

**EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION**

**“EUROCONTROL”**

**- Decisions of the Permanent Commission -**

**DECISION No. 73**

**approving modifications to Annex 1 to the amended Convention, relating to the Statute of the Agency**

THE PERMANENT COMMISSION FOR THE SAFETY OF AIR NAVIGATION :

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, amended by the Protocol signed at Brussels on 12 February 1981, hereinafter referred to as “the amended Convention”, and in particular Article 32 thereof and Article 26 of Annex 1 thereto, relating to the Statute of the Agency;

Having regard to the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, which was opened for signature on 27 June 1997, and in particular the consolidated version of the Convention annexed thereto, hereinafter referred to as “the revised Convention”;

Having regard to Decision No. 71 on early implementation of certain provisions in the revised Convention, in particular in respect of the role and duties of the Organisation;

Having regard to Decision No. 72 on early implementation of certain provisions in the revised Convention, in particular on the establishment of a provisional Council;

Considering that the implementation of the above decisions requires modifications to Annex 1 to the amended Convention, relating to the Statute of the Agency;

on the proposal of the Committee of Management,

ACTING ON A UNANIMOUS VOTE, HEREBY APPROVES THE FOLLOWING MODIFICATIONS TO THE STATUTE OF THE AGENCY :

**Article I**

Articles 2 to 10 of the Statute of the Agency shall be revoked and replaced by the following:

"Article 2

1. *The Agency shall be the organ responsible for achieving the objectives and performing the tasks laid down in the Convention or set by the Permanent Commission (hereinafter called "the Commission"). It shall initiate and submit proposals to the relevant bodies related to the exercise of the various functions and the performance of the various tasks of these bodies as well as to other tasks delegated to the Organisation. It shall also provide support to the Commission and its subsidiary bodies in the execution of their supervisory functions.*
2. *In the performance of its tasks, the Agency may be assisted, where necessary, by civil and military experts appointed by States or by the service providers' organisations concerned.*
3. *The Agency shall act as the focal point for intergovernmental co-operation and co-ordination in the field of air navigation. It shall submit proposals and provide the necessary support with a view to convergence towards, and implementation of, a uniform European air traffic management system.*
4. *In particular, it shall provide regulatory, information, support and advisory services to the Contracting Parties, and, on the basis of agreements pursuant to Article 11 of the Convention, to recognised international organisations and to non-Contracting States.*
5. *In particular, the Agency shall :*
  - (a) *co-ordinate the implementation plans of the Contracting Parties to ensure convergence towards a uniform European air traffic management system;*
  - (b) *examine matters in the field of air navigation under study by the International Civil Aviation Organization (ICAO) and other international organisations concerned with civil aviation and co-ordinate and submit amendments to ICAO documents;*
  - (c) *develop proposals for detailed planning for the harmonisation and integration of the air traffic services and systems, in particular the ground and airborne components of air navigation systems of the Contracting Parties, with a view to the establishment of a uniform European air traffic management system;*
  - (d) *develop proposals concerning the arrangements for the strategic planning and design of routes and supporting airspace structures, in co-ordination with civil and military experts appointed by States;*
  - (e) *develop proposals for the harmonisation of air traffic services regulations, develop co-ordinated or common policies to improve air traffic management at and around airports and support the improvement of efficiency and flexibility in the use of airspace between civil and military users;*

- (f) *make proposals or play an advisory role in all aspects of policy and planning. Its scope is not limited to en-route air traffic management but enlarged to cater for an integrated "gate-to-gate" approach to air traffic management. It is assisted by national experts in preparing these proposals;*
  - (g) *study and promote measures for improving cost-effectiveness and efficiency in the field of air navigation;*
  - (h) *develop common criteria, procedures and methods to ensure the highest efficiency and quality of air traffic management systems and air traffic services;*
  - (i) *co-ordinate Research, Development, Trials and Evaluation (RDTE) programmes of national air traffic management organisations, including the collection and dissemination of results;*
  - (j) *conduct common studies, tests and applied research as well as other technical developments;*
  - (k) *define, design, develop, validate and organise the implementation of a uniform system for European air traffic management under the aegis of the Commission.*
  - (l) *support and assist the exercise of independent performance review and safety regulation in the field of air traffic management.*
6. *When the Agency provides air navigation services, its aim shall be:*
- (a) *to prevent collisions between aircraft;*
  - (b) *to ensure the orderly and expeditious flow of air traffic;*
  - (c) *to provide advice and information conducive to the safe and efficient conduct of flights;*
  - (d) *to notify appropriate organisations regarding aircraft in need of search and rescue aid, and assist such organisations as required.*
7. *The Agency shall work in close collaboration with the users' organisations in order to meet as efficiently and economically as possible the requirements of civil aviation. It shall work in close collaboration with the military authorities to meet, under the same conditions, the special requirements of military aviation.*

### Article 3

1. *Subject to the powers conferred upon the Commission, the Agency shall be managed by a Director General who shall enjoy wide management independence with regard to the implementation, utilisation and efficient operation of the technical, financial and personnel resources placed at his disposal. To this end, he/she shall take the measures which he/she deems necessary in order to fulfil his/her obligations.*

2. *Nevertheless, the Director General shall, with a view to submission for approval by the Commission in accordance with the provisions of the Convention:*
  - (a) *elaborate annual and five-year work programmes stating the impact on the trends in the costs and unit rates;*
  - (b) *draw up the five-year financial plan and the budget including the financial obligations;*
  - (c) *present an annual report to the Commission on the activities and financial position of the Organisation;*
  - (d) *present the principles governing the general structure of the Agency, the details of this structure being the sole responsibility of the Director General.*
  
3. *Furthermore, the Director General shall:*
  - (a) *submit reports at regular intervals and seek instructions from the Commission whenever there is a risk of the objectives not being achieved, of the deadlines or financial ceilings being exceeded, or in the event of major changes to programmes;*
  - (b) *negotiate the agreements referred to in Article 11 of the Convention, within the framework of any directives issued by the Commission;*
  - (c) *conclude the contracts referred to in Article 13 of the Convention.*

#### Article 4

*Subject to the powers conferred upon the Commission and upon its subsidiary bodies, a Committee of Management, hereinafter called "the Committee", shall exercise the functions provided for in the present Statute or in other relevant instruments of international law.*

#### Article 5

1. *The Committee shall be composed of representatives of each of the Contracting Parties, which may appoint several representatives in order to allow in particular the representation of the interests of both civil aviation and national defence. Only one of the representatives shall have the power to vote and he shall be a highly placed official exercising in his country responsibilities in matters of air navigation. Each representative shall have an alternate who shall validly represent him if he is unable to be present.*
  
2. *For sessions of the Committee a quorum shall consist of the representatives entitled to vote of three-quarters of the Contracting Parties. If the quorum is not attained, the deliberations shall be deferred until a meeting to be convened for a later date not earlier than ten days after the preceding meeting; at that meeting a quorum shall consist of at least half the number of representatives entitled to vote.*

Article 6

1. *The Committee shall establish its rules of procedure, including rules governing the election of a President and Vice-President and the appointment of a Secretary.*
2. *Those rules shall include provisions relating to disqualifications. Furthermore, they shall prescribe that notices convening meetings shall be sent by letter or, in case of urgency, by telex or facsimile message, and shall include the agenda.*
3. *The rules shall be subject to the approval of the Commission.*

Article 7

1. *For the accomplishment of its task, the Agency may, among other things, construct and operate the buildings and installations it requires. However, it shall call upon national technical services and make use of existing national installations whenever this is technically and economically justified, in order to avoid any duplication.*
2. *The Director General shall submit for the approval of the Commission measures to be taken in pursuance of the preceding paragraph.*

Article 8

*The Director General shall draw up and submit for the Commission's approval, the Contract Regulations relating to:*

- (a) *the letting of contracts for the supply of goods and services to the Organisation;*
- (b) *the supply of goods and services by the Organisation;*
- (c) *the sale or disposal of surplus assets.*

Article 9

1. *Decisions shall be taken by the Committee by a weighted majority vote.*
2. *A weighted majority shall mean more than half the votes cast, it being understood that:*
  - *those votes are weighted in accordance with Article 8 of the Convention;*
  - *those votes represent a majority of the Contracting Parties voting.*
3. *Should an equal number of votes be cast for and against the proposal, the President shall decide either to take a second vote during the same meeting, or to include the proposal in the agenda of a further meeting for which he shall fix the date. Should an equal number of votes again be cast during the further meeting, the President shall have a casting vote."*

Article 10

*For the purposes of Article 2.1(l) of the Convention, the enlarged Committee referred to in the Multilateral Agreement relating to Route Charges, shall take decisions in accordance with the provisions of the said Agreement.*

Article II

Articles 12 to 18 of the Statute of the Agency shall be revoked and replaced by the following :

"Article 12

1. *Without prejudice to the right of the Contracting Parties to submit proposals, the Director General shall draw up and submit for the Commission's approval, the Agency's Staff Regulations:*
  - (a) *they shall include, in particular, provisions relating to the nationality of personnel, selection and recruitment procedures and principles, salary scales, pensions, internal tax, disqualification for office, professional secrecy and continuity of the service;*
  - (b) *the Agency's staff shall be recruited from among nationals of the Contracting Parties. Personnel from non-Contracting States may be employed pursuant to the agreements provided for in Article 2.3 of the Convention, or in exceptional cases by duly substantiated decision of the Director General.*
2. *The Administrative Tribunal of the International Labour Organisation shall have sole jurisdiction in disputes between the Organisation and the personnel of the Agency, to the exclusion of the jurisdiction of all other courts and tribunals, national or international.*

Article 13

1. *The Director General shall be appointed for a term of office of five years by the Commission by a majority of the votes cast, on condition that the said majority attains three-quarters of the weighted votes cast according to the weighting provided for in Article 8 of the Convention and at least three-quarters of the Contracting Parties casting a vote. His/her term of office may be renewed once in the same manner. The Statute of the Director General shall be approved by the Commission.*
2. *The Director General shall represent the Organisation in legal proceedings and for all civil purposes.*

3. *Furthermore, in conformity with the policies adopted by the Commission, the Director General:*
  - (a) *may appoint the staff and may terminate their services in accordance with the Staff Regulations; appointments to Grade A1 and A2 functions for a term of office of five years normally, renewable once, shall be subject to approval by the Commission;*
  - (b) *may borrow money in accordance with the Financial Regulations and within the limits determined for that purpose by the Commission;*
  - (c) *may enter into contracts in accordance with the Contract Regulations referred to in Article 8 and within the limits determined for that purpose by the Commission;*
  - (d) *shall draw up and submit for the Commission's approval a Regulation on personal data protection;*
  - (e) *shall draw up and submit for the Commission's approval the rules and procedures applicable to standards, specifications and practices for air traffic management systems and services.*
4. *The Director General may discharge the aforesaid functions without prior reference to the Commission, but he/she shall keep the Commission informed of all measures taken in the exercise of the aforesaid powers.*
5. *The Commission shall determine the conditions under which a substitute for the Director General may be appointed should he/she be unable to perform his/her duties.*

#### Article 14

*The Commission shall determine the working languages of the Agency.*

#### Article 15

*The Agency shall issue the publications necessary for its operation.*

#### Article 16

1. *The Budget shall be balanced as between receipts and expenditure. Estimates of all receipts and expenditure of the Agency shall be prepared for each financial year.*
2. *The financial year shall begin on 1 January and end on 31 December.*
3. *The draft budget and draft five-year financial plan shall be submitted by the Director General for the approval of the Commission not later than 31 October of the preceding year.*

Article 17

*The budget and the five-year financial plan may be revised during the financial year, if circumstances so require, in accordance with the requirements prescribed for their preparation and approval.*

Article 18

1. *Administrative or technical inspections of the services of the Agency may be carried out, if so required by the Commission, acting either on its own initiative or at the request of the Director General.*
2. *Such inspections shall be made by officers of the administrations of the Contracting Parties, with external assistance if required. Each inspection committee shall consist of at least two persons of different nationalities and should include as far as possible a person who has taken part in a previous inspection."*

Article III

*Articles 21 to 26 of the Statute of the Agency shall be revoked and replaced by the following Articles 21 to 23 :*

"Article 21

*Financial Regulations adopted pursuant to Article 11 above shall make provision for estimating, putting into effect and auditing the Agency's receipts and expenditures, subject to the provisions of the present Statute.*

Article 22

1. *The accounts of all budgetary receipts and expenditure shall be examined annually by a control board consisting of two expert officials belonging to the administrations of the Contracting Parties. These officials, who shall have different nationalities, shall be appointed by the Commission in accordance with Article 6.2 (b) of the Convention. The expenditures relating to the control board shall be borne by the Organisation.*
2. *The audit, which shall be made from the vouchers and if necessary in situ, shall be designed to establish the regularity of the receipts and expenditures and to verify that the financial administration is satisfactory. The control board shall present a report to the Commission after the end of each financial year.*

Article 22bis

1. *An audit board shall report to the Commission concerning the level of transparency of the Agency's decisions and procedures, in particular in the field of the establishment of standards for ATC equipment, public procurement and staff recruitment.*



2. *The terms of reference of the audit board shall be approved by the Commission, in accordance with the majority provided for in Article 7.4 of the Convention.*
3. *The Commission shall invite six Contracting Parties on a rotation basis to designate a representative to sit on the audit board for a period of two years, on the understanding that for the first session period of the board three of these representatives will be invited to sit on the board for a period of one year.*

Article 23

*All draft amendments to the Statute shall be submitted for the approval of the Commission, subject to the provisions of Article 32.3 of the Convention."*

Article IV

The present Decision shall enter into force on 1 January 1998.

Done at Brussels on 9 December 1997

A handwritten signature in black ink, appearing to read 'Károly LOTZ', is positioned above the printed name.

Károly LOTZ  
President of the Permanent Commission