1. **Title**

Mandate to EUROCONTROL to assist the European Commission in the development of a risk classification scheme for the design of ATM regarding the provision of air navigation services in the Single European Sky.

2. **Purpose of this Mandate**

EUROCONTROL is mandated to develop appropriate regulatory material regarding the development of a risk classification scheme for the design of ATM.

3. **Justification**

In the light of article 8 of the Single European Sky Framework Regulation\(^1\), and the Memorandum of Co-operation (MoC) between Eurocontrol and the European Commission, the Commission hereby issues a mandate to Eurocontrol for the development of appropriate regulatory material.

The development of a risk classification scheme for the design of ATM constitutes a further development of EUROCONTROL’s ESARR4 on risk assessment and mitigation in ATM.

4. **Background**

Safety is an integral part of ATM and of the SES-initiative as witnessed inter alia by articles 4 and 6 of the Service Provision Regulation. The development of common safety rules will enhance European safety levels and thus contribute to the success of the SES-initiative. Common and clear safety rules will in addition contribute to uniform quality of services to citizens, transparency and a level playing field for all service providers.

5. **Subject of the Mandate**

The approach taken by EUROCONTROL in this area shall take into account the provisions of the Single European Sky Regulations, in particular articles 4 and 6 of the Service Provision Regulation, the Essential Requirements of the Interoperability

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Regulation and the Regulation laying down Common Requirements for the provision of air navigation services\(^2\).

The Common Requirements Regulation contains a severity classification scheme\(^3\) for the identification of the effects of ATM/CNS related hazards on the safety of aircraft. ESARR 4 contains a risk classification scheme with a maximum tolerable probability for ATM directly contributing to accidents in the ECAC region (i.e. severity class 1: the most severe, leading to an accident). Maximum tolerable probability for the severity classes 2 (i.e. serious incidents) to 5 (less severe occurrences) have still to be developed. According to recital 16 of the Common Requirements Regulation, the Members States and European Commission acting together with EUROCONTROL should complete and update those probabilities.

5.1 Specific Issues

EUROCONTROL is mandated to develop draft regulatory material that addresses the following points:

(1) The requirements for risk assessment and mitigation with regard to a new system\(^4\), or to changes to an existing system (part 3.2 of Annex II of the Common Requirements Regulation), apply to the ATM functional system and supporting arrangements under the managerial control of the ATS/CNS-provider (ATS, ATFM, ASM and CNS). Additionally, it will be assessed whether or not similar requirements would be applied to other services; taking into account the applicability of the Common Requirements Regulation and of the ESARRs to those types of ANS providers (MET, AIS);

(2) Definition of the risk classification scheme;

(3) Common criteria for using the risk classification scheme to derive design objectives for the constituent part of the ATM system under consideration, taking into account the level of provided ATM services/functions and the environment of operations in which it operates;

(4) The timeframe and scope for implementation of the risk classification scheme (phasing-in, flexibility, derogations);

(5) Ways to verify compliance with the risk classification scheme and its criteria for use consistent with the Single European Sky legislation in particular with the role of NSA.

EUROCONTROL shall give full consideration to the following aspects:

- Whether or not relationships between the risk classification scheme for the design of ATM and the requirements of ICAO Annex 11 section 2.26 regarding the


\(^3\) Idem, Annex II, paragraph 3.2.

\(^4\) In this mandate, ‘system’ shall mean a combination of systems, procedures and human resources organised to perform a function within the context of ATM.
establishment of tolerable/acceptable levels of safety for the provision of ATS, may be established;

• Whether or not the maximum tolerable probability for ATM design may be established on the basis of historical data coming from existing European occurrence reporting processes;

• Whether or not the severity classification schemes included in ESARR 4 and in the Common Requirements Regulation need to be refined.

5.2 Impact assessment

EUROCONTROL shall assess the impact of the proposed draft regulatory material on Member States (in particular NSAs), ANSP, airspace users and manufacturers.

5.3 Consultation and Rulemaking Process

EUROCONTROL shall take into account the opinions of all relevant stakeholders through a consultation process including:

– Relevant national authorities (civil and military, in particular NSAs);
– Civil and military air navigation services providers;
– Relevant airspace users’ organisations, including military airspace users;
– Relevant international organisations, in particular ICAO;
– Relevant manufacturers;
– Relevant social and industry representatives;
– Relevant European organisations, Community Agencies and programmes (i.e. EASA, JAA, GASR).

The first consultation shall aim at collecting input and opinions from all stakeholders on the objective and allow EUROCONTROL to prepare the intermediate report. EUROCONTROL shall analyse all inputs received.

The 2nd consultation shall be based on draft regulatory material and shall include at least the following:

– Invite comments;
– Evaluate and report on the comments made and on the reasons for their inclusion/rejection in the final report;
– Organise a public workshop to discuss the results of the consultation process.

During the whole consultation process, EUROCONTROL shall be available for reasonable requests by individual stakeholders for meetings and discussions.

5.4 Material to be used
EUROCONTROL shall take into account and build further upon any relevant material available during the scheduled timetable (existing or under development), in particular:

- SES Regulations including Implementing Rules;
- The ICAO Chicago Convention, in particular Annex 11 and related guidance material;
- EUROCONTROL material, in particular ESARR4, related guidance material and the EATMP Safety Assessment Methodology;
- EUROCAE material, in particular from WG 64;
- EASA relevant material;
- JAA relevant material;
- GASR relevant material;
- Regulatory material developed by Member States as available;
- Operational procedures developed by ANSP as available;
- Material arising from the SESAR definition phase as available.

6. DELIVERABLES

EUROCONTROL shall deliver an initial plan, an intermediate report and a final report as follows:

The initial plan shall describe the work programme, the proposed methodology and processes, the timing and planning of the project, including consultation and visits planned. EUROCONTROL may propose additional or refined points (to be taken onboard under 5.1-5.4.) to the Commission for consideration in this mandate.

The intermediate report shall inform about the work undertaken so far, any difficulties in respecting the initial plan and the outcome of the first round of consultations. It shall, as far as possible, outline the draft version regulatory material to be submitted to the 2nd phase of consultation.

The final report will contain the results achieved according to point 5. The main part of the final report will consist of draft regulatory material with the intention to be included in future SES-implementing rules. The final report shall also contain an impact assessment and describe the actions of EUROCONTROL to support stakeholders’ efforts to implement the requirements.

7. TIMETABLE

The work shall start from the acceptance of the Mandate by EUROCONTROL (estimated by March 2006). The timetables shall be verified and coordinated periodically with the Commission (see point of contact). EUROCONTROL is asked to provide deliverables according to the nominal schedule below. The delivery schedule of the draft
final reports and the final reports may be reviewed in agreement with the Commission on the basis of the results of the regulatory approach.

<table>
<thead>
<tr>
<th>Delivery date</th>
<th>Deliverable</th>
<th>Remark</th>
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<tbody>
<tr>
<td>N + 3 M</td>
<td>Initial plan</td>
<td>Presentation and agreement between EUROCONTROL and the Commission of the initial plan.</td>
</tr>
<tr>
<td>N + 12 M</td>
<td>Intermediate report</td>
<td>Outline of the envisaged regulatory approach, after a first consultation with stakeholders, should include a first sketch of draft regulatory material to be developed.</td>
</tr>
<tr>
<td>N + 20 M</td>
<td>Draft final report including draft regulatory material</td>
<td>To be submitted to and discussed with the Commission. To be presented and discussed with stakeholders in a public workshop.</td>
</tr>
<tr>
<td>N + 24 M</td>
<td>Final report including draft implementing rules</td>
<td>Update of the draft final report, taking full account of the stakeholders’ and Commission’s comments. Submission of draft regulatory material for further use to the Commission.</td>
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8. POINT OF CONTACT

The point of contact within the European Commission for this mandate is:

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The initial plan (as described under point 6) will be agreed with the point of contact. The point of contact will be kept updated on the progress of the work under this mandate.