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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union, concerning the decisions to be adopted by the Permanent Commission of Eurocontrol, with regard to the roles and tasks of Eurocontrol and on centralised services

COUNCIL DECISION (EU) 2015/...

of ...

**on the position to be taken
on behalf of the European Union,
concerning the decisions to be adopted
by the Permanent Commission of Eurocontrol,
with regard to the roles and tasks of Eurocontrol
and on centralised services**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) and Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Permanent Commission of Eurocontrol ('the Permanent Commission'), by its Decision No 123 of 4 December 2013, established a Study Group to investigate in what manner the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960 ('the Eurocontrol Convention') may require amendment in order to reflect the evolving air traffic management landscape in Europe.
- (2) On 19 October 2015 the Study Group tasked the Eurocontrol Agency with preparing a draft Permanent Commission Act defining the future roles and tasks of Eurocontrol.
- (3) A draft decision of the Permanent Commission regarding the roles and tasks of Eurocontrol will be on its agenda for approval at its meeting on 8 and 9 December 2015.
- (4) Once adopted, that decision will have legal effects. According to the applicable institutional framework, set out in the Eurocontrol Convention, as amended by the Protocol signed at Brussels on 12 February 1981 ('the Amended Convention'), the Permanent Commission is in charge of formulating Eurocontrol's general policy. The definition of the roles and tasks will govern Eurocontrol's future action and will necessarily reflect what the organisation considers as legitimate activity. It will be binding on all Eurocontrol Members, including Member States of the Union.

- (5) The definition of the roles and tasks of Eurocontrol may have consequences with regard to the application of Union law and, in particular, the integrity of Union competences, given that Union legislation covers important areas in which Eurocontrol is active. In some cases, Eurocontrol's role and activity depend on decisions taken at Union level.
- (6) It is therefore important to ensure that the definition of Eurocontrol's roles and tasks does not conflict with Union law, in particular Union competences, and that it does not prejudice future Union action.
- (7) At its meeting on 8 and 9 December 2015, the Permanent Commission may also adopt a decision on centralised services. The Union is not currently in possession of sufficient information to evaluate the substance of such a decision, which may prejudice future activity conducted by Eurocontrol and in a manner that may be detrimental to the Union's activity in this field, in particular as regards Single European Sky Air Traffic Management Research (SESAR). A decision on this matter should thus be postponed.
- (8) The position to be taken on the Union's behalf within the Permanent Commission should therefore be established,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the Member States on behalf of the European Union in the Permanent Commission of Eurocontrol concerning the roles and tasks of Eurocontrol and centralised services shall be in accordance with the Annex.

The Member States shall act jointly in the interest of the Union.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at

For the Council

The President

ANNEX

I. Eurocontrol's roles and tasks

The Union requests that the proposed text regarding the services, roles and tasks of Eurocontrol in no way affect the Union competences and that it not prejudice future Union action. Where specific tasks are currently performed by Eurocontrol under the Union legal framework on a temporary basis, those tasks shall not be presented as tasks independent of Union decisions.

The Union requests the following changes to the list of Eurocontrol roles and tasks set out in the annex to the Eurocontrol action paper CN-SG-6-2015 on the roles and tasks of the organisation of 16 November 2015:

- (1) As regards Article 2(1) on 'Functions and Services':
 - (a) ~~Air Traffic~~Central Flow Management;
 - (b) ATM Network functions if conferred by ~~on behalf of~~ the European Union;
 - (c) ATM ~~functions~~ tasks on behalf of ICAO for the EUR/NAT Region;
 - (d) Establishment, billing and collection of Air Navigation Charges;
 - (e) Provision of air traffic services at MUAC, subject to the results of the discussions between the Member States and ~~EUROCONTROL~~ **the Agency**;
 - (f) Central functions and services, such as EAD, ARTAS/CAMOS, and other central services which might be entrusted to it by the Permanent Commission, in agreement **close cooperation** with the Union.

(2) As regards Article 2(2) on ‘Roles’:

(a) With respect to ‘Support’, the changes shall be as follows:

- (i) Support to its Members States, NSAs, ANSPs and other relevant stakeholders;
- (ii) Support to the EU bodies including the provision of expertise to support regulatory activities in compliance accordance with the High-Level Agreement between the EU and Eurocontrol of 29 October 2012: at the request of these bodies;
- (iii) **Facilitation and promotion of** European interests in non-ECAC States in ATM matters in close cooperation with its Member States, their ANSPs and industry and the EU, except for areas covered by EU rules and subject to respecting EU competences;
- (iv) Contribution to SESAR (R&D, ATM Master Plan Maintenance and deployment) – building upon its **expertise** ATM ~~expertise~~, pan-European coverage, civil-military aspect and central flow network **network** management role, in compliance with relevant EU legislation;
- (v) Providing research and related simulation facilities, e.g. for SESAR, research activities in addition to SESAR and airspace changes in compliance with relevant EU legislation, where applicable;
- (vi) Offer training/education to Member State organisations.

- (b) With respect to the ‘Mechanisms for cooperation’, the changes shall be as follows:
- (i) Facilitate and promote civil-military coordination on ATM/ANS developments;
 - (ii) Support Member States in ICAO work, subject to respecting EU competences;
 - (iii) Cooperate with other world regions subject to agreement with Member States ensuring coordination with the EU;
 - (iv) International cooperation / coordination (ICAO, FAA, NATO, etc.) on behalf of its Member States, ~~other than EU Member States~~ **subject to respecting EU competences**;
 - (v) Advising ~~non-EU~~ at their request those member States that are not EU Member States and have not concluded agreements with the Union, on ATM Safety and Performance matters, ~~making use of~~ in compliance with ICAO rules, in coordination with the EU and subject to respecting its competences ~~EU and EASA rules in this area to inform enhancing harmonization, safety, operational efficiency and economies of scale;~~

- (c) With respect to ‘pan-European ATM data and information’ the changes shall be as follows:
- (i) Collection and analysis of data, which could include performance data, safety data, etc. (in order to ‘maintain’ the systems and data in support of regulatory work) for States that are not EU Member States and, if this task is conferred to it by the EU, for EU Member States;
 - (ii) Analysis and provision of reports (information) on the data collected (e.g. ACE, PRR) for States that are not EU Member States and, if this task is conferred to it by the EU, for EU Member States;
 - (iii) Run the ESSIP/LSSIP process, if conferred by the European Union;
 - (iv) ~~including~~ Reporting to ICAO on the implementation of the Global Air Navigation Plan (GANP) and Aviation System Block Upgrades (ASBUs) ~~and ensuring coordination with the EU reporting mechanisms in agreement with the~~ European Union;
 - (v) Collection of traffic data and provision of STATFOR forecast.

II. Centralised services

The Union's position is that a decision on centralised services should be postponed at this stage.

The Union is not currently in possession of sufficient information to evaluate the substance of a decision on centralised services. Such a decision may prejudice future activity conducted by Eurocontrol and in a manner that may be detrimental to the Union's activity in this field, in particular as regards Single European Sky Air Traffic Management Research (SESAR).
