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**MODIFICATIONS TO THE AIR TRAFFIC SERVICES LICENCE FOR NATS (EN ROUTE) PLC UNDER SECTION 11 OF THE TRANSPORT ACT 2000**

The CAA has modified the following conditions as they currently appear in the Licence:

- Condition 20: Price Control Conditions - explanatory provisions and definitions;
- Condition 21: Control of Eurocontrol Charges;
- Condition 22: Oceanic Charges;
- Condition 23: Charges for North Sea Helicopter Advisory Services and Terminal Approach Charges; and
- Condition 24: Information to be provided to the CAA in connection with the Charge Control Conditions.

The effects of the modifications, which come into effect on 1 January 2006, are as follows:

- to establish new price controls for NERL's Eurocontrol business for the five years starting on 1 January 2006. The price controls will be extended to include the London Approach service.;
- to increase the size of the service quality incentive and to introduce a mechanism that provides a greater financial incentive in relation to delays early in the morning and longer delays;
- to bring charges for London Approach services (formerly Terminal Approach services) within the scope of the Eurocontrol price control

and to introduce a mechanism to secure that, over time, these charges do not become less reflective of the costs of providing the services;

- to establish new price controls for NERL's Oceanic business for the five years starting on 1 April 2006.;
- to remove the explanatory provisions from Condition 20 and to publish them separately from the Licence;
- to modify the information requirements to enable the CAA to monitor NERL's compliance with the new price control conditions; and
- to clarify certain definitions used in the price control conditions.

On 1 December 2005 the CAA published a document, in the economic regulation section of its website, setting out its decision on the price controls. The document also includes a Regulatory Policy Statement, a mechanism for tracking the regulatory asset base and the terms of reference for a review of the effectiveness of other conditions in NERL's Licence.

The modified conditions and a commentary on the conditions follow.

## **Commentary on the modified price control conditions**

1. The following provides a descriptive summary of the modified Conditions 20 to 24 which relate to the charges that are levied by NERL.
2. The Price Control Conditions relate to the following sets of revenue:-
  - that part of the charges that are paid by users to Eurocontrol which is subsequently reimbursed by Eurocontrol to NERL (condition 21);
  - charges for the London Approach Service at Heathrow, Gatwick and Stansted (condition 21 and condition 23);
  - charges for services provided in the Shanwick Oceanic Control Area (condition 22);
  - charges for the North Sea Helicopter Advisory Service (condition 23).

### **Eurocontrol and London Approach charges**

3. Condition 21 limits increases in the amount of revenue that NERL may recover from the sum of Eurocontrol charges and charges for the London Approach Service in each of the five calendar years from 2006 to 2010. For each year there is a Maximum Allowed Controlled Revenue which is made up of the following elements:
  - (i) a variable revenue element which depends on the number of Distance Units. These are the number of annual chargeable kilometres that are taken into account in calculating the number of chargeable Service Units for Eurocontrol purposes. The base charge per chargeable kilometre (VR) is fixed for 2006 and is adjusted for each of the following four years by the movement in the Retail Price Index less a factor (X). The resulting figure is multiplied by the number of Distance Units in each year;
  - (ii) a fixed revenue element (FR) that is fixed for 2006 and is adjusted for each of the following four years by the movement in the Retail Price Index less a factor (X);
  - (iii) an additional element (LR) where the Maximum Allowed Controlled Revenue is increased if in any year the number of chargeable kilometres falls below 80% of the CAA's forecast level;
  - (iv) a correction factor (K) which adjusts the Maximum Allowed Controlled Revenue to reflect the extent to which the revenue earned by NERL from Eurocontrol and London Approach charges in the previous year

varies from the Maximum Allowed Controlled Revenue for that year. This variation can be caused, for example, where the number of chargeable kilometres differs from the forecast used at the time when charges were set, because of a different balance of revenue from Eurocontrol and London Approach charges than had been forecast or where NERL's actual receipt from the Eurocontrol charge differs from the amount of the charge due to NERL because of the effect of the CAA/DfT component of the unit rate. Condition 21 also makes specific allowance for the carry over of any over- or under-recovery in 2005;

- (v) a service factor ( $S$ ), reflecting the extent of achievement by NERL of specified service levels which will be based on a measure of delay calculated in accordance with the formula set out in paragraph 4 of Condition 21. This gives a higher weighting to delays that occur during the early morning peak period and to the portion of delays that exceed 15 minutes. The Maximum Allowed Controlled Revenue will be increased, or decreased up to a maximum specified amount, depending on NERL's delay performance. Condition 21 also includes an  $S$  factor for 2006 to allow for NERL's delay performance in 2005; and
- (vi) a factor ( $G$ ) to reflect any unanticipated revenues received by NERL from the Government arising from implementation of Article 15 of the EC Service Provision Regulation in relation to charging principles. The Maximum Allowed Controlled Revenue will be reduced by the equivalent of 50% of any unanticipated revenues from this source. The CAA would not expect the  $G$  factor to capture any of the revenue that NERL derives from its contract with the Ministry of Defence.

4. In relation to charges for the London Approach service, Condition 23 ensures that these charges are established following a process of effective consultation with users. In addition under Condition 21, NERL will have to ensure that any changes it makes to the charges for the London Approach service do not make the charges materially less cost reflective than they were previously.

#### **Oceanic charges**

5. Condition 22 limits annual increases in average charges in the En route (Oceanic) Area. For each year the Maximum Permitted Average Charge per Oceanic Flight is made up of the following elements:
  - (i) a base charge per Oceanic Flight ( $U$ ) which is the figure for the previous year multiplied by the movement in the Retail Price Index less a factor ( $Z$ ). This figure is fixed for 2006/07;

- (ii) a correction factor ( $L$ ) Per charged Oceanic Flight which adjusts the Maximum Permitted Average Charge Per Oceanic Flight to reflect the extent to which charges actually levied in the previous year exceeded or fell short of the Maximum Permitted Average Charge per Oceanic Flight for that year.

#### **North Sea Helicopter Advisory Service charges**

- 6. Condition 23 ensures that charges for the North Sea Helicopter Advisory Services are established following a process of effective consultation with users of these services.

#### **Information provided to the CAA**

- 7. Condition 24 describes the information that NERL has to provide to the CAA in order to monitor NERL's compliance with the price control conditions. The condition:
  - (i) requires NERL to give specified information to the CAA annually, or where any change in the Eurocontrol Charges is proposed, as to its forecasts for the average charge per Service Unit and for London Approach charges, together with specified information demonstrating the basis on which these forecasts were calculated and how these are reconciled with the Maximum Allowed Controlled Revenue;
  - (ii) requires NERL to give information to the CAA annually or when any change in Oceanic Charges is proposed as to its forecasts for the Average Charge Per Oceanic Flight, together with specified information demonstrating the basis on which these forecasts were calculated; and
  - (iii) requires NERL to submit an annual statement to the CAA containing specified historical information to enable the CAA to monitor NERL's compliance with the Charge Control Conditions.

#### **Review of price control conditions**

- 8. The price control conditions for Eurocontrol and London Approach Service charges will apply for the five years from 2006 to 2010. The price control conditions for Oceanic charges will apply from 2006/07 to 2010/11. These conditions will be reviewed towards the end of the five-year period and will be modified as necessary for subsequent periods in accordance with sections 11 to 19 of the Transport Act 2000.

## **Modified Price Control Conditions**

### **Condition 1: Interpretation and construction**

“Terminal Approach Service” is modified to “London Approach Service” where the term appears in Condition 1

### **Condition 20: Price Control Conditions: Definitions**

In Conditions 21 to 25, unless the context otherwise requires:

<b>"Average Charge Per Oceanic Flight"</b>	means the Oceanic Revenue in the Oceanic Relevant Year divided by the number of Oceanic Flights attracting an Oceanic Charge in that year.
<b>"Charge Control Conditions"</b>	means Conditions 20 to 25 inclusive, as from time to time modified in accordance therewith or pursuant to sections 11 to 19 of the Act.
<b>“Chargeable Service Unit”</b>	means one unit for the purposes of the UK unit rate of charge as specified in accordance with the Eurocontrol Conditions of Application of the Route Charges System and Conditions of Payment as effective at January 2005.
<b>“Distance Unit”</b>	<p>means for each flight in respect of which a charge is levied the great circle distance expressed in kilometres between</p> <ul style="list-style-type: none"><li>(a) the aerodrome of departure within, or the point of entry into, the En Route (UK) Area as designated in Schedule 1 to this Licence, and</li><li>(b) the aerodrome of first destination within, or the point of exit from, the En Route (UK) Area as designated in Schedule 1 to this Licence.</li></ul> <p>The distance shall be reduced by 20 kilometres for each take-off or landing within the United Kingdom.</p>
<b>"Eurocontrol"</b>	means the European Organisation for the Safety of Air Navigation, founded by the 1960 Brussels Convention relating to Co-operation for the Safety of Air Navigation, or any successor body.
<b>"Eurocontrol Business"</b>	means the business of the Licensee consisting in the provision of services for which Eurocontrol Charges are paid.
<b>"Eurocontrol Charge"</b>	means any charge collected by the Central

Route Charges Office of Eurocontrol on behalf of the United Kingdom and reimbursed to the UK Government and its nominees.

**"Exceptional Circumstances"**

means circumstances which are outside the Licensee's control and which:

(a) have had or will have a negative effect on its financial position; and

(b) that effect is such that the Licensee's ability to meet its current or future obligations under the Act or this Licence is, or is threatened to be, materially impaired.

**"London Approach Service Charge"**

means a charge paid to the Licensee from the provision of the London Approach Service

**"London Approach Service Revenue"**

means the revenue derived beneficially by the Licensee from the London Approach Service.

**"Maximum Allowed Controlled Revenue"**

means the amount calculated in accordance with Condition 21.

**"Maximum Permitted Average Charge Per Oceanic Flight"**

means the amount calculated in accordance with Condition 22.

**"National Security Period"**

means a period commencing on the date on which any direction issued by the Secretary of State under section 94 of the Act enters into effect and terminating on the date such direction, as varied, is revoked or expires.

**"Oceanic Charge"**

means a charge paid to the Licensee from the provision of services in the En Route (Oceanic) Area.

**"Oceanic Flight"**

means a flight in the En Route (Oceanic) Area in an Oceanic Relevant Year.

**"Oceanic Relevant Year"**

means a period of 12 months commencing on or after 1 April in each year. The sixth Oceanic Relevant Year (referred to in paragraph 2 of Condition 22) shall be the period commencing 1 April 2006.

**"Oceanic Relevant Year  $t$ "**

means that Oceanic Relevant Year for the purposes of which any calculation falls to be made; "Oceanic Relevant Year  $t-1$ " means the Oceanic Relevant Year preceding Oceanic Relevant Year  $t$  or, in respect of the period prior to 1 April 2006, the period of 12 months commencing on 1 April 2005; and similar expressions shall be construed accordingly.

<b>"Oceanic Revenue"</b>	means the revenue derived beneficially by the Licensee from Oceanic Charges.
<b>"Relevant Bad Debt"</b>	means the aggregate of bad debts arising in relation to a Relevant Year, despite all reasonable endeavours by the Licensee to recover such revenue, except that the first £1.5 million of any such bad debts shall be excluded.
<b>"Relevant Year"</b>	means a calendar year commencing on 1 January in each year. The sixth Relevant Year (referred to in paragraph 2 of Condition 21) shall be the calendar year commencing on 1 January 2006.
<b>"Relevant Year <math>t</math>"</b>	means that Relevant Year for the purposes of which any calculation falls to be made; "Relevant Year $t-1$ " means the Relevant Year preceding Relevant Year $t$ or, in respect of the period prior to 1 January 2006, the calendar year commencing on 1 January 2005; and similar expressions shall be construed accordingly.
<b>"Total Controlled Revenue"</b>	means the total revenue derived beneficially by the Licensee from the Eurocontrol Business and from the London Approach Service less Relevant Bad Debts.

## Condition 21: Control of Eurocontrol and London Approach Service Charges

1. Without prejudice to Condition 25 (Suspension and Modification of Charge Control Conditions) the Licensee shall use its best endeavours to ensure that in the period from 1 January 2006 until 31 December 2010 the Total Controlled Revenue shall not exceed the Maximum Allowed Controlled Revenue calculated in accordance with paragraphs 2 to 4 of this Condition. The Licensee shall not be in breach of this Condition if it sets charges on the basis of its best endeavours forecast of Distance Units for each Relevant Year.

### Relevant Year 6 (1 January 2006 to 31 December 2006)

2. The Maximum Allowed Controlled Revenue shall be calculated as follows:

$$MACR_6 = (VR_6 \times D_6) + FR_6 + LR_6 + K_{cp1} - (S_{cp1} \times Q_5) - G_6$$

where:

$MACR_6$  means the Maximum Allowed Controlled Revenue in Relevant Year 6.

$VR_6$  means a factor for the variable revenue element of the Maximum Allowed Controlled Revenue which depends on Distance Units in Relevant Year 6 which will have the following value:

$$VR_6 = \text{£}0.3196$$

$D_6$  means the quantity of Distance Units that are taken into account in calculating the number of Chargeable Service Units in Relevant Year 6.

$FR_6$  means the fixed revenue element of the Maximum Allowed Controlled Revenue in Relevant Year 6 which will have the following value:

$$FR_6 = \text{£}247,824,000$$

$LR_6$  means the additional element to the Maximum Allowed Controlled Revenue where the quantity of Distance Units in Relevant Year 6 is below a defined lower bound.

Where  $D_6 \geq DLOW_6$

$$LR_6 = 0$$

Where  $D_6 < DLOW_6$

$$LR_6 = (DLOW_6 - D_6) \times VR_6 \times [0.6]$$

where  $DLOW_6$  shall have a value of 593 million

$K_{CP1}$  means the correction factor (whether of a positive or negative value) and shall be calculated in accordance with the following formula:

$$K_{CP1} = (Q_{t-1}M_{cp1} - TR_{t-1}) \left[ 1 + \frac{I_6}{100} \right]$$

where  $Q_{t-1}$  and  $TR_{t-1}$  have the meanings defined in Condition 21 of the Air Traffic Services Licence for NATS En Route plc which was in effect on 1 July 2005; where t-1 means the calendar year 2005;

where  $M_{cp1}$  shall have a value of £48.50, and

where  $I_6$  means the average yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September 2004 where the value of  $(Q_{t-1}M_{cp1} - TR_{t-1})$  is positive, or 3 per cent per annum above this average rate where the value is negative.

$S_{cp1}$  means, in respect of delays in the calendar year 2005, the service factor per chargeable service unit (whether of a positive or negative value), as calculated in accordance with Condition 21 of the Air Traffic Services Licence for NATS En Route plc which was in effect on 1 July 2005 except that  $PD_t$  shall have a value of 0.75 minutes.

$Q_5$  means the quantity of Chargeable Service Units attracting a Eurocontrol Charge in Relevant Year 5.

$G_6$  means 50% of any revenues received from the UK Government during 2006 under any common charging scheme established in accordance with Article 15(4) of Regulation (EC) No 550/2004 (The "Service Provision Regulation")

### Relevant Years 7 to 10 (1 January 2007 to 31 December 2010)

3. In each Relevant Year the Maximum Allowed Controlled Revenue shall be calculated as follows:

$$MACR_t = (VR_t \times D_t) + FR_t + LR_t + K_t - (S_{t-1} \times FLIGHTS_{t-1}) - G_t$$

where:

$MACR_t$  means the Maximum Allowed Controlled revenue in Relevant Year  $t$ .

$VR_t$  means a factor for the variable revenue element of the Maximum Allowed Controlled Revenue which depends on Distance Units in

Relevant Year  $t$  calculated in accordance with the following formulae:

$$VR_t = VR_{t-1} \left[ 1 + \frac{RPI_t - X_t}{100} \right]$$

In respect of Relevant Year 7,  $VR_{t-1} = \text{£}0.3196$

$D_t$  means the quantity of Distance Units that are taken into account in calculating the number of Chargeable Service Units in each Relevant Year.

$FR_t$  means the fixed revenue element of the Maximum Allowed Controlled Revenue in each Relevant Year calculated in accordance with the following formulae:

$$FR_t = FR_{t-1} \left[ 1 + \frac{RPI_t - X_t}{100} \right]$$

In respect of Relevant Year 7,  $FR_{t-1} = \text{£}247,824,000$

$LR_t$  means the additional element to the Maximum Allowed Controlled Revenue where the quantity of Distance Units in Relevant Year  $t$  is below a defined lower bound.

Where  $D_t \geq DLOW_t$

$$LR_t = 0$$

Where  $D_t < DLOW_t$

$$LR_t = (DLOW_t - D_t) \times VR_t \times [0.6]$$

$RPI_t$  means the percentage change (whether of a positive or a negative value) in the Retail Price Index between the index published or determined with respect to August in Relevant Year  $t-1$  and the index published or determined with respect to August in Relevant Year  $t-2$ .

$X_t$  means, for each of the Relevant Years, the following values:

Relevant Year 7: 1.8

Relevant Year 8: 1.8

Relevant Year 9: 1.8

Relevant Year 10: 1.8

$K_t$  means the correction factor (whether of a positive or negative value) which shall be calculated in accordance with the following formula:

$$K_t = [MACR_{t-1} - TCR_{t-1}] \times \left[ 1 + \frac{I_t}{100} \right]$$

where:

$MACR_{t-1}$  means the Maximum Allowed Controlled revenue in Relevant Year  $t-1$ .

$TCR_{t-1}$  means the Total Controlled Revenue in Relevant Year  $t-1$ .

$I_t$  means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September in Relevant Year  $t-2$  where the value of  $[MACR_{t-1} - TCR_{t-1}]$  is positive, or 3 per cent per annum above this average rate where the value is negative.

$S_{t-1}$  means the service factor (whether of a positive or negative value), as calculated in accordance with the formula at paragraph 4 of this Condition.

$FLIGHTS_{t-1}$  means the aggregate number of flights in relevant year  $t-1$  to be calculated by reliance on figures of chargeable flights reported to the CAA by the Central Route Charges Office of Eurocontrol (subject to any adjustment in accordance with methods approved by the CAA)

$G_t$  means 50% of any revenues received from the UK Government in Relevant Year  $t$  under any common charging scheme established in accordance with Article 15(4) of Regulation (EC) No 550/2004 (The "Service Provision Regulation")

$DLOW_t$  means a defined value of the quantity of Distance Units below which there is an additional element to the Maximum Allowed Controlled Revenue. For Relevant Years 7 to 10 these shall have the following values:

Relevant Year 7	605 million
Relevant Year 8	621 million
Relevant Year 9	638 million
Relevant Year 10	658 million

**Formula for  $S_{t-1}$  as used in paragraph 3**

4. For the purpose of paragraph 3, the term  $S_{t-1}$  shall be calculated in accordance with the following formula:

$$S_{t-1} = F_t (WAD_{t-1} - SWAD_{t-1})$$

provided that  $S_{t-1}$  may not in any event exceed  $FMAX_t$ ,  
 where:

$F_t$  means the delay rate which shall be calculated in accordance with the following formula:

$$F_t = F_{t-1} \cdot \left[ 1 + \frac{RPI_t}{100} \right]$$

in respect of relevant year t-1 in year 7:

$$F_6 = £6$$

and where:

$FMAX_t$  is the maximum deduction per Flight which shall be calculated in accordance with the following formula:

$$FMAX_t = FMAX_{t-1} \cdot \left[ 1 + \frac{RPI_t}{100} \right]$$

In respect of relevant year t-1 in year 7:

$$FMAX_6 = £9.194$$

$WAD_{t-1}$  means the weighted average minutes of air traffic flow management delay per flight attributable to the Eurocontrol Business in relation to Relevant Year  $t - 1$ , to be calculated by reliance on figures reported to the CAA by the Central Flow Management Unit of Eurocontrol (subject to adjustment in accordance with methods approved by the CAA) and shall be calculated as follows:

$$WAD_{t-1} = \frac{\left[ \begin{array}{l} 1.06 \times shortearly_{t-1} \\ + 1.59 \times longearly_{t-1} \\ + 0.70 \times shortother_{t-1} \\ + 1.06 \times longother_{t-1} \end{array} \right]}{\div FLIGHTS_{t-1}}$$

where:

$shortearly_{t-1}$  means the aggregate air traffic flow management delay up to and including 15 minutes per flight in relevant year t-1 of flights which have an estimated off-blocks time in the Early Period as defined below.

*longearly*<sub>t-1</sub> means the aggregate air traffic flow management delay in excess of 15 minutes per flight in relevant year t-1 of flights which have an estimated off-blocks time in the Early Period as defined below.

*shortother*<sub>t-1</sub> means the aggregate air traffic flow management delay up to and including 15 minutes per flight in relevant year t-1 of flights which have an estimated off-blocks time other than in the Early Period as defined below.

*longother*<sub>t-1</sub> means the aggregate air traffic flow management delay in excess of 15 minutes per flight in relevant year t-1 of flights which have an estimated off-blocks time other than in the Early Period as defined below.

Early Period means the period :  
04:00 to 8:00 UTC for flights during the period 1 April to 31 October; and  
05:00 to 09:00 UTC for flights during the period 1 January to 31 March and 1 November to 31 December.

*SWAD*<sub>t-1</sub> means the permitted weighted average minutes of delay per flight attributable to the Eurocontrol Business which, in respect of delays occurring in each Relevant Year, shall be 0.75 minutes.

5. For the avoidance of doubt, the treatment of delays occurring in Relevant Year 10 will be subject to review at the end of the second five Relevant Years under the provisions of sections 11 to 19 of the Transport Act 2000.
6. In relation to charges for the London Approach Service the Licensee shall ensure that such charges have not been set at levels that are materially less reflective of the costs of providing those services than the charges that were previously in effect.

## Condition 22: Oceanic Charges

- Subject to paragraph 2 of this Condition and without prejudice to Condition 25 (Suspension and Modification of Charge Control Conditions) the Licensee shall use its best endeavours to ensure that in the period from 1 April 2006 to 31 March 2011 the Average Charge Per Oceanic Flight shall not exceed the Maximum Permitted Average Charge Per Oceanic Flight calculated in accordance with the following formula:

$$O_t = U_t + L_t$$

where:

$O_t$  means the Maximum Permitted Average Charge Per Oceanic Flight in Oceanic Relevant Year  $t$ .

$U_t$  is a base charge per Oceanic Flight in Oceanic Relevant Year  $t$  calculated in accordance with the following formula:

$$U_t = U_{t-1} \left[ 1 + \frac{RPI_t - Z_t}{100} \right]$$

For the purpose of the above calculation for Oceanic Relevant Year 7 the value of  $U_{t-1}$  shall be £56.0135.

$RPI_t$  means the percentage change (whether of a positive or a negative value) in the Retail Price Index between the index published or determined with respect to August in Oceanic Relevant Year  $t-1$  and the index published or determined with respect to August in Oceanic Relevant Year  $t-2$ .

$Z_t$  means a value set by the CAA in respect of each Oceanic Relevant Year, which for Oceanic Relevant Years 7 to 10 which shall have the following values:

Relevant Year 7	4.0
Relevant Year 8	4.0
Relevant Year 9	4.0
Relevant Year 10	4.0

$L_t$  means the correction factor (whether of a positive or negative value) which is calculated in accordance with the following formula:

$$L_t = \frac{(QO_{t-1}O_{t-1}) - TO_{t-1}}{QO_t} \left[ 1 + \frac{IO_t}{100} \right]$$

except in relation to Oceanic Relevant Year 6 where the value of  $L_t$  shall be further reduced by £0.05

where:

$QO_{t-1}$  means the quantity of Oceanic Flights in Oceanic Relevant Year t-1 attracting an Oceanic Charge. Where t-1 is the year beginning on 1 April 2005, the quantity of Oceanic Flights for that year shall be those in accordance with Condition 22 as in effect on 1 July 2005.

$O_{t-1}$  means the Maximum Permitted Average Charge Per Oceanic Flight in Oceanic Relevant Year t-1. Where t-1 is the year beginning on 1 April 2005, the Maximum Permitted Average Charge per Oceanic Flight for that year shall be calculated in accordance with Condition 22 as in effect on 1 July 2005.

$TO_{t-1}$  means the total Oceanic Revenue in Oceanic Relevant Year t-1. Where t-1 is the year beginning on 1 April 2005, the total Oceanic Revenue for that year shall be calculated in accordance with Condition 22 as in effect on 1 July 2005.

$IO_t$  means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September in Oceanic Relevant Year t-2 where the value of  $((QO_{t-1}O_{t-1}) - TO_{t-1})$  is positive, or 3 per cent per annum above this average rate where the value is negative.

2. For Oceanic Relevant Year 6 the value of  $O_t$  shall be £56.0135

### **Condition 23: Charges for North Sea Helicopter Advisory Service and London Approach Service**

1. The Licensee shall, not less than one month before it intends to give effect to such charges, or to changes in the basis on which they are calculated, show to the reasonable satisfaction of the CAA that charges in respect of North Sea Helicopter Advisory Services for any period have been set following, and taking into account the outcome of, appropriate consultation with users and other interested parties.
  
2. In the event that the Licensee intends to make changes to the charges for London Approach Services (other than changes to charges which are specified in or ascertainable from contracts existing at the time of the grant of this Licence), the Licensee shall, not less than one month before such changes are intended to take effect, show to the reasonable satisfaction of the CAA that charges in respect of London Approach Services for any period have been set following, and taking into account the outcome of, appropriate consultation with users and other interested parties.

## **Condition 24: Information to be provided to the CAA in connection with the Charge Control Conditions**

1. This Condition applies in addition to any powers of the CAA, from whatever source, to require information to be provided to it by the Licensee, and does not in any way prejudice its ability to exercise such other powers.
2. Where the Licensee is intending to seek any change in Eurocontrol Charges, the Licensee shall, not later than 1st June on a provisional basis and 1st November on a final basis in the year preceding the Relevant Year t in which such change is to take effect, provide the CAA with:
  - (i) a written forecast of the charge per Chargeable Service Unit, together with its components, and a reconciliation of the components to the overall forecast, in respect of the Relevant Year t in which such change is to take effect and in respect of the next following Relevant Year t+1;
  - (ii) to the extent that such information has not already been provided to the CAA under paragraph 6, a written estimate of the charge per Chargeable Service Unit together with its components, and a reconciliation of the components to the overall forecast, in respect of the Relevant Year t-1 immediately preceding the Relevant Year in which the change is to take effect;
  - (iii) a written forecast of the charge(s) to be applied in respect of the London Approach Service for Relevant Year t; and
  - (iv) a reconciliation of the forecasts under (i) and (iii) and the Licensee's best estimate of the Maximum Allowed Controlled Revenue in respect of Relevant Year t and its components.
3. Where the Licensee is intending to make any change in Oceanic Charges, the Licensee shall, not later than one month prior to the date it intends to give effect to such change, provide the CAA with:
  - (i) a written forecast of the maximum Average Charge Per Oceanic Flight, together with its components, and a reconciliation of the components to the overall forecast, in respect of the Oceanic Relevant Year t in which such change is to take effect and in respect of the next following Oceanic Relevant Year t+1; and
  - (ii) to the extent that such information has not already been provided to the CAA under paragraph 6, a written estimate of the maximum Average Charge Per Oceanic Flight, together with its components, and a reconciliation of the components to the overall forecast, in respect of the Oceanic Relevant Year t-1 immediately preceding the Oceanic Relevant Year in which the change is to take effect.
4. If within six weeks prior to the commencement of any Relevant Year or Oceanic Relevant Year the Licensee has not published an intention to make any change in Eurocontrol Charges or Oceanic Charges (respectively) the Licensee shall in any event provide the CAA with the information specified in paragraph 2 or 3 above (as appropriate).

5. The CAA may issue directions providing that any forecast or estimate provided in accordance with paragraphs 2 or 3 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the CAA to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
6. On publication to any interested parties, and in any event not later than seven months after the end of a Relevant Year or four months after the end of an Oceanic Relevant Year the Licensee shall send the CAA a statement, in respect of that year containing the items set out in paragraph 8. If this statement does not also comply with the requirements of paragraph 7, the Licensee shall send a further statement at the time it is published to any interested parties, and in any event not later than seven months after the end of a Relevant Year or four months after the end of an Oceanic Relevant Year meeting both the requirements in paragraph 7 and containing the items set out in paragraph 8.
7. The requirements referred to in paragraph 6 shall be that the statement is:
  - (a) accompanied by a report from the Auditors that in their opinion such statement:
    - (i) fairly presents each of the specified items referred to in paragraph 8 in accordance with the requirements of the Charge Control Conditions and
    - (ii) the amounts shown in respect of each of those specified items are in accordance with the Licensee's accounting records which have been maintained in respect of each of the relevant Separate Businesses in accordance with Condition 6; and
  - (b) certified by a director of the Licensee on behalf of the Licensee that to the best of his knowledge, information and belief having made all reasonable enquiries:
    - there is no element included in its calculations under Conditions 21 and 22 which represents other than:
      - (aa) bona fide Total Controlled Revenue or Oceanic Charges as appropriate; or
      - (bb) an element permitted under the Charge Control Conditions to be so included;
    - all amounts which should properly be taken into account for the purposes of the Charge Control Conditions have been taken into account.
8. The items to be contained in the statement referred to in paragraph 6 shall be the following:

- (a) the quantity of Chargeable Service Units or Oceanic Flights which attract a Eurocontrol Charge or Oceanic Charge, as appropriate;
- (b) the quantity of Distance Units;
- (c) the Average Charge Per Chargeable Service Unit or Average Charge Per Oceanic Flight;
- (d) the Total Controlled Revenue showing separately the revenue derived from the Eurocontrol Business and the London Approach Service.;
- (e) copies of the statements and information provided in accordance with this Condition, in respect of the Relevant Year;
- (f) in relation to Eurocontrol Charges only, any information required for the calculation of the S factor not obtained by the CAA directly from a third party;
- (g) in relation to Eurocontrol Charges only, any other information which the Licensee is required to provide to Eurocontrol as part of its charge setting process; and
- (h) in relation to Eurocontrol charges only, and where the aggregate of bad debts arising in relation to a Relevant Year exceeds £1.5 million, the amount of any bad debt in relation to the Relevant Year, separately for each user (except that amounts for individual users with debts of less than £100,000 need not be separately itemised), and in aggregate, and a statement of the policies and measures the Licensee has applied to recover overdue debts.