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**SINGLE SKY COMMITTEE**

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**ROADMAP TOWARDS THE ESTABLISHMENT OF FABs**

- Submitted by the Commission -

In the last meeting of the Committee and based on previous discussions in the context of the FAB Focal Point Group (FFPG), the Commission proposed to prepare a roadmap towards the establishment of FABs with the view to help to secure smooth processes between now and 4 December 2012. The proposal was welcome by the Member States and it was agreed that the Commission will come with a comprehensive approach in SSC 43.

This document is the preliminary proposal of the Commission; it explains the roadmap as the process involves obligations under two separate but related legal acts. Considering the tight time schedule before December 2012, it is suggested that the Commission will meet with the Member States at FAB level to review the situation and will report in SSC 44. It is submitted for discussion.

## **I. Reminder**

### **1. FABs Objective**

The implementations of FABs is expected to enable the required capacity and efficiency improvements of the air traffic management network within the single European sky, while maintaining a high level of safety and contributing to the overall performance of the air transport system and a reduced environmental impact.

SES makes the establishment of FABs an obligation under EU legislation and a means to achieve other obligations put on Member States – interoperability, civil-military cooperation, performance scheme, network management functions, etc.

Regular communication, coordination and consultation among stakeholders are a pre-requisite for the timely achievement of the FAB implementation as they will allow the Member States to validate their approach.

Regular interactions can also improve understanding of local constraints in States and provide opportunity to learn from each other's experiences.

### **2. FABs and SES II**

The adoption of SES II brought new requirements for Member States establishing or already being part of a FAB. The amended Regulation (EC) 550/2004 introduced a deadline on **4 December 2012** at the latest for FAB implementation and provided the legal basis for the establishment of an exchange of information between FABs and interested parties. Regulation (EU) 176/2011 on the information to be provided before the establishment and the modification of a FAB now requires that Member States jointly provide a set of information and documents to interested parties the latest by **24 June 2012**.

The information by States will be provided for observations by the Commission, EASA, other Member States, neighboring third countries, relevant airspace users or groups of airspace users, staff representative bodies and adjacent service providers.

This exchange of information will bring an opportunity for Member States to validate their approach to FAB establishment with EASA, users, other States and providers and also will enable them to demonstrate to the Commission the compliance of the FABs with the relevant requirements SES requirements. The Commission will also inform ICAO.

After the completion of the exchange of information and after the FAB agreements are notified to the Commission it will have to conduct an assessment per each FAB, presenting the results to the SSC as stipulated in Article 9a(6) of Regulation (EC) 550/2004. The observations and the respective answers from FABs that came out from the exchange of information will be taken into account in the process of formal assessment. This process is distinct from the contribution of the FAB Coordinator.

## **II. General FAB establishment process**

Before FAB establishment several milestones have to be met by Member States and the Commission as described in the following steps.

### **Step 1 Provision of information**

- By **24 June 2012** at the latest Member States that have agreed to establish a FAB shall provide a set of documents as specified in the Annex of Regulation (EU) 176/2011 on the information to be provided before the establishment and the modification of a functional airspace block;
- By **24 June 2012** at the latest Member States that have already established a FAB prior to entry into force of Regulation (EU) 176/2011 shall provide the documents required by the Annex which have not already been provided to the Commission before;

### **Step 2 Dispatch of the related information for comments**

- Within one week after submission the Commission shall make the complete documentation available for observations to EASA, other Member States, neighboring third countries, relevant airspace users or groups of airspace users, staff representative bodies and adjacent service providers. Commission will also consult PRB and the Network Manager as appropriate.

### **Step 3 Observations**

- These so called “interested parties” have two months to provide their observations to the Commission.
- Member States in FABs shall duly consider the observations before they establish their FAB.

### **Step 4 Formal establishment and assessment by the Commission**

- On 4 December 2012 at the latest Member States shall establish FABs by mutual agreement. They have to notify the Commission for publication in the Official Journal of the EU.
- After these notifications are received the Commission will conduct a formal assessment of the fulfillment of each FAB of the FAB requirements and will present the results to the Single Sky Committee for discussion.
- Should the Commission find that a FAB does not fulfill any of the requirements, it shall engage in a dialog with the Member States. The process may include the implementation of a plan of corrective actions by the Member States concerned within an agreed timeframe.

## **Step 5 Further modification of FAB dimensions**

- Modifications to FAB dimensions to be notified to EC at least 6 months in advance;
- The information provided shall support the changes and update the data made available for the establishment;
- Same procedure (i.e. steps 1 to 4) is followed as for the initial exchange.

In the subsequent sections the four steps of the general process are further elaborated along a time line.

### **III. Elaboration of the Steps**

The set of requirements for information listed in the Annex of Regulation 176/2011 aims to ensure the adequacy of this information so that all interested parties can be able to submit observations – i.e. in relation to legal, operational and/or economic aspects of the FAB.

For each of the four steps above it will be clarified what has to be provided, when and by whom.

#### **Step 1 Provision of information**

***What:***

- Documents with General Information – see also Part I: of the Annex Regulation (EU) 176/2011
- Documents for each Requirement of Article 9a(2) of Regulation (EC) 550/2004 - Part II of the Annex Regulation (EU) 176/2011
  - FAB Safety Case;
  - Optimum use of airspace, taking into account traffic flows
  - Constituency with the European Route Network;
  - Overall added value based on cost-benefit analyses;
  - Smooth and flexible transfer of responsibility for ATC between ATC units;
  - Compatibility between the different airspace configurations, optimising, *inter alia*, the current FIRs;
  - Regional agreements concluded with ICAO;
  - Regional agreements in existence;

- EU-wide performance targets.
- Member States of already established FABs have to submit only those documents of the list above that were not already submitted at the moment of establishment. The rest of the documents that were officially submitted to the Commission will also be provided to interested parties in a common package.

Member States should consult the FAB guidance material concerning the FAB requirements and related means to demonstrate compliance.

**When:**

- At the latest by 24 June 2012;

**By whom:**

- The documentation has to be provided jointly by FAB Member States in one consolidated package to the European Commission in electronic form;

## **Step 2 Dispatch of the related information for comments**

**What:**

- EC will place the documentation package on a public website together with a Comment Response Document that follows the structure of the Annex for observations and will inform stakeholders for the publication via e-mail :

**When:**

- Within one week after submission by FAB Member States, i.e. on 2 July 2012 at the latest;

**By whom:**

- EC to inform following interested parties (note that this list is indicative and needs to be agreed with Member States)
  - EASA
  - Other Member States (including Iceland, Norway, Switzerland and ECAA States members of FABs – Croatia, Bosnia and Herzegovina)
  - Third countries – not in FAB – Ukraine, Turkey, Moldova, Serbia, Montenegro, Russia, USA, Canada
  - Third countries in a FAB like observer or associated member – Albania, Egypt, Jordan, Tunisia
  - Airlines – IATA, AEA, IACA, ELFAA, EAIOPA, ERA
  - Staff representative bodies – ETF, ATC EUC, IFATCA, IFALPA, ECA

- ANSPs (civil and military) – EU providers should be copied on the letters send to relevant states.
- PRB and Network Manager.

### **Step 3 Observations**

#### ***What:***

- (a) Submission of observations in a CRD to the Commission in electronic form;
- (b) Consolidation and transfer of submitted observations plus observations of the EC itself in the CRD to the FAB Member States via e-mail (the Commission would be supported by Eurocontrol DSS);
- (c) Response by FAB Member States to the observations;

#### ***When:***

- Ref (a): Within two months – i.e. 4 September 2012 at the latest;
- Ref (b): As soon as possible;
- Ref (c): Within a month after the end of the observations period – 4 October 2012;

#### ***By whom:***

- Ref (a): Interested Parties to the European Commission
- Ref (b): Commission to FAB Member States as soon as possible after the expiry of the two months;
- Ref (c): FAB Member States.

### **Step 4 Formal establishment and assessment by the Commission**

#### ***What:***

- Formal assessment by the European Commission against the nine FAB requirements (Article 9a(2), Regulation (EC) 550/2004) but also on overall FAB objectives and requirements for FABs as set forth in other Articles of Regulation (EC) 550/2004 and other SES regulations (performance, charging scheme, network management);
- Based on the information provided under Regulation (EU) 176/2011 and the FABs responses to the observations;
- Leading to a consolidated assessment report to the SSC and discussion;
- In the event of non-compliance the Commission will engage the relevant Members States in a dialogue as soon as practicable;

- The Commission may accept provisionally FAB establishment on conditions which need to be fulfilled within an agreed timeframe.

***When:***

- Starting after the notifications of the mutual agreements by Member States to the Commission – i.e. 4 December 2012 at the latest;
- Consolidated report to SSC – second half of 2013;

***By whom:***

- Member States notify the Commission
- Commission makes formal assessment and reports to the SSC.

Note that the Commission will request the technical support of Eurocontrol to perform its tasks under the various steps.

#### **IV. Current status in individual FABs**

The time between now and 24 June 2012 should be used efficiently by all parties involved in the process.

In this view an overview of the latest developments at individual FAB level (June-September 2011) including the stages of preparation of the documents required under Regulation (EU) 176/2011 would help the Commission and individual FABs preparing the process of formal establishment up to December 2012 and in particular the possibility of an early submission of information prior to June 2012.

A questionnaire has been prepared to collect the related data (see attachment). Once filled in by the individual FAB initiatives, the Commission will propose meeting with the Member States concerned to identify the potential timelines related to the FAB which they are member of. It is expected that such meetings should take place in November 2011 and that the members of the FAB Focal Point Group (FFPG) will help in the organisation of the various meetings. The Commission will report the outcome in the next meeting of the Committee.

There are several benefits that States and the Commission should take into account when considering submission of the documentation prior to 24 June 2012:

- **Between 2 September and 4 December 2012** - there are less than four months which may prove quite insufficient if the observations are to be duly taken into account and implemented;
- The main aim of the process of information is to give the opportunity to all interested parties to make appropriate comments to the documents, to give time to FABs to analyse the comments, identify problems and remedial actions and to implement these actions by the deadline in December 2012;

- If all FABs provide the information at the last moment Member States themselves may be overwhelmed by the amount of documentation to which they are given an opportunity to comment;
- Good practices may be found in other FABs which may be beneficial to be applied before the implementation deadline;
- Early submission may relieve MS of other reporting requirements (i.e SES Annual Reporting).
- Member States may start providing the documents (about any of the nine requirements) that are ready immediately to the Commission. The Commission will consolidate when all documents are submitted and will make it available to interested parties as a package.
- By delivering the information as soon as possible Member States might be in a better position in ensuring the compliance with the requirements and positive formal assessment.

## **Conclusion**

The regulatory process to the establishment of FABs until 4 December 2012 requires coordination between the various FAB initiatives and the Commission in order to be implemented smoothly.

EC strongly advises Member States to submit the documentation prior to 24 June 2012 to secure the success of process allowing FABs and interested parties to take full advantage of the process.

In this view it is suggested that the Commission will meet with the Member States at FAB level to review the situation and will report in SSC 44.

The Commission would welcome comments from the Member States on the approach suggested in this working paper.

## STATUS OF FAB INFORMATION

Status : Planned , Early Draft, Mature Draft, Ready For Submission, Submitted

FAB Information Annex - Part I	Status	Date for submission	Issues/Difficulties	Comments
State Level Agreement				
NSA-NSA Agreement				
ANSP-ANSP Agreement				
Civil-Military Agreements				
FAB Requirements Annex – Part II	Status	Date for submission	Issues/Difficulties	Comments
1. FAB Safety Case;				
2. Optimum use of airspace, taking into account traffic flows				
3. Constituency with the European Route Network				
4. Overall added value based on cost-benefit analyses;				
5. Smooth and flexible transfer of responsibility for ATC between ATC units;				
6. Compatibility between the different airspace configurations, optimising, inter alia, the current FIRs;				

7. Regional agreements concluded with ICAO;				
8. Regional agreements in existence;				
9. EU-wide performance targets.				