

# EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

## EUROCONTROL

- Measures of the Permanent Commission –

### MEASURE No 12/181

**delegating authority to the Director General to sign on behalf of the Organisation a high-level Cooperation Agreement with the European Union**

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 of 13 December 1960 as amended by the Protocol signed at Brussels on 12 February 1981 and in particular Articles 7.2 and 11 thereof;

Having regard to the Permanent Commission Measure No 11/174 of 12 May 2011 delegating authority to the Agency to open negotiations for the conclusion of a high-level Agreement with the European Union;

Having regard to the Single European Sky initiative developed within the European Union;

Considering that it is appropriate to revise and consolidate the relations between EUROCONTROL and the European Union;

Considering that the high-level Cooperation Agreement with the European Union does not affect the legal and institutional framework of the EUROCONTROL Organisation which will continue to perform public domain services and functions and support its Member States in, inter alia, the implementation of the Single European Sky and other related EU policies;

Considering that the high-level Cooperation Agreement with the European Union is without prejudice to the rights and obligations of Member States as members of EUROCONTROL and to their relationship with the Organisation;

Considering that nothing in the high-level Cooperation Agreement with the European Union prevents EUROCONTROL to continue to perform its tasks in the safety field and that the performance of such tasks by EUROCONTROL will last until new arrangements are in place;

Considering that the Director General shall regularly inform the Member States of the implementation of the high-level Cooperation Agreement, including its financial aspects;

On the proposal of the Agency and the Provisional Council,

TAKES THE FOLLOWING MEASURE:

1. The Permanent Commission hereby delegates to the Director General the authority to sign on behalf of the Organisation the Cooperation Agreement with the European Union, the text of which is at Annex to this Measure.
2. The meetings of the Joint Committee referred to in Article 7 of the Agreement, will be prepared in an Agency Special Committee to be set up by the Director General.

The Director General shall consult the Member States on the Rules of Procedure of the Special Committee.

This Special Committee shall be open to all Member States and the documents shall be available to its members through OneSky Online sufficiently in advance of the meetings.

It shall be composed of the Member States, the Director General and Directors of the Agency.

This Special Committee shall fulfil the following criteria:

- It shall assist and guide the Director General in his tasks as EUROCONTROL's representative in the Joint Committee, in particular in the development of the Annexes to the Agreement;
- Without prejudice to the existing PC/CN processes, the EUROCONTROL position defined in the Special Committee shall form the mandate of the Director General for his interactions with the EU in the Joint Committee;
- Decisions in this Special Committee shall be taken by consensus.

Done at Brussels on 10.5.2012

President of the Commission  
V. CEBOTARI

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by several loops and a final vertical stroke.

**AGREEMENT**

**BETWEEN**

**THE EUROPEAN UNION**

**AND**

**THE EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION**

**PROVIDING A GENERAL FRAMEWORK FOR ENHANCED COOPERATION**

**The European Union (EU)**

and

**The European Organisation for the Safety of Air Navigation (EUROCONTROL)**

Hereinafter referred to as “the Parties”

**HAVING REGARD** to the Treaty on the Functioning of the EU (hereafter “TFEU”) and in particular Articles 218 and 220 thereof;

**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 (hereafter “EUROCONTROL Convention”) and in particular Articles 7.2 and 11.3 thereof;

**HAVING REGARD** to Measure No 11/174 of 12 May 2011 taken by the Permanent Commission of EUROCONTROL delegating authority to the Agency to open negotiations for the conclusion of a High-Level Agreement with the EU and Measure No 12/181 of 10 May 2012 taken by the Permanent Commission of EUROCONTROL approving the negotiated Agreement;

**HAVING REGARD** to the respective present legal and institutional contexts of the Parties and their contributions to the implementation of the Single European Sky (SES) within and beyond the EU;

**HAVING REGARD** to the competence conferred upon the EU in matters related to the SES;

**HAVING REGARD** to the role of EUROCONTROL as the intergovernmental pan-European civil-military organisation specialised in the field of air traffic management (ATM);

**WHEREAS** the Parties share the vision of achieving an optimal and integrated European ATM network, offering, through all phases of air transport, and in conjunction with other means of transport, a high degree of safety, cost-efficiency, capacity and environmental protection, for the benefit of passengers and citizens;

**WHEREAS** EU legislation entrusts the European Commission with a number of tasks related to the implementation of SES, for which expert support is needed;

**WHEREAS** EUROCONTROL has evolved, since 1960, into a unique centre of expertise in the domain of ATM, bringing as added-value pan-European and military dimensions and

assistance to States in the performance of public domain services and functions and should continue to assist its Member States, including in the implementation of SES and other related EU policies and to provide a pan-European platform to facilitate the enhancement of military cooperation on ATM;

**WHEREAS** EU legislation establishes that the European Commission may issue mandates to EUROCONTROL in order to develop implementing rules related to the establishment of SES;

**WHEREAS** the EU recognises the essential contribution of EUROCONTROL to support the EU in its role as regulator in order to implement the SES and other related EU policies.

**WHEREAS** the North Atlantic Treaty Organisation (NATO) and EUROCONTROL concluded, on 8 May 2003, a Memorandum of Cooperation;

**WHEREAS** the European Commission and EUROCONTROL concluded, on 22 December 2003, a Memorandum concerning a framework for cooperation;

**WHEREAS** EUROCONTROL was designated by a decision of the European Commission of 29 July 2010 as the Performance Review Body of the SES, in accordance with Regulation (EU) 691/2010, and EUROCONTROL accepted this designation by Directive No 10/74 of the Permanent Commission of 15 September 2010;

**WHEREAS** EUROCONTROL was nominated by a decision of the European Commission of 7 July 2011 as the Network Manager for the ATM Network Functions, in accordance with Regulation (EU) 677/2011 and EUROCONTROL accepted this nomination by Directive No 11/77 of the Permanent Commission of 1 September 2011;

**WHEREAS** the Parties have a long standing relationship and history of cooperation in ATM, in the implementation of SES and other related policies and wish to consolidate this relationship and fully coordinate further actions;

**WHEREAS** the Parties should ensure synergies and avoid duplication in safety related ATM matters and environmental issues;

**WHEREAS** the long term application of existing arrangements between the European Commission and EUROCONTROL should be assessed in the light of this Agreement and, where appropriate, confirmed and strengthened through this Agreement;

**WHEREAS** the implementation of this Agreement should not lead to a duplication of funding of the cooperative activities referred to in this Agreement and therefore should not result in a nominal contribution of the EU to the budget of EUROCONTROL;

**CONSIDERING** that the EU objective is to extend the geographical coverage of SES beyond the EU;

**CONSIDERING** that, without prejudice to the relationships between the Parties and their respective membership and to the rights and obligations of the Member States under the EUROCONTROL Convention and the TFEU respectively, it is desirable to establish complementary mutually reinforcing cooperation and coordination mechanisms between the EU and EUROCONTROL in the implementation of SES and of other related policies, in particular in the fields of environment, including climate change, and research and development with a view to making better use of the expertise and support of EUROCONTROL;

**CONSIDERING** that the support by EUROCONTROL to the EU should be provided under the principles of transparency, impartiality and independence;

**CONSIDERING** that the evolution of the EUROCONTROL organisation whereby, in particular, it progressively aligns itself to support the EU in the implementation of the SES with a view to improving the overall performance of the European ATM network should be facilitated;

**AGREE ON THE FOLLOWING:**

**1. GENERAL SCOPE**

- 1.1. The Parties agree to strengthen and consolidate the cooperation between the EU and EUROCONTROL in order to enable the support of EUROCONTROL to the EU in the implementation of SES and related EU policies within the EU, and beyond the EU in those States that agree to be bound thereby.
- 1.2. The Agreement shall be without prejudice to the rights and obligations of Member States as members of EUROCONTROL or of the EU.

**2. OBJECTIVES**

The objectives of this Agreement are:

- to establish the main elements for enhanced cooperation between the Parties in order to contribute to a timely and coherent implementation of the SES within the EU, and beyond the EU in those States that agree to be bound by SES and the establishment of an efficient air transport system through activities reflecting the respective tasks and responsibilities of the Parties;
- to facilitate the necessary civil-military cooperation on ATM in the SES;
- the recognition and utilisation of EUROCONTROL expertise including civil-military cooperation to support the EU in the implementation of SES and other related policies in particular in the fields of environment, including climate change, and research and development, in order to improve the performance of the European ATM network;
- to acknowledge the value of EUROCONTROL continuing to perform, as appropriate, support activities and functions for the implementation of SES;
- to establish the necessary cooperation to support and facilitate the involvement of non-EU Member States in the SES, with a view to extending the implementation of the SES beyond the EU and to progressively achieving the application of the SES legislative framework by EUROCONTROL's entire membership;
- to ensure synergies and avoid duplication of EASA's work in safety related ATM matters and environmental issues, including, where appropriate, through the development of robust co-operation mechanisms between EASA and EUROCONTROL, taking into account EUROCONTROL's pan-European responsibilities .

### **3. AREAS OF COOPERATION**

- 3.1 The areas of cooperation under this Agreement are those necessary for the implementation of the SES, including SESAR, and other related EU policies, in particular environment, including climate change, and ATM research and development policies.
- 3.2 The cooperation shall address the following subjects:
- a) Functional Airspace Blocks;
  - b) National Supervisory Authorities;
  - c) Support in the field of Air Traffic Management and Air Navigation Services (ATM/ANS) safety, including to EASA, as set out in Article 2;
  - d) Civil-military cooperation and coordination;
  - e) International coordination, in particular towards ICAO and States other than Member States of the Parties;
  - f) Air Traffic Management and Communication/Navigation/Surveillance Services (ATM/CNS), including space;
  - g) Air transport related data and statistics;
  - h) Aviation environmental issues;
  - i) Airport policy.
- 3.3 Further subjects of cooperation may address in particular:
- a) ATM security;
  - b) Spectrum policy;
  - c) Unmanned Aircraft Systems (UAS).
- 3.4 The subjects and modalities of cooperation shall be defined further in separate Annexes to this Agreement.

### **4. FORMS OF COOPERATION**

- 4.1 The Agreement shall be executed through the following forms of cooperation:
- a) provision of mutual support;
  - b) mechanisms for enhanced cooperation, liaison mechanisms and offices, and the coordination of studies and programmes and joint activities;
  - c) mechanisms for the collection and mutual exchange of information, data, and statistics, as appropriate;
  - d) coordination of cooperation on technical matters at working level in the context of ICAO.
- 4.2 With regard to military aspects of the SES, the Parties shall ensure the best use of the relevant stakeholder consultation processes.
- 4.3 The coordination and facilitation of cooperative activities under this Agreement shall be accomplished on behalf of EUROCONTROL by its Agency and on behalf of the EU by the European Commission. EUROCONTROL may also support other EU bodies, as appropriate, through specific instruments, with a view to optimising and integrating existing expertise and resource.

## **5. CONSULTATION AND INFORMATION**

- 5.1 The Parties shall consult each other regularly in order to coordinate to the fullest extent their activities related to this Agreement. Each Party shall inform the other of any initiative pertinent to this Agreement without prejudice to their respective decision-making processes, in the areas of cooperation under Article 3, which may be of interest to the other Party.
- 5.2 The Parties shall exchange information that may be required for the implementation of this Agreement, subject to their respective rules. Except when otherwise provided, the Parties shall not disclose any information exchanged in connection with this Agreement to any persons other than those employed by them or officially entitled to handle such information nor shall they use it for commercial purposes. Such disclosure shall extend only so far as may be necessary for the purpose of this Agreement and shall be in strict confidence.
- 5.3 The relevant bodies of the Parties shall convene if necessary to exchange views.

## **6. CONFIDENTIALITY**

- 6.1 Each Party shall take all reasonable precautions necessary to protect information received under this Agreement and its Annexes from unauthorised disclosure. A Party may, upon providing information to the other Party, designate the portions of the information that it considers to be exempt from disclosure.
- 6.2 The Parties agree to safeguard, to the extent required under their respective rules the protection of classified information, if any, and received from the other Party in application of this Agreement.
- 6.3 In particular, subject to their respective rules the Parties shall not disclose information received from each other under this Agreement that is considered proprietary. Such information shall be appropriately marked as such in accordance with their respective rules.
- 6.4 The Parties shall agree on working arrangements on further procedures for the protection of classified information provided pursuant to this Agreement as required. Such procedures shall include the possibility for each Party to verify which protection measures have been put in place by the other Party.

## **7. MANAGEMENT OF THE AGREEMENT**

- 7.1 A Joint Committee is established, composed of one representative of each Party, who may be accompanied by observers from Member States of the Parties and experts. The Joint Committee shall be responsible for the effective functioning of this Agreement.
- 7.2 A meeting of the Joint Committee shall be convened at least once a year to evaluate and review the implementation of this Agreement and shall be organised cost-effectively. Either Party may request a meeting of the Joint Committee at any time.
- 7.3 The Joint Committee may consider any matter related to the functioning and implementation of this Agreement. In particular, it shall be responsible for:

- a) resolving any question relating to the application and implementation of this Agreement;
- b) considering ways to enhance the implementation of this Agreement and make, as appropriate, recommendations to the Parties for its amendment;
- c) identifying new subjects for cooperation;
- d) adopting and amending Annexes and working arrangements within the scope of this Agreement;
- e) resolving any difference or dispute concerning the interpretation or application of this Agreement.

7.4 The Joint Committee shall operate on the basis of agreement between the representatives of the Parties.

7.5 The Joint Committee shall adopt its rules of procedures.

## **8. FINANCING**

8.1 A Party requesting support activities to be performed under this agreement by the other Party shall ensure the funding of such activities.

8.2 Financial aspects related to the cooperation under this Agreement shall be defined in accordance with the rules applicable to the Parties' respective budgets. The Parties shall conclude separate arrangements, where appropriate.

## **9. EXTERNAL RELATIONS AND COOPERATION**

9.1 Each Party shall inform the other of its activities of an international dimension pertinent to this Agreement which may be of interest to the other Party.

9.2 Whenever appropriate a Party may, in relation to any matters relevant to its international activities, consult the other Party.

## **10. DISPUTE RESOLUTION**

10.1 The Parties shall make every effort to resolve any differences between them arising from their cooperation under this Agreement.

10.2 In the event that any difference is not resolved, either Party may refer the dispute to the Joint Committee, which shall consult on the matter with a view to resolving it by negotiation.

## **11 EXCHANGE OF PERSONNEL**

Subject to their respective rules and procedures, the Parties may exchange and second personnel as required to pursue the activities described in this Agreement or in Annexes thereto. All such exchanges shall be in accordance with the terms and conditions as agreed between the Parties.



## **12 ANNEXES**

The Annexes to this Agreement shall form an integral part of this Agreement.

## **13 ENTRY INTO FORCE AND TERMINATION**

- 13.1 Pending its entry into force, this Agreement shall be applied provisionally from the date of signature.
- 13.2 This Agreement shall enter into force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed and shall remain in force until terminated.
- 13.3 This Agreement may be terminated at any time by either Party. Such termination shall be effected by six months' written notification from one Party to the other Party unless the said notice of termination has been withdrawn by mutual consent of the Parties before the expiry of this period.

Done in Brussels on

For the European Union

For the European Organisation for the Safety of Air Navigation