EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Measures of the Permanent Commission -

MEASURE N° 84/36

concerning the conclusion of a Special Agreement between EUROCONTROL and the State Agency "Estonian Air Navigation Services", for the provision of advisory services relating to the modernisation of the Air Navigation Services of the Republic of Estonia.

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, as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Articles 2.3.(a), 6.3., 7.2. and 11 thereof;

on the proposal of the Committee of Management;

HEREBY TAKES THE FOLLOWING MEASURE:

1. The Agreement with the State Agency "Estonian Air Navigation Services", at annex to this measure, is hereby approved.

2. The Director General is authorised to sign the Agreement on behalf of the Organisation.

Done at Brussels on 21. 10. 96

[Signature]
Adamos ADAMIDES
President of the Permanent Commission
AGREEMENT
FOR THE PROVISION BY EUROCONTROL
OF ADVISORY SERVICES RELATING TO
THE MODERNISATION OF AIR NAVIGATION SERVICES OF
THE REPUBLIC OF ESTONIA

The European Organisation for the Safety of Air Navigation (EUROCONTROL) established by the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation as amended at Brussels in 1981, represented by its Director General, Mr. Yves Lambert,

hereinafter referred to as "EUROCONTROL",

and

The State Agency “Estonian Air Navigation Services”, Lennujaama 2, EE 0011 Tallinn itself represented by its Director General, Mr. Jaan TAMM

hereinafter referred to as “the Estonian ANS”

Having regard to Articles 2.3(a), 6.3, 7.2, 11 and 12 of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, signed in Brussels on 13 December 1960, as amended by the Protocol signed in Brussels on 12 February 1981,

Having regard to Measure N° ........ of the Permanent Commission of .......... concerning the conclusion of an Agreement for the provision by EUROCONTROL of Advisory Services relating to the modernisation of air navigation services of the Republic of Estonia.

HAVE AGREED AS FOLLOWS :

ARTICLE 1
The subject of the present Agreement is the provision by EUROCONTROL of advisory services for the modernisation of the air navigation services of the Republic of Estonia.
ARTICLE 2

2.1. The services to be provided by EUROCONTROL are detailed in the Specifications attached as Annex 1.

2.2. The services provided by EUROCONTROL in the framework of the present Agreement shall meet the requirements of Estonian ANS and shall be in line with the EATCHIP and CIP objectives.

2.3. EUROCONTROL shall not, however, be held responsible for any decision in the operational, technical, financial and or managerial field which have been taken by the Estonian ANS in execution of its duties and or prerogatives.

2.4. Both Contracting Parties consider the contract or part(s) of it as described in Annex 1 accomplished when the leaders of the established working groups have approved and signed the submitted document(s).

ARTICLE 3

Subject to approval by the Steering Group, set up in accordance with Annex 1, EUROCONTROL shall be empowered to conclude any contracts required for the execution of the present Agreement including outsourcing or sub-contracting.

ARTICLE 4

4.1. Costs incurred by EUROCONTROL for the implementation of the present Agreement shall be borne by the Estonian ANS and the necessary funds shall be made available to EUROCONTROL as provided for in Article 5 below.

4.2. The total maximum cost of the present Agreement, for the work to be completed in accordance with Annex 1, and as detailed in Annex 2 is:
   • for catalogue 1: XEU 407,136;
   • for catalogue 2: XEU 170,140 (option);
     (option to be taken within 12 month after entering into force of the Agreement)
   • total catalogue 1 & 2: XEU 577,276.

EUROCONTROL shall be free with the consent of Estonian ANS to modify the allotment of funds laid down in Annex 2 whenever required for the implementation of the present Agreement. All allotments of funds shall remain within the frame of maximum cost of catalogue 1 and catalogue 2 as specified above.

4.3. The following charging arrangements shall apply:

4.3.1. The supply of EUROCONTROL’s effort and services shall be based on the principle of non-profit making and full cost reimbursement.

4.3.2. All costs related to the supply of equipment and or effort and services by third parties under contract shall be charged accordingly.

4.3.3. Managerial and administrative overheads shall be charged to the Estonian ANS.
ARTICLE 5

5.1. There shall be no pre-financing of any kind by EUROCONTROL.

5.2. The funds shall be made available by the Estonian ANS to EUROCONTROL through a Special Annex to EUROCONTROL's Budget.

5.3. In order to enable EUROCONTROL to commence its work the Estonian ANS shall remit the sum of XEU 61,071 (15% of the cost of catalogue 1) to EUROCONTROL within 30 days following the date of the coming into force of the present Agreement.

If the option for catalogue 2 is exercised, Estonian ANS shall remit the sum of XEU 25,521 (15% of the cost of catalogue 2) to EUROCONTROL within 30 days following that decision.

5.4. EUROCONTROL shall request further instalments every 3 months from the Estonian ANS as the implementation of the present Agreement progresses taking into account the accomplished part(s) of the contract as described in Article 2.4. Payment shall be made within a period of 60 days beginning from the date the Estonian ANS will have received the invoice.

5.5. Any delay in the payment of the amounts due according to the paragraphs 3 and 4 of this Article shall give rise to the payment of interest, on arrears calculated on the basis of the XEU rate. Each day’s delay beyond the periods mentioned in paragraphs 3 and 4 of this Article shall be calculated as 1/360 of a year. The XEU interest rate shall be that applicable to the appropriate 3-month term deposits published by the Statistical Office of the European Communities (EUROSTAT) in its monthly journal “ECU-EMS Information”.

5.6. The Estonian ANS shall communicate to EUROCONTROL the appropriate payment services and EUROCONTROL shall communicate to the Estonian ANS the appropriate bank details.

5.7. A final statement of account shall be submitted to the Estonian ANS within a period of six months after the completion of the present Agreement.

5.8. The Estonian ANS shall be authorised to scrutinise the relevant accounts on request.

ARTICLE 6

6.1. EUROCONTROL staff assigned to the Estonian ANS for the execution of the present Agreement shall remain subject to the appropriate regulations of the EUROCONTROL Agency.

6.2. The Estonian ANS shall provide office accommodation and normal administrative support (e.g. the use of telephone/telefax facilities for official purposes and normal secretarial support). EUROCONTROL shall provide the same facilities for meetings at its premises and in case of secondment of Estonian ANS officials to EUROCONTROL.
6.3. Rules applicable to national officials sent on secondment shall apply if necessary for the implementation of the present Agreement.

ARTICLE 7

7.1. Each Contracting Party shall exonerate the other from all civil liability arising from loss, damage or bodily injury suffered by its staff as a result of the performance of the present Agreement, where such loss, damage or bodily injury is not due to grave negligence or deliberate omission or wrongful act on the part of the other Contracting Party or its staff.

7.2. Each Contracting Party shall indemnify the other and its staff against any action for compensation for loss, damage or bodily injury to third parties, including their own staff or any staff under contract, arising from the performance of the present Agreement, where such loss, damage or bodily injury is not due to grave negligence or deliberate omission or wrongful act on the part of the other Contracting Party or its staff.

7.3. Staff of each Contracting Party to the present Agreement shall observe the laws of the respective host country and the rules relating to the conduct of foreigners.

ARTICLE 8

8.1. Any copyrights, royalties and present or future legal rights relating to property - whether tangible or intellectual - accruing from the performance of the present Agreement shall be the exclusive property of both Contracting Parties who shall not dispose of them to third parties for commercial reasons without the prior and express written consent of the other.

8.2. All modifications to existing software and/or new software which may be developed as well as all documentation produced and/or modified, together with all general results and expert knowledge acquired during the implementation of the present Agreement, shall be the property of both Contracting Parties who shall be free to use them in the fulfilment of their proper tasks.

ARTICLE 9

9.1. Except with the prior consent of the other Contracting Party neither Contracting Party shall disclose any technical or financial detail of the present Agreement, or any specification, document and/or any other information acquired in connection with its implementation to any person other than a person employed or engaged by them, or to any other persons officially entitled to handle such information.

9.2. Any disclosure to any person permitted under paragraph 9.1. above shall be in strict confidence and shall extend so far only as may be necessary for the purpose of the present Agreement.
ARTICLE 10

10.1. The present Agreement may be amended or modified only by an instrument in writing of equal formality, signed by the duly authorised representatives of both Contracting Parties.

10.2. Any amendment to the Annexes, with the exception of the total estimated cost stated Annex 2 and in Article 4.2. above - which will require the formal approval of the duly authorised representatives of both Contracting Parties, may be made by formal exchange of letters between the Director General of the Estonian ANS and the Director General of EUROCONTROL.

10.3. The Annexes 1, 2 and 3 and Appendices 1 and 2 shall constitute an integral part of the present Agreement.

ARTICLE 11

11.1 Any dispute which may arise between the Contracting Parties, relating to the interpretation or application of the present Agreement or of its Annexes and which it has not been possible to settle through direct negotiation or by any other method, shall be referred to arbitration on request of any one of the Contracting Parties.

11.2 For that purpose, each of the Contracting Parties shall in each case nominate an arbitrator, and the arbitrators shall agree on the nomination of a third arbitrator who shall be the chairman of the tribunal. Should one of the Contracting Parties not have nominated its arbitrator within two months of the date of receipt of the request of the other Contracting Party, or should the nominated arbitrator fail, within those two months, to agree on the nomination of the third arbitrator, any Contracting Party may request the President of the International Court of Justice to make the nominations.

11.3 The arbitral tribunal shall determine its own procedure.

11.4 Each Contracting Party shall bear the costs of its own arbitrator and its representation in the proceedings before the tribunal; the costs of the third arbitrator and the other costs shall be born equally by the Parties to the dispute. The arbitral tribunal may, however, determine a different sharing of costs if it thinks fit.

11.5 The decisions of the arbitral tribunal shall be binding on the Contracting Parties to the dispute and shall not be subject to protest or appeal. The decision shall become effective from the signing of the decision by the arbitrators.
ARTICLE 12

12.1. The present Agreement shall enter into force after its signature by both Contracting Parties.

12.2. The present Agreement shall remain in force until declaration by both Contracting Parties that its objective has been met successfully.

12.3. Notwithstanding the provision of paragraph 12.2. above, the present Agreement may be terminated by either Contracting Party subject to giving 6 months’ prior written notice. The Contracting Party who caused termination of the Agreement remains liable for full payment of all costs incurred by the other Contracting Party.

12.4. In case of Force Majeure as defined in Annex 3, the provisions of the present Agreement may be suspended by either Contracting Party.

Done at , on 

in two originals in the English language.

For EUROCONTROL
The Director General

For the Estonian Air Navigation Services
The Director General

Y. LAMBERT J. TAMM
ANNEX 1
TO THE
AGREEMENT
FOR THE PROVISION BY EUROCONTROL
OF ADVISORY SERVICES RELATING TO
THE MODERNISATION OF AIR NAVIGATION SERVICES OF
THE REPUBLIC OF ESTONIA

Specification of the provision of Advisory Services relating to the production of the Outline Operational Plan, Tender Specification, and Tender Evaluation of the upgrading of the Air Traffic Management System for the Tallinn Area Control Centre and Tower Control in Estonia

TABLE OF CONTENTS OF ANNEX 1

1. INTRODUCTION 1
2. SCOPE OF EAS ASSISTANCE 1
3. CONCEPT OF ASSISTANCE 1
   3.1. OUTLINE OPERATIONAL PLAN 2
   3.2. TECHNICAL SPECIFICATIONS 2
   3.3. EVALUATION OF TENDERS 2
4. TIME SCHEDULE 3
5. ORGANISATION AND PRINCIPLES OF COOPERATION 3
   5.1. WORKING STRUCTURE 3
   5.2. PRINCIPLES OF COOPERATION 3
1. **INTRODUCTION**

This Annex describes the Advisory Services to be provided by EUROCONTROL and the required activities of the Estonian Air Navigation Services (Estonian ANS) related to the ANS Upgrading Programme. This upgrading programme includes i.e. a new Voice Communications System for Ground/Ground and Air/Ground, an Air Traffic Management System for Tallinn ACC and Tallinn Tower Control, Automation of the Aeronautical Information Services and Tallinn Radar.

The activity related to the specification of the Voice Communications System has been completed and is not subject of the present Agreement.

2. **SCOPE OF EAS ASSISTANCE**

The upgrading of the Estonian ATM requires EUROCONTROL Advisory Services (EAS) assistance in the development and production of an Outline Operational Plan (OOP) for the Tallinn ACC and the production of tender technical specifications and tender evaluation related to the following system components:

**Catalogue 1**

a. Operational Input and Display System (ODS);
b. Information Display System (IDS);
c. Radar Data Processing System (RDPS);
d. Baseline Flight Data Processing System (FDPS);
e. Consoles for the Tallinn ACC and Tallinn Tower;
f. Technical Monitoring and Control System (TMCS);
g. Training, Test and Development Facility (TDF);
h. Recording and Playback System for voice and data (RPS);
i. Data Communications Gateway (DCG);

as well as the provision of a radar analysis (RASS-S) of the Tallinn MSSR.

**Catalogue 2 (Option)**

j. Tallinn Airport Radar;
k. Backbone Network for Voice and Data.

3. **CONCEPT OF ASSISTANCE**

The EAS assistance to the ANS Programme, provided under the present Agreement will consist of the following activities:

3.1. **Outline Operational Plan.**

In accordance with the Terms Of Reference for the Operations Working Group an Outline Operational Plan for the modernisation of the Estonian Air
Navigation Services will be produced. The plan will ensure that the Technical Specifications for the new ATM systems do not diverge from the EATCHIP objectives and provide for consistency of the future ATM of Estonia. The OOP covers all systems listed under paragraph 2.

3.2. Technical Specifications.

In accordance with the Terms Of Reference (TOR) for the Systems Working Group, Technical Specifications will be produced on the basis of the Outline Operational Plan and in line with the EUROCONTROL Objectives and Standards of the EATCHIP Programme. Technical Specifications will be produced for the following system components:

Catalogue 1

a. Operational Input and Display System (ODS);
b. Information Display System (IDS);
c. Radar Data Processing System (RDPS);
d. Baseline Flight Data Processing System (FDPS);
e. Consoles for the Tallinn ACC and Tallinn Tower;
f. Technical Monitoring and Control System (TMCS);
g. Training, Test and Development Facility (TDF);
h. Recording and Playback System for voice and data (RPS);
i. Data Communications Gateway (DCG);

Catalogue 2 (Option)

j. Tallinn Airport Radar;
k. Backbone Network for Voice and Data.

For each equipment, the technical specifications will be reviewed for consistency with existing EUROCONTROL Specifications which are based upon the Convergence and Implementation Programme (CIP) objectives of the European Air Traffic Control Harmonisation and Integration Programme (EATCHIP).

3.3. Evaluation of Tenders

Assistance on the basis of standard EUROCONTROL evaluation methodology in strict neutrality will be given to the detailed technical analysis of the proposals received and the choice of the supplier. This activity will include all discussions with the supplier required to clarify the proposal, and the elaboration of final Contract Specifications.
4. **TIME SCHEDULE**

A *tentative* planning is provided as Appendix 1 to this Annex 1.

5. **ORGANISATION AND PRINCIPLES OF CO-OPERATION**

5.1. **Working structure**

To permit the project to be realised in an efficient and coherent manner in accordance with the present Agreement, a Steering Group composed of senior officials of the Estonian ANS and EUROCONTROL managing the overall work programme shall be established in accordance with the Terms Of Reference stated in Appendix 2 to Annex 1.

5.2. **Principles of co-operation**

Generally, all work will be carried out in close co-operation between EUROCONTROL and the Estonian ANS in order to reach an optimum work sharing.

The approval of the Steering Group shall namely be required for the following:

- Outsourcing or sub-contracting according to Article 3 of the present Agreement;
- Change of the personnel assigned to the project;
- Work programme for the period between Steering Group meetings.

EUROCONTROL and Estonian ANS will hold regular meetings of all Groups either in Tallinn or in Brussels, at the intervals determined by the progress and outstanding activities in each Group.
APPENDIX 1 TO ANNEX 1

TO THE

AGREEMENT

FOR THE PROVISION BY EUROCONTROL

OF ADVISORY SERVICES RELATING TO

THE MODERNISATION OF AIR NAVIGATION SERVICES OF

THE REPUBLIC OF ESTONIA

TENTATIVE PLANNING
APPENDIX 2 TO ANNEX 1

TO THE

AGREEMENT

FOR THE PROVISION BY EUROCONTROL

OF ADVISORY SERVICES RELATING TO

THE MODERNISATION OF AIR NAVIGATION SERVICES OF

THE REPUBLIC OF ESTONIA

TERMS OF REFERENCE OF THE STEERING GROUP

The Steering Group shall be composed of senior officials of the Estonian ANS and EUROCONTROL outlined below; they shall:

• manage and review the overall work programme;

• ensure the general supervision of the work performed by the Working Groups within the framework of the joint Estonian ANS - EUROCONTROL activities;

• establish further Sub-Groups, as required;

• ensure full co-ordination at management level with all the services concerned in the respective Administration.

Decisions shall be taken unanimously. Each Contracting Party shall have one vote.

COMPOSITION:

Estonian ANS:  Mr. J. Tamm  - Director General ANS  
               Mr. A. Piel  - Vice - Director General ANS  
               Mr. M. Tarlap - Project Leader ANS  

EUROCONTROL:  Mr. C. McNamee - Director EATCHIP Implementation  
               Mr. C. Kraaij - Acting Head of Division DEI.1/EAS  
               Mr. J. Kuijper - Project Leader DEI.1/EAS  

Note: The Administration hosting the meeting shall also chair the meeting. The Secretariat will be provided by EAS.

Time Scale: The Steering Group shall meet at least twice a year in Tallinn or in Brussels.
ANNEX 2
TO THE
AGREEMENT
FOR THE PROVISION BY EUROCONTROL
OF ADVISORY SERVICES RELATING TO
THE MODERNISATION OF AIR NAVIGATION SERVICES OF
THE REPUBLIC OF ESTONIA

COST ESTIMATE

<table>
<thead>
<tr>
<th></th>
<th>Catalogue 1 in XEU</th>
<th>Catalogue 2 in XEU (option)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel</td>
<td>233,164</td>
<td>104,599</td>
</tr>
<tr>
<td>Missions</td>
<td>97,304</td>
<td>33,502</td>
</tr>
<tr>
<td>Sub-total</td>
<td>330,468</td>
<td>138,101</td>
</tr>
<tr>
<td>Overheads 12%</td>
<td>39,656</td>
<td>16,572</td>
</tr>
<tr>
<td>Sub-total</td>
<td>370,124</td>
<td>154,673</td>
</tr>
<tr>
<td>Contingency 10%</td>
<td>37,012</td>
<td>15,467</td>
</tr>
<tr>
<td>TOTAL</td>
<td>407,136</td>
<td>170,140</td>
</tr>
</tbody>
</table>
ANNEX 3

TO THE AGREEMENT

FOR THE PROVISION BY EUROCONTROL

OF ADVISORY SERVICES RELATING TO

THE MODERNISATION OF AIR NAVIGATION SERVICES OF

THE REPUBLIC OF ESTONIA

DEFINITION OF FORCE MAJEURE

1. Should any Event of Force Majeure occur after the signing of the present Agreement which prevents the performance of any obligation of either party on the date or dates provided for in the present Agreement, the performance of the obligation may be postponed for such time as the performance necessarily has had to be delayed on account thereof, it being understood that such a postponement shall not be deemed a change of the Time Schedule or of any day defined by reference to the Time Schedule.

2. The concept Event of Force Majeure shall mean but not be limited to events such as war, insurrection or riots, strike or labour action of a similar exceptional character and far reaching influence, provided that any such event is beyond the control of the party, its Sub-contractors and suppliers. It is expressly understood that no circumstance shall be considered an Event of Force Majeure which the party or the Sub-contractor or the supplier invoking the Event of Force Majeure reasonably ought to have taken into account at the date of signing of the present Agreement.

3. Immediately upon the commencement of any Event of Force Majeure causing a delay, and immediately upon the termination of such an Event of Force Majeure, the party desiring to invoke it as cause for postponement shall advise the other party of the said dates, failing which its right to demand an extension of the time of performance shall be definitively barred. To avail itself of the right to invoke any Event of Force Majeure as a cause for postponement the party shall also as soon as practicable after the termination of the Event submit to the other party reasonable proof of the nature of such Event of Force Majeure and its effect upon the time of performance.

4. In situations where an Event of Force Majeure has occurred, the other party may cancel the Agreement only with permission from the affected party, or if the situation prevails, or it is assumed that it will prevail for more than 30 - thirty - days counted from the time when it arose, and then only on 15 - fifteen - days notice. Permission for cancellation shall always be obtained from the affected party if the reason is strikes or labour actions.