

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

Measures of the Permanent Commission

MEASURE No. 09/151

Delegating authority to the Agency to conclude on behalf of the Organisation the bilateral Agreement between EUROCONTROL and the SESAR Joint Undertaking as well as the Multilateral Framework Agreement between all members of the SESAR Joint Undertaking

THE PERMANENT COMMISSION FOR THE SAFETY OF AIR NAVIGATION:

1. 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 at Brussels on 12 February 1981, and in particular Articles 6.3, 7.2, 11 and 12 thereof;
2. 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 at Brussels on 27 June 1997, and in particular Article 13 of the consolidated version of the Convention annexed thereto;
3. HAVING REGARD to Decision No. 71 taken by the Permanent Commission on 9 December 1997 on early implementation of certain provisions in the revised Convention, in particular those concerning the role and duties of the Organisation;
4. HAVING REGARD to the Memorandum of Co-operation between EUROCONTROL and the European Commission of 22 December 2003 for the implementation of the single European sky and for research and development activities in the field of air traffic control activities;
5. CONSIDERING that SESAR is the technological element of the single European sky;
6. HAVING REGARD to Council Regulation (EC) No. 219/2007 of 27 February 2007 as amended by Council Regulation (EC) No. 1361/2008 of 16 December 2008, on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR), to which are annexed the SJU Statutes;
7. HAVING REGARD to Measure No. 07/130 taken by the Permanent Commission on 8 February 2007 delegating authority to the Agency to open negotiations for the conclusion of an Agreement between EUROCONTROL and the future SESAR Joint Undertaking on the basis of the results of the Provisional Council's deliberations of the ad hoc PC Session held on 8 February 2007;
8. HAVING REGARD to Measure No. 08/140 taken by the Permanent Commission on 26 June 2008 delegating authority to the Agency to discharge a cash contribution of EUR 10 Million as the first instalment of EUROCONTROL's overall estimated contribution to the SESAR Joint Undertaking;

9. CONSIDERING that it is necessary to approve EUROCONTROL's participation in the SESAR Development Phase as a founding Member of the SESAR Joint Undertaking as set out in the attached agreements;
10. NOTING that nothing in the agreements could be interpreted as affecting the status of EUROCONTROL as an international organisation governed by its constituent documents or international law;
11. NOTING that through the participation of EUROCONTROL as a founding Member of the SESAR Joint Undertaking, the pan-European approach and dimension in the development of the new generation of the European air traffic management system is assured, as is the participation and involvement of all EUROCONTROL States with equal rights and opportunities;
12. NOTING that, in the same spirit, the EUROCONTROL Permanent Commission will be invited in due course to discuss and decide on the role of EUROCONTROL in the SESAR Deployment Phase;
13. NOTING that new developments in the SESAR Joint Undertaking, including proposals for membership or substantial amendments to internal policies shall regularly be reported to the Provisional Council by EUROCONTROL;
14. RECOGNISING that financing for the definition and development phases of the SESAR project is substantial and to a large extent made by Member States; Member States should therefore be granted access free of charge for their own and non commercial purposes to the knowledge resulting from the project;
15. NOTING further, that in the unlikely event of termination of the MA and MFA due to reasons outside the control of EUROCONTROL, EUROCONTROL shall request the return of EUROCONTROL's cash contribution to the SJU not already committed by the SJU;
16. RECOGNISING the importance of the allocation of the necessary resources to Member States to facilitate the seamless implementation of SESAR for all EUROCONTROL Member States, including national aviation authorities and in transition areas, if applicable;
17. NOTING that the cash contribution of EUROCONTROL to the SESAR Joint Undertaking will regularly be reported on to the Provisional Council as part of the EUROCONTROL budgetary process;
18. NOTING that the EUROCONTROL contribution should not be used for purposes contrary or detrimental to the interests of the Organisation.
19. Noting that the SJU shall ensure adequate financial Reporting to EUROCONTROL and that EUROCONTROL shall have the right to carry out effective controls to ensure that the financial interests of the Organisation are protected.

On the proposal of the Provisional Council and the Agency,

TAKES THE FOLLOWING MEASURE:

1. The Director General is instructed to convey the content of this Measure to the Executive Director and to the Administrative Board of the SESAR Joint Undertaking, and to closely monitor and report to the Provisional Council on the implementation of the pan-European approach of SESAR.
2. The Agency is delegated authority to conclude, on behalf of the Organisation:
 - a. the agreement between the SESAR Joint Undertaking and EUROCONTROL, attached at Annex 1
 - b. the Multilateral Framework Agreement between all members of the SESAR Joint Undertaking, attached at Annex 2.

Done at Brussels on 07.05.09

For the President of the Commission,



V. GOSPODINOVA
Vice-President of the Commission