EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Measures of the Permanent Commission -

MEASURE N°04/105

delivering authority to the Agency to conclude a bilateral agreement relating to Shanwick communications charges with the Irish Aviation Authority

THE PERMANENT COMMISSION FOR THE SAFETY OF AIR NAVIGATION:

Having regard to the provisions of Articles 2 § 2(c), 6 § 3, 11 § 3 and 12 of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 as amended at Brussels in 1981;

Having regard to the provisions of Article 3 § 2(i) of the Multilateral Agreement relating to Route Charges of 12 February 1981;

on the proposal of the Agency,

TAKES THE FOLLOWING MEASURE:

The Agency is delegated authority to conclude a bilateral agreement relating to Shanwick communications charges with the Irish Aviation Authority, on the basis of the draft agreement attached, which shall be signed on behalf of the Organisation by the Director General of the Agency.

Done at Brussels on 26.10.04

P. LUNARDI
President of the Commission

P:\1\APPROVAL PROCEDURE\4. COMMISSION\ACTS\2-MEASURES\04-105 en.doc
AGREEMENT

BETWEEN THE IRISH AVIATION AUTHORITY AND THE EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION (EUROCONTROL) RELATING TO SHANWICK COMMUNICATIONS CHARGES

The Irish Aviation Authority, hereinafter referred to as "the IAA"

and

The European Organisation for the Safety of Air Navigation (EUROCONTROL), represented by its Director General, hereinafter referred to as "EUROCONTROL".

Having regard to the provisions of Articles 2 § 2(c), 6 § 3, 11 § 3 and 12 of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 as amended at Brussels in 1981;

Having regard to the provisions of Article 3 § 2(i) of the Multilateral Agreement relating to Route Charges of 12 February 1981;

Having regard to the Measure N° { } taken by the Commission on { } delegating authority to the Agency to conclude a bilateral agreement relating to communications charges with the IAA.

HAVE AGREED AS FOLLOWS:
ARTICLE 1 - (Purpose)

The IAA hereby entrusts EUROCONTROL with the calculation, billing, collection and accounting on its behalf of charges for Shanwick communications services (hereinafter referred to as Shanwick communications charges) in accordance with the laws and regulations in force in Ireland and with the provisions set out in Annex I to this Agreement.

ARTICLE 2 - (Billing and Payment of Shanwick communications charges)

The Shanwick communications charges shall be billed in euros and payable to EUROCONTROL in accordance with the Conditions of Payment set out in Annex I.

ARTICLE 3 - (Treatment of Claims and Information to Users)

EUROCONTROL is entrusted with the treatment of claims submitted by users. EUROCONTROL shall provide to the users information in respect of the Shanwick communications charges.

ARTICLE 4 - (Collection of Shanwick communications charges)

EUROCONTROL shall collect the Shanwick communications charges and take appropriate actions where a debtor has not paid the amount due. For that purpose, the Shanwick communications charges shall constitute a claim by EUROCONTROL due from users, in accordance with the provisions set out in Annex I.

ARTICLE 5 - (Disbursement of Shanwick communications charges)

Shanwick communications charges collected by EUROCONTROL on behalf of the IAA in performance of this task shall be remitted, inclusive of accrued interests, if any, but exclusive of related bank charges, to the IAA, in accordance with the provisions set out in Annex I.

ARTICLE 6 - (Accounting)

6.1. EUROCONTROL shall produce annual accounts for the Shanwick communications charges in the form of a Balance Sheet and Income and Expenditure account. The accounts shall be produced according to accepted international standards. The accounts shall be expressed in euros.

6.2. EUROCONTROL shall, on request, agree that the audit of the financial operations on behalf of the IAA be effected in accordance with the Financial Regulations and the Rules of Application of those Regulations applicable to the EUROCONTROL Route Charges System.

6.3. The IAA may, at its own request, or at the invitation of EUROCONTROL, participate in the auditing of the EUROCONTROL accounts in respect of the Shanwick communications charges.
ARTICLE 7 - (Transmission of Data)

The Shanwick communications charges shall be established on the basis of data provided by the IAA in accordance with the procedures agreed with EUROCONTROL. The provision of the data is the sole responsibility of the IAA.

ARTICLE 8 - (Costs)

8.1. For the period starting on 1 November 2004 and ending on 31 December 2004, the costs in respect of the execution of this Agreement are estimated at EUR 51,667, corresponding to:

- the development costs for the period ending on 31 October 2004 (development phase) estimated at EUR 42,000

- the collection costs for the period starting on 1 November 2004 and ending on 31 December 2004 (operational phase) estimated at EUR 9,667

Thereafter, the collection costs shall be calculated on an annual basis.

8.2. A breakdown of the above costs and the method of calculation are shown in Annex II to this Agreement.

8.3. The costs in respect of the execution of this Agreement shall be assessed on the basis of the most realistic estimates possible at the time of conclusion of this Agreement and the current rules for the charging of Agency services adopted by EUROCONTROL's governing bodies.

If the charging rules of the Agency are modified, the new rules shall apply to this Agreement with effect from the date of their entry into force. Any revision of the cost factors shall be taken into account where it has been duly approved by EUROCONTROL's governing bodies.

8.4. The amount due by the IAA to EUROCONTROL for the purposes of this Agreement shall correspond to the costs in respect of the execution of this Agreement, i.e. the costs incurred by EUROCONTROL in respect of the tasks performed by it, as notified by the EUROCONTROL financial services.

ARTICLE 9 - (Payment of the Costs)

The IAA shall make advance payments equal to one quarter of the annual costs with effect from the starting date of operation at intervals of three months.

At the end of each calendar year EUROCONTROL shall draw up a statement of expenditure, subject to the revision arrangements provided for in § 8.3 above and of the amounts paid by the IAA. Negative or positive balances shall be billed or reimbursed to the IAA.

The bills shall be drawn up by EUROCONTROL in euro and paid to EUROCONTROL in the same currency within 30 days following the date of the bills.

ARTICLE 10 - (Liability)

The IAA shall indemnify EUROCONTROL and its staff against its legal liability to third parties for damages arising out of the performance of this Agreement except in the case of negligence on the part of EUROCONTROL or its staff, insofar as those damages are attributable to them.

Shanwick communications charges Agreement 14/09/2004
ARTICLE 11 - (Arbitration)

Any dispute which may arise between the Parties to this Agreement concerning the interpretation or application thereof, and which has not been possible to settle by direct negotiation or by any other method, shall be referred to arbitration as provided for by Article 31 of the EUROCONTROL Convention as amended at Brussels in 1981.

ARTICLE 12 - (Suspension of Agreement)

In the event of a state of crisis, conflict or war, this Agreement may be suspended by a mutual decision of the Parties or by unilateral written notice of one Party to the other.

ARTICLE 13 - (Amendments)

The Parties may, by exchange of letter between the IAA and the Director General of EUROCONTROL, modify:

a) Annex I, provided the amendment has no financial implications;

b) the expenditure detailed in Annex II, provided the budgetary procedures to which the two Parties are subject have been complied with beforehand.

ARTICLE 14 - (Date of Effect and Duration)

14.1. This Agreement shall enter into force on the date of signature by both Parties for an unlimited period. The development phase shall begin on that date. The calculation and billing of Shanwick communications charges shall commence with effect from 1 November 2004.

14.2. However, either Party may terminate this Agreement at any time subject to one year's written notice.

14.3. The notifying Party shall be liable for any costs resulting from the termination of this Agreement unless the reason of such termination is attributable to the other Party's responsibility.

Done at { } on the { } of { } in the English language.

For the IAA,  
For EUROCONTROL,

Eamonn Brennan  
Chief Executive  

Víctor M. AGUADO  
Director General

Shanwick communications charges Agreement  
14/09/2004
OPERATING SPECIFICATIONS

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APPENDIX 1 Conditions of payment of Shanwick communications charges

APPENDIX 2 Billing documents specifications

APPENDIX 3 Listings and outputs to be made available to the IAA
1. **GENERAL**

1.1 These operating specifications cover the services to be provided by EUROCONTROL, which consist of calculating, billing, collecting and accounting of Shanwick communications charges on behalf of the IAA, in accordance with ICAO principles.

1.2 EUROCONTROL shall maintain separate records and will produce a set of annual accounts.

1.3 EUROCONTROL shall ensure the storage on magnetic support of all data required for the execution of the present Agreement. ARC files received from the IAA shall be stored on magnetic support for 48 months. Financial data shall be stored on magnetic support for 10 years.

1.4 The listings and outputs to be dispatched to the IAA are specified at Appendix 3.

1.5 The IAA shall cooperate with EUROCONTROL in the calculation and collection of the Shanwick communications charges.

1.6 The IAA shall provide EUROCONTROL with a copy of the national laws and regulations governing Shanwick communications charges.

2. **CHARGING**

2.1 *The Shanwick communications charge*

A Shanwick communications charge shall be levied for each flight for which a contact has been made with the IAA in the Shanwick Oceanic Region.

Contact means a communication service given to an aircraft by Shanwick Aeronautical Radio Station irrespective of the number of messages exchanged and the duration of the flight.

2.2 *The unit rate of charge*

The unit rate of charge for a contact shall be established by the IAA and notified to EUROCONTROL in euros with a maximum of two decimal places.

The unit rate of charge per contact shall be set for a calendar year.

Changes of the unit rate of charge per contact shall only be effective on a first day of a month. The notification of change must be received by EUROCONTROL not later than the first day of the month for which the new unit rate of charge applies.

The unit rate of charge per contact shall be published by the IAA.
2.3 Exempted Flights

The IAA shall apply the same exemption criteria for Shanwick communications charges as it applies for EUROCONTROL route charges.

The IAA shall notify EUROCONTROL of the categories of flights exempted from the payment of Shanwick communications charges in accordance with the national regulations.

2.4 Consultation with users

Consultation with users in respect of the Shanwick communications charge shall be the sole responsibility of IAA.

3. FLIGHT DATA COLLECTION, TRANSMISSION AND PROCESSING

3.1 Data transmission

The transmission protocol between the IAA and EUROCONTROL shall be the e-mail (zipped file). The IAA shall transmit a daily data file to EUROCONTROL, as well as any other necessary data. The daily data file contains records of all services provided in a day and shall be transmitted latest within five working days from the date of provision of Shanwick communications services.

3.2 Volume of data to be processed

The estimated volume of data to be processed is 350 000 flights per year.

3.3 Information to be provided to EUROCONTROL

Where required, the IAA shall provide information to EUROCONTROL on all relevant matters relating to the Shanwick communications charge.

4 BILLING, CLAIMS AND INFORMATION TO USERS

4.1 General

The documents to be dispatched to users are as follows:
1) bill for Shanwick communications charge
2) pro forma statement (statement of flights)
3) statement of account
4) credit note
5) VAT annex to bill
6) VAT annex to credit note

These documents shall bear the EUROCONTROL letterhead. The bill and the pro forma statement shall show that the Shanwick communications charge being levied is payable to EUROCONTROL.
EUROCONTROL's bank account into which the Shanwick communications charge shall be payable, shall be shown on the bill and the statement of account. Appendix 2 details the variable fields to be shown on these documents.

4.2 Billing cycle

Billing periods shall be the same as within the EUROCONTROL Route Charges System.

The time granted to users for payment of the Shanwick communications charges, i.e. the interval between the bill date and the date for payment shown on the bill, shall be identical to the time granted to users for payment of the EUROCONTROL route charges.

4.3 User claims

User claims shall be processed in accordance with the procedures of the EUROCONTROL Route Charges System.

The interval between the bill date and the final date for the submission of claims shall be identical to that applicable to the EUROCONTROL route charges.

4.4 Value Added Tax (VAT)

Value added tax shall be billed, handled and accounted for in the same way as for Ireland in the Multilateral Route Charges System.

4.5 Information to users

EUROCONTROL shall keep users informed by means of information circulars where necessary.

EUROCONTROL shall provide to users upon request information in respect of the Shanwick communications charge.

5. COLLECTION OF CHARGES

5.1 Proceedings for recovery of the amount due shall be instituted either by EUROCONTROL or, at EUROCONTROL's request, the IAA.

5.2 The IAA shall inform EUROCONTROL of the procedures applied in Ireland and of the competent courts, tribunals or administrative authorities.

5.3 The person liable to pay the Shanwick communications charges shall be the person who was the operator of the aircraft at the time when the flight was performed. Where an ICAO designator is used in the flight identification, the identity of the operator of the flight shall be deemed to be that of the aircraft operating agency to whom the ICAO designator was allocated at the time of the flight.
If the identity of the operator is not known, the owner of the aircraft shall be regarded as the operator, unless he proves which other person was the operator.

If the operator defaults, then both the operator and the aircraft owner shall be jointly and severally liable for unpaid charges.

5.4 Where a debtor has not paid the amount due in respect of Shanwick communications charges, EUROCONTROL may initiate enforced recovery, which may include detention of aircraft if the applicable national law so provides.

6. FUND MANAGEMENT

6.1 Shanwick communications charges collected on behalf of the IAA shall be disbursed to the IAA every fortnight.

6.2 The funds shall be invested by EUROCONTROL to the benefit of the IAA for the duration between their actual collection and disbursement to the IAA. The interest shall be disbursed to the IAA once each quarter.

6.3 Payments to third parties out of the Shanwick communications charges collected on behalf of IAA could be arranged on request.

7. ACCOUNTING

7.1 The financial year shall begin on 1 January.

7.2 Accounting data to be sent by EUROCONTROL are listed in Appendix 3.

7.3 Provision for doubtful debts and write-off of irrecoverable debts shall be dealt with, where appropriate, in accordance with the Financial Regulations applicable to the Route Charges System.

8. PROTECTION OF DATA

All data related to the Shanwick communications charges shall be protected by EUROCONTROL according to the principles applied in the EUROCONTROL Route Charges System.
Conditions of Payment of Shanwick Communications Charges

Clause 1

1. The amounts billed shall be payable in euros into the EUROCONTROL Central Route Charges Office's bank account shown on the bill.

2. The amount of the charge is due on the date of performance of the flight. The latest date by which payment must be received by EUROCONTROL shall be shown on the bill.

Clause 2

Payment shall be deemed to have been received by EUROCONTROL on the value date on which the amount due was credited into the banking establishment designated by EUROCONTROL, referred to in Clause 1 paragraph 1. The value date shall be the date on which EUROCONTROL can use the funds.

Clause 3

1. Payments shall be accompanied by a statement giving the references, dates and amounts in respect of bills paid and of any credit notes deducted.

2. Where a payment is not accompanied by the details specified in paragraph 1 above so as to allow its application to a specific bill or bills, EUROCONTROL will apply the payment:
   - first to interest (if applicable), and then
   - to the oldest bills unpaid.

Clause 4

1. Claims against bills must be submitted to EUROCONTROL in writing or by an electronic medium previously approved by EUROCONTROL before the deadline indicated on the bill.

2. The date of submission of claims shall be the date on which the claims are received by EUROCONTROL.

3. Claims must be detailed and should be accompanied by any relevant supporting evidence.

4. Submission of a claim by a user shall not entitle him to make any deduction from the relevant bill unless so authorised by EUROCONTROL.

5. Where EUROCONTROL and a user are mutually debtor and creditor no compensation payments shall be effected without EUROCONTROL's prior agreement.

Clause 5

Where a debtor has not paid the amount due, measures may be taken to enforce recovery.

Shanwick communications charges Agreement

14/09/2004
Shanwick communications charges

- Billing documents specifications -

1. **BILL**
   a) Identification of the type of charges
   b) Document identification ("BILL")
   c) Date of issue
   d) Flight period
   e) Document reference
   f) User code/User name
   g) User billing address
   h) Payment to be received at the latest by (date)
   i) Total amount to be paid
   j) Bank details
   k) Claims to be submitted at the latest by (date)

2. **PRO FORMA STATEMENT (STATEMENT OF FLIGHTS)**
   a) Identification of the type of charges
   b) Document identification ("PRO FORMA STATEMENT")
   c) Date of issue
   d) Flight period
   e) Document reference
   f) Page number
   g) User Code/User Name
   h) User billing address
   i) Day (of the related flight month)
   j) Line number (item number)
   k) Flight number or aircraft registration
   l) Flight details
   m) Exemption code
   n) Deducted (exempted) amount
   o) Charge (total of chargeable and exempted amounts)
   p) Cumulative total of exempted amounts
   q) Cumulative total of charges
   r) Total net amount to be paid (overall total of charges minus overall total of exempted amounts)

3. **STATEMENT OF ACCOUNT**
   a) Identification of the type of charges
   b) Document identification ("STATEMENT OF ACCOUNT")
   c) Date of issue
   d) Document reference
   e) Page Number
   f) User Code / User Name
   g) User billing address
   h) Value date (of item)
   i) Item code
   j) Item reference
   k) Amount in debit
   l) Amount in credit
   m) Balance for each item
   n) Total balance
   o) Bank details
4. CREDIT NOTE

a) Identification of the type of charges
b) Document identification ("CREDIT NOTE")
c) Date of issue
d) Flight period
e) Credit note number (reference)
f) Page number
g) User Code/User Name
h) User billing address
i) Line number on related pro forma statement
j) Date of flight
k) Flight number or aircraft registration
l) Flight details
m) Exemption code
n) Amount credited
o) Cumulative totals of amounts credited
p) Overall amount credited

5. (VAT) ANNEX TO BILL

a) Identification of the type of charges
b) Document identification ("ANNEX TO BILL")
c) Date of issue
d) Flight period
e) Document reference
f) User code/User name
g) User billing address
h) User VAT number
i) Identification of the service provider on behalf of which the VAT invoice is issued
j) Service provider VAT number
k) Amount liable to VAT
l) VAT rate %
m) VAT amount
n) Total inclusive of VAT

6. (VAT) ANNEX TO CREDIT NOTE

a) Identification of the type of charges
b) Document Identification ("ANNEX TO CREDIT NOTE")
c) Date of issue
d) Flight period
e) Document reference
f) User code/User name
g) User billing address
h) User VAT number
i) Identification of the service provider on behalf of which the VAT invoice is issued
j) Service provider VAT number
k) Amount liable to VAT
l) VAT rate %
m) VAT amount
n) Total inclusive of VAT
Listings and outputs to be made available to the IAA

The Central Route Charges Office will issue the following reports, which may be made available on the Extranet for National Administrations (ETNA) upon request of the IAA:

1. **Billing**
   1.1. Billing report per flight period, showing the total number of chargeable and exempted communication services.
   1.2. Billing report per flight period, showing the amounts billed by user nationality.
   1.3. Documents, for the Ministry of Transport, showing the exempted amounts per user and per category (Military & civil exempted), together with the corresponding list of flights. This official document will be forwarded to IAA on paper.

2. **Recovery and accounting**

   Standard monthly and annual accounting reports and statistics showing the following situations:
   - Charges billed
   - Charges received
   - Charges disbursed
   - Balance – Amounts still outstanding
## Estimate of EUROCONTROL Collection Costs (in EUR)

### Personnel Expenditure

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<td>Missions</td>
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**TOTAL 1:** 46 000

### Other Operating Expenditure

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**TOTAL 2:** 12 000

**GRAND TOTAL (12 months):** 58 000

### 2004 estimated costs (2 months):

**9 667**

### Development Costs

**42 000**

**TOTAL 2004:** 51 667
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