

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Measures of the Permanent Commission -

MEASURE N°03/94

on the conclusion of a Memorandum of Co-operation between the European Organisation for the Safety of Air Navigation ("EUROCONTROL") and the North Atlantic Treaty Organisation ("NATO")

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 6.3 and 7.2 thereof;

Having regard to Measure N° 00/76 of 10 November 2000 on the opening by the Agency of negotiations for the conclusion of a Memorandum of Co-operation with the North Atlantic Treaty Organisation (NATO);

On the proposal of the Provisional Council,

TAKES THE FOLLOWING MEASURE:

1. The draft Memorandum of Co-operation at Annex is hereby approved.
2. The Memorandum shall be signed on behalf of the Organisation by the Director General of the Agency.

Done at Brussels on 10.04.2003


J. TURECKÝ
President of the Commission

MEMORANDUM OF CO-OPERATION

BETWEEN

**THE EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION
(EUROCONTROL)**

AND

**THE NORTH ATLANTIC TREATY ORGANISATION
(NATO)**

The European Organisation for the Safety of Air Navigation, hereafter referred to as EUROCONTROL, acting through its Permanent Commission and represented by its Director General, for the one part,

and

The North Atlantic Treaty Organisation, hereafter referred to as NATO, represented by its Secretary General, for the other part,

Hereafter referred to collectively as the parties and individually as the party,

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 as amended by the Protocol signed in Brussels on 12 February 1981, in particular Article 11 thereof;

Having regard to the North Atlantic Treaty, signed in Washington on 4 April 1949;

Considering that co-operation between EUROCONTROL and NATO on matters pertaining to air traffic management is mutually beneficial and fosters transparency while respecting the autonomy of the parties;

Considering that EUROCONTROL is mandated by the European Civil Aviation Conference (ECAC) to manage the European Air Traffic Management Programme, *inter alia*, with the major objective to achieve a uniform gate to gate oriented Communications, Navigation and Surveillance/Air Traffic Management (CNS/ATM) system servicing civil and military users;

Considering that EUROCONTROL is tasked to achieve enhanced international civil/military co-operation and co-ordination in the field of air navigation;

Considering that NATO addresses matters of an international character, including airspace utilisation of NATO countries, which requires an appropriate civil/military co-operation, and provides advice and assistance on these matters to other nations;

Considering that it is desirable for both EUROCONTROL and NATO that the development of a seamless European air navigation system is coordinated and that the compatibility between civil and military air traffic management forms an important subject of this coordination;

Considering that it is furthermore in the interest of both organisations that the possible effects in the airspace in Europe of specific NATO requirements, including in times of crisis or war, are properly addressed;

Considering the new security environment originating by the terrorist attacks using civil aircraft;

Having agreed the following provisions :

ARTICLE 1

1. The aim of this Memorandum is to contribute to the fulfilment of EUROCONTROL and NATO respective missions, by reinforcing their cooperation in the area of air navigation.
2. Such co-operation may be established, *inter alia*, in the following fields :
 - (a) implementation of the European component of the International Civil Aviation Organisation (ICAO) ATM/CNS Global Plan and its regional procedures (CNS/ATM System, including spectrum and frequency management) taking into account present and future NATO air navigation requirements, plans and developments;
 - (b) examination of and advice on the implication for NATO aviation of the EUROCONTROL's various ATM/CNS - related programmes;
 - (c) implementation of peace time airspace organisation rules and procedures under the responsibility of member States;
 - (d) specific NATO needs and related ATM/CNS issues;
 - (e) ATM issues of common interest during crisis and war;
 - (f) ATM/CNS procedures in response to acts of unlawful interference against civil aviation as defined by ICAO;
 - (g) any other field of common interest that the parties deem to be the subject for co-operation.

ARTICLE 2

1. EUROCONTROL and NATO will consult each other on a regular basis at Committee and working level with a view to co-ordinating their activities and eliminating duplication of effort with respect to issues addressed in the present Memorandum of Co-operation.
2. In order to co-ordinate their work programmes and to benefit from their respective experience, EUROCONTROL and NATO may invite as appropriate the other party to meetings relating to any of the areas referred to in Article 1.2. The parties will furthermore inform one another of the progress made in activities and programmes of common interest and submit/transmit documents, studies, agendas and minutes of meetings relating to areas referred to in Article 1.2, subject to their own rules on exchange of information.

ARTICLE 3

1. Director General EUROCONTROL and Secretary General NATO will each appoint point(s) of contact within their respective organisations to address the topics mentioned in Article 1.2. and other issues if required.
2. Director General EUROCONTROL and Secretary General NATO will, where appropriate, determine the terms and conditions for the activities of these contact point(s).

ARTICLE 4

Practical working arrangements to facilitate this Memorandum between the parties will be established by the Director General of EUROCONTROL and the Secretary General of NATO.

ARTICLE 5

This Memorandum may be amended upon the consent in writing of both parties.

ARTICLE 6

Detailed provisions as to the exchange of classified information with respect to the execution of the present Memorandum are attached at Annex to the present Memorandum and make an inherent part of it.

ARTICLE 7

The Memorandum will enter into force on the date of signature.

ARTICLE 8

Either of the parties may terminate this Memorandum by giving written notification to the other party. The termination will take effect at the end of the thirtieth day following the day on which notification is given.

ARTICLE 9

Any dispute between the parties arising out of the interpretation or execution of the present Memorandum shall be settled by diplomatic means without any recourse to any outside jurisdiction.

In witness whereof, the undersigned, duly authorised to that effect, have signed this Memorandum.

Done at Brussels on, in two original copies in English and French languages, both texts being equally authentic.

For EUROCONTROL,

For NATO,

The Director General

The Secretary General

Annex on the security of information

ANNEX ON THE SECURITY OF INFORMATION

1. EUROCONTROL shall:
 - (a) protect classified information provided to it by NATO in accordance with NATO Minimum Standards;
 - (b) provide such NATO classified information only to cleared individuals under its jurisdiction in the possession of a valid NATO security clearance and with a need-to-know;
 - (c) use such classified information only for the purposes for which it was provided;
 - (d) not transfer such classified information to a third party, including any EUROCONTROL Member State, without the prior approval of the originator of the information.
2. Pending the establishment of a secure environment within EUROCONTROL in accordance with NATO Minimum Standards, EUROCONTROL staff in the possession of a valid NATO security clearance and with a need-to-know, will only be authorised to access the information within NATO premises.
3. Prior to the provision of NATO classified information the NATO Office of Security must establish to its satisfaction that EUROCONTROL is prepared to protect the information it receives as required by the originator.

EUROCONTROL shall facilitate periodic inspections by the NATO Office of Security to ensure that the security arrangements for the protection of provided classified information meet NATO Minimum Standards.
4. The NATO Office of Security (NOS) under the direction and on behalf of the Secretary General and the Chairman, NATO Military Committee, acting in the name of the North Atlantic Council and the NATO Military Committee and under their authority, is responsible for security arrangements for the protection of classified information exchanged within the framework of this Memorandum of Cooperation.
5. EUROCONTROL shall appoint a Security Authority with similar responsibility and inform the NOS of such an appointment.