



Council of the
European Union

Brussels, 22 January 2024
(OR. en)

Interinstitutional File:
2013/0186(COD)

14034/2/23
REV 2

LIMITE

AVIATION 185
CODEC 1825

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 14034/23 REV1
No. Cion doc.:	ST 10840/20 + ADD1 ST 11020/20
Subject:	Amended proposal for a Regulation of the European Parliament and the Council on the implementation of the Single European Sky (recast) • Presidency compromise on Chapter III – Articles 19 to 25

In view of the Aviation Working Party on 25 January 2024, delegations will find in Annex a revised four-column document on Chapter III – Articles 19 to 25 of the *SES2+ Regulation*, following the Technical Meeting with the European Parliament of 19 January 2024. Changes are highlighted in **bold underlined** and ~~strikethrough~~, in comparison with the General approach.

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116a.	CHAPTER III - SERVICE PROVISION	CHAPTER III - SERVICE PROVISION	CHAPTER III - SERVICE PROVISION	
	[...]	[...]	[...]	
325.	Article 19 - Principles for the charging scheme	Article 19 - Principles for the charging scheme	Article 19 - Principles for the charging scheme	
326.	1. Without prejudice to the possibility for Member States to finance the provision of air traffic services covered in this Article through public funds, charges for air navigation services shall be determined, imposed and enforced on airspace users.	1. Without prejudice to the possibility for Member States, within the limits of Union competition law, to finance the provision of air navigation traffic services covered in this Article through public funds, , charges for air navigation services shall be determined, imposed and enforced on airspace users.	1. Without prejudice to the possibility for Member States to finance the provision of air [...] navigation services covered in this Article through public funds, charges for air navigation services shall be determined, imposed and enforced on airspace users in accordance with Article 15 of the Chicago Convention and with this Article as well as Articles 20 to 22 and the implementing acts adopted on the basis of Article 23. The charging scheme set up under this Article as well as	PCY compromise proposal, agreeable to the EP: 1. Without prejudice to the possibility for Member States to finance the provision of air [...] navigation services covered in this Article through public funds insofar as it is in line with Treaty rules on competition where applicable , charges for air navigation services shall be determined, imposed and enforced on airspace users in accordance with Article 15 of the Chicago Convention and with this Article as well as,

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			Articles 20 to 22 shall be consistent with the charging system for en route charges established by EUROCONTROL, in particular EUROCONTROL Principles for Establishing the Cost-Base for En-Route Charges and the Calculation of the Unit Rates.	Articles 20 to 22 and the implementing acts adopted on the basis of Article 23. The charging scheme set up under this Article as well as Articles 20 to 22 shall be consistent with <u>Article 15 of the 1944 Chicago Convention on International Civil Aviation</u> , the charging system for en route charges established by EUROCONTROL, in particular EUROCONTROL Principles for Establishing the Cost-Base for En-Route Charges and the Calculation of the Unit rates <u>For en route charges, the charging scheme set out under this Regulation and the implementing acts adopted on the basis of Article 23 and EUROCONTROL's charging system for en route charges shall be consistent.</u>

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				<u>+ At the end of recital 28: The charging scheme set up should be consistent with Article 15 of the Chicago Convention. The charging scheme set up under this regulation should be without prejudice to the possibility for Member States to finance the provision of air navigation services covered in this Article through public funds, insofar as it is in line with Treaty rules on competition where applicable.</u>
327.	2. Charges shall be based on the costs of air traffic service providers in respect of services and functions delivered for the benefit of airspace users over fixed reference periods as defined in Article 10(2). Those costs may include a reasonable return on assets to contribute towards necessary capital		2. Charges shall be based on the costs of air navigation service providers incurred in relation to the provision of services and functions made available to, or for the benefit of, airspace users over fixed reference periods as defined in Article 10(2). Those costs may include a reasonable return on assets.	Tentatively agreed, reflecting status quo (Regulation 550/2004, Article 15(1)): 2. Charges shall be based on the costs of air navigation service providers incurred in respect in relation to the provision of services and functions made available to, or for the benefit of, airspace users over fixed reference periods as defined in

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	improvements.			Article 10(2). Those costs may include a reasonable return on assets.
328.	3. Charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency and meeting the performance targets and they shall stimulate integrated service provision, whilst reducing the environmental impact of aviation.	3. Charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency and meeting the performance targets, including those regarding climate and the environment , and they shall stimulate integrated service provision, whilst reducing the environmental impact of aviation.	3. Charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency [...] whilst reducing the environmental impact of aviation.	Tentatively agreed to maintain GA.
329.	4. Revenues from charges imposed on airspace users may result in financial surpluses or losses for air traffic service providers due to the application of the		[...]	Tentatively agreed to delete as in GA and to have COM proposal in a new recital: <u>New Recital: Revenues from charges imposed on airspace</u>

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	incentive schemes referred to in point (h) of Article 10(3) and the risk sharing mechanisms referred to in point (i) of Article 10(3).			<u>users could result in financial surpluses or losses for air traffic service providers due to the application of the incentive schemes referred to in point (h) of Article 10(3) and the risk sharing mechanisms referred to in point (i) of Article 10(3).</u>
330.	5. Revenues from charges imposed on airspace users in accordance with this Article shall not be used to finance services which are provided under market conditions in accordance with Article 8.	5. Revenues received by an air traffic service provider from charges imposed on airspace users in accordance with this Article shall not be used to finance services which that air traffic service provider may provide under market conditions in accordance with Article 8 or any other commercial activity performed by that provider.	5. Revenues received by an air navigation service provider from charges imposed on airspace users in accordance with this Article shall not be used to finance services which [...] that air navigation service provider provides under market conditions in accordance with Article 8 or to finance any other commercial activity performed by that provider.	Tentatively agreed to maintain GA.
331.	6. Financial data on determined costs, actual costs and revenues of designated air	6. Financial data on determined costs, actual costs and revenues of designated air	6. Financial data on determined [...] and actual costs of designated air traffic service	Tentatively agreed: 6. Financial data on determined <u>costs</u> , actual costs <u>and</u>

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	traffic service providers shall be reported to national supervisory authorities and the Agency acting as PRB and shall be made publicly available.	traffic service providers shall be reported to national supervisory authorities, Eurocontrol and the Agency acting as PRB and shall be made publicly available subject to the protection of confidential information.	providers shall be reported to national supervisory authorities[...].	<u>revenues</u> of designated air traffic <u>navigation</u> service providers <u>incurred in relation to the provision of services and functions for the benefit of airspace users</u> shall be reported to national supervisory authorities[...] ! <u>National supervisory authorities shall report those data to the Commission.</u> <u>Financial data on determined costs, actual costs and revenues shall be made available to airspace users and shall be published in an aggregated manner.</u>

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332.	Article 20 - Cost bases for charges	Article 20 - Cost bases for charges	Article 20 - Cost bases for charges	
333.	1. The cost bases for charges for <i>en route</i> air navigation services and charges for terminal air navigation services shall consist of the determined costs related to the provision of those services in the <i>en route</i> charging zone and terminal charging zone concerned, as established in the performance plans adopted in accordance with Articles 13 and 14.		1. The cost bases for charges for [...] air navigation services [...] shall consist of the determined costs, as established in the performance plans adopted in accordance with Article 13a(6) , related to the provision of those services in the <i>en route</i> charging zone and terminal charging zone concerned.	Tentatively agreed to maintain GA.
334.	2. The determined costs referred to in paragraph 1 shall include the costs of relevant facilities and services, appropriate amounts for interest on capital investment and depreciation of assets, as well as the costs of maintenance, operation, management and		2. The determined costs referred to in paragraph 1 shall include the costs of relevant facilities and services, [...] cost of capital [...] and depreciation of assets, as well as the costs of maintenance, operation, management and administration and other staff costs .	Tentatively agreed: 2. The determined costs referred to in paragraph 1 shall include the costs of relevant facilities and services, [...] cost of capital [...] and depreciation of assets, as well as the costs of maintenance, operation, management and administration, including and other staff costs.

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	administration.			
335.	3. The determined costs referred to in paragraph 1 shall also include the following costs:		3. The determined costs referred to in paragraph 1 shall also include the following costs:	No change to Commission proposal.
336.	(a) costs incurred by the air traffic service providers for fees and charges paid to the Agency acting as PRB;		[...]	PCY proposes to maintain GA To be discussed in the context of PRB.
337.	(b) costs or parts thereof incurred by the air traffic service providers, in relation to their oversight and certification by national supervisory authorities, unless other financial resources are used by Member States to cover such costs;	(b) costs or parts thereof incurred by the air traffic service providers, in relation to their oversight and certification by the competent national supervisory authorities, unless other financial resources are used by Member States to cover such costs;	(b) costs[...] related to the oversight of air [...] navigation services incurred [...] by national supervisory authorities, [...] national competent authorities, and other national authorities, where the Member State so decides ;	Tentatively agreed: (b) costs [...] related to the oversight of air [...] navigation services incurred [...] by national supervisory authorities, [...] national competent authorities, and other national authorities entrusted by Member States to carry out tasks in relation to this Regulation, where the Member State so decides;
338.	(c) costs incurred by the air traffic service providers in relation to the provision of		(c) costs incurred by the air [...] navigation service providers in relation to the	Tentatively agreed: (c) costs incurred by the air [...] navigation service providers

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	air navigation services		provision of air navigation services , [...] where the Member States so decides;	in relation to the provision of air navigation services and the network functions , [...] where the Member States so decides;
339.		(ca) costs of Eurocontrol in relation to the provision of air navigation services, unless other financial resources are used by Member States to cover these costs.	(e) costs stemming from the EUROCONTROL International Convention relating to cooperation for the safety of air navigation of 13 December 1960 as last amended, where the Member State so decides.	Tentatively agreed: (d) costs incurred by Member States in relation to air navigation services stemming from the EUROCONTROL International Convention relating to cooperation for the safety of air navigation of 13 December 1960 as last amended, where the Member State so decides.
340.	and network functions, including the tasks entrusted to the Network Manager, unless other financial resources are used by Member States to cover such costs.		(d) costs incurred by the air navigation service providers in relation to network functions, in particular in relation to the cooperation with the Network Manager and other functions as described in Article 2(9);	Tentatively agreed to delete this line.

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341.		(cb) other costs incurred by the Member States in relation to the provision of air navigation services such as the costs stemming from international agreements, except Eurocontrol, if such costs are not covered by other financial resources.		Tentatively agreed to delete this line. Following AVIA WP of 18/01, the PCY showed flexibility towards EP amendment, but EP and Commission insisted not to have it at this stage of the negotiations.
342.	4. Determined costs shall not include the costs of penalties imposed by Member States referred to in Article 42 nor the costs of any corrective measures referred to in Article 13(11) and Article 14(10).		4. Determined costs shall not include the costs of penalties imposed by Member States [...]in accordance with Article 42. [...]	Tentatively agreed: 4. Determined costs shall not include the costs of penalties imposed by Member States [...]in accordance with Article 42. [...]
343.	5. Cross-subsidy shall not be allowed between <i>en route</i> air navigation services and terminal air navigation services. Costs that pertain to both <i>en route</i> air navigation services and terminal air		5. [...] Costs that pertain to both <i>en route</i> air navigation services and terminal air navigation services shall be allocated [...] in compliance with the criteria laid down by the national supervisory	PCY compromise proposal presented during the TM, reflecting Article 15(2)(e) of Regulation 550/2004: 5. [...] Costs that pertain to both <i>en route</i> air navigation services and terminal air

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	navigation services shall be allocated in a proportional way between <i>en route</i> air navigation services and terminal air navigation services on the basis of a transparent methodology. Cross-subsidy shall be allowed between different air navigation services in either one of those two categories only when justified for objective reasons, subject to transparent identification in accordance with Article 25(3).		authority in accordance with Article 13(1a). Cross-subsidy between en route air navigation services and terminal air navigation services shall not be allowed. Cross-subsidy shall be allowed between different air navigation services [...] within either one of those two categories only when justified for objective reasons, subject to transparent identification in accordance with Article 25(3).	navigation services shall be allocated in compliance with the <u>general principles</u> the criteria laid down by the national supervisory authority in accordance with Article 13(1a) referred to in <u>Article 10(3)(k)</u> . Cross-subsidy between en route air navigation services and terminal air navigation services shall not be allowed. Cross-subsidy shall be allowed between different air navigation services [...] within either one of those two categories only when justified for objective reasons, subject to transparent identification in accordance with Article 25(3). EP insisted on its proposal, referring to a methodology established by NSAs: 5. [...] Costs that pertain to both

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				<i>en route</i> air navigation services and terminal air navigation services shall be allocated in a proportional way in compliance with the general principles and the methodology provided in Article 10(3)(k). Cross-subsidy between <i>en route</i> air navigation services and terminal air navigation services shall not be allowed. Cross-subsidy shall be allowed between different air navigation services [...] within either one of those two categories only when justified for objective reasons, subject to transparent identification in accordance with Article 25(3). PCY proposes the following new compromise: 5. [...] Costs that pertain to both <i>en route</i> air navigation

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				services and terminal air navigation services shall be allocated in compliance with the general principles referred to in Article 10(3)(k) and the methodologies referred to in Article 13(3)the criteria laid down by the national supervisory authority in accordance with Article 13(1a). Cross-subsidy between en route air navigation services and terminal air navigation services shall not be allowed. Cross-subsidy shall be allowed between different air navigation services [...] within either one of those two categories only when justified for objective reasons, subject to transparent identification in accordance with Article 25(3).

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				In addition, the PCY proposes to add the following sentence in Article 13(3) [line 217], in line with Regulation 2019/317, Annex II point 3.3(d): 3. The draft performance plan shall contain, as appropriate, performance targets for <i>en route</i> air navigation services consistent with the Union-wide performance targets and performance targets for terminal air navigation services, in the key performance areas of the climate and environment, capacity and cost-efficiency. <u>Draft performance plans shall include a description and justification of the methodology used for the allocation of such common costs.</u>
344.	6. Designated air traffic service providers shall provide details of their cost base to the	6. Designated air traffic service providers shall provide full details of their cost base to the	6. Designated air traffic service providers shall provide details of their cost base to [...] the	Tentatively agreed: 6. Designated air traffic <u>navigation</u> service providers

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	Agency acting as PRB, the national supervisory authorities, and the Commission. To this end, costs shall be broken down in line with the separation of accounts referred to in Article 25(3), and by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs incurred for fees and charges paid to the Agency acting as PRB, and exceptional costs.	Agency acting as PRB, the national supervisory authorities, and the Commission. To this end, costs shall be broken down in line with the separation of accounts referred to in Article 25(3), and by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs referred to in Article 20(3) and exceptional costs.	national supervisory authority, and the Commission. To this end, costs shall be broken down [...] by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs [...] referred to in Article 20(3) , and exceptional costs.	shall provide details of their cost base to [...] the national supervisory authority, and to the Commission. To this end, costs shall be broken down [...] by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, exceptional costs and costs [...] referred to in Article 20(3) , and exceptional costs.
345.	Article 21 - Setting of unit rates		Article 21 - Charging zone and unit rates	PCY proposes to maintain GA. EP can accept Council GA.
346.	1. Unit rates shall be set per calendar year and for each charging zone, on the basis of the determined costs and the traffic forecasts established in the performance plans as well as applicable adjustments deriving from previous years		1. Unit rates shall be set per calendar year and for each charging zone, on the basis of the determined costs and the traffic forecasts established in the performance plans as well as applicable adjustments deriving from previous years	No change compared to COM proposal.

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	and other revenues.		and other revenues.	
347.			1a. Without prejudice to Article 20(5), first subparagraph, Member States shall define, before the start of a reference period, the charging zones for air navigation services and shall identify the air traffic service providers falling under the scope of each charging zone. The Commission shall, by means of an implementing act adopted in accordance with the examination procedure referred to in Article 37(3) define the conditions under which Member States may modify or establish a new terminal charging zone during a reference period.	Tentatively agreed: 1a. Without prejudice to Article 20(5), first subparagraph, Member States shall define, before the start of a reference period, the charging zones for air navigation services and shall identify the air traffic service providers falling under the scope of each charging zone. The Commission shall, by means of an implementing act adopted in accordance with the examination procedure referred to in Article 37(3) define the conditions under which Member States may modify or establish a new terminal charging zone during a reference period.
348.	2. Unit rates shall be set by the national supervisory authorities, after verification	2. Unit rates shall be set by the national supervisory authorities, after verification by the [...] PRB	2. Unit rates shall be set by the [...] Member States, and be subject to verification by the	Tentatively agreed: 2. Unit rates shall be set by the [...] Member States, and be

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	by the Agency acting as PRB that they comply with Article 19, Article 20 and with this Article.	that they comply with Article 19, Article 20 and with this Article.	[...] Commission that they comply with Article 19, Article 20 and with this Article.	subject to verification by the [...] Commission that they comply with Article 19, Article 20 and with this Article. <u>Unit rates shall be published.</u>
349.	Where the Agency acting as PRB finds that a unit rate does not fulfill those requirements, the unit rate shall be reviewed accordingly by the national supervisory authority concerned. Where a unit rate continues to not fulfill those requirements, the Agency acting as PRB shall conduct an investigation and provide an opinion to the Commission in accordance with Article 24(2), and the Commission may take action in accordance with Article 24(3).	Where the [...] PRB finds that a unit rate does not fulfil those requirements, the unit rate shall be reviewed accordingly by the national supervisory authority concerned. Where a unit rate continues to not fulfill those requirements, the [...] PRB shall conduct an investigation and provide an opinion to the Commission in accordance with Article 24(2), and the Commission may take action in accordance with Article 24(3).	Where the [...] Commission finds that a unit rate does not fulfil those requirements, the unit rate shall be reviewed accordingly by the [...] Member State concerned [...], and amended as appropriate.	Tentatively agreed: Where the [...] Commission finds that a unit rate does not fulfil those requirements, the unit rate shall be reviewed accordingly by the [...] Member State concerned [...], and amended <u>as appropriate so as to fulfil those requirements.</u>
350.	For charging purposes, and when congestion causes significant network problems including deterioration of	For charging purposes, and when congestion causes significant network problems including deterioration of	[...]	Tentatively agreed: <u>Member States may define common charging zones and, in such cases, shall set common</u>

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	environmental performance, the Commission may define, by way of an Implementing Regulation adopted in accordance with the examination procedure referred to in Article 37(3), a common unit rate for <i>en route</i> air navigation services across the Single European Sky airspace, and detailed rules and procedures for its application.	climate and environmental performance, the Commission may define, by way of an Implementing Regulation adopted in accordance with the examination procedure referred to in Article 37(3), a common unit rate for <i>en route</i> air navigation services across the Single European Sky airspace, and detailed rules and procedures for its application. The common unit rate referred to in the first subparagraph shall be calculated on the basis of a weighted average of the different unit rates of the air navigation service providers concerned. The proceeds of the common unit rate shall be reallocated so as to achieve revenue neutrality for those air traffic service providers concerned.		<u>unit rates for those charging zones.</u>
351.	The common unit rate referred		[...]	Tentatively agreed to maintain

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	to in the first subparagraph shall be calculated on the basis of a weighted average of the different unit rates of the air navigation service providers concerned. The proceeds of the common unit rate shall be reallocated so as to achieve revenue neutrality for those air traffic service providers concerned.			deletion as in GA.

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352.	Article 22 - Establishment of charges	Article 22 - Establishment of charges	Article 22 - Establishment of charges	
353.	1. Charges shall be levied on airspace users for the provision of air navigation services, under non-discriminatory conditions, taking into account the relative productive capacities of the different aircraft types concerned. When imposing charges on different airspace users for the use of the same service, no distinction shall be made in relation to the nationality or category of the user.		1. Charges shall be levied on airspace users for the provision of air navigation services, under non-discriminatory conditions, taking into account the relative productive capacities of the different aircraft types concerned. When imposing charges on different airspace users for the use of the same service, no distinction shall be made in relation to the nationality or category of the user.	No change compared to COM proposal
354.	2. The charge for <i>en route</i> air navigation services for a given flight in a given <i>en route</i> charging zone shall be calculated on the basis of the unit rate established for that <i>en route</i> charging zone and the <i>en route</i> service units for that		2. The en-route charge for [...] air navigation services for a given flight in a given en route charging zone shall be calculated on the basis of the unit rate established for that en route charging zone and the en route service units for that	Tentatively agreed to maintain GA.

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	flight. The charge shall be made out of one or more variable components, each based on objective factors.		flight. [...]	
355.	3. The charge for terminal air navigation services for a given flight in a given terminal charging zone shall be calculated on the basis of the unit rate established for that terminal charging zone and the terminal service units for that flight. For the purpose of calculating the charge for terminal air navigation services, the approach and departure of a flight shall count as a single flight. The charge shall be made out of one or more variable components, each based on objective factors.		3. The terminal charge for [...] air navigation services for a given flight in a given terminal charging zone shall be calculated on the basis of the unit rate established for that terminal charging zone and the terminal service units for that flight. For the purpose of calculating the [...] terminal charge [...] , the approach and departure of a flight shall count as a single flight.	Tentatively agreed to maintain GA.

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356.	4. Exemption of certain airspace users from air navigation charges, especially light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is covered by other resources and is not passed on to other airspace users.		4. Exemption of certain airspace users or flights from air navigation charges, especially those using or operated with light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is covered by other resources and is not passed on to other airspace users.	Tentatively agreed to maintain GA.
357.	5. Charges shall be modulated to encourage air navigation service providers, airports and airspace users to support improvements in environmental performance, or service quality such as increased use of sustainable alternative fuels, increased capacity, reduced delays and sustainable development, while maintaining an optimum safety level, in particular for implementing the European ATM Master Plan. The	5. Charges shall be modulated to encourage [...] airspace users to support improvements in environmental performance, [...] such as increased use of alternative clean propulsion technologies, and sustainable [...] development, to support improvements in service quality such as those leading to reduced delays, more direct-routing or to support the implementation of the European ATM Master Plan , while maintaining an	5. Charges may be modulated to encourage air traffic service providers [...] and airspace users to support improvements in environmental performance, or service quality such as the use of the most fuel-efficient available routing , increased use of sustainable alternative fuels, increased capacity, reduced delays and sustainable development, while maintaining an optimum safety level, in particular for implementing the European	PCY compromise proposal: 5. Charges may be modulated to encourage air traffic service providers [...] and airspace users to support improvements in environmental performance, or service quality such as the use of the most fuel-efficient available routing , increased use of alternative clean propulsion technologies including sustainable alternative fuels, increased capacity, reduced delays and sustainable development,

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	modulation shall consist of financial advantages or disadvantages and shall be revenue neutral for air traffic service providers.	optimum safety level. [...] The modulation shall consist of financial advantages [...] and shall be preceded by an analysis confirming how revenue neutrality for air traffic service providers will be ensured.	ATM Master Plan. The modulation shall consist of financial advantages or disadvantages and shall be revenue neutral for air traffic service providers.	while maintaining an optimum safety level, in particular for implementing the European ATM Master Plan. The modulation shall consist of financial advantages or disadvantages and shall be revenue neutral for air traffic service providers. EP insisted for a mandatory modulation at Union level of en route charges to support improvements in climate and environmental performance of airspace users. The EP consented to optional modulation of charges for all other purposes. PCY asks for flexibility to MS for the adoption of a mandatory modulation of en-route charges at Union level to encourage airspace user to support

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				improvements in climate and environmental performance. This would only take place after the study of the Commission establishes the feasibility of such modulation and not before RP5.
358.			5a. The Commission shall, in consultation with the Member States, air traffic service providers and airspace users conduct a feasibility study, on the impact of the modulation of charges on air traffic and on stakeholders, including on flight paths, capacity, fleet composition and costs of airspace users, as well as on mechanisms to ensure revenue neutrality of air traffic service providers. This study shall also cover the contribution of that modulation to achievement	PCY proposed to maintain GA in TM EP insisted on the following compromise: 5a. The Commission shall, in consultation with the Member States, air traffic service providers and airspace users conduct a feasibility study, on the impact of the modulation of charges on air traffic and on stakeholders, including on flight paths, capacity, fleet composition and costs of airspace users, as well as on mechanisms to ensure revenue neutrality of air traffic service providers. This study shall

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			of the Single European Sky objectives referred to in Article 1(1) and in the Commission's communication on the European Green Deal, taking into consideration competitiveness aspects, existing incentive schemes and other known alternatives. On the basis of that study, the Commission may adopt guidelines to enable Member States to implement modulation of charges on a voluntary basis.	also cover the contribution of that modulation to achievement of the Single European Sky objectives referred to in Article 1(1) and in the Commission's communication on the European Green Deal, taking into consideration competitiveness aspects, existing incentive schemes and other known alternatives. On the basis of that study, the Commission may adopt guidelines to enable Member States to implement modulation of charges on a voluntary basis. PCY new compromise: 5a. The Commission shall, in consultation with the Member States, air traffic service providers and airspace users conduct a feasibility study, on the impact of the modulation of charges on air traffic and on stakeholders. <u>This study shall</u>

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				<u>cover the contribution of that modulation to the achievement of the objectives of Single European Sky referred to in Article 1(1) and of Regulation (EU) 2021/1119 of the European Parliament and of the Council.</u>
359.	Article 23 - Implementation of the charging scheme	Article 23 - Implementation of the charging scheme	Article 23 - Implementation of the charging scheme	
360.	For the implementation of the charging scheme, the Commission shall adopt detailed requirements and procedures in respect of Articles 19, 20, 21 and 22 in particular regarding the cost bases and determined costs, the setting of unit rates, the incentives schemes and risk sharing mechanisms and the modulation of charges. Those requirements and procedures shall be set out in an implementing act adopted in accordance with the advisory procedure referred to in Article	The Commission is empowered to adopt delegated acts in accordance with Article 36 to supplement this Regulation, with regard to:	For the implementation of the charging scheme, the Commission shall, by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3) , adopt detailed requirements and procedures in respect of Articles 19, 20, 21 and 22.	Tentatively agreed to maintain GA.

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	37(2).			

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360a.		(a) setting of determined cost and cost bases, referred to in Articles 19 and 20;'	in particular regarding the cost bases and determined costs,	Tentatively agreed to maintain GA.
360b.		(b) setting of the unit rate, referred to in Article 21;	the setting of unit rates,	Tentatively agreed to maintain GA.
360c.		(c) establishing charges referred to in Article 22, including their modulation in accordance with that Article; and	[...]	Tentatively agreed to maintain GA.
360d.		(d) establishing the incentives schemes and risk sharing mechanisms, referred to in Article 10(3).	and risk sharing mechanisms and the modulation of charges.	Tentatively agreed to maintain GA.
361.	Article 24 - Review of compliance with the performance and charging schemes	Article 24 - Review of compliance with the performance and charging schemes	Article 24 - Review of compliance with the performance and charging schemes	
362.	1. The Commission shall regularly review the compliance with Articles 10 to 17 and 19 to 22 and the implementing acts referred to	1. Without prejudice to the tasks of the national supervisory authorities and the Agency acting as PRB Commission shall provide for	1. The Commission shall regularly review the compliance with Articles 10 to 17 and 19 to 22 and the implementing acts referred to	Tentatively agreed: 1. The Commission shall regularly review the compliance with Articles 10 to 17 and 19 to 22 and the

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	in Articles 18 and 23, by the air traffic service providers and the Member States, as the case may be. The Commission shall act in consultation with the Agency acting as PRB and with national supervisory authorities.	ongoing review of compliance with Articles 10 to 17 and 19 to 22, including the delegated acts referred to in Article 23 , and the implementing acts referred to in Articles 18, by the air traffic service providers and the Member States, as the case may be. The Commission shall act in consultation with the Agency acting as PRB and with national supervisory authorities and airspace users.	in Articles 18 and 23, by [...] the Member States, in particular the national supervisory authorities . [...] The Commission shall act in consultation with the [...] PRB, where a PRB has been designated in accordance with Article 9b , and with national supervisory authorities.	implementing acts referred to in Articles 18 and 23, by [...] the Member States, in particular the national supervisory authorities . [...] The Commission shall act in consultation with the [...] PRB, where a PRB has been designated in accordance with Article 9b, and with national supervisory authorities.
363.	2. At the request of one or more Member States, of a national supervisory authority or of the Commission, the Agency acting as PRB shall carry out an investigation into any allegation of non-compliance as referred to in paragraph 1. Where it has indications of such non-compliance, the Agency acting as PRB may	2. At the request of one or more Member States, of a national supervisory authority, [...] of the Commission, of airspace users or a relevant group representing them , the Agency acting as PRB shall carry out an investigation into any allegation of non-compliance as referred to in paragraph 1. Where it has	2. [...] Where [...] the Commission , has indications of [...] non-compliance [...] with the provisions referred to in paragraph 1 , [...] it may initiate an investigation[...] . It shall conclude the investigation within four months, [...] after having heard the Member State, and the national supervisory	Tentatively agreed to maintain GA.

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	initiate an investigation on its own initiative. It shall conclude the investigation within four months of receipt of a request, after having heard the Member State, the national supervisory authority concerned and the designated air traffic service provider concerned.	indications of such non-compliance, the Agency acting as PRB shall initiate an investigation on its own initiative. It shall conclude the investigation within four months of receipt of a request, after having heard the Member State, the national supervisory authority concerned and the designated air traffic service provider concerned. When such non-compliance concerns requirements regarding climate and the environment, the Agency acting as PRB shall provide for consultation with scientific experts in the domain of climate.	authority concerned[...] .	
364.	Without prejudice to Article 41(1), the Agency acting as PRB shall share the results of the investigation with the Member States concerned, the	Without prejudice to Article 41(1), the [...] PRB shall share the results of the investigation with the Member States concerned, the air traffic	3. Without prejudice to Article 41(1), the Commission shall share the results of the investigation with the Member State and, where	Tentatively agreed to maintain GA.

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	air traffic service providers concerned and the Commission.	service providers concerned and the Commission.	appropriate, the air traffic service provider concerned and	
365.	3. The Commission may issue an opinion on whether Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 have been complied with by Member States and/or air traffic service providers and shall notify this opinion to the Member State or Member States and the air traffic service provider concerned.	3. The Commission shall issue an opinion on whether Articles 10 to 17 and 19 to 22, delegated acts referred to in Article 23 , and the implementing acts referred to in Articles 18 have been complied with by Member States and/or air traffic service providers and shall notify that opinion to the Member State or the Member States concerned and the air traffic service provider concerned. That opinion may be subject to appeal.	the Commission may issue an opinion on whether Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 have been complied with by that Member States . It shall notify this opinion to the Member State [...] concerned.	Tentatively agreed: the Commission may issue an opinion on whether Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 have been complied with by that Member States . It shall notify this opinion to the Member State [...] concerned.

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366.	Article 25 - Transparency of accounts of air navigation service providers	Article 25 - Transparency of accounts of air navigation service providers	Article 25 - Transparency of accounts of air navigation service providers	
367.	1. Air navigation service providers, independently of their system of ownership or legal structures, shall annually draw up and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the Union.		1. Air navigation service providers, independently of their system of ownership or legal structures, shall annually draw up and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the Union.	No change compared to COM proposal
368.	Where, owing to the legal status of the air navigation service provider, full compliance with the international accounting standards is not possible, the provider shall achieve such compliance to the maximum possible extent. Air navigation service providers shall publish an annual report and regularly undergo an independent audit for the accounts referred to in	Where, owing to the legal status of the air navigation service provider, full compliance with the international accounting standards is not possible, the provider shall achieve such compliance by ... [OJ: one year from the entry in force of this Regulation]. Air navigation service providers shall publish an annual report and regularly undergo an	Where, owing to the legal status of the air navigation service provider, full compliance with the international accounting standards is not possible, the provider shall achieve such compliance to the maximum possible extent. Air navigation service providers shall publish an annual report and regularly undergo an independent audit for the accounts referred to in	Tentatively agreed to maintain GA/COM proposal.

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	this paragraph.	independent audit for the accounts referred to in this paragraph.	this paragraph.	
369.	2. National supervisory authorities and the Agency acting as PRB shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to other supervisory authorities.	2. National supervisory authorities and the Agency acting as PRB shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to other supervisory authorities.	2. National supervisory authorities [...] shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to [...] national supervisory authorities of other Member States.	PCY proposed to maintain GA in TM. EP insisted on granting to the Commission access to the accounts of ANSPs: National supervisory authorities and the Commission shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to national supervisory authorities of other Member States. PCY new compromise proposal: 2. National supervisory authorities shall have the right to access the accounts of the air navigation service

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				providers under their supervision. Member States may decide to grant access to these accounts to national supervisory authorities of other Member States. <u>Where necessary to enable the Commission to carry out its tasks under this Regulation in particular under Article 24, Member States shall ensure that the Commission can have access to these accounts.</u>
370.	3. Air navigation service providers shall, in their internal accounting, keep separate accounts for each air navigation service as they would be required to do if these services were carried out by separate undertakings with a view to avoiding discrimination, cross-subsidisation and distortion of	3. Air navigation service providers shall, in their internal accounting, keep separate accounts for each air navigation service as they would be required to do if these services were carried out by separate undertakings with a view to avoiding discrimination, cross-subsidisation without	3. Air navigation service providers shall, in their internal accounting, keep separate accounts for each air navigation service as they would be required to do if these services were carried out by separate undertakings with a view to avoiding discrimination, cross-subsidisation and distortion of	Tentatively agreed to maintain Council GA/COM proposal.

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	competition. An air navigation service provider shall also keep separate accounts for each activity where:	prejudice to Article 20(5) and distortion of competition. An air navigation service provider shall also keep separate accounts for each activity where:	competition. An air navigation service provider shall also keep separate accounts for each activity where:	
371.	(a) it provides air navigation services procured in accordance with Article 8(1) and air navigation services not covered by that provision;		(a) it provides air navigation services procured in accordance with Article 8(1) and air navigation services not covered by that provision;	Tentatively agreed to maintain GA, with an added reference: (a) it provides air navigation services procured in accordance with Article 8(1) and 8(1a) and air navigation services not covered by that provision;
372.	(b) it provides air navigation services and carries out other activities, of whatever kind, including common information services;		(b) it provides air navigation services and carries out other activities, of whatever kind, including [...] CIS;	Tentatively agreed to maintain GA.

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373.	(c) it provides air navigation services in the Union and in third countries.		(c) it provides air navigation services in the Union and in third countries.	No change compared to COM proposal
374.	The determined costs, actual costs and revenues deriving from air navigation services shall be broken down into staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs incurred for fees and charges paid to Agency acting as PRB, and exceptional costs and they shall be made publicly available, subject to the protection of confidential information.	The determined costs, actual costs and revenues deriving from air navigation services shall be broken down into staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs incurred for fees and charges paid to the national supervisory authority, the national competent authority, the Agency and the Agency acting as PRB , and exceptional costs and they shall be made publicly available, subject to the protection of confidential information.	The determined and actual costs deriving from air navigation services shall be broken down into [...] costs categories in accordance with article 20(6) and they shall be made publicly available, subject to the protection of confidential information.	Tentatively agreed: The determined and actual costs deriving from air navigation services shall be broken down into [...] costs categories in accordance with article 20(6) and they shall be made publicly available, subject to the protection of confidential information without prejudice to Article 41(3).
375.	4. The financial data on costs and revenues reported in accordance with Article 19(6) and other information relevant		4. The financial data on costs [...] reported in accordance with Article 19(6) and other information relevant for the	Tentatively agreed: 4. The financial data on costs reported in accordance with Article 19(6) and other

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	for the calculation of unit rates shall be audited or verified by the national supervisory authority or an entity independent of the air navigation service provider concerned and approved by the national supervisory authority. The conclusions of the audit shall be made publicly available.		calculation of unit rates shall be audited or verified by the national supervisory authority or an entity independent of the air navigation service provider concerned and approved by the national supervisory authority. Without prejudice to confidentiality of sensitive information, the conclusions of the audit shall be made publicly available.	information relevant for the calculation of unit rates shall be audited or verified by the national supervisory authority or an entity independent of the air navigation service provider concerned and approved by the national supervisory authority. Without prejudice to confidentiality of sensitive information, t The conclusions of the audit shall be made publicly available without prejudice to Article 41(3).