

Brussell, 28 ta' Novembru 2017
(OR. en)

14565/1/17
REV 1

AVIATION 165
RELEX 1002

NOTA PUNT "I/A"

minn:	Segretarjat Ġenerali tal-Kunsill
lil:	Kumitat tar-Rappreżentanti Permanenti (Parti 1)/Kunsill
Suġġett:	It-48 Kunsill Provizorju tal-Eurocontrol (Brussell, 30 ta' Novembru - 1 ta' Diċembru 2017) <ul style="list-style-type: none">– Koordinazzjoni ta' pożizzjoni komuni tal-Unjoni Ewropea= <i>Approvazzjoni</i>

Bi thejjija għat-48 Kunsill Provizorju tal-EUROCONTROL (KP), is-servizzi tal-Kummissjoni hejjew abbozz ta' nota ta' informazzjoni li tikkonċerna l-punt RS1 fuq l-aġenda tal-laqgħa tal-KP li tikkonċerna r-rappreżentanza u l-involvement tal-Unjoni fil-korpi governattivi tal-EUROCONTROL, u rrakkomandaw l-adozzjoni ta' pożizzjoni tal-UE dwar dan il-punt.

Fit-22 ta' Novembru 2017, il-Grupp ta' Hidma dwar l-Avjazzjoni eżamina n-nota ta' informazzjoni tal-Kummissjoni msemmija hawn fuq. Id-delegazzjonijiet esprimew l-appoġġ ġenerali tagħhom għan-nota ta' informazzjoni tal-Kummissjoni, għaddew kummenti u talbu kjarifiki. In-nota tirrakkomanda l-pożizzjoni tal-Unjoni rigward żewġ opzjonijiet ta' governanza dwar kif jiġi stabbilit Korp tal-Governanza tal-Istat (SGB) fil-Eurocontrol, li għandha tghaqqad il-hidma tal-KP u tal-Kummissjoni Permanenti/Kummissjoni mkabbra (CN/eCN) (paġna 4 ta' din in-Nota I/A). Bosta delegazzjonijiet appoġġaw l-Opzjoni 1, oħrajn kienu favur l-Opzjoni 2.

Bhala kompromess, il-Presidenza pproponiet l-inkluzjoni fil-pożizzjoni rakkomandata tal-Unjoni ta' [...] **soluzzjonijiet** oħra li [...] **jaf ikunu ispirati mill-** [...] Opzjoni 2 iżda li għandhom jiżguraw il-preservazzjoni tad-drittijiet tal-vot tal-Unjoni mogħtija skont il-punt 3 tad-Deċiżjoni CN 98 tal-10 ta' April 2003. Il-punt il-ġdid addizzjonali meta mqabbel man-nota informattiva tal-Kummissjoni huwa indikat b'**tipa grassa** (fil-paġna 6 fl-anness għal din in-Nota).

Fid-dawl ta' dan ta' hawn fuq, il-COREPER huwa mistieden japprova t-test tan-nota ta' informazzjoni tal-Kummissjoni kif jinsab fl-anness għal din in-nota u japprova l-pożizzjoni rakkomandata tal-UE, li għandha tintuża bhala bażi għall-interventi tar-rappreżentanti tal-Istati Membri tal-UE membri tat-48 laqgħa tal-Kunsill Provizorju tal-EUROCONTROL (Brussell, 30 ta' Novembru - 1 ta' Diċembru 2017).

Information Note from the Commission services

48th Session of the Eurocontrol Provisional Council (PC)

30 November – 1 December 2017

1. INTRODUCTION

The 48th meeting of Eurocontrol's Provisional Council will be held from 30 November to 1 December 2017. This information note refers to the restricted session of the Provisional Council (PC) meeting. Under agenda item RS1 the Eurocontrol Agency has submitted an update on actions stemming from the CN-SG final report. Eurocontrol members will be asked to discuss the Action Paper including two governance options on how to establish a new State Governance Body (SGB) in Eurocontrol, which should combine the work of the Provisional Council (PC) and the Permanent Commission/enlarged Commission (CN/eCN). The discussion should be held with a view to preparing a decision on the governance options at the PC/CN sessions in June 2018. One of the governance options (option 2) will affect two existing CN Decisions, namely CN Decision No. 72¹ (early implementation of the revised convention) and CN Decision No. 98² (early implementation of EU Accession Protocol).

¹ Permanent Commission's Decision No 72 of 9 December 1997 on early implementation of certain provisions in the revised Convention, in particular on the establishment of a provisional Council, <http://www.eurocontrol.int/articles/commission-acts>

² Permanent Commission's Decision No 98 of 10 April 2003 on provisional application, pending their entry into force, of certain provisions of the Protocol on the Accession of the European Community to the revised Convention, <http://www.eurocontrol.int/articles/commission-acts>

2. REFERENCE DOCUMENTS

Eurocontrol Action Paper PC/17/48/17 of 7 November 2017, ITEM RS1 (annex 1)

3. COMMENTS

On request of the ad-hoc session of the Permanent Commission on 2 December 2016, the Eurocontrol Agency has submitted Action Paper PC/17/48/17 to the PC restricted session, which includes for consideration two options to implement the recommendations No 1, 2 and 5 of the final report of the Study Group of Alternates (CN-SG) relating to streamlining the governance of Eurocontrol and to fully involve the European Union in the governing bodies of Eurocontrol (annex 2).

The Eurocontrol Agency has proposed for discussion the following two options:

- Option 1: a draft CN/eCN Decision establishing, pending the entry into force of the revised Convention, one State Governance Body structure - combining the work of the PC and the CN/eCN - and its Rules of Procedure. Option 1 does not require changing CN Decisions No. 72 (early implementation of the revised convention) and CN Decision No. 98 (early implementation of EU accession protocol).
- Option 2: a draft CN Decision dissolving the PC, pending the entry into force of the revised Convention (the CN/eCN would become the State Governance Body), and a draft CN Measure and a draft eCN Decision amending respectively the CN and eCN Rules of Procedure. Dissolving the PC would require changes to CN Decisions No. 72 and No. 98.

Both options also include the creation of a preparatory body which would aim at ensuring efficiency at SGB level. However, following the extensive discussions and exchanges of views at the Member States' Workshop held on 19 September 2017 on the scope and in particular on the membership of the preparatory body, further discussions on the details of the preparatory bodies could take place at a later stage, independent from a Member States' decision on the two governance options.

Both governance options purport to clarify that shall not be excluded from "restricted sessions", which must be considered positive, given past experiences.

For the rest, the principle according to which rights currently accorded to the Union must be entirely preserved continues to apply.

Given the drafts as they currently stand, this leads to different outcomes as regards option 1 and option 2.

As regards option 1, the Union is ready to support the Eurocontrol Agency's recommendation to create a new, single body (in the current draft referred to as "State Governance Body"³), provided that the Union is able to preserve its existing rights in their entirety and that none of those rights currently granted to the Union (under CN Decision No. 98) would in any way be negatively affected.

In view of the above conditions, option 2 in its current form is not acceptable to the Union, for reasons linked to its very architecture. According to this option, the PC would be purely and simply dissolved. This would put an end to the voting rights accorded by point 3 of CN Decision No 98 in the PC, i.e. the only voting rights currently available to the Union. As mentioned, the current approach consists in postponing discussions on preparatory bodies, which by definition means that there would be no replacement for the PC. Moreover, according to the drafts available, both the intended scope and the functioning of the preparatory body (CNCC) would be such that the rights of the Union would be inferior to the current position.

From a procedural point of view, it is noted that both options change the situation related to the representation and involvement of the Union in the governing bodies of Eurocontrol, which until now is defined in CN Decision No. 98 on the provisional application of certain provisions of the Protocol of Accession. It is therefore important to recall that the formal Permanent Commission decision on this issue, currently foreseen at the PC/CN in June 2018, will require a Council Decision according to Article 218(9) TFEU.

³ It may be noted that this name is somehow misleading. The body is intended to conduct part of its activity in its capacity as Provisional Council, in which the Union continues to participate and vote. It is thus inaccurate to suggest that the body is composed exclusively of "States".

Recommended position:

- *Exclude option 2 in its present form;*
 - *Express openness to option 1 provided that:*
 - *the Union's rights as to the CN Decision No. 98 of 10 April 2003 on the provisional application of the Protocol of Accession of the Union to the EUROCONTROL international convention are preserved in their entirety; and,*
 - *the changes are established only for the period until the entry into force of the Protocol of Accession.*
 - ***Member States may propose alternative solutions, provided that the rights of the European Union are fully preserved.***
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Provisional Council



Working paper

PC/17/48/17REV
14.11.17
ITEM RS1

CONFIDENTIAL (RESTRICTED TO HEADS OF DELEGATION)

STAFF, ADMINISTRATIVE AND PROCEDURAL ISSUES

ACTION PAPER

- ACTIONS STEMMING FROM THE CN-SG FINAL REPORT -

- Implementation of CN recommendations approved in the Session of 2.12.2016 -

- Submitted by the Agency -

EXECUTIVE SUMMARY

Further to the presentation by the Chair of the Study Group of Alternates of the Permanent Commission (CN-SG) of the CN-SG's Third and Final Report at the 46th Session of the Provisional Council (PC) and the related Ad Hoc Permanent Commission (CN) session held in December 2016, the Permanent Commission approved a number of recommendations and requested the Agency to develop concrete proposals on specific matters aiming at streamlining the EUROCONTROL Organisation's governance process and improving its efficiency pending the entry into force of the Revised Convention.

In particular, the Agency was requested to develop concrete proposals towards:

- the combining of the work of the PC and of the CN in one State Governance Body (CN Results, item 2.c);
- the establishment of a preparatory body to ensure discipline at the level of the State Governance Body (CN Results, item 2.d);
- a strengthened consultation by the Director General of the stakeholders on decisions having an operational or financial impact on them (CN Results, item 2.e);
- a more efficient functioning of the meetings of the governing bodies (CN Results, item 2.f);
- the full involvement of the EU in all EUROCONTROL governing bodies in both open and restricted sessions (CN Results, item 2.g); and,
- the possible participation of the Network Management Board (NMB) Chair in the meetings of the Standing Committee on Finance (SCF) and of the governing bodies as observer (CN Results, item 2.h).

The present paper, which was introduced at PC/47 (ref. Action paper PC/17/47/2, 19 May 2017, ITEM RS1), contains, at annex, two concrete and distinct proposals to that effect, i.e.:

Option 1:

- a draft Permanent/enlarged Commission (CN/eCN) Decision establishing, pending the entry into force of the Revised Convention, one State Governance Body (SGB) structure - combining the work of the PC and of the CN/eCN - and its Rules of Procedure (Annex 1); the proposed CN/eCN Decision and SGB Rules of Procedure address each and every one of the specific subject matters listed above which are closely inter-related (see detailed table at Annex 2);

OR

Option 2:

- a draft Permanent Commission (CN) Decision on the dissolution of the Provisional Council (PC) (Annex 3), a draft Permanent Commission (CN) Measure and a draft enlarged Commission Decision amending respectively the CN and eCN Rules of Procedure (Annex 4 and Annex 5); the proposed instruments also address each and every one of the specific subject matters listed above which are closely inter-related (see detailed table at Annex 6);

A teleconference and a workshop took place, respectively on 5 July and 19 September 2017, where the Agency presented and explained to the participants the two proposals and constructive discussions took place. PCC/43 took place on 10 October 2017. The present paper is a slightly modified version of Action paper PC/17/47/2, 19 May 2017, ITEM RS1 to take into account these latest developments and the discussions held on, mainly, the provisions relating to the SGBCC/CNCC membership.

Whatever option above is preferred, in order to ensure the possible participation of the NMB Chair in the SCF proceedings as observer as requested by the CN (CN Results, item 2.h, 1st part), it is furthermore proposed that the PC adopts the proposed amendments to the Standing Committee on Finance (SCF) Terms of Reference (see paragraph 2.5).

The Agency was also requested to develop concrete proposals towards, inter alia, ensuring that civil-military coordination is performed across all EUROCONTROL activities (CN Results, item 2.k) and establishing a routine reporting line of the Pension Fund Supervisory Board (PFSB) to the SCF keeping a direct reporting line to the governing bodies (CN Results, item 2.l). Those matters are addressed separately. References to those matters have however been made where appropriate in view of the obvious interrelations.

RECOMMENDATION

The Provisional Council is invited to *discuss* the present paper and the two options contained therein with a view to preparing a decision thereon at the PC/CN sessions in June 2018.

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1. INTRODUCTION

- 1.1. Further to the presentation by the Chair of the Study Group of Alternates of the Permanent Commission (CN-SG) of the CN-SG's Third and Final Report at the 46th Session of the Provisional Council (PC) and the related Ad Hoc Permanent Commission (CN) session held in December 2016, the Permanent Commission approved a number of recommendations and requested the Agency to develop concrete proposals on specific matters aiming at streamlining the EUROCONTROL Organisation's governance process and improving its efficiency pending the entry into force of the Revised Convention.
- 1.2. In particular, the Permanent Commission requested the Agency to develop:
- a concrete proposal towards, pending the entry into force of the Revised Convention, the combining of the work of the PC and of the CN into one State Governance Body, which will be chaired by one Chairperson elected for 2 years, renewable once. The State Governance Body will foresee open and restricted sessions. The rights and obligations of the European Union, as laid down in CN Decision No. 98, are applied accordingly (CN Results 2.12.2016, item 2.c);
 - a concrete proposal towards the establishment of a preparatory body to ensure discipline in the preparation of the decisions of the State Governance Body (CN Results 2.12.2016, item 2.d);
 - a concrete proposal towards a strengthened consultation by the Director General of the stakeholders on decisions having an operational or financial impact on them, the reporting by the Director General on those consultations to the governing bodies (including diverging views between the Agency and stakeholders) and the possible establishment of a list of matters for which the Director General would seek consensus with stakeholders before reporting to the governing bodies for decision (CN Results, item 2.e);
 - a concrete proposal towards a more efficient functioning of the meetings of the governing bodies, including proposals to make the agendas of meetings more efficiently organised around the key issues of interest to Member States (CN Results 2.12.2016, item 2.f);
 - a concrete proposal towards the full involvement of the European Union in all EUROCONTROL governing bodies (including the State Governance Body and the committees reporting to it), in both open and restricted sessions (CN Results 2.12.2016, item 2.g);
 - a concrete proposal to enable the possible participation of the Chair of the Network Management Board in the meetings of the Standing Committee on Finance and of the governing bodies as observer (CN Results 2.12.2016, item 2.h).
- 1.3. The Agency was also requested to develop concrete proposals towards, inter alia, ensuring that civil-military coordination is performed across all EUROCONTROL activities (CN Results, item 2.k) and establishing a routine reporting line to the Pension Fund Supervisory Board (PFSB) to the SCF keeping a direct reporting line to the governing bodies (CN Results, item 2.l). Those matters are addressed separately. References to those matters have however been made where appropriate in view of the obvious interrelations.

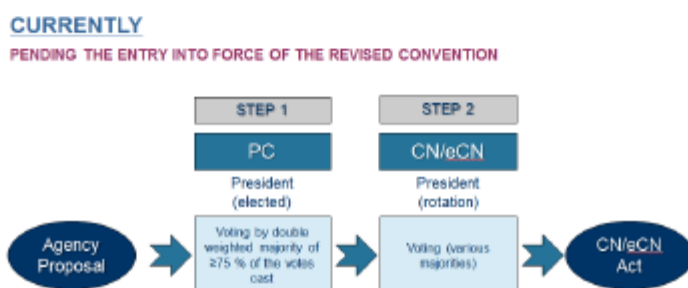
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2. AGENCY'S PROPOSALS

- 2.1. During CN-SG discussions, it was felt that Permanent Commission's Decision No 72 of 9 December 1997 *"on early implementation of certain provisions in the Revised Convention, in particular on the establishment of a provisional Council"* ("Permanent Commission's Decision No 72") and Permanent Commission's Decision No 98 of 10 April 2003 *"on provisional application, pending their entry into force, of certain provisions of the Protocol on the Accession of the European Community to the Revised Convention"* ("Permanent Commission's Decision No 98") should remain and be complemented, where appropriate, in order to achieve a more efficient governance process.

In addition, the improved governance process should be in line with the provisions of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Protocol signed at Brussels on 12 February 1981 ("Amended Convention") and the Multilateral Agreement relating to Route Charges signed at Brussels on 12 February 1981 ("Multilateral Agreement relating to Route Charges").

The current EUROCONTROL governance process can be summarized as follows:



- 2.2. On this basis, the Agency is proposing, as option 1, the establishment, pending the entry into force of the Consolidating Protocol of 27 June 1997 ("Revised Convention"), of a State Governance Body (SGB) structure in order to streamline the EUROCONTROL Organisation's governance process and improve its efficiency. Under this option, Permanent Commission's Decisions No 72 and No 98 would remain unchanged and the EUROCONTROL current legal framework would be complemented by a CN/eCN Decision establishing one State Governance Body structure.

A draft CN/eCN Decision establishing this State Governance Body structure, including proposed Rules of Procedure, has been prepared to that effect (Annex 1).

The SGB structure would combine the work of the Permanent Commission, the enlarged Commission and the Provisional Council with the result that a streamlined governance process would be achieved. One single body, i.e. the SGB, would indeed act as:

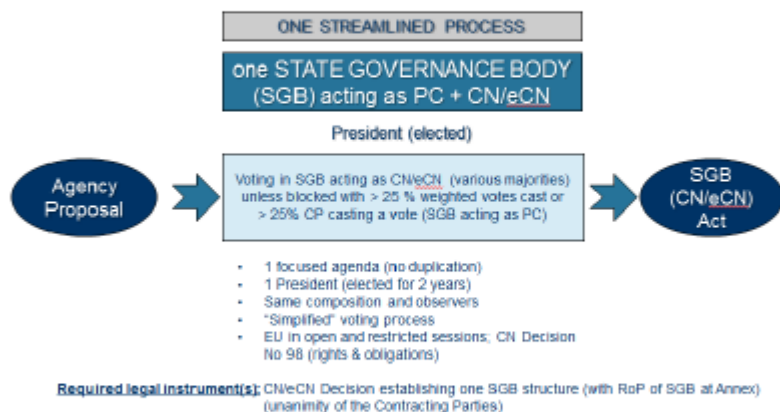
- The Permanent Commission, in accordance with the relevant provisions of the Amended Convention;
- The enlarged Commission, in accordance with the provisions of the Multilateral Agreement relating to Route Charges; and

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- The Provisional Council, in accordance with the relevant provisions of Permanent Commission's Decision No 72.

OPTION 1: establishment of SGB acting as PC + CN/eCN

PENDING THE ENTRY INTO FORCE OF THE REVISED CONVENTION



The proposed Rules of Procedure of the SGB address the various matters as described in paragraph 1.2. In particular, the proposed SGB Rules of Procedure expressly provide, inter alia, that the SGB would be composed of representatives of the Contracting Parties at the level of the Directors General of Civil Aviation. Its Presidency would be assumed for two calendar years, renewable once, by a representative of the Contracting Parties elected by the SGB members. Four Vice-Presidents would also be elected. The SGB President would have the discretion to invite the NMB Chair to participate as observer in the SGB meetings. The SGB meetings would be more efficient as, for example, the SGB agenda would address, as a priority, key items of interest to the Contracting Parties (e.g. financial matters/budget, strategic objectives, work programme, human resources, policy, significant projects, etc.). The EU would be fully involved in EUROCONTROL governing bodies in open and restricted sessions. Restricted sessions would be limited to matters where there is a sensitivity or confidentiality issue while holding open sessions would be the rule (which would also ensure transparency towards the stakeholders). Before including an item on the provisional agenda of the SGB or submitting a proposal for approval by correspondence, the Director General would first liaise with the stakeholders on matters having an operational or financial impact on them (this would also be in line with the outcome of the Member States' Volunteers Group "Involvement of Stakeholders" which developed a "Stakeholders Engagement Policy"). A preparatory body (i.e. the SGB Coordinating Committee – SGBCC) would aim at ensuring efficiency at SGB level. In this regard, it should be highlighted that the creation of a preparatory body, depending on its actual functioning, entails the risk of creating an additional layer in the governance that the Member States might wish to avoid.

As a consequence, the Rules of Procedure of the Permanent Commission, the enlarged Commission and the Provisional Council which are at present in force would be replaced by the Rules of Procedure of the SGB.

A table showing in details the correspondence between, on one hand, the provisions of the proposed CN/eCN Decision and SGB Rules of Procedure and, on the other

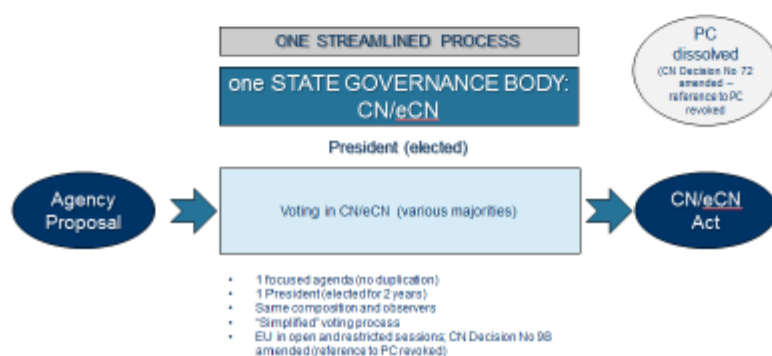
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hand, the CN results listed above and the related parts of the CN-SG's Third and Final Report is enclosed at [Annex 2](#).

- 2.3. Alternatively and while maintaining Permanent Commission's Decisions No 72 and No 98 as requested in the context of the CN-SG, another proposal ([option 2](#)) is to amend those two specific Decisions by dissolving the Provisional Council established by CN Decision No 72 and referred to in CN Decision No 98 in order to achieve a more efficient and streamlined governance process (i.e. one State Governance Body: the Permanent/enlarged Commission). This option would be more straightforward and only result in terminating one single aspect of the early implementation of the Revised Convention i.e. the creation of the Provisional Council and its preparatory role (while the decision-making at Permanent/enlarged Commission level would obviously remain unchanged). The other provisions of CN Decisions No 72 and No 98 would remain unchanged. A draft CN Decision on the dissolution of the Provisional Council has been prepared to that effect ([Annex 3](#)).

OPTION 2: PC dissolution and amendments to CN/eCN RoP

PENDING THE ENTRY INTO FORCE OF THE REVISED CONVENTION



Required legal instrument(s): - CN Decision on the dissolution of the PC (unanimity of the Contracting Parties);
 - CN Measure amending the RoP of the CN (unanimity of votes cast);
 - eCN Decision amending the RoP of the eCN (unanimity of the Contracting States to MA)

Further to the dissolution of the Provisional Council, the remaining State Governance Body would be the Permanent/enlarged Commission. To further streamline the EUROCONTROL Organisation's governance process and improve its efficiency, it is also proposed to amend the existing Permanent Commission (CN) Rules of Procedure and enlarged Commission (eCN) Rules of Procedure. A draft Permanent Commission Measure amending the CN Rules of Procedure and a draft enlarged Commission Decision amending the eCN Rules of Procedure are enclosed to that effect (respectively at [Annex 4](#) and at [Annex 5](#)).

The proposed Rules of Procedure of the Permanent Commission (and the proposed Rules of Procedure of the enlarged Commission) address the various matters as described in paragraph 1.2. In particular, the proposed CN Rules of Procedure expressly provide, inter alia, that the CN would be composed of representatives of the Contracting Parties at the level of the Directors General of Civil Aviation. Its Presidency would be assumed for two calendar years, renewable once, by a representative of the Contracting Parties elected by the CN members. Four Vice-Presidents would also be elected. The CN President would have the discretion to invite the NMB Chair to participate as observer in the CN meetings. The CN meetings would be more efficient as, for example, the CN agenda would address, as a priority, key items of interest to the Contracting Parties (e.g. financial matters/budget,

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strategic objectives, work programme, human resources, policy, significant projects, etc.). The EU would be fully involved in EUROCONTROL in CN open and restricted sessions. Restricted sessions would be limited to matters where there is a sensitivity or confidentiality issue while holding open sessions would be the rule (which would also ensure transparency towards the stakeholders). Before including an item on the provisional agenda of the CN or submitting a proposal for approval by correspondence, the Director General would first liaise with the stakeholders on matters having an operational or financial impact on them (this would also be in line with the outcome of the Member States' Volunteers Group "Involvement of Stakeholders" which developed a "Stakeholders Engagement Policy"). A preparatory body (i.e. the CN Coordinating Committee – CNCC) would aim at ensuring efficiency at CN level. As already mentioned as regard to the 1st option described above, the creation of a preparatory body, depending on its actual functioning, entails the risk of creating an additional layer in the governance that the Member States might wish to avoid.

A table showing in details the correspondence between, on one hand, the provisions of the proposed CN Decision on the dissolution of the Provisional Council, of the CN and eCN Rules of Procedure and, on the other hand, the CN results listed above and the related parts of the CN-SG's Third and Final Report is enclosed at Annex 6.

- 2.4. As a result of the 47th (restricted) Session of the Provisional Council of 22 June 2017, the Member States' workshop on the creation of a leaner State governance structure, initially scheduled for 5 July 2017, was postponed and was replaced by a teleconference where the Agency's Legal Service presented and explained to the participants the two proposals put forward by the Agency in Action paper PC/17/47/2, 19 May 2017, ITEM RS1.

The workshop took place on 19 September 2017 at Agency Headquarters (the slides presented at the workshop and the final summary of conclusions were respectively dispatched by e-mails of 22 September 2017 and of 6 October 2017). The purpose of the workshop was to help the audience understand the 2 concrete and distinct proposals.

To that effect, the Agency's Legal Service provided a general overview of the current EUROCONTROL governance structure, characterised by a "2 steps process", as well as of the EUROCONTROL governance structure under the 2 options. The Agency also made a detailed comparison of certain subjects of the draft SGB RoP ("Option 1") and CN/eCN RoP ("Option 2") (i.e. "Composition", "Open and restricted sessions", "Presidency", "Agenda and working papers", "Voting", "Approval by correspondence" and "Setting-up of bodies"). It was explained that both proposals ("Option 1" and "Option 2") were based on the current RoP of the PC/(e)CN and that the draft SGB RoP ("Option 1") and CN/eCN RoP ("Option 2") are mostly identical, with small differences mainly because of the legal approach taken to reach a certain option.

The discussions and exchanges of views were constructive. Most of the discussions actually concentrated on the provisions relating to the SGBCC/CNCC membership (Articles 17.1 of the SGB RoP and 16.1 of the CN RoP respectively). The Agency also explained that, if need be, potential further discussions on the details of the SGBCC / CNCC could also take place at a later stage, independent from the Member States' decision on the rest of the two proposals. Also, several participants, as well as a number of States who provided comments on the two options in writing prior to the workshop, indicated that both Option 1 and Option 2 would be acceptable to them, as long as the main purpose of simplification as intended by the CN recommendations and CN-SG Final Report would be achieved.

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PCC/43 took place on 10 October 2017. On that occasion, several States reiterated that both proposals (i.e. Option 1 and Option 2) would be acceptable to them. A few States also shared their opinion that the provision relating to the SGBCC / CNCC should be further discussed and that those discussions should take place at a later stage independent from the decision on the two proposals. The European Commission explained that, on the EU side, the Council of the European Union would have to define a common position aiming at preserving the EU rights conferred by Permanent Commission's Decision No 98 (with the result that Option 2 would not be acceptable for the EU) and that it would send to the Agency a very few proposals for amendment to the draft RoP of, mainly, editorial nature. Those proposals for amendments concern Articles 2.2 and 2.8 of the SGB RoP (Option 1).

The present paper is a slightly modified version of Action paper PC/17/47/2, 19 May 2017, ITEM RS1 to take into account the discussions on, mainly, the provisions relating to the SGBCC/CNCC membership (i.e. Article 17.1 of SGB RoP under Option 1, Article 16.1 of CN RoP under Option 2) and the few proposals from the European Commission (i.e. Articles 2.2 and 2.8 of the SGB RoP under Option 1 and corresponding provisions under Option 2).

- 2.5. Furthermore and whatever option above is favoured, it is proposed that the PC adopts the following amendments (in bold and underlined) to the Standing Committee on Finance (SCF) Terms of Reference, in order to ensure the possible participation of the NMB Chair in the SCF proceedings as observer as requested by the CN (CN results 2.12.2016, item 2.h, 1st part):

Article 5 (composition) of the Terms of Reference of the SCF: additional sentence at the end of Article 5 to read:

"The Chair of the Network Management Board (NMB) may be invited to attend, as observer, part or all of SCF proceedings at the discretion of the Chairman."

In order to further emphasize the SCF's consultative role on Pension Fund matters (CN results 2.12.2016, item 2.i) as explained in a separate PC/47 paper, it is also proposed that the SCF ToRs are further amended as follows (in bold and underlined):

Article 2 of the Terms of Reference of the SCF: additional wording at the end of Article 2 to read:

"In addition to the functions outlined above, the SCF may provide its advice on any other budgetary and financial issues, e.g. pensions related matters".

3. **RECOMMENDATION**

The Provisional Council is invited to discuss the present paper and the two options contained therein with a view to preparing a decision thereon at the PC/CN sessions in June 2018.

ANNEXES

- ANNEX 1 Draft CN/eCN Decision establishing this State Governance Body structure, (including proposed Rules of Procedure)
- ANNEX 2 Table showing the correspondence between, on one hand, the provisions of the proposed CN/eCN Decision and SGB Rules of Procedure and, on the other hand, the CN results of December 2016 and the related parts of the CN-SG's Third and Final Report
- ANNEX 3 Draft CN Decision on the dissolution of the Provisional Council
- ANNEX 4 Draft Permanent Commission Measure amending the CN Rules of Procedure
- ANNEX 5 Draft enlarged Commission Decision amending the eCN Rules of Procedure
- ANNEX 6 Table showing the correspondence between, on one hand, the provisions of the proposed CN Decision on the dissolution of the Provisional Council, of the CN and eCN Rules of Procedure and, on the other hand, the CN results of December 2016 and the related parts of the CN-SG's Third and Final Report
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