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# Working Documents

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## Report

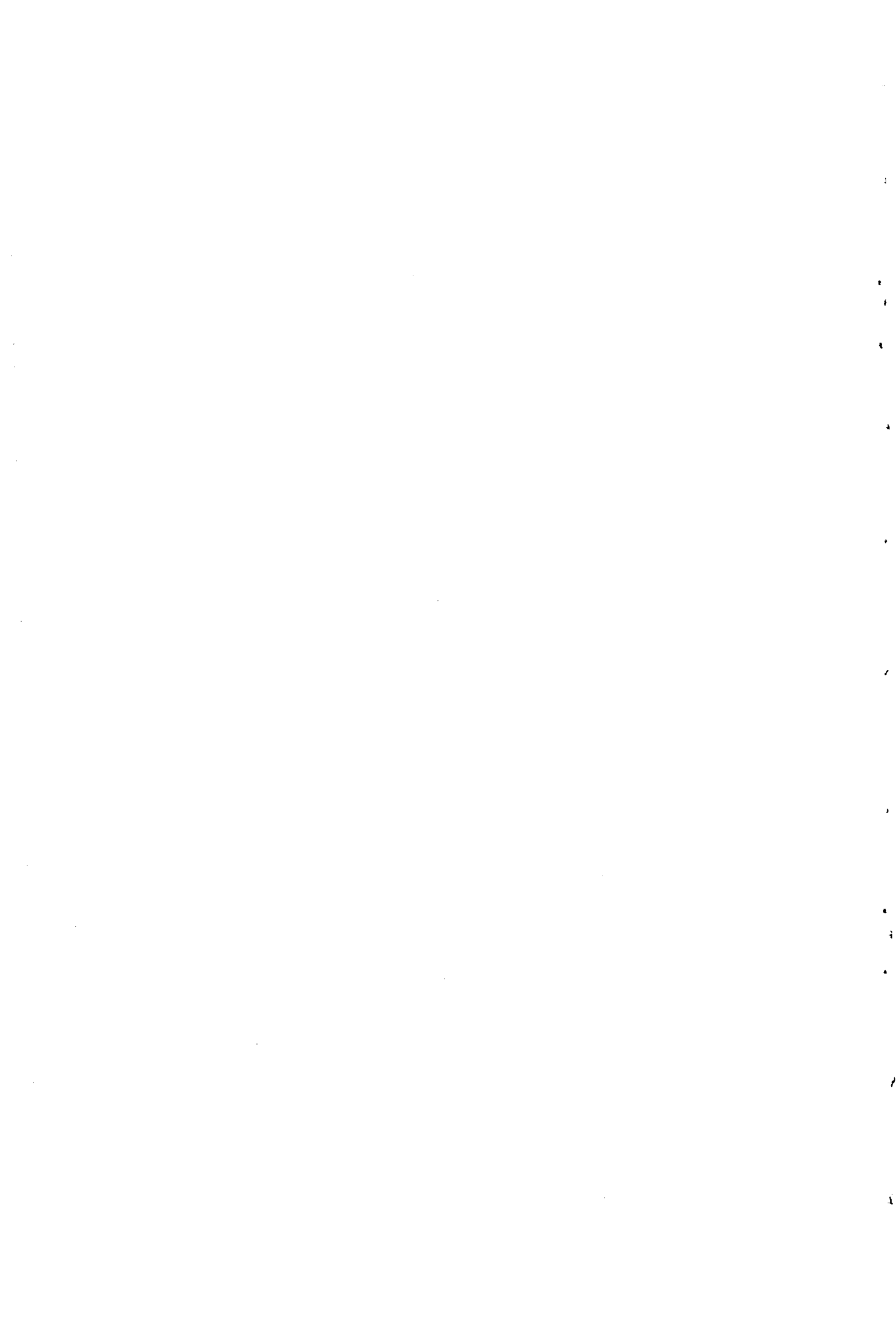
drawn up on behalf of the Committee on the Environment, Public Health and  
Consumer Protection

on the proposal from the Commission of the European Communities to the  
Council (doc. 59/76) for a directive on the limitation of noise emission from  
subsonic aircraft

Rapporteur: Mr W. MÜLLER

PE 44.928/fin.

1.2.2  
English Edition



By letter of 8 April 1976 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive on the limitation of noise emission from subsonic aircraft.

The President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Regional Policy, Regional Planning and Transport for its opinion.

On 18 May 1976 the Committee on the Environment, Public Health and Consumer Protection appointed Mr Willi Müller rapporteur.

It considered this proposal at its meetings of 18 May and 24 June 1976.

At the latter meeting it unanimously adopted the motion for a resolution with two abstentions.

Present: Mr Jahn, vice-chairman, deputizing for the chairman; Lord Bethell and Mr Premoli, vice-chairmen; Mr Willi Müller, rapporteur; Miss Boothroyd, Mr Bourdelles, Mr Guerlin, Mr Hunault, Sir Peter Kirk, Mrs Kruchow, Mr Martens, Mr Ney, Mr Noé, Mr Walkhoff and Mr Schulz (deputizing for Mr Härzschel).

The opinion of the Committee on Regional Policy, Regional Planning and Transport is attached.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the limitation of noise emission from subsonic aircraft

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council<sup>1</sup>,
  - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 59/76),
  - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinion of the Committee on Regional Policy, Regional Planning and Transport (Doc. 199/76),
1. Notes that the type and level of noise emission from aircraft and the increase in air traffic have led to a steady degradation of the environment, placing an intolerable burden on people living near airports;
  2. Welcomes the Commission's proposal, therefore, as a first step towards a substantial reduction of the noise nuisance caused by aircraft;
  3. Is convinced that with its binding character, the directive is the only appropriate legal instrument for the Community measures envisaged to limit aircraft noise, since the present international agreements in this field consist simply of non-mandatory recommendations, which are unlikely to be put into effect in the foreseeable future because of the lengthy ratification process;
  4. Calls upon the Commission to submit in the near future similar proposals for the limitation of noise emission from other categories of aircraft, in particular from heavy propeller aircraft, short take-off aircraft and helicopters, drawing on the studies currently being made by the International Civil Aviation Organization (ICAO);
  5. Stresses the need for further Community regulations on noise abatement facilities at airports with nearby residential areas, creating noise

<sup>1</sup> OJ No. C 126, 9.6.1976, p.2

protection zones for the people living there;

6. Insists that in the spirit of cooperation and mutual trust between the Member States, the EEC aircraft noise limitation certificate provided for in Article 3 of the proposal for a directive must remain valid and binding throughout the Community even if the aircraft in question is registered in another Member State;
7. Urges that the provisions for checking on compliance with the regulations in the proposal be stringently and uniformly framed, since only in this way can their effectiveness and total application be guaranteed;
8. Considers it furthermore essential for the enforcement of the directive that Member States should be required to prohibit take-off and landing on their territory of any aircraft which do not comply with the noise emission standards laid down in the directive;
9. Insists that the eighteen-month period before the proposal comes into effect - which it considers generous - should be strictly adhered to in the interests of the population exposed to noise nuisances;
10. Requests the Commission to incorporate the following amendments in its proposal, pursuant to Article 149, 2nd para., of the EEC Treaty.

Proposal for a Council Directive  
on the limitation of noise emission  
from aircraft

Preamble unchanged

Recitals 1 - 5 unchanged

6. Recital

Whereas this certificate should be issued by the competent authority of the State in which the aircraft is registered, and whereas this certificate could be withdrawn if the aircraft no longer complies with this directive;

6. Recital

Whereas this certificate should be issued by the competent authority of the State in which the aircraft is registered and whereas it should be suspended or withdrawn if the aircraft no longer complies with this directive;

Recitals 7 - 9 unchanged

Articles 1 and 2 unchanged

Article 3

Paragraphs 1 - 3 unchanged

Article 3

4. Where the State of registration is changed, a new EEC certificate must be issued by the new State to replace the old certificate.

4. deleted

Article 4

Paragraph 1 unchanged

Article 4

2. Where a Member State finds, after carrying out a check, that an aircraft entered on its register no longer conforms to the requirements of this directive, it shall take the necessary measures to ensure such conformity.

2. Where a Member State finds, after carrying out a check, that an aircraft entered on its register no longer conforms to the requirements of this directive, it shall take the necessary measures to ensure such conformity.

The competent authorities of that Member State shall, within one month, inform those of the other Member States concerned of any discrepancies found and of the measures taken.

The competent authorities of that Member State shall, within one month, inform those of the other Member States concerned of any discrepancies found and of the measures taken.

<sup>1</sup> For the complete text, see OJ No. C 126, 9.6.1976, p.6

These measures may, where necessary, extend to the suspension or withdrawal of the EEC noise limitation certificate.

These measures shall involve the suspension or withdrawal of the EEC noise limitation certificate.

Paragraph 3 unchanged

Article 5 unchanged

Article 6

No Member State may refuse, on grounds relating to the level of the noise it emits, to allow an aircraft to take off or land on its territory, where the aircraft possesses a valid EEC noise limitation certificate.

Article 6

No Member State may refuse, on grounds relating to the level of the noise it emits, to allow an aircraft to take off or land on its territory, where the aircraft possesses a valid EEC noise limitation certificate.  
If this is not the case, then Member States shall prohibit take-off and landing.

Articles 7 - 9 unchanged

Article 10

Paragraphs 1 and 2 unchanged

3. (a) Where the measures envisaged are in accordance with the opinion of the committee, the Commission shall adopt them.

(b) Where the measures envisaged are not in accordance with the opinion of the committee, or where no opinion is delivered, the Commission shall forthwith submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.

(c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 10

3. (a) The Commission shall adopt measures for immediate implementation.

(b) Where the said measures are not in accordance with the opinion of the committee, they shall immediately be notified to the Council by the Commission. In this case the Commission may defer the application of the measures it has adopted for up to one month following such notification.

(c) The Council may take a different decision within one month by a qualified majority.



Article 11

Paragraph 1 unchanged

2. Member States shall ensure that the text of the main provisions of national law which they adopt in the field covered by this directive are communicated to the Commission.

Article 11

2. Member States shall ensure that the text of the provisions of national law which they intend to adopt in the field covered by this directive are communicated to the Commission in adequate time for the Commission to express an opinion on them.

Article 12 unchanged

Annexes I, II and III unchanged

EXPLANATORY STATEMENTI. General Considerations

1. This proposal for a directive forms part of the general noise abatement programme which your committee on the Environment, Public Health and Consumer Protection has always considered vital.

On the basis of a report by Mr JAHN (Doc.9/72) on the Commission's first communication on Community environmental policy, the European Parliament in point 27 of its resolution of 18 April 1972 had also requested the Commission to consider the question of an effective campaign against noise and to introduce as soon as possible appropriate practical proposals<sup>1</sup>.

2. In its comments on the proposal for a directive, the Commission points out that on 22 March 1974, the Council, in reply to Written Question No. 654/73 by Mr W. MULLER and Mr KATER on environmental and noise pollution caused by aircraft, stated that at a later stage quality objectives for the environment and standards for aircraft could be established, drawing on the work done by international organizations such as the International Civil Aviation Organization<sup>2</sup>.

3. This directive aims at establishing a uniform framework of provisions for the Community as a whole to limit noise emission from subsonic aircraft. In drawing up the proposal for a directive, the Commission drew on preparatory work done by a number of international organizations, in particular by the International Civil Aviation Organization (ICAO).

4. There can be no doubt that the noise from aircraft in the proximity of airports, particularly those on the approach path and - to varying degrees - on day and night flights, causes a substantial nuisance to people living in the area and can lead to serious damage to their health. Here the noise nuisance depends on the nature of the noise (deep or high pitched sound), its level and duration. With the advent of subsonic jet aircraft, the high pitched sounds have become predominant. The increase in payload of civil jet aircraft has brought an increase in engine thrust and hence an increase in the level of the noise emitted. The increase in the volume of air traffic has further resulted in longer exposure times to noise nuisances. Then there is the environmental impact of the fleet of private aircraft (annual increase 2.3%) composed mainly of small subsonic jets with the take-off weight of less than 28,500 kg. The noise of light propeller aircraft must also be taken into account. It arises mainly from take-offs, landing and low flying and its unpleasant effects are particularly noticeable at weekends and on public

<sup>1</sup> OJ No. C 46, 9.5.1972, p.10

<sup>2</sup> OJ No. C 53, 9.5.1974, p.19

holidays. Moreover, all aircraft cause extreme noise nuisances since their engines are placed in such a way as to make almost all attempts at silencing unsuccessful.

The Commission therefore rightly notes that the type and level of noise emitted by aircraft together with the increase in the volume of air traffic have led to a steady degradation of the environment around airports, placing an intolerable burden on the people living nearby.

5. In your committee the question arose whether there was any point at all to the directive, given that action on the international level has already been undertaken to combat aircraft noise. Is the Commission's proposal simply an unnecessary burden for national legislation, totally superfluous if the current international criteria for noise control are applied in the various Member States? The answer to this question must be a clear 'no' for the following reasons:

On the basis of the results of the 1966 London International Conference on the reduction of noise disturbance caused by civil aircraft, the Fifth Air Navigation Conference of ICAO in 1967 made certain recommendations with the object of finding international solutions to the problem. In 1972 the ICAO Council adopted the first set of standards and recommended practices on aircraft noise known as 'Annex 16 to the Chicago International Convention on Civil Aviation'. Among other things these standards refer to the noise certification of various categories of aircraft. In the meantime two amendments to this annex have come into force. Unfortunately all these are no more than recommendations, and hence non-binding, even if, pursuant to Article 37 of the Chicago Convention, each contracting State undertakes to make regulations and standards as uniform as possible. They do not become mandatory in a State until embodied in its national law.

In fact, the laws of most Member States of the European Community are based on the principles of Annex 16; nevertheless there are major discrepancies between them. Italy and Luxembourg have no practical laws at all in this field.

The Commission is therefore rightly convinced that the most effective way of reducing noise nuisance caused by aircraft is to apply uniformly in the Member States of the European Community the standards developed within ICAO by means of a directive pursuant to Article 100 of the EEC Treaty.

These present differences in legislation not only limit the effectiveness of measures to combat aircraft noise, they also lead to distortions in competition between purchasers, i.e. the airlines. This undoubtedly has a direct effect on the functioning of the Common Market.

Unlike the agreements concluded by international organizations such as the Council of Europe, pursuant to Article 189 of the EEC Treaty (Article 161 of the EAEC Treaty), a directive shall be binding, as to the result to be achieved, upon each Member State, leaving only the choice of form and method to the national authorities. Moreover, pursuant to Article 169 ff. of the EEC Treaty, the application of a Community directive can where necessary, be enforced by means of an action before the European Court of Justice for infringement of the treaty. The Commission's proposal is also justified by the time that elapses between the dates of signature and practical application of agreements, which work to the detriment of those exposed to the nuisance.

Your committee is therefore categorically in favour of the directive as a mandatory legal instrument for the measures envisaged to reduce aircraft noise.

6. A further argument for the Commission's proposal is that by virtue of technical developments the USA is already far ahead of European countries in this field. If the European aviation industry does not wish to fall even further behind in terms of competitiveness, then it is high time that mandatory measures were introduced at Community level. This directive can make a significant contribution to the maintenance or the re-establishment of the Community's competitiveness vis-à-vis the USA.

## II. Consideration of the major provisions of the proposal for a directive

7. Article 1, in conjunction with Annex I, defines the scope of the directive, which applies to subsonic jet aircraft irrespective of weight and to light propeller aeroplanes (whose maximum take-off weight does not exceed 5,700 kg), insofar as these subsonic aircraft are entered on a civil aviation register and are operated in a Member State.

Your Committee on the Environment, Public Health and Consumer Protection calls on the Commission to submit a proposal for a directive on the limitation of noise emission from other categories of aircraft, in particular heavy propeller aeroplanes, short take-off aeroplanes and helicopters as soon as possible, drawing on the results of present ICAO studies. The Commission is further requested to submit appropriate proposals for noise abatement facilities at airports, at least where there are residential areas nearby. These proposals must be designed to create protection zones for those exposed to noise nuisances.

8. Article 2 contains definitions of the terms 'aircraft', 'aeroplane', 'EEC noise limitation certificate' and 'laissez-passer'. The last of these is a provisional document; without this, an aircraft which is not the subject of an EEC noise limitation certificate shall not be allowed to operate.

9. Article 3 contains provisions for the EEC noise limitation certificate and fixes the minimum information which it must contain.

The core of the directive is contained in Article 3(3) pursuant to which the EEC noise limitation certificate shall not be issued unless the noise level of the aircraft does not exceed the values laid down in Annex II.

These values are:

- (a) at the sideline and approach points of measurement, 108 EPNdB<sup>1</sup> for aircraft whose maximum certification take-off weight is at least 272,000 kg,
- (b) at the measurement point overflown at take-off, 108 EPNdB for aircraft whose maximum certification take-off weight is at least 272,000 kg.

These values are reduced by two and five EPNdB respectively when the maximum weight is halved. They amount to 102 EPNdB and 93 EPNdB respectively when the maximum certification weight is 34,000 kg or less. Within the limits specified above, the maximum noise levels vary in linear relation to the logarithm of the weight of the aircraft.

10. The EEC noise limitation certificate (see specimen in Annex III) is to be issued by the Member State in which the aircraft is registered. Where the State of registration is changed, a new EEC certificate must be issued by the new State to replace the old certificate.

If this certificate - as the Commission states in its general comments - is to facilitate both administratively and technically, the free movement of aircraft (either by way of sale or hire) between Member States, then your committee is convinced that the certificate must be valid throughout the Community without any need for the issue of a new certificate should the State of registration of the aircraft be changed. Your committee therefore calls on the Commission to delete Article 3, paragraph 4.

11. Article 4 concerns checks to ensure that the aircraft complies with the requirements of the directive. Its aim is to uphold the noise standards laid down in the directive. The national certification authorities are responsible for this. They are required to inform each other within one month of any discrepancies found and of the measures taken. Pursuant to the third sub-paragraph of Article 4, these measures may extend to the suspension or withdrawal of the EEC noise limitation certificate.

Your committee does not agree with this optional ruling. If the directive is to be effective, its provisions, particularly those relating to checks, must be mandatory. Suspension of the EEC certificate must be the minimum sanction for failure to comply with this directive. It should only be renewed

<sup>1</sup> Effective perceptible noise decibel

once the faults complained of have been rectified. Your committee therefore calls for an amendment to the third sub-paragraph of Article 4(2) which should read as follows: 'These measures shall involve the suspension or withdrawal of the EEC noise limitation certificate'.

This means that the sixth recital of the proposal for a directive must also be amended. At present it reads as follows: 'Whereas this certificate should be issued by the competent authority of the State in which the aircraft is registered, and whereas this certificate could be withdrawn if the aircraft no longer complies with this directive'. This should now be rephrased as follows: 'Whereas this certificate should be issued by the competent authority of the State in which the aircraft is registered and whereas it should be suspended or withdrawn if the aircraft no longer complies with this directive'.

Your committee approves Article 4(3) pursuant to which the Member State which has taken measures - suspension or withdrawal of the EEC certificate - shall notify such measures to the person concerned, together with the full technical grounds on which they are based, the remedies available to him under the laws in force in the Member State concerned, and the time limits allowed for the exercise of such remedies. This offers the necessary legal safeguards and protects the airlines from arbitrary decisions on the part of the authorities.

12. Article 5 specifies the obligations incumbent on the airlines. Pursuant to Article 5(1) no aircraft may land or take off at an airport situated in the territory of a Member State unless it is in possession of a valid noise limitation certificate. This does not apply to aircraft entered on the civil aviation register of a third country which can prove that they comply with standards at least as high as those contained in the latest version of Annex 16 to the Convention on International Civil Aviation. In this way, the third countries in question are obliged to comply with this convention insofar as they make use of Member States' airports. This is also in line with the general practice of third countries vis-à-vis aircraft from the Community.

Pursuant to Article 5(3) Member States may grant exemptions for special non-commercial flights in individual cases, e.g. prototype test flights, for aircraft which do not possess an EEC noise limitation certificate, and in its place issue a laissez-passer pursuant to Article 2(4).

Your committee approves the provisions of Article 5.

13. Article 6 provides for the mutual recognition of noise limitation certificates issued by Member States. It specifies that no Member State may refuse, on grounds relating to the level of the noise it emits, to allow an aircraft to take off or land on its territory, where the aircraft possesses a valid EEC noise limitation certificate.

However, there is no provision for the reverse situation and how Member States should react if no certificate has been issued. In this case, Member States have the option to prohibit or to allow take-off and landing.

This would clearly not be in line with the objectives of the directive (the limitation of the noise emission from subsonic aircraft) and would rob it of its sense and purpose. Therefore your committee considers it essential that Article 6 be completed by the following sentence:

'If this is not the case, the Member States shall prohibit take-off and landing'.

14. Articles 8 to 10 contain provisions on the setting up and the procedure of a 'Committee on the Adjustment to Technical Progress of this Directive'. Although your committee agrees entirely with the setting up of this expert committee, it cannot approve the procedure provided for in Article 10. It therefore calls for the usual amendments, in line with the European Parliament's previous position with regard to the institutional aspect of this problem.

15. Pursuant to Article 11(1), Member States shall put into force the provisions needed in order to comply with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.

Your committee considers this deadline most generous, since the competent national authorities (Ministry Offices) are already following Community work in this field and are in a position to arrange for the speedy incorporation of the directive in national law when the time comes. It has decided not to shorten the period however, on the assumption that it will be strictly adhered to by the Council when taking its decision and by the Member States when carrying out the directive.

16. Article 11(2) contains a provision, repeatedly rejected by the European Parliament to the effect that the Member States shall ensure that the text of the main provisions of national law which they adopt in the field covered by this Directive is communicated to the Commission. Your committee, in line with its previous attitude to similar cases, believes that all provisions of national law should be communicated to the Commission and in adequate time for it to express an opinion on them. The word 'main' can be interpreted in different ways. Moreover, the Commission may consider important provisions which at first sight seem to be 'minor'. Finally, the Commission must be informed of projected provisions of national law far enough ahead for it to check that these are in line with the objectives of the directive and, where necessary, veto them. Consequently Article 11(2) should be amended as follows:

'Member States shall communicate to the Commission the text of the provisions of national law which they intend to adopt in the field covered by this directive in adequate time for the Commission to express an opinion on them'.

OPINION OF THE COMMITTEE ON REGIONAL POLICY, REGIONAL PLANNING AND TRANSPORT

Draftsman : Mr John OSBORN

On 20 May 1976 the Committee on Regional Policy, Regional Planning and Transport appointed Mr Osborn draftsman.

It considered the draft opinion at its meeting of 23 June 1976 and adopted it unanimously.

Present : Mr Nyborg, vice-chairman; Mr McDonald, vice-chairman; Mr Osborn, draftsman; Mr Albers, Mr Ariosto, Mr Berkhouwer (deputizing for Mr de Clercq), Mr Delmotte, Mr Hamilton, Mr Houdet, Mrs Kellett-Bowman, Mr Knud Nielsen, Mr Noé and Mr Seefeld.



1. It is generally accepted that excessive aircraft noise, particularly in the vicinity of airports in heavily populated areas, constitutes one of the most troublesome sources of "noise pollution", though unlike other sources such as, for example, motor cycles it may be comparatively localised in its effect.
2. The Commission's proposal, which provides for "compulsory" harmonisation, extends only to subsonic aircraft entered on a civil aviation register and the permitted maximum noise levels and methods of measuring them are modelled on the International Civil Aviation Organisation's standards as determined in the latest amended version of Annex 16 to the Chicago Convention on International Civil Aviation.
3. As the Explanatory Statement makes clear Community countries, with the exception of Italy and Luxembourg, have national legislation which is modelled on Annex 16, but since the Annex has been amended twice since it was agreed in 1971, there are three versions of it and different countries have modelled their legislation on different versions so that in practice there is no uniformity in the Community.
4. The application of the proposed directive by Member States would bring about such uniformity and is to be welcomed.
5. Annex II of the proposal evaluates aircraft noise in terms of "effective perceived noise in decibels (EPN<sub>dB</sub>)" and provides for three measuring points, the first where the noise level at take-off is greatest (Sideline measuring point), the second at a distance of 6,500 metres from the start of the take-off run (Measurement point overflown at take-off) and the third 2,000 metres from the threshold on approach (Measurement point overflown on approach). The measuring points then are all located within the vicinity of the landing or take-off site.
6. Reference has been made in paragraph 2 above to the harmonisation being compulsory, and Article 5(1) states "No aircraft ..... may land or take off at an airport situated in the territory of a Member State unless it is in possession of a valid EEC noise limitation certificate". Paragraph 3 of Article 5 states, however, that "The competent authority of each Member State may, for special non-commercial purposes, grant exemptions to paragraph 1 above by issuing a laissez-passer. The validity thereof shall be restricted to flights above the territory of the Member State issuing the laissez-passer, save where it is endorsed by one or more other Member States or by third countries."

7. Your Draftsman for an Opinion considers that even if the derogation provided for by paragraph 3 of Article 1 can be justified it is worded too imprecisely. No definition is given of 'special non-commercial purposes' so each Member State appears free to draw up its own definition. Admittedly a laissez-passer will have to be endorsed by the countries concerned if the exempted plane flies in their air space, but within a national air space there will be no such form of control.

8. The Explanatory Statement refers to the environmental impact of the fleet of executive aircraft which is currently growing at an annual rate of over 2.3% of the total European civil aircraft fleet. It is presumably in this area that 'non-commercial' derogations are likely to be made by means of issuing a laissez-passer and since it is a growing sector the Committee on Regional Policy, Regional Planning and Transport considers that the circumstances in which a laissez-passer can be issued must be more clearly defined in the proposed directive.

9. As far as the maximum permitted sound levels are concerned the proposal can be welcomed since they represent a significant reduction from the levels attained by the older generation of jet planes such as the McDonnell Douglas DC-8 or the Boeing 707. The application of the February 1975 version of Annex 16 not only to Community aircraft but also to those of third countries operating in Member States should avoid any distortion of competition or concealed protectionism.

10. If, however, the present proposal can be welcomed it should be pointed out that the problem of aircraft noise within the immediate vicinity of the airport is only part of the problem. Aircraft noise can and does, depending on various factors, cause nuisance over a much greater area. The questions of night flights, flight paths and so on are beyond the scope of this proposal, but they can be of considerable regional and environmental significance. Your Draftsman suggests that the Commission should give urgent consideration to the wider problems with a view to ameliorating their effects.

11. In this connection, your draftsman welcomes the Commission's draft resolution on the continuation and implementation of a European Community policy and action programme on the environment (Doc. 51/76). Chapter 4 of this resolution deals with the creation of a second phase in the evolution of a Community policy against noise. The first phase, of which the present measure forms part, originated from the Council Declaration of 22 November 1973, and has chiefly covered the emission of noise. The second phase covers a period of five years (1977-1981) and will consider the broader aspects such as the propagation and reception of noise pollution rather than

just the emission of noise. It will also cover the question of who should pay, in principle it being the polluter who must bear the cost of preventing and eliminating nuisances. This, however, may require complex legislation. Finally, as far as noise pollution is concerned, your draftsman would emphasize the need to arrive at a means of assessing noise pollution which will lead to commonly acceptable figures. Even if agreement can be reached on a given permissible maximum of EPNdB, there must also be agreement that the recorded figures have been arrived at legitimately and on a comparable basis.

12. Subject to these comments the Committee on Regional Policy, Regional Planning and Transport endorses the Commission's proposal.

