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From: General Secretariat of the Council
To: Delegations

Subject: Amended proposal for a Regulation of the European Parliament and the Council on the implementation of the Single European Sky (recast)

- Non paper by the Presidency

In view of the Working Party on Aviation on 24 November 2022, delegations will find in the annex a non-paper by the Presidency in order to steer the discussions.

Following the meetings of the Working Party on Aviation on 24 October, 10 and 17 November, after receiving both oral and written comments from the delegations and after a technical meeting with the European Parliament on 15 November, the Presidency presents an updated non-paper on **the role and organisational structure of the Performance Review Body (PRB)**, to serve as an alternative proposal to the amended European Parliament's package¹.

Main elements of the proposal:

Role of the PRB

- Advisory role of the PRB: the PRB provides opinions on the performance plans for *en-route* air navigation services.
- In order to strengthen the role of the PRB, the Commission could be required to justify its decision, where it does not follow the PRB's opinion.
- Proposed process for approving the performance plans for *en-route* air navigation services:
 1. the Member State submits the draft performance plan to the PRB and the Commission;
 2. the PRB issues its non-mandatory opinion on the draft performance plan and transmits it to the Member State and the Commission;
 3. within a certain deadline, the Member State may adapt the draft performance plan in light of the PRB opinion;
 4. the Member State submits the (revised) draft performance plan to the Commission, with further comments relating to the PRB opinion;
 5. the Commission adopts the performance plan by implementing act, with the involvement of the Single Sky Committee, taking into consideration the opinion of the PRB.

¹ see document WK 15950/22

- the PRB monitors the implementation of the performance plans.

Organisational structure of the PRB

- the PRB is administratively hosted by the European Union Aviation Safety Agency (EASA). It is a body with legal personality, independent from Member States and from EASA and its decision making processes². The administrative functioning of the entity is supported by EASA. The functional separation is ensured. Thus administrative costs are reduced, as compared to the cost to be borne if the entity would be a stand-alone body.
- the PRB is financed from the EU budget.
- Composition of the PRB:
 1. the PRB shall be composed of experts with relevant experience in ATM operations, ANS economics, environmental, climate and other areas closely linked to air navigation, as well as economic regulation of network industries.
 2. selection procedure of PRB members:
 - the Member States and the Commission nominate experts as potential members of the PRB
 - the Commission selects and appoints PRB members from the pool of nominated experts for a fixed term (initial suggestion of 3 years, can be subject to further discussion), ensuring a balanced geographical representation and balanced areas of expertise throughout each term. Thus the process should lead to a continuous “professionalization”, stability and building up an expertise.

Following the Parliament’s proposal on the “warm-up” period towards the regulatory PRB, the Presidency is proposing to include a review clause to evaluate the functioning of the advisory PRB after a certain period of time.

The Presidency would like to invite delegations to provide comments on the presented proposal.

² Memorandum of understanding might be concluded to specify the details.