

**EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION
“EUROCONTROL”**

- Directives of the Commission -

DIRECTIVE N°06/69

relating to a cooperation arrangement between EUROCONTROL and the European Commission regarding EUROCONTROL support to the Community Safety Assessment of Foreign Aircraft (SAFA) Programme and the Community List of banned air carriers ('Blacklist')

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, and in particular Articles 6.1(b), 7.3 and 13 thereof;

On the proposal of the Provisional Council;

GIVES THE FOLLOWING DIRECTIVE TO THE AGENCY:

The Agency may, on the Organisation's behalf, enter into a cooperation arrangement with the European Commission – Directorate-General for Energy and Transport – regarding EUROCONTROL support to the European Community SAFA Programme and Community List of banned air carriers, on the basis of an exchange of letters, copy of which is at Annex.

Done at Brussels on 20.12.2006

For the President of the Commission,

(To be signed)

B. KVASNICA
Vice-President of the Commission

ANNEX to Directive N°06/69

DRAFT



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT

Director-General

Brussels,
D(2006)

Mr Víctor M. AGUADO
Director General of EUROCONTROL
Rue de la Fusée 96
B-1130 Brussels

Subject: Cooperation regarding an Alerting System related to the European Community SAFA programme and List of banned air carriers

Dear Mr. Aguado,

Following our exchange of letters between March and April 2006 on the topic under subject, I am herewith seeking your agreement for setting up a cooperation between EUROCONTROL and the Directorate-General for Energy and Transport of the European Commission (hereinafter referred to as "DG TREN") allowing the operation of an Alerting System related to the Community SAFA programme (Safety Assessment of Foreign Aircraft) and to the list of air carriers subject to an operating ban within the Community.

This cooperation is envisaged in the context of the Memorandum of Cooperation between EUROCONTROL and the European Commission of 22 December 2003, in particular paragraphs 4 and 5.

The assistance of EUROCONTROL is crucial for allowing the European Commission and the Member States of the European Community, as well as other non-European Community ECAC Member States willing to participate in the Community SAFA Programme, (hereinafter referred to as "Participating States") to implement properly the relevant Community legislation relating to air safety, in particular Directive 2004/36/EC (SAFA) and Regulation (EC) 2111/2005 (EC List).

In this sense, I would like to request that EUROCONTROL provides to my services, the European Aviation Safety Agency (EASA) and to the Member States concerned, the information on flight plans matching with aircraft and air carriers which have been previously identified by DG TREN and the Participating States and subsequently notified to EUROCONTROL, under the conditions described in the Annex to this letter.

It is understood that the accuracy and completeness of the process will depend on the data received from DGTREN, the SAFA Central Coordination Function, the Participating States and the aircraft operators. Furthermore, the responsibility for any decisions taken by the European Commission or the Participating States on the basis of EUROCONTROL CFMU SAFA messages will rest entirely with those taking the said decisions.

Please note that for the sake of simplification and coherence, the detailed procedures and conditions described in the Annex reproduce those presently contained in the Cooperation Agreement between the European Civil Aviation Conference (hereinafter referred to as "ECAC") and EUROCONTROL on the support of EUROCONTROL in the ECAC SAFA-Programme.

It is clear that the detailed procedures described in the Annex might need to be reviewed and updated in the future so as to improve the effectiveness and accuracy of the function. Besides, I hope you can agree to enhance the system at a later stage by extending the matching process to aircraft which, according to the flight plan, intend to overfly the territory of the Participating States. To this end, I will appreciate if you could inform me as soon as you have developed the appropriate technical tools and are ready to initiate this additional matching process.

I hereby assure you that my services will treat the data received from EUROCONTROL in the context of this cooperation in all confidentiality consistent with applicable Community legislation and will use the data solely for the purpose of the said cooperation. DGTREN services will likewise request EASA and the Participating States to take the necessary measures to ensure appropriate confidentiality, data protection and restricted use of the data received from EUROCONTROL for the purposes of SAFA and the Community list.

Given that the safety of air transport has high priority for both EUROCONTROL and the European Commission, I am confident that you will give your approval for EUROCONTROL to participate in this exchange of information with the European Community.

In view of the above, I kindly request you to inform me whether you accept the cooperation described above and, in case of a positive answer, when EUROCONTROL would be ready to commence the consequent exchange of data.

Yours Sincerely,

Matthias Ruete

Annexes: EUROCONTROL (CFMU)-EUROPEAN COMMISSION (DG TREN)
procedures related to the SAFA-BLACK LIST Alerting System.

ANNEX

EUROCONTROL (CFMU) - EUROPEAN COMMISSION (DG TREN) PROCEDURE RELATED TO THE SAFA-BLACK LIST ALERTING SYSTEM

A. Definitions

1. '*Community list*' means the list of air carriers subject to an operating ban within the Community established by the Commission according to Regulation (EC) No 2111/2005.
2. '*Participating States*' means the Member States of the European Community and such ECAC Member States that are not EC-Member States which have concluded appropriate working arrangements with EASA on the basis of Commission Regulation (EC) No 768/2006.
3. '*SAFA Central Coordination Function*' means the system of collection and exchange of information established as part of the SAFA Programme and which will be managed by EASA as of 1 January 2007 according to Commission Regulation (EC) No 768/2006.
4. '*SAFA Alarming and follow-up function*' means the component of the SAFA Central Coordination Function by which the Participating States disseminate information on results of ramp inspections of aircraft and measures taken as a result of such inspections to the other Participating States through the SAFA Central Coordination Function.
5. '*SAFA-BLACK LIST Alerting function*' means the support of the EUROCONTROL CFMU to the Community SAFA system and to the implementation of the Community list, including any update thereof, as set out in this Arrangement.
6. '*NAAAs*' means the National Aviation Authorities of the Participating States.

B. General overview

1. The objective of the cooperation is to enhance the SAFA-Programme and the effectiveness of the Community list Regulation by using the possibilities of the EUROCONTROL CFMU to inform the Participating States, SAFA Central Coordination Function and DGTREN of flight plans pertaining to aircraft or operators that have been subject of a 'SAFA notification message' initiated by a Participating State or of an operating ban from the airspace according to the Community list.
2. The NAAs will transmit the data of aircraft to be subject to the 'SAFA alarming and follow-up function' to the EUROCONTROL Central Flow Management Unit (CFMU) by means of using the SAFA Central Coordination Function managed by the European Aviation Safety Agency (EASA) ('*SAFA notification message*').
3. DG TREN will transmit the data of air carriers that are subject to an operating ban within the Community according to the Community list, and any update thereof, or according to a provisional or exceptional national ban decided in accordance with

Articles 5 or 6 of Regulation (EC) No 2111/2005, to the EUROCONTROL CFMU (*'Community list notification message'*).

4. EUROCONTROL will compare the notification messages received according to Paragraphs 2 and 3 with the Flight Plan messages that have been accepted by the CFMU and identify such aircraft intending to depart from or land at an airport or alternate in a Participating State (hereinafter referred to as *'match'*).
5. EUROCONTROL will compare the received notification messages exactly as they are received, without prior quality inspection or other verifications. In particular, EUROCONTROL will not verify the accuracy, completeness or validity of the received notification messages.
6. EUROCONTROL will dispatch within time limits defined under paragraph C.7. below the message of a match between the data that is indicated by the CFMU system to the NAAs concerned by a particular flight, to DG TREN and to the SAFA Central Coordination Function (*'SAFA-BLACK LIST output message'*).
7. EUROCONTROL and DGTREN will notify each other of their respective contact persons as well as of those of the NAAs and of the SAFA Central Coordination Function with all necessary details. Any changes in the contact details will be communicated without delay.

C. Detailed procedures

1. The sources of information to be matched are:
 - a) SAFA notification message communicated by the SAFA Central Coordination Function;
 - b) Community list notification message communicated by DG TRENtogether referred to as *'notification messages'*,
with
 - c) Flight plan messages as accepted by the CFMU system.
2. A notification message will be sent to the CFMU via e-mail¹ or any other means found appropriate by the parties participating to the alerting function.
3. A notification message will contain all pertinent information to enable the matching process and the understanding of the message, in particular:
 - a) Information related to the originator, i.e. NAA (State, name of the NAA, contact person, e-mail address and telephone number), SAFA Central Coordination Function or DG TREN (unit, contact person, e-mail address and telephone number);
 - b) Information related to the basis:
 - SAFA notification message: date, description of decision, applicability, complementary explanation;

¹ In spite of inherent limitations to e-mail communication (availability, security, spoofing).

- Community list notification message: reference of update of the Community list according to Regulation (EC) 2111/2005 or, as regards provisional or exceptional national measures under this Regulation, date, description of decision, applicability, complementary explanation;
 - c) Information required for the matching process: aircraft registration, type of aircraft, Aircraft Operator (AO);
 - d) Exemptions to the matching process (if required): aircraft registration, type of aircraft, Aircraft Operator (AO), State(s);
 - e) Message reference number.
4. The CFMU will acknowledge reception of a notification message and will create its own record for the matching process. Provided the information included in the notification message is sufficient, the matching process will start as soon as practicable, at the latest during the next working day. A copy of the CFMU record shall be transmitted to the notification message originator by the CFMU responsible person to serve as a formal acknowledgement and to enable verification of the information by the notification message originator. In case of insufficient or incorrect information, the originator and the CFMU will endeavour to resolve the situation.
 5. The algorithm of the matching process is defined and will be refined by the CFMU according to experience, in close coordination with the SAFA Central Coordination Function. Quality indicators will be commonly agreed to monitor and improve the matching process.
 6. In case of matching of a flight plan or associated message with an active notification message, a '*SAFA-BLACK LIST output message*' will be transmitted from CFMU via e-mail² or any other means found appropriate by the parties to the specified addressees within the NAAs of those Participating States in which the airports of departure, destination and alternate(s) are located, as specified in the filed flight plan, to the SAFA Central Coordination Function and to DG TREN. The contact points and the communication means will be kept on record by the parties and will be updated as necessary.
 7. In general, the transmission of a SAFA-BLACK LIST output message will take place within 1 hour of the flight plan message acceptance by the CFMU system. The matching process will be interrupted during IFPS maintenance (maximum twice a year for a duration of nine hours) or system/communication failures.
 8. The CFMU will stop the matching process for a given item upon reception of an 'end of notification message' from the SAFA Central Coordination function or upon notification of an update of the Community list by DG TREN.
 9. The SAFA-BLACK LIST output message will contain the following outline:
 - a) Information related to the triggering notification message: date, originator, reference number;
 - b) Information related to the flight;
 - c) The matching conditions;

² In spite of inherent limitations to e-mail communication (availability, security, spoofing).

d) Information related to the EUROCONTROL CFMU originator;

e) The following disclaimer:

“This message is originated by the Central Flow Management Unit (CFMU) of EUROCONTROL. Contact number: +32 (0)2.745.19.00.

EUROCONTROL does not give any warranty as to the completeness, accuracy and suitability of the CFMU data that is compared with the SAFA notification messages and the European Community list notification messages as well as to the resulting matches.

EUROCONTROL furthermore does not give any warranty as to the accurate transmission and the correctness of the recipient of the data.

EUROCONTROL shall not be liable for any direct or consequential pecuniary or non-pecuniary loss, damage or personal injury that occurs due to the correlation, non-correlation or dispatch of data by the CFMU as part of the CFMU SAFA – BLACK LIST Alerting function.

Recipients are invited to refer to the latest version of the European Community list of air carriers which are subject to an operating ban within the Community, published in the Official Journal of the European Union. They should also note that the execution of ramp checks and their consequences as well as the decision on whether to take measures on the basis of this information fall entirely within the responsibility of the competent National Aviation Authorities of the States concerned.

EUROCONTROL CFMU is not entitled to and thus shall not be obliged to reject a flight plan on the basis of a SAFA notification message or on the basis of a European Community list notification message.”

10. In order to ensure common monitoring, EUROCONTROL CFMU will:

a) provide a list of notification messages that are active to the SAFA Central Coordination function every month;

b) review together with the competent services of DG TREN the SAFA-BLACK LIST output messages transmitted with regard to the Community list at least every three months.

11. A back-up storage for the notification messages will be created by EUROCONTROL CFMU. A second back-up storage will be available at the SAFA Central Coordination Function.

12. All information exchanges will be conducted in English.

13. Relevant telephone communications with EUROCONTROL CFMU will be recorded. The recordings and other data related to an incoming notification message or outgoing SAFA-BLACK LIST output message will be kept by EUROCONTROL CFMU for 18 months. Such records will be made available to DG TREN on request.

14. A follow-up report on the effectiveness of the process will be made jointly by EUROCONTROL CFMU and DG TREN. To this end, a feedback on individual messages shall be organized and reviewed by the parties at least once a year. Possible changes to the present Annex will be included in the Report.



Direction générale

Date

Ref.: DGTREN letter of XXXX

Subject: EUROCONTROL – European Commission Cooperation regarding SAFA and the Community list of banned air carriers

Objet:

Contact:

Direct Line: + 32 (2) 729

Ligne directe:

Encl.:

P.J.:

Mr Matthias RUETE
Director General of Transport and Environment
DG TREN
European Commission
Rue de Mot 24
BE-1040 BRUSSELS

Dear Mr. Ruete,

The European Organisation for the Safety of Air Navigation (EUROCONTROL) has the pleasure to acknowledge receipt of your letter of XXXX which reads as follows:

“Dear Mr. Aguado,

Following our exchange of letters between March and April 2006 on the topic under subject, I am herewith seeking your agreement for setting up a cooperation between EUROCONTROL and the Directorate-General for Energy and Transport of the European Commission (hereinafter referred to as "DG TREN") allowing the operation of an Alerting System related to the Community SAFA programme (Safety Assessment of Foreign Aircraft) and to the list of air carriers subject to an operating ban within the Community.

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In this sense, I would like to request that EUROCONTROL provides to my services, the European Aviation Safety Agency (EASA) and to the Member States concerned, the information on flight plans matching with aircraft and air carriers which have been previously identified by DG TREN and the Participating States and subsequently notified to EUROCONTROL, under the conditions described in the Annex to this letter.

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Safety of
Air Navigation

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navigation aérienne

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Telex: 21173 EUROCONTROL B

EUROCONTROL CFMU SAFA messages will rest entirely with those taking the said decisions.

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Given that the safety of air transport has high priority for both EUROCONTROL and the European Commission, I am confident that you will give your approval for EUROCONTROL to participate in this exchange of information with the European Community.

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3. DG TREN will transmit the data of air carriers that are subject to an operating ban within the Community according to the Community list, and any update thereof, or according to a provisional or exceptional national ban decided in accordance with Articles 5 or 6 of Regulation (EC) No 2111/2005, to the EUROCONTROL CFMU (*'Community list notification message'*).
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3. A notification message will contain all pertinent information to enable the matching process and the understanding of the message, in particular:
 - a) Information related to the originator, i.e. NAA (State, name of the NAA, contact person, e-mail address and telephone number), SAFA Central Coordination Function or DG TREN (unit, contact person, e-mail address and telephone number);

¹ In spite of inherent limitations to e-mail communication (availability, security, spoofing).

- b) Information related to the basis:
 - SAFA notification message: date, description of decision, applicability, complementary explanation;
 - Community list notification message: reference of update of the Community list according to Regulation (EC) 2111/2005 or, as regards provisional or exceptional national measures under this Regulation, date, description of decision, applicability, complementary explanation;
 - c) Information required for the matching process: aircraft registration, type of aircraft, Aircraft Operator (AO);
 - d) Exemptions to the matching process (if required): aircraft registration, type of aircraft, Aircraft Operator (AO), State(s);
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4. The CFMU will acknowledge reception of a notification message and will create its own record for the matching process. Provided the information included in the notification message is sufficient, the matching process will start as soon as practicable, at the latest during the next working day. A copy of the CFMU record shall be transmitted to the notification message originator by the CFMU responsible person to serve as a formal acknowledgement and to enable verification of the information by the notification message originator. In case of insufficient or incorrect information, the originator and the CFMU will endeavour to resolve the situation.
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- a) Information related to the triggering notification message: date, originator, reference number;
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- e) The following disclaimer:

“This message is originated by the Central Flow Management Unit (CFMU) of EUROCONTROL. Contact number: +32 (0)2.745.19.00.

EUROCONTROL does not give any warranty as to the completeness, accuracy and suitability of the CFMU data that is compared with the SAFA notification messages and the European Community list notification messages as well as to the resulting matches.

EUROCONTROL furthermore does not give any warranty as to the accurate transmission and the correctness of the recipient of the data.

EUROCONTROL shall not be liable for any direct or consequential pecuniary or non-pecuniary loss, damage or personal injury that occurs due to the correlation, non-correlation or dispatch of data by the CFMU as part of the CFMU SAFA – BLACK LIST Alerting function.

Recipients are invited to refer to the latest version of the European Community list of air carriers which are subject to an operating ban within the Community, published in the Official Journal of the European Union. They should also note that the execution of ramp checks and their consequences as well as the decision on whether to take measures on the basis of this information fall entirely within the responsibility of the competent National Aviation Authorities of the States concerned.

EUROCONTROL CFMU is not entitled to and thus shall not be obliged to reject a flight plan on the basis of a SAFA notification message or on the basis of a European Community list notification message.”

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- a) provide a list of notification messages that are active to the SAFA Central Coordination function every month;
- b) review together with the competent services of DG TREN the SAFA-BLACK LIST output messages transmitted with regard to the Community list at least every three months.

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14. A follow-up report on the effectiveness of the process will be made jointly by EUROCONTROL CFMU and DG TREN. To this end, a feedback on individual messages shall be organized and reviewed by the parties at least once a year. Possible changes to the present Annex will be included in the Report.”

EUROCONTROL has the honour to inform you that the proposal is acceptable to EUROCONTROL. EUROCONTROL accordingly agrees that the European Commission's letter and this reply shall constitute the cooperation arrangement between EUROCONTROL and the European Commission. As requested, the exchange of data foreseen under the cooperation will commence on 1 January 2007.

Yours sincerely,

Víctor M. AGUADO