

## **Annex C Consultation**

The RP4 preparing in Sweden has consisted of information during bi-annual market consultations, discussions in a national RP4 reference group consisting of local providers and users, and an audit process of providers from of January until end of June. There are also three ongoing processes in the administrative court.

The RP4 consultation was held on August 28-29 at Arlanda Airport. Some parties participated digitally. The NSA presented a proposal for the draft performance plan. The NSA's proposal included considerations of determined costs for each provider after the audit process, as well as targets in all performance areas and incentive schemes. The providers were given a time slot for presentations and to take questions from the users.

### **Cost efficiency and charges**

The users expressed concern of high unit rates and not reaching the targets of cost-efficiency while the providers expressed concern and risks about effect of suggested deductions of the cost base in 2025-2029.

Users argued that Sweden needs to cope with the low levels of traffic. Even if the war in Ukraine ends soon, it will take years for all the sanctions to be lifted. They see a risk that we are simply raising the cost levels while traffic remains low. They believed that countries that have experienced low traffic for a longer period should have been able to manage it by now and reduce costs accordingly. Costs should be in line with the number of flights, and they do not agree with maintaining the capacity to increase flight volumes in a short time frame. They also argued that there are many providers and traffic is consistently lower than planned. Therefore, we should not plan for the war to end in the near future, and they think that the balance is currently off. Providers argued that to meet long-term capacity demands, an appropriate adjustment of the level of resources is necessary.

The NSA referred to the arguments developed in Annex R.

Users wanted to know if the other traffic forecasts had been considered to cope with the situation. The NSA understood the question, but since all scenarios in the STATFOR forecasts presumes a lasting effect of Russian invasion and a deviation from base needs to be well motivated, the NSA has no intention to assess or apply another forecast than STATFOR Base.

Users asked how the major increases in charges of 2025 would impact the actual traffic. The response from the NSA was that they do not have any in-depth price-elasticity figures for charges variations.

Users raised the issue on mandatory Swedish language for ATCOs and if it could be abolished. The response was that this is a regulatory issue and has previously been assessed 2019 by the NSA and deemed not possible because of the Swedish language jurisdiction. The NSA responded that the question could however be re-opened in case there would be new arguments in support. It is however not possible to take into consideration for the RP4 period.

LFV received questions about why they have two ATCCs. Their answer was that they consider it a contingency issue and this has been assessed earlier, and that decision was made by the LFV Board to have two. This issue is not currently being discussed at LFV. There was also a discussion about the plan for RTC.

There were questions on training and the successrate and assumptions. LFV has a projected successrate of 80 percent in the performance plan, while recently reaching an average of 70 percent. To conclude, users wanted to see more cost reductions and adaptability to the current situation of low traffic volumes. They were also requesting the NSA to look into different possibilities to mitigate the charges effect, for example transfer the Covid recoveries over different years.

## **Pensions**

Users had questions on the functioning of the LFV pension system, for which employees it applies and what actions had been taken to reform and making it more cost efficient. The system for ATCOs born before 1988 is a defined benefit. There has been a change for persons born after 1988 into a defined contribution.

Due to the increase in interest rates and the price base amount, LFV's pension debt has decreased by approximately 2 billion SEK in 2024, which will have a positive effect on the unit rate. The proposal by LFV is to spread the reduction over the period from 2025 to 2029, rather than implementing the reduction time table according to the regulation due to the magnitude of the increase of unit rate levels. This action would mitigate the effect.

STA concluded that the proposal is not according to the regulation, but that the STA has nothing to object if there is a common agreement but has to consult the Commission. Users did agree to LFV's proposal. After the consultation has STA contacted the Commission. The result is that STA has applied the agreed reductions in calculations of units rates in both En Route and TNC from 2025.

However, users still believe that a pension scheme like this, and the volatility it creates, should be handled by the owner. They also want the NSA to explore once more whether it's possible to get help with "burden sharing" from the government. They believe that this type of pension scheme is outdated and that users do not want to pay for it. The users also stated that the NSA and the government should consider not only the regulation itself but also the "spirit" of the regulation.

After the consultation the NSA has adjusted the asset base of LFV due to the change of pension liabilities. The distributed draft contained adjustments of the asset base pertaining underfinancing of LFV pension liabilities from RP2, and spread over two reference periods. From the decision to spread over two periods, the NSA did at the time, approve a WACC calculation for LFV. This leads to a reduction of LFV costs of 22 million crowns spread over the years 2025 – 2027.

## **Capacity and incentive schemes**

Users also noted that the suggested capacity targets of delay minute per flight is higher than historical levels, making the targets look like there would be a worse service level. . Providers also argued that there is a risk that users are paying for too much capacity. Users also expressed that they believe they are paying for excessive capacity and that the focus should be on cost efficiency.

On the matter of the capacity target, the NSA referred to that these are reference values from EU targets and that there is not much motives behind to change them. On the other hand, NSA stressed that the draft incentive scheme is modulated and according to the relevant NOP. That is, the NSA also considers the EU reference values for capacity targets not being relevant in order to promote increased or sustained performance by the main ANSP, so therefore they propose a modulated value. The NSA will however let the capacity targets stay according to the EU reference values. The NSA's point of view is that providers should be able to ramp up when, eventually, sanctions against Russia are lifted. NSAs underlined that they have consulted operational experts, both within and outside the authority, in order to prepare for this draft and taking different aspects into consideration.

LFV received questions about why they have so much capacity. LFV responded that they need to cope with the pre-requisite in the NOP planning of being able to meet a + 10 percent increase in traffic levels from the forecast. This is however not a reality in most of the cases, and is one important reason for having excess capacity.

### **Search and rescue**

The provider, Swedish maritime administration (SMA), presented suggestions on how to keep costs as low as possible. They need to have helicopters and personnel available for search and rescue operations across all of Sweden. While there are not many actual alarms, they still need to have staff and helicopters on standby 24/7, which is what drives the costs.

SMA presented the considered costs by STA in comparison to the requested cost base. SMA also reported on its intention to update the prevailing allocation key of SAR costs, and how the ongoing work is indicating a slight reduction of the costs allocated to the En Route system. However, it would according to the SMA be pre-mature to include any effect of this in RP4.

Users referred to the report by PRB and had questions on the cost development.

STAs considers that there has to be a cost efficiency target and that the anticipated change of allocation has to be reflected in performance plan for RP4.

In the context of EU 2019/317, SMA is considered a state organisation and therefore will be compensated on its actual costs with an N+2 adjustment. The compensation is subject to audits by the STA.

### **MET**

STA made a consideration in June to lower the requested cost base of the MET-provider SMHI. Since the consideration SMHI has been providing more material, pin-pointing and further evidence for certain elements of its requests.

During the consultation SMHI received questions on its cost increases. 7 m SEK was due to taking over the cost base for flight weather services from LFV. Apart from this, MET providers in general are subject to mandatory development in line with CP1 requirements, and in order to deliver according to them and to, where possible, meet regulatory deadlines SMHI will have to increase working hours.

After the consultation, the STA has audited the amended material from SMHI and decided to do a change in the draft determined costs. This is, allowing an increase of the yearly determined costs of approximately 4 m SEK.

### **Return on Equity (RoE)**

STA consulted the cap levels for parameters underpinning ROE calculations.

Users had questions about what levels of RoE is used by private held companies. The NSA responded that the relevant risk parameters, as well as other assumptions has been proposed and reported by a consulting firm taking into considerations of this regulated environment. The NSA has audit the levels of RoE and it's within accepted levels.

### **Investments**

All of the providers presented their planned investments, and the users had the opportunity to ask why these investments were necessary. The largest investments are being made by LFV, primarily due to regulatory CP1 requirements.

The NSA pointed out that the investments have been audited to ensure they are eligible and supported by regulatory requirements or have a positive impact on performance areas. The NSA also acknowledged Article 28, which stipulates that the investments are subject to annual auditing, settlements, and consultations.

Users did however have questions on certain descriptions and lack of information regarding some "other investments". Users also asked how allocations had been considered for SWIM, extended AMAN and ILS.

In order to respond to this there have been amendments to the investment sheet of LFV. On the matter of SWIM the part that is disclosed in the investment reporting is solely related to AF1-6 and the values presented is 100 percent En Route. There are other parts too, but the values in the reporting are only En Route. On the extended AMAN the NSA has tried to consult experts but has not reached a final view at the time of this submission. Since the service is located to service provision En Route the NSA is drafting the plan with extended AMAN being 100 percent En Route. On the ILS, the NSA explained how this inclusion is motivated according to Swedens allocation model. The allocation model explained at the meeting is further described in Annex T.

### **Government support**

Users points out that this operations, En Route and TNC, have received almost no financial support from the government and urge Sweden to apply support according to article 29 to mitigate the charge effect.

### **General comments regarding the consultation**

The provider ACR did not attend the consultation. The NSA presented an overview of the costs that the NSA considers for the provider during RP4. The users saw this as a violation of the consultation

requirement and deeming the consultation not complete since they were not given the opportunity to discuss the details of the cost base with the provider.

After the consultation the NSA circulated a written letter from ACR to users.

Users feedback on the consultation format was that the two-day arrangement provided enough time. Users wanted all presentation material ahead of the meeting in order to prepare. The NSAs response was that the Performance plan and annexes were distributed in the end of June meeting the requirements according to the regulation. The NSA understands that it would be better for users to also have the presentations, however it is difficult due to the summer period and vacations.

The NSA invited all to provide written feedback by the 6<sup>th</sup> of September. One user sent in feedback.