



Madame Elisabeth Borne
Ministre des Transports
246 Boulevard Saint-Germain
75007 Paris
Paris, 23 October 2017

Re: EASA Basic Regulation COM (2015) 613 final

Dear Minister Borne,

Amendments to Articles 9 and 18 of the EASA Regulation put forward by Council last December (see Annex) and now in trilogue will immeasurably weaken EU's negotiation position at ICAO on aircraft environmental standards and undermine the whole thrust of the Commissions' proposal to align EASA's responsibilities with today's need to address aviation's climate and environmental impacts. We call on you to reverse these amendments and have France support the Commission and Parliament positions.

The amendments would have the effect of depriving Europe of the flexibility where needed to deviate from aircraft environmental standards agreed at ICAO even though Europe exercises such flexibility on ICAO aircraft safety and security standards issues. No other ICAO states so restrict themselves. By doing so, Europe puts itself at a disadvantage when negotiating at ICAO because other states know that Europe has no alternative but to compromise and copy and paste the result without the possibility to deviate or decline. The amendments also dismantle the strengthening of EASA environmental responsibilities on aircraft certification for all but the smallest aircraft (5,700kg for jets). This makes no sense and seems to reflect undue influence by manufacturers such as Airbus.

The flexibility to "go beyond" can be important on issues such as aircraft noise at airports with the problem being the greatest in Europe. And on the ability to align aviation with climate legislation on other transport modes by being able to fully publish aircraft CO2 efficiency scores – as is the EU law for road vehicles and ships. It could potentially be critical in regulating new American supersonic commercial jets under development if, as is quite possible, the US succeeds in having ICAO adopt weak standards for takeoff and sonic boom which might well violate existing EU noise regulations. In such circumstances, only the ability to "go beyond" would enable European member states to retain the right to set standards for supersonic takeoff noise and sonic boom which match EU noise standards or to be able to ban supersonic overflight, a sovereign right used in the past which any ICAO standard would negate.

The type of flexibility needed is demonstrated by the US' adoption last week of legislation on the 2014 ICAO Chapter 14 noise standard. The US "went beyond" ICAO by preventing noisy aircraft modified to comply with Chapter 14 being allowed to be "demodified" back to their original state – eg in order to secure a better sale price. The Council amendment would prevent Europe introducing such a rule. So the US under Trump becomes greener than Europe.

France has recently circulated alternative wording aimed at clarifying that, where an ICAO standard exists, it should be used, with Annex III being reserved for situations where no provision exists. This is not in fact a compromise as its effect is exactly the same as the original Council proposal. EU flexibility to deviate

from ICAO standards would remain limited to all but a handful of areas. Whereas the original proposal limited flexibility to aircraft under 8,000Kg, this limits it to areas where ICAO has not already established standards. But ICAO has established standards in nearly all areas and will take precedence when filling the remainder.

We urge you to act as these issues are now coming up for consideration in the Council- European Parliament trilogues.

Yours sincerely,

On behalf of Transport & Environment



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Annex

EASA Proposal COM (2015) 613 final
Article 9 (new).

Commission Article 9	Parliament	Council	T&E analysis
<p>Aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment shall comply with the essential requirements for airworthiness set out in Annex II and, as regards noise and emissions, the essential requirements for the environmental compatibility of products set out in Annex III.</p>	<p><i>Manned</i> aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment shall comply with the essential requirements for airworthiness set out in Annex II and, as regards noise and emissions, the essential requirements for the environmental compatibility of products set out in Annex III, <i>as well as the environmental protection requirements contained in Annex 16 to the Chicago Convention as applicable, with the exception of the Appendices to that annex.</i></p>	<p>Aircraft referred to in Article 2(1) (a) and (b) and their engines, propellers, parts and non-installed equipment shall comply with the essential requirements for airworthiness set out in Annex II [...].</p> <p><i>1. As regards noise and emissions, those aircraft and their engines, propellers, parts and non-installed equipment shall comply with the environmental protection requirements contained in the provisions of <u>Amendment 11-B of Volume I, Amendment 8 of Volume II, as applicable on 1 January 2015, and in the initial issue of Volume III of Annex 16 to the Chicago Convention, as applicable on [...]1] except for:</u></i></p> <p><i>(a) aircraft, and their associated engines, parts and non-installed equipment for propeller-driven aeroplanes with a maximum take-off mass below 8 618 kg, subsonic jet aeroplanes with a maximum take-off mass below 5 700 kg and rotorcraft with a maximum take-off mass of below 3 175 kg;</i></p> <p><i>(b) aircraft, and their associated engines, parts and non-installed equipment capable of sustaining level flight at speeds exceeding flight Mach number of 1 or intended for propulsion at supersonic speeds;</i></p> <p><i>The products, parts and non-installed equipment referred to in points (a) and (b) shall comply with the essential requirements for environmental compatibility set out in Annex III. Those essential requirements shall also apply to products, parts and non-installed equipment to the extent that the provisions of the Chicago Convention referred to in the first subparagraph do not contain environmental protection requirements.</i></p>	<p>The European Parliament's position references ICAO environmental standards, which must be the basis of European standards, but does not limit the ability to go beyond them.</p> <p>The references underlined by T&E are the existing ICAO environmental standards. As there is no reference to Annex III of the EASA basic regulation, this means that Europe can implement ICAO environmental standards but do no more.</p> <p>This means Annex III of the basic regulation will apply to only the smallest aircraft. For example the</p>

		<p><i>Organisations involved in the design, production and maintenance of products referred to in points (a) and (b) of Article 2(1) shall comply with point 8 of Annex III.</i></p> <hr/> <p>[1] The references to respective Volumes of Annex 16 will need to be updated at a later stage of the legislative process, to take into account the ongoing developments in ICAO.</p>	<p>Airbus A320 has a maximum take-off mass of 83,000 kg.</p> <p>This applies Annex III basic regulation to supersonic aircraft, but as the next paragraph indicates, this is only so long as ICAO has not regulated them.</p> <p>Recommendation: accept EP compromise</p>
Commission Article 18	Parliament	Council	T&E analysis
<p>1. For the aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay down detailed rules with regard to:</p>		<p>1. As regards the environmental compatibility of [...] aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment, the Commission [...] is empowered, [...] by means of delegated acts adopted in accordance with Article 117, to [...] amend the references to the provisions of the Chicago Convention referred to in Article 9(2), in order to update them in light of subsequent amendments to those provisions which enter into force after the date of adoption of this Regulation and which become applicable in all Member States, in so far as such adaptations do not broaden the scope of this Regulation.</p> <p>[...] (Article is covered by conditions specified in Articles 13b, 14a, 16a - Implementing measures)</p>	<p>This Council amendment would remove the ability of the Commission to use delegated acts to establish appropriate environmental standards in Europe.</p> <p>Recommendation: revert to original Commission position.</p>