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*Committee on Transport and Tourism*

**2005/0235(CNS)**

20.9.2006

## **OPINION**

of the Committee on Transport and Tourism

for the Committee on Industry, Research and Energy

on the proposal for a Council regulation on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)  
(COM(2005)0602 – C6-0002/2006 – 2005/0235(CNS))

Draftsman(\*): Philip Bradbourn

(\*): Enhanced cooperation between committees – Rule 47 of the Rules of Procedure

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## SHORT JUSTIFICATION

### Commission proposal

According to projections air traffic in Europe will more than double in the next 20 years, and even triple in some regions. The development of an adequate infrastructure for air transport has become a major challenge for Europe: The fast growth of air transport already during the last decades was not accompanied by a substantial modernisation of the air traffic control system.

With the 'single European sky' legislation, adopted in 2004, the organisation of air navigation services was radically reformed: Roles and responsibilities of supervisory authorities and service providers were clearly defined and cross border blocks of airspace were established. This implies a major reorganisation of the sector.

The Commission now has submitted a proposal on a new generation European air traffic management system ("SESAR") and the establishment of a Joint Undertaking. SESAR is the technological element of the single European sky.

The proposal aims at developing technologies, methods of organisation and industrial components that are capable of ensuring the safety of air transport in the next 20 years. SESAR is first and foremost a research and development project and intended to integrate and coordinate research and development activities. It will allow the air traffic control equipment in the European Union to be standardised. The Commission aims to pursue this goal in the framework of a public-private partnership combining resources for a joint objective and proposes to create a Joint Undertaking (Article 171 of the EC Treaty).

SESAR is planned in three phases:

#### 1. The definition phase (2005 - 2007):

In this phase the plan for the modernisation of air traffic management in Europe is to be drawn up: The technological steps are to be taken and the priorities for modernisation as well as the corresponding timetables are to be defined. This phase will require a budget of €60 million, half of which shall be provided by the Community from the TEN-T budget. The other half shall come from Eurocontrol.

#### 2. The development phase (2008 - 2013):

In this phase the technological bases for the new generation of systems will be established. This phase requires a funding of €300 million per year: €100 million of Community funds (this phase ends with the financial framework 2007-2013), €100 million from Eurocontrol and €100 million from the industry. The Community funds would come from the research and development framework programmes and from the trans-European networks.

3. The deployment phase (2014 - 2020): The deployment phase will see the large-scale installation of the new systems and the implementation of the related functions. In the deployment phase the industry will be fully responsible for the financing.

## Remarks

Your rapporteur in principle welcomes this Commission proposal. SESAR is a necessary component of the single European sky. However, several aspects of the draft Regulation as well as of the statutes require some clarification and redrafting.

Firstly, it has to be noted that industry has repeatedly expressed its commitment to SESAR as an integrated approach to the modernisation of the air traffic management system in Europe. In order to make SESAR a success, it must be ensured that all parties work closely together and that industry is appropriately involved in all phases. SESAR has to be an industry initiative and the private sector must consequently be enabled to acquire a sufficient number of voting rights in the administrative board. That is why your draftsman suggests reducing the number of voting rights for the Community: Its voting rights should be limited to 25% of the total number of votes. As to Eurocontrol, its role should be reconsidered: Eurocontrol should be a Member of the Administrative Board in a technical / advisory capacity only.

Secondly, on the question of financing the Commission envisages 1/3 Community funds, 1/3 Eurocontrol contributions and 1/3 from the industry in the development phase. Your rapporteur thinks public and private sector financing should be in equal measures during this particular phase and tables an amendment on this point. As for the deployment phase the Commission concept is plausible - this phase is to be financed completely by the industry.

The idea of an additional levy on air navigation charges should be dropped. Your rapporteur feels that user charges are sufficiently high. Via Eurocontrol funds user charges will already contribute to the financing of SESAR. On the basis of a successful definition phase, it should be possible to raise the necessary means from the private and public sectors without creating yet another levy.

It should be added that there are concerns about the legal base of this proposal: The Commission has chosen Article 171 of the Treaty (consultation procedure), because the legislative proposal concerns the establishment of a Joint Undertaking. On the other hand, the proposal shall ensure the modernisation of the European air traffic management system and is as such closely linked to the single European sky legislation, which was under co-decision. Whereas Parliament's Committee on Legal Affairs (JURI) did not see sufficient grounds for changing the legal base to co-decision, your rapporteur intends to further scrutinise this question in close contact with Mrs Hennicot-Schoepges, rapporteur of the lead Committee on Industry, Research and Energy (ITRE).

Finally your rapporteur suggests some amendments on the appointment of the Executive Director, the possibility of convening extraordinary meetings of the Administrative Board and on the definition of a majority in the Board. Given the importance of the SESAR project, it is also proposed to strengthen the role of the European Parliament by explicitly requesting progress reports from the European Commission every three years.

## AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission <sup>1</sup>	Amendments by Parliament
Amendment 1 Citation 1	
- Having regard to the Treaty establishing the European Community, and in particular <i>Article 171</i> thereof,	- Having regard to the Treaty establishing the European Community, and in particular <i>Articles 171 and 173</i> thereof,
<i>Justification</i>	
<i>In line with the applicable case-law, especially the judgments of 26 March 1987 (Case 45/86, Commission v. Council, ECR 1493), 11 February 1991 (Case 300/89, Commission v. Council, ECR I-2867) and 26 April 1996 (Case C-271/94, Parliament v. Council, ECR I-1689), this amendment aims to enable Parliament to be more fully involved in the creation, development and establishment of the Joint Undertaking.</i>	
Amendment 2 Recital 3	
(3) The SESAR project aims to integrate and coordinate activities which were previously undertaken in a dispersed and uncoordinated manner in the Community.	(3) The SESAR project aims to integrate and coordinate activities which were previously undertaken in a dispersed and uncoordinated manner in the Community, <b><i>including the most remote and outlying regions thereof, as referred to in Article 299(2) of the Treaty.</i></b>
<i>Justification</i>	
<i>This amendment supplies legal clarification in line with the Treaty.</i>	
Amendment 3 Recital 7	
<b><i>(7) In accordance with Article 15(3) of Regulation (EC) No 550/2004, the route</i></b>	<b><i>deleted</i></b>

<sup>1</sup> Not yet published in OJ.

*charges can provide income to finance projects aimed at supporting specific categories of airspace users and/or air navigation service providers in order to improve the collective air navigation structures, the supply of air navigation services and the use of airspace.*

*Justification*

*An additional levy on air navigation charges must be avoided. User charges will already contribute to the programme via Eurocontrol. A successful definition phase should deliver a clear business case triggering the necessary private investment (and public funding).*

Amendment 4  
Recital 11

(11) The public budget for the implementation phase of the SESAR project should be supplemented by contributions from the private sector.

(11) The public budget for the implementation phase of the SESAR project should be supplemented by contributions from the private sector. ***During the development phase (2008-2013) these contributions should amount to 50% of the budget.***

*Justification*

*SESAR should allow industry to fully bring in its expertise. But if SESAR is to be an industry-led initiative, this has also to be reflected in the financing of the development phase.*

Amendment 5  
Recital 14

(14) This entity should also be exempt from taxation by the Member States as regards taxes other than VAT and excise duty, and salaries paid to its staff should be ***exempt from any national income tax.***

(14) This entity should also be exempt from taxation by the Member States as regards taxes other than VAT and excise duty, and salaries paid to its staff should be ***in line with the conditions of employment of other servants of the European Communities.***

*Justification*

*For reasons of legal and social consistency, it is important to clarify that wage levels should be in line with the 'Rules applicable to other servants of the European Communities'.*

Amendment 6  
Recital 15

(15) SESAR is a research and development project which justifies funding from the Community research and development framework programmes. It is therefore necessary to set up a Joint Undertaking under **Article 171** of the Treaty in order to enable considerable progress to be made in the development of technologies relating to air traffic control systems during the development phase (2008-2013) phases.

(15) SESAR is a research and development project which justifies funding from the Community research and development framework programmes. It is therefore necessary to set up a Joint Undertaking under **Articles 171 and 173** of the Treaty in order to enable considerable progress to be made in the development of technologies relating to air traffic control systems during the development phase (2008-2013) phases.

*Justification*

*This is in line with the twofold legal basis proposed, i.e. Articles 171 and 173 of the EC Treaty.*

Amendment 7  
Recital 17 a (new)

***(17a) It is desirable for the private sector to be appropriately involved in all phases, especially in the development phase (2008-2013), so as to ensure the liability of private-sector participants during the deployment phase (2014-2020).***

*Justification*

*The industry can have some problems related their liability when install a new system if they are not appropriately involved in the development of the technological bases.*

Amendment 8  
Article 2, paragraph 3

3. The Joint Undertaking shall be exempt from taxation by the Member States as regards taxes other than VAT and excise duty. In particular, it shall be exempt from the payment of registration fees and corporate or similar taxes. Salaries paid to staff of the Joint Undertaking ***shall be exempt from any national income tax.***

3. The Joint Undertaking shall be exempt from taxation by the Member States as regards taxes other than VAT and excise duty. In particular, it shall be exempt from the payment of registration fees and corporate or similar taxes. Salaries ***shall be paid to staff of the Joint Undertaking pursuant to the conditions of employment of other servants of the European Communities.***

*Justification*

*For reasons of legal and social consistency, it is important to clarify that wage levels should be in line with the 'Rules applicable to other servants of the European Communities'.*

Amendment 9  
Article 4, paragraph 1, point (b)

***b) a possible levy on the air navigation charges within the meaning of the second indent of Article 15(3)(e) of Regulation (EC) No 550/2004. The Commission shall define, in accordance to the procedure referred to in paragraph 4 of Article 15 of Regulation (EC) No 550/2004, the procedures for collecting and using the this levy.*** ***deleted***

*Justification*

*An additional levy on air navigation charges must be avoided. User charges will already contribute to the programme via Eurocontrol. A successful definition phase should deliver a clear business case triggering the necessary private investment (and public funding).*

Amendment 10  
Article 4, paragraph 2

2. The Community's contribution can be paid from the budget of the research and technological development ***and the trans-European networks framework programmes.***

2. The Community's contribution can be paid from the budget of the research and technological development.

*Justification*

*The Trans-European Transport networks form a major tool for achieving the Lisbon Strategy and the objectives of the White Paper on Transport Policy. The agreed budget for TEN-T is already not sufficient to implement all existing priority projects.*

Amendment 11  
Article 6

***Every three years*** from the start of the activities of the Joint Undertaking and upon expiry of the term of the Joint Undertaking, the Commission shall carry out assessments on the implementation of this Regulation, the results obtained by the Joint Undertaking

***Pursuant to Article 173 of the Treaty,*** from the start of the activities of the Joint Undertaking and upon expiry of the term of the Joint Undertaking, the Commission shall carry out assessments on the implementation of this Regulation, the results obtained by

and its working methods.

the Joint Undertaking and its working methods. ***The Commission shall submit to the European Parliament and the Council reports on the results of these assessments and on the conclusions to be drawn therefrom.***

#### *Justification*

*It must be ensured that Parliament and the Council are kept fully and constantly informed of the results and working methods of the Joint Undertaking.*

*The SESAR Joint Undertaking is a long-term project for which regular assessments are indispensable in order to identify shortcomings and delays at the earliest possible stage. Parliament's involvement in this process should be made clear.*

#### Amendment 12

Annex, article 3, paragraph 1, point (f a) (new)

***(fa) a representative of the relevant scientific institutions or scientific community, appointed by the representative organisation at European level.***

#### *Justification*

*This amendment takes account of the obvious need for scientific scrutiny.*

#### Amendment 13

Annex, article 4, paragraph 2

2. ***The*** members of the Joint Undertaking shall have a number of votes in proportion to their contribution to the funds of the Joint Undertaking. However, the Community and Eurocontrol shall each have at least 30% of the total number of votes ***and*** the air passengers' representative referred to in point (b) of Article 3(1) shall have at least 10% of the total number of votes.

2. ***Pursuant to Article 4(1), the*** members of the Joint Undertaking shall have a number of votes in proportion to their contribution to the funds of the Joint Undertaking. However, the Community and Eurocontrol shall each have at least 30% of the total number of votes, the air passengers' representative referred to in point (b) of Article 3(1) shall have at least 10% of the total number of votes ***and the navigation service providers' representative referred to in point (c) of Article 3(1) shall also have at least 10% of the total number of votes.***

#### *Justification*

*This provides legal clarification.*

*In view of the important role played by navigation service providers' representatives it is important that they should have at least 10% of the total number of votes.*

Amendment 14  
Annex, article 4, paragraph 5 a (new)

***5a. Decisions concerning the adoption of the ATM Master Plan and any relevant amendments shall require the favourable vote of all the founder members. Notwithstanding the provisions of paragraph 1, such decisions may not be taken where the representatives referred to in Article 3(1) (c) to (fa) unanimously express disagreement.***

*Justification*

*This amendment concerns the need to ensure consistent decision-making when proposing modifications to the ATM Master Plan.*

Amendment 15  
Annex, article 5, paragraph 1, point (c)

(c) appointing the Executive Director and approving the organisation chart;

(c) appointing the Executive Director ***pursuant to Article 6(1)*** and approving the organisation chart;

*Justification*

*This is a legal clarification consistent with the amendments tabled.*

Amendment 16  
Annex, article 5, paragraph 2, subparagraph 1

The Administrative Board shall meet at least twice a year. Extraordinary meetings shall be convened at the request of *either* one-third of the members of the Administrative Board representing at least 30% of the voting rights, ***at the request of the Community*** or of the Executive Director.

The Administrative Board shall meet at least twice a year. Extraordinary meetings shall be convened *either* at the request of one-third of the members of the Administrative Board representing at least 30% of the voting rights or ***at the request*** of the Executive Director.

*Justification*

*The possibility of convening extraordinary meetings at request of one-third of the members of the Board should be sufficient for the Community. There should be no need for an additional proviso.*

Amendment 17  
Annex, article 6, paragraph 1

1. The Executive Director shall be responsible for the day-to-day management of the Joint Undertaking and is its legal representative. He shall be appointed by the Administrative Board on a proposal from the **European** Commission. He shall perform his duties with complete independence.

1. The Executive Director shall be responsible for the day-to-day management of the Joint Undertaking and is its legal representative. He shall be appointed by the Administrative Board on a proposal from the Commission, **based on the results of the public recruitment competition**. He shall perform his duties with complete independence.

*Justification*

*The aim of this amendment is to reinforce the total openness and transparency of the appointment process, which should be based on the principle of appointing the best candidate after considering the merits of all.*

Amendment 18  
Annex, article 11, paragraph 3, subparagraph 2

In the case of undertakings, subscribing individually or collectively, which may be regarded as small or medium-sized enterprises within the meaning of the Commission recommendation of 6 May 2003 concerning the definition of small and medium-sized enterprises, this amount shall be reduced to EUR 250 000 regardless of when they become members.

In the case of undertakings, subscribing individually or collectively, which may be regarded as small or medium-sized enterprises within the meaning of the Commission recommendation of 6 May 2003 concerning the definition of small and medium-sized enterprises, this amount shall be reduced to EUR 250 000 regardless of when they become members. **Founder members shall have the option of staggering this payment over several instalments, over a period to be agreed.**

*Justification*

*SMEs do not have the resources to pay the sum of EUR 250 000 all at once: should they be obliged to do so, they will ask for a loan on the financial markets. As an SME's credit rating is generally lower than that of a big company, it is important to enable SMEs' maximum contribution to be divided into several instalments, thus increasing the chances of external funding, reducing the short-term financial burden and enhancing the probability of long-term returns.*

Amendment 19  
Annex, article 11, paragraph 6

**6. The Administrative Board shall propose ~~deleted~~  
to the Commission the level and the cost-  
base of the levy on the air navigation  
charges referred to in paragraph 1.**

*Justification*

*An additional levy on air navigation charges must be avoided. User charges will already contribute to the programme via Eurocontrol. A successful definition phase should deliver a clear business case triggering the necessary private investment (and public funding).*

## PROCEDURE

<b>Title</b>	Proposal for a Council regulation on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)
<b>References</b>	COM(2005)0602 – C6-0002/2006 – 2006/0235(CNS)]
<b>Committee responsible</b>	ITRE
<b>Opinion by</b> Date announced in plenary	TRAN 24.1.2006
<b>Enhanced cooperation – date announced in plenary</b>	24.1.2006
<b>Drafts(wo)man</b> Date appointed	Philip Bradbourn 06.2.2006
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	20.6.2006      13.9.2006
<b>Date adopted</b>	13.9.2006
<b>Result of final vote</b>	+:    37 –:    0 0:    1
<b>Members present for the final vote</b>	Gabriele Albertini, Margrete Auken, Philip Bradbourn, Michael Cramer, Arūnas Degutis, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Jeanine Hennis-Plasschaert, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Jörg Leichtfried, Fernand Le Rachinel, Bogusław Liberadzki, Eva Lichtenberger, Erik Meijer, Robert Navarro, Janusz Onyszkiewicz, Josu Ortuondo Larrea, Willi Piecyk, Luís Queiró, Reinhard Rack, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Marta Vincenzi
<b>Substitute(s) present for the final vote</b>	Zsolt László Becsey, Guy Bono, Helmuth Markov, Willem Schuth, Luis Yañez-Barnuevo García
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Brian Simpson
<b>Comments (available in one language only)</b>	...