the European Union-wide indicator for each year of the reference period;

   (c) Just culture: the level of the national/FAB performance target at the end of the reference period using the key performance indicator defined in Annex I, Section 2, point 1(c) shall be equal to or higher than the European Union-wide target as defined in accordance with Annex I, Section 1, point 1(c) (optional in the first reference period);

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3. **Environment**

   Route design: Not applicable during the first reference period. During the second reference period, assessment of the process on route design used in the performance plan and its consistency with the process for the development of the European Route Network Improvement Plan developed by the Network Manager.

4. **Capacity**

   Delay level: Comparison of the expected level of en route ATFM delay used in the performance plans with a reference value provided by the capacity planning process of Eurocontrol and in the Network Operations Plan of the Network Manager.

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5. **Cost-efficiency**

   (a) Unit rate trend: assessment whether the submitted determined unit rates are foreseen to evolve consistently with the European Union-wide cost-efficiency target and whether they contribute in an adequate manner to the achievement of the aforementioned target during the entire reference period as well as for each year individually;

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(b) Determined Unit rate level: comparison of the submitted local unit rates with the average unit rate of Member States or FABs having a similar operational and economic environment defined by the Commission;

(c) Return on equity: assessment of the return on equity of the air navigation service providers in relation with the actual risk incurred;

(d) Traffic forecast assumptions: comparison of local service unit forecasts used in the performance plan with a reference forecast such as Eurocontrol Statistics and Forecast Service (STATFOR) traffic forecasts;

(e) Economic assumptions: Check that the inflation assumptions used in the performance plan are in line with a reference forecast such as IMF (International Monetary Fund)/Eurostat forecasts.

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ANNEX IV

LIST OF DATA TO BE PROVIDED FOR THE PURPOSE OF THIS REGULATION

1. BY NATIONAL AUTHORITIES:

1.1. **Data set specification**

National authorities shall provide for the purpose of performance review the following data:

(a) information required to comply with the safety key performance indicator referred to in Annex I Section 2 point 1(a);

(b) State Safety Programme as required by Standard 2.27.1 of ICAO Annex 11, Amendment 47-B from 20 July 2009.

In addition, National authorities shall ensure that the following data is available for the purpose of performance review:

(c) data used and calculated by the central unit of ATFM as defined in Regulation (EU) No 255/2010 on ATFM such as flight plans for general air traffic under IFR rules, actual routing, surveillance data, en-route and airport air traffic management delays, exemptions from air traffic flow management measures, respect of air traffic management slots, frequency of conditional route usage;

(d) ATM-related safety occurrences as defined in the Eurocontrol Safety Regulatory Requirement – ESARR 2, Edition 3.0 – entitled 'Reporting and Assessment of Safety Occurrences in ATM';

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(e) NSA safety reports as referred to in Articles 7, 8 and 14 of Commission Implementing Regulation (EU) No 1034/2011 [1] as well as NSA reports on resolution of safety deficiencies identified that are subject to corrective action plans;

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(f) information on safety recommendations and corrective actions taken on the basis of ATM-related incident analysis/investigation in accordance with Council Directive 94/56/EC [2] on accident investigation and Directive 2003/42/EC on occurrence reporting in civil aviation;

(g) information on the elements in place to promote the application of a just culture;

(h) data in support to tasks referred to in Article 4(1)m and (n) of Commission Regulation (EC) No 2150/2005 of 23 December 2005 laying down common rules for the flexible use of airspace (FUA) [3].

1.2. **Periodicity and deadlines for data provision**

Data referred to in 1.1(a), (b), (d), (e), (g) and (h) shall be provided on an annual basis.

Data referred to in 1.1(c) and (f) shall be made available on a monthly basis.

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[1] OJ L 271, 18.10.2011, p. 15.
[2] OJ L 319, 12.12.1994, p. 14.
[3] OJ L 342, 24.12.2005, p. 20.

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2. BY AIR NAVIGATION SERVICE PROVIDERS

This Section applies to air navigation service providers providing services referred to in Article 1(2). In individual cases, National authorities may include air navigation service providers ►C1 below the limits of Article 1(3) ◄. They shall inform the Commission thereof.

2.1. **Data set specification**

Air navigation service providers shall provide for the purpose of performance review the following data:

(a) data referred to in the Eurocontrol Specification titled 'Eurocontrol Specification for Economic Information Disclosure', Edition 2.6 of 31 December 2008 with the reference Eurocontrol-SPEC-0117;

(b) annual reports and performance-related part of the Business plans and the Annual plan established by the air navigation service provider according to Annex I, Sections 2.2 and 9 of ►C1 Regulation (EC) No 2096/2005 ◄;

(c) information required to comply with the safety KPI referred to in Annex I, Section 2, point 1(a);

(d) information on the elements in place to promote the application of a just culture.

2.2. **Periodicity and deadlines for data provision**

Data for year (n) referred to in Article 2(a) shall be provided on an annual basis before the 15th of July of year (n + 1), except for forward looking data which shall be provided by 1st November of year (n + 1). The first reference year (n) shall be 2010.

Data referred to in Article 2(b) and (c) shall be provided on an annual basis.

3. BY AIRPORT OPERATORS

This Section applies to Airport operators providing services at Community airports with more than 150 000 commercial air transport movements per year and to all coordinated and facilitated airports with more than 50 000 commercial air transport movements per year. In individual cases, Member States may include airports below this threshold. They shall inform the Commission thereof.

3.1. **Definitions**

The following definitions shall apply for the purpose of this specific Annex:

(a) 'Airport Identification' means the description of the airport using the standard ICAO 4-letter code as defined in ICAO Doc. 7910 (120th edition – June 2006);

(b) 'Coordination parameters' means the coordination parameters defined in Regulation (EEC) No 95/93;

(c) 'Airport declared capacity' means the coordination parameters which are provided in the form that describes a maximum number of slots per unit of time (block period) that can be allocated by the coordinator. The duration of blocks can vary; in addition several blocks with different duration can be superposed to control the concentration of flights within a certain time period. The use of declared capacity values for the whole season means a fixing of the seasonal airport infrastructure capacity at an early stage;

(d) 'Aircraft Registration' means the alphanumerical characters corresponding to the actual registration of the aircraft;

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(e) ‘Aircraft type’ means an aircraft type designator (up to 4 characters) as indicated in ICAO guidelines;

(f) ‘Flight Identifier’ means a group of alphanumeric characters used to identify a flight;

(g) ‘Encoded aerodrome of departure’ and ‘Encoded aerodrome of destination’ mean the code of the airport using the ICAO 4-letter or the IATA 3-letter airport designator;

(h) ‘Out-Off-On-In time stamps’ means the following data, to the nearest minute:

— scheduled time of departure (off-block),

— actual off-block time,

— actual take-off time,

— actual landing time,

— scheduled time of arrival (in-block),

— actual in-block time;

(i) ‘Scheduled time of departure (off-block)’ means date and time when a flight is scheduled to depart from the departure stand;

(j) ‘Actual off-block time’ means the actual date and time the aircraft has vacated the parking position (pushed back or on its own power);

(k) ‘Actual take off time’ means the date and time that an aircraft has taken off from the runway (wheels-up);

(l) ‘Actual landing time’ means the actual date and time when the aircraft has landed (touch down);

(m) ‘Scheduled time of arrival (in-block)’ means date and time when a flight is scheduled to arrive at the arrival stand;

(n) ‘Actual in-block time’ the actual date and time when the parking brakes have been engaged at the arrival stand;

(o) ‘Flight Rules’ means the rules used in conducting the flight. ‘IFR’ for aircraft flying according to instrument flight rules as defined in Annex 2 to the Chicago Convention or ‘VFR’ for aircraft flying according to visual flight rules as defined in the same Annex. Operational Air Traffic (OAT) for State Aircraft not following the rules defined in Annex 2 to the Chicago Convention;

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(p) ►C1 'Flight type' means the type of flight as defined in Appendix 2 of ICAO Doc 4444 (15th Edition — June 2007); ◄

(q) 'Airport arrival slot' and 'Airport departure slot' mean an airport slot assigned either to an arrival or departure flight as defined in Regulation (EEC) No 95/93;

(r) 'Arrival runway designator' and 'Departure runway designator' mean the ICAO designator of ►C1 the runway used for landing and for take-off ◄ (e.g. 10L);

(s) 'Arrival stand' means the designator of the first parking position where the aircraft was parked upon arrival;

(t) 'Departure stand' means the designator of the last parking position where the aircraft was parked before departing from the airport;

(u) 'Delay causes' means the standard IATA delay codes as defined in Annex 2 to Digest – Annual 2008 Delays to Air Transport in Europe (ECODA) ([1]) with the duration of the delay. Where several causes may be attributable to the flight, the list of delay causes shall be provided;

(v) 'De-icing or anti-icing information' means indication if de-icing or anti-icing operations occurred and if yes, where (before leaving the departure stand or in a remote position after departing the stand, i.e. after off block);

(w) 'Operational cancellation' means an arrival or departure scheduled flight to which the following conditions apply:

— the flight received an airport slot, and

— the flight was confirmed by the air carrier the day before operations and/or it was contained in the daily list of flight schedules produced by the airport operator the day before of operations, but

— the actual landing or take-off never occurred.

3.2. **Data set specification**

3.2.1. Airport operators of coordinated and facilitated airports shall provide the following data:

— Airport Identification,

— Airport declared capacity,

— all coordination parameters pertinent to air navigation services,

— planned level of quality of service (delay, punctuality, etc.) associated to the airport capacity declaration, when established,

— detailed description of the indicators which are used to establish the planned level of quality of service, when established.

([1]) https://extranet.eurocontrol.int/http://prisme-web.hq.corp.eurocontrol.int/ecoda/coda/public/standard_page/codarep/2008/2008DIGEST.pdf

▼B

3.2.2. Airport operators shall provide for the purpose of performance review, the following operational data for each flight landing or taking-off:

— Aircraft Registration,

— Aircraft type,

— Flight Identifier,

— Encoded aerodrome of departure and of destination,

— Out-Off-On-In time stamps,

— Flight Rules and Flight type,

— Airport arrival and departure slot, where available,

— Arrival and departure runway designator,

— Arrival and departure stand,

— Delay causes, where available (only for departing flights),

— De-icing or anti-icing information, where available.

3.2.3. Airport operators shall provide for the purpose of performance review, the following operational data for each operational cancellation:

— Flight Identifier,

— Aircraft type,

— Scheduled airport of departure and of destination,

— Airport arrival and departure slots where available,

— reason for cancellation.

3.2.4. Airport operators may provide for the purpose of performance review:

— voluntary reports regarding degradation or disruption of ANS at airports,

— voluntary reports related to ANS safety occurrences,

— voluntary reports on terminal capacity shortfalls,

— voluntary reports on consultation meetings with ANSPs and States.

3.3. **Periodicity and deadlines for data provision**

Data referred to in 3.2.1 shall be provided twice a year, in accordance with the timescale set out in Article 6 of Regulation (EEC) No 95/93.

When data referred to in 3.2.2 and 3.2.3 is provided, it shall be provided on a monthly basis within one month after the end of the flight month.

Reports referred to in 3.2.4 may be provided at any time.

4. BY AIRPORT COORDINATORS

4.1. **Data set specification**

Airport coordinators shall provide for the purpose of performance review the following data:

Data referred to in Article 4(8) of Regulation (EEC) No 95/93.

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4.2. **Periodicity and deadlines for data provision**

Data shall be made available twice a year, in accordance with the timescale set out in Article 6 of Regulation (EEC) No 95/93.

5. BY AIR CARRIERS

This Section applies to Air carriers which operate within the European airspace more than 35 000 flights per year calculated as the average over the previous three years.

5.1. **Definitions**

5.1.1. The same definitions as in Annex IV point 3.1 shall apply for the purpose of this specific Annex and in addition:

(a) 'Fuel burn' means the actual quantity of fuel that has been burnt during the flight (gate-to-gate);

(b) 'Actual ramp weight' means the actual metric tons of the aircraft before starting the engine.

5.2. **Data set specification**

5.2.1. Air carriers shall provide for the purpose of performance review the following data for each flight they operate within the geographical scope of this Regulation:

— Aircraft Registration,

— Flight identifier,

— Flight Rules and Flight type,

— Encoded airport of departure and of destination,

— Arrival and departure runway designator, where available,

— Arrival and departure stand, where available,

— Out-Off-On-In time stamps both scheduled and actual,

— Delay causes,

— De-icing or anti-icing information, where available.

5.2.2. Air carriers shall provide for the purpose of performance review the data referred to in Annex IV point 3.2.3 for each operational cancellation within the geographical scope of this Regulation.

5.2.3. In addition to the data provided under the requirements of Annex IV, Part B to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ([1]), air carriers may provide to the Commission the following data for each flight they operate within the geographical scope of this Regulation:

— Fuel burn,

— Actual ramp weight.

([1]) OJ L 275, 25.10.2003, p. 32.

▼B

5.2.4. Air carriers may provide for the purpose of performance review:

— voluntary reports regarding access to airspace,

— voluntary report regarding degradation or disruption of ANS at airports,

— voluntary reports related to ANS safety occurrences,

— voluntary reports on en-route capacity shortfalls, level capping or rerouting,

— voluntary reports on consultation meetings with ANSPs and States.

5.3. **Periodicity of data provision**

Data referred to in Annex IV points 5.2.1, 5.2.2 and 5.2.3 shall be provided on a monthly basis.

Reports referred to in point 5.2.4 may be provided at any time.