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**AVIATION 215
CODEC 1490
RELEX 867**

REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
No. prev. doc.:	13505/1/16 REV 1 AVIATION 215 CODEC 1490 RELEX 867
No. Cion doc.:	14991/15 AVIATION 152 CODEC 1667 RELEX 1014 + ADD 1-5
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council – General approach

On document 13505/1/16 REV 1 ADD 1, the Belgian unilateral declaration on revision of EASA Basic Regulation should read as follows:

A. Article 123-2-4 : Amendments to Regulation (EC) N° 1008/2008

"BE may support the intent for clarification made by the proposal to Art 123 of the revision of the BR to make the (EC) 1008/2008 more understandable regarding the operation of a third country registered aircraft. But considering the too heavy requirements on the European applicants and additional workload on the National Aviation Authorities (NAA) of the MS in case of the complex and unfeasible approval of the wet-lease-in of an aircraft of third country operator as laid down in the current Implementation Rules IR OPS (EU) 965/2012 ORO.AOC.110 (c) (2) "Leasing agreement", BE proposes a wet-lease-in of a third country aircraft be addressed and assessed by a NAA only when an international agreement has been concluded between the Union and that third country. **BE takes note of Commission's explanations that the measures envisaged under Article 57(1)(b) could cover acceptance of 3rd country certificates and other relevant documentation for the purpose of wet lease involving 3rd country air operators."**

B. Annex 1 : Aircraft referred to in Article 2(3)(d)

BE doesn't support the following specific modification of Annex 1 : (e) MTOM 350kg/500kg for Landplane and (f) Helicopters linked to Gyroplanes, as laid down in Council Doc Ref : 13505/16 ADD 2, 9 November 2016 (BE was against the introduction of Gyroplanes 560kg in the current Annex 2 of (EU) 216/2008).

Indeed, there exists no objective argued impact assessment with regards to safety (this is contrary to recitals (1)-(3)-(4)) to support this modification originally proposed by four MS without any added value on safety-wise. In addition this modification will have a negative impact such as an increasing of workload for the National Aviation Authorities (NAAs), a negative impact on the level playing field in EU with the implementation of 28 different national regulations, and a negative effect on the survivability of passengers in case of accident or hard landing, ... According respectively to the agreed principle of "declaration" and to the Article 2-4-(a), there exists a tool in the BR for a MS to accept a declaration or to request EASA to certify an aircraft above 450kg on the basis of the existing implementing rules (IR) CS-VLA or CS-LSA, and new Art 126-2a (supported by BE) foresees an updating of these IR for sports and recreational rules within two years after the entry into force of this Regulation. Regarding the Helicopters/Gyroplanes, it has to be noted that the respective mechanics of flight are different and therefore these two types of aircraft may not be jointly assimilated each other in the Regulation.

BE supports the consolidated version of Annex 1 as laid down in the Council document 13219/16 ADD 1 Rev 1 (Aviation 206, Codec 1435, Relex 835) dated 28 October 2016 (Interinstitutional file 2015/0277 (COD)): (e) MTOM 300kg/450kg for Landplane/helicopter/powered parachute/powered sailplanes,(f)gyroplanes560kg."
