

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Measures of the Permanent Commission -

MEASURE N° 83/27

delegating authority to the Agency to conclude a bilateral agreement relating to terminal charges with the Irish Aviation Authority.

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 Article 11.3 thereof;

on the proposal of the Agency,

TAKES THE FOLLOWING MEASURE:

The Agency is delegated authority to conclude a bilateral agreement relating to terminal 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 **27. 09. 95**



Michael FRENDO
President of the Permanent Commission

AGREEMENT**BETWEEN THE IRISH AVIATION AUTHORITY AND THE EUROPEAN ORGANISATION
FOR THE SAFETY OF AIR NAVIGATION (EUROCONTROL)
RELATING TO TERMINAL 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 Permanent Commission on delegating authority to the Agency to conclude a bilateral agreement relating to terminal charges with the IAA.

HAVE AGREED AS FOLLOWS:

ARTICLE 1 - (Purpose)

The IAA hereby entrusts EUROCONTROL with the calculation, billing, accounting and collection on its behalf of charges for the use of terminal services in accordance with the laws and regulations in force in Ireland, and with the provisions set out in Annex 1 to this Agreement.

ARTICLE 2 - (Billing and Payment of Terminal Charges)

The terminal charges shall be billed in Irish pounds and payable to EUROCONTROL in accordance with the Conditions of Payment set out in Annex 1 (Appendix 2).

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 terminal charges

ARTICLE 4 - (Collection of Terminal Charges)

4.1 For the purpose of their collection, the terminal charges shall constitute a claim by EUROCONTROL.

4.2 The person liable to pay the charge shall be the person who was the operator of the aircraft at the time when the flight was performed.

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.

4.3 Where a debtor has not paid the amount due in respect of terminal charges, measures may be taken to enforce recovery which may include detention of aircraft.

ARTICLE 5 : (Disbursement of Terminal Charges)

Terminal charges collected by EUROCONTROL on behalf of the IAA in performance of this task shall be remitted, inclusive of accrued interests, if any, to the IAA, in accordance with the provisions set out in Annex 1 to this Agreement.

ARTICLE 6 : (Accounting)

6.1. EUROCONTROL shall produce annual accounts for the terminal charge 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 Irish pounds.

6.2. EUROCONTROL shall, on request, agree that the audit of the financial operations carried out by the Organisation on behalf of the IAA be effected in accordance with the Financial Regulations and the Rules of Application of those Regulations applicable to the 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 terminal charge.

ARTICLE 7 : (Transmission of Data)

Flight data collection and transmission to EUROCONTROL shall be the sole responsibility of the IAA. Those data transmitted by the IAA, inter alia, for the purpose of calculating EUROCONTROL route charges shall be used.

ARTICLE 8 - (Costs)

8.1. The costs in respect of the execution of this Agreement shall be calculated on an annual basis.

The development costs for the period ending on 31.12.1995 (development phase) are estimated at ECU 35 000.

The collection costs for the period starting on 01.01.1996 and ending on 31.12.1996 (operational phase) are estimated at ECU 85 000.

8.2. A breakdown of the above costs and the method of calculation are shown in Annex 2 to this Agreement.

8.3. Costs 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 incurred by EUROCONTROL in respect of the tasks performed by it, as certified by the EUROCONTROL financial services.

ARTICLE 9 - (Payment of Costs)

Payment of costs shall be made by the IAA according to the following time scale:

9.1 During the development phase:

One half of the development costs shall be paid at the beginning of the development phase, and the other half 3 months later.

9.2 During the operational phase:

Advance payments equal to one quarter of the annual costs with effect from the starting date of operations shall be made by the IAA 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 ECU 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.

ARTICLE 11 : (Arbitration)

Any dispute which may arise between the Parties to this Agreement concerning the interpretation or application thereof, and which is not possible to settle by direct negotiation or by any other method, will be referred to arbitration as provided for under 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 1, provided the amendment has no financial implications;
- b) the expenditure detailed in Annex 2, provided the budgetary procedures to which the two Parties are subject have been complied with beforehand.

ANNEX I

**TO THE AGREEMENT BETWEEN THE IRISH AVIATION AUTHORITY AND THE
EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION (EUROCONTROL)
RELATING TO TERMINAL CHARGES**

OPERATING SPECIFICATIONS

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- APPENDIX (4) Listings and outputs to be dispatched

1. INTRODUCTION

- 1.1. These operating specifications cover the services to be provided by EUROCONTROL which consist of calculating, billing, collecting and accounting for terminal charges on behalf of the IAA, in accordance with ICAO principles as described in ICAO Document 9082/4.
- 1.2. EUROCONTROL shall maintain separate accounts, in accordance with international accounting standards.
- 1.3. EUROCONTROL shall ensure that all data required for the execution of the present contract shall be stored on magnetic medium, in accordance with the same conditions applying in the route charges system.
- 1.4. The listings and outputs to be dispatched to the IAA are specified at Appendix (4).
- 1.5. The IAA shall cooperate with EUROCONTROL in the calculation and collection of the terminal charges.

2. CHARGING

2.1. Definition of a chargeable flight

A terminal charge shall be levied for each flight performed under Instrument Flight Rules in accordance with the procedures laid down in application of the Standards and Recommended Practices of the International Civil Aviation Organization by an aircraft departing from the State aerodromes Dublin, Shannon or Cork.

Furthermore, in the Flight Information Regions listed at Appendix (1), the IAA may decide that a terminal charge be levied on any flight conducted in accordance with the Visual Flight Rules (VFR flights).

2.2. Charging formula for the terminal charge

- 2.2.1. The terminal charge **R** shall be calculated in accordance with the following formula:

$$R = t \times N$$

where **t** is the unit rate of charge and **N** the number of service units corresponding to terminal services used or made available.

2.2.2. The unit rate of charge t shall be notified to EUROCONTROL in Irish pounds with a maximum of two decimal points.

2.2.3. For a given departing flight, the number of service units in respect of terminal charges, designated N , shall be equal to the Maximum Take-off Weight (MTOW) per aircraft type, per operator fleet.

2.3. Exempted Flights

The IAA may apply the same exemption criteria for terminal charges as it applies for EUROCONTROL route charges within the Flight Information Regions listed at Appendix (1)

2.4. Consultation with users

Consultation with users in respect of the terminal charge shall be the sole responsibility of the IAA. EUROCONTROL may be invited to attend with observer status any user consultation meetings organised by the IAA.

3. FLIGHT DATA COLLECTION, TRANSMISSION AND PROCESSING

3.1. Information to be provided to EUROCONTROL

The IAA shall provide information to EUROCONTROL on all matters which necessitate modifications of flight messages or the user data files, for instance the national aircraft register.

3.2. Correction procedure

Any request which relates specifically to terminal charges, if any, shall conform to EUROCONTROL procedures as described in Doc. 716023 and 716028.

4. BILLING, CLAIMS AND INFORMATION TO USERS

4.1. General

The documents to be dispatched to users are as follows:

- a) bill for terminal charge
- b) pro forma (statement of flights)
- c) statement of account
- d) credit note
- e) bill for interest on late payment

These documents shall bear the EUROCONTROL letterhead. The bill and pro forma statement shall show that the terminal charge being levied is payable to EUROCONTROL.

EUROCONTROL's bank account at which the terminal charge shall be payable, as well as the bank's address, shall be shown on the bill and the statement of account.

4.2. Billing cycle

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

4.3 User claims

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

4.4 Information to users

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

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

5. COLLECTION OF CHARGES

- 5.1 Proceedings for recovery of the amount due in respect of the terminal charge shall be instituted by EUROCONTROL.

- 5.2. The IAA shall inform EUROCONTROL of the procedures applied in Ireland's territory and of the competent courts, tribunals or administrative authorities.
- 5.3. If EUROCONTROL decides to abandon recovery of a charge, the IAA may take whatever action it deems necessary.

6. FUND MANAGEMENT

- 6.1. Terminal charges collected on behalf of Ireland shall be disbursed to the IAA under the same conditions as for the route charges collected, except where the amount is less than a minimum to be agreed between the two parties.
- 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 earned by the IAA shall be disbursed to the IAA together with terminal charges collected.
- 6.3. Payments to third parties out of the terminal charges collected on behalf of Ireland could be arranged on request by the IAA.

7. ACCOUNTING

- 7.1. The financial year shall begin on 1 January.
- 7.2. A list of documents representing the accounts format and statistical data are attached at Appendix (4).

8. PROTECTION OF DATA

All data related to the terminal charge shall be protected by EUROCONTROL according to the principles applied in the EUROCONTROL Route Charges System.

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OPERATING SPECIFICATIONS

APPENDIX (1) : Flight Information Regions

Shannon Flight Information Region

All State aerodromes (Dublin, Shannon, Cork)

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OPERATING SPECIFICATIONS

APPENDIX (2) : Conditions of Payment of Terminal Charges

Clause 1

1. The amounts billed shall be payable at Bank of Ireland, International Account Services, P.O. Box 3674, La Touche House, I.F.S.C., EI- Dublin 1 (a/c number 16160002).
2. The amount of the charge is due on the date of performance of the flight. The date by which payment must be effected is shown on the bill.
3. The time granted to users for payment of the terminal charge, i.e. the interval between the bill date and the due date shown on the bill, shall be identical to the time granted to users for payment of the EUROCONTROL route charges.

Clause 2

The amount of the charge shall be paid in Irish pounds.

Clause 3

1. Payment shall be deemed to have been made on the date on which the amount of the charge was credited by the banking establishment designated by EUROCONTROL, referred to in Clause 1 paragraph 1(above).
2. Payment by cheque shall be deemed to have been made on the date on which the cheque was received by EUROCONTROL, subject to its being honoured by the drawer's bank.

Clause 4

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, and then
 - to the oldest bills unpaid.

Clause 5

1. Claims against bills must be submitted to EUROCONTROL in writing. The final date for the submission of claims shall be shown 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 6

1. Any charge which has not been paid by the due date of the bill may be increased by the addition thereto of interest.
2. The interest will be calculated and billed in Irish pounds. The interest rate will be notified to EUROCONTROL and will be published by Ireland.

Clause 7

Where a debtor has not paid the amount due, measures may be taken to enforce recovery which may include detention of aircraft.

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TO THE AGREEMENT BETWEEN THE IRISH AVIATION AUTHORITY AND THE
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OPERATING SPECIFICATIONS

APPENDIX (3) : Specifications of documents

1. BILL

- a) Address box
- b) Invoice number
- c) Date of issue
- d) Invoiced period
- e) User code
- f) Amount
- g) To be paid before
- h) Claims to be submitted before

Note : *The reverse side of this document contains the conditions of payment of the charges and applicable legal text.*

2. PRO FORMA / STATEMENT OF FLIGHTS

- a) Address box
- b) Date
- c) Period of charge
- d) Reference
- e) Page
- f) User ICAO code
- g) Day
- h) Line (item) number
- i) Flight number or registration
- j) Details
 - Time of departure
 - Airport of departure
 - Airport of arrival
 - Aircraft type
- k) Code
- l) Deducted
- m) Charge
- n) Total per page

Note : *The reverse side of this document contains an explanatory note.*

3. **STATEMENT OF ACCOUNT**

- a) Date of issue
- b) Reference of Statement
- c) User address
- d) Item number
- e) Date of item number
- f) Item code
- g) Item reference
- h) Amount debit
- i) Amount credit
- j) Balance of each billing
- k) Overall balance in respect of items not settled

4. **CREDIT NOTE**

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OPERATING SPECIFICATIONS

APPENDIX (4) : Listings and outputs to be dispatched to the IAA

These are the listings and outputs to be sent to the IAA by EUROCONTROL in addition to the documents sent in accordance with standard procedures (e.g. for the purposes of claims processing) and in addition to the annual accounts.

1. Billing

Report containing, in respect of the corresponding period of flight, the following information, in respect of Ireland's terminal charges:

- total number of flights (chargeable, exempted, total);
- total number of service units (chargeable, exempted, total);
- accrued income in Irish pounds.

2. Recovery

Computer listing containing the information in respect of amounts due by flight periods and by user (monthly).

3. Accounting

- Situation of terminal charges billed received
- Situation of terminal charges received
- Situation of terminal charges disbursed
- Balance - amount still outstanding

ANNEX II

**TO THE AGREEMENT BETWEEN THE IRISH AVIATION AUTHORITY AND THE
EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION (EUROCONTROL)
RELATING TO TERMINAL CHARGES**

COSTS

1. Development phase (from 15.08.1995 to 31.12.1995)

Development costs	35.000
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2. Operating costs (from 01.01.1996 to 31.12.1996)

1996 cost estimate (in ECU)

Personnel	
Personnel costs	50.000
Management costs	4.000
Missions	1.000
Legal matters	2.000
Total 1	57.000
 Operating Expenditure	
Supplies	8.000
Communications	10.000
Other expenditure	2.000
Total 2	20.000
 Administrative overheads (10% of 1 and 2)	 8.000
 Development costs	 p.m.
 Total	 85.000