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*Number 7 of 2006*

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**AVIATION ACT 2006**

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ARRANGEMENT OF SECTIONS

Section

1. Definition.
2. Miscellaneous amendments of Act of 1993.
3. Amendment of Part III (Eurocontrol Convention) of Act of 1993.
4. Amendment of Aer Lingus Act 2004.
5. Amendment of Aviation Regulation Act 2001.
6. Repeal.
7. Short title.

SCHEDULE 1

SCHEDULE 2

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[No. 7.]

*Aviation Act 2006.*

[2006.]

ACTS REFERRED TO

Aer Lingus Act 2004	2004, No. 10
Air Companies (Amendment) Act 1993	1993, No. 38
Aviation Regulation Act 2001	2001, No. 1
Data Protection Act 1988	1988, No. 25
Irish Aviation Authority Act 1993	1993, No. 29



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*Number 7 of 2006*

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**AVIATION ACT 2006**

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AN ACT TO GIVE EFFECT TO THE INTERNATIONAL CONVENTION RELATING TO CO-OPERATION FOR THE SAFETY OF AIR NAVIGATION SIGNED AT BRUSSELS ON 13 DECEMBER 1960, AS CONSOLIDATED BY THE PROTOCOL SIGNED AT BRUSSELS ON 27 JUNE 1997 AND FOR THAT PURPOSE TO AMEND THE IRISH AVIATION AUTHORITY ACT 1993, TO AMEND THE AVIATION REGULATION ACT 2001, TO AMEND THE AER LINGUS ACT 2004 AND TO PROVIDE FOR RELATED MATTERS.

[4th April, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “the Act of 1993” means the Irish Aviation Authority Act 1993. Definition.

2.—The Act of 1993 is amended—

Miscellaneous  
amendments of Act  
of 1993.

(a) in section 2(1)—

(i) by substituting for the definition of “contracting state” the following:

“ ‘contracting state’ means a state, including the State, which is a party to Annex IV of the Eurocontrol Convention;”,

(ii) by substituting for the definition of “Eurocontrol” the following:

“ ‘Eurocontrol’ means the European Organisation for the Safety of Air Navigation (Eurocontrol) established by the Eurocontrol Convention and references to Eurocontrol include references to the General Assembly and the Council comprised in Eurocontrol and to the Agency;”,

(iii) by substituting for the definition of “the Eurocontrol Convention” the following:

“ ‘Eurocontrol Convention’ means the International Convention relating to Co-operation for the Safety of Air Navigation signed at Brussels on 13 December 1960, as amended by the Additional Protocol signed

at Brussels on 6 July 1970, the Protocol signed at Brussels on 21 November 1978 and the Protocol signed at Brussels on 12 February 1981, as consolidated by the Protocol signed at Brussels on 27 June 1997, (the consolidated text of which is set out for convenience of reference in the English language in *Schedule 1* to the *Aviation Act 2006*), the Final Act and Protocol on the accession of the European Community to the Eurocontrol Convention signed at Brussels on 8 October 2002 (the text of which is set out for convenience of reference in the English language in *Schedule 2* to the *Aviation Act 2006*), and by any other protocol or other instrument which may be signed after the passing of the *Aviation Act 2006*;

- (iv) by substituting for the definition of “the Minister” the following:

“ ‘The Minister’ means the Minister for Transport;”,

- (v) by deleting the definition of “the Multilateral Agreement”, and

- (vi) by deleting the definition of “Statute of the Agency”,

- (b) in section 14(1)(j), by substituting for subparagraph (i) the following:

“(i) the Eurocontrol Convention,”,

and

- (c) in section 74—

- (i) in subsection (3)(b)(i), by substituting “€5,000” for “£1,000” and “6 months” for “12 months”,

- (ii) in subsection (3)(b)(ii), by substituting “€500,000” for “£100,000”,

- (iii) in subsection (4), by substituting “€5,000” for “£1,000”, and

- (iv) by substituting for subsection (5), the following:

“(5) A person who obstructs or impedes an authorised officer, an authorised officer of the company, a member of the staff of the company or an officer of Eurocontrol in the performance of any function conferred on him or her by or under this Act or fails to furnish to such a member information to which he or she is entitled under section 57B or an order under

section 65 is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

3.—(1) Part III of the Act of 1993 is amended—

Amendment of Part III (Eurocontrol Convention) of Act of 1993.

- (a) in section 46, by deleting “and the Statute of the Agency annexed thereto”,
- (b) in section 47, by deleting “and the Statute of the Agency annexed thereto”,
- (c) by substituting for section 57 the following:

“Parties to Eurocontrol Convention.

57.—(1) The Minister, after consultation with the Minister for Foreign Affairs, may by order declare that any state specified in the order is a party to the Eurocontrol Convention.

(2) An order that is in force under subsection (1) shall be evidence that any state specified in the order is a party to the Eurocontrol Convention.

Regulations.

57A.—The Minister may make regulations to—

- (a) give effect to a common European air traffic flow management system established by Eurocontrol under Articles 2(1)(e), 7(2)(d) and 19 of the Eurocontrol Convention, and
- (b) ensure compliance with that system.

Random checks and inspections.

57B.—(1) For the purposes of ensuring compliance with this Part and the Eurocontrol Convention an authorised person may—

- (a) enter any premises of an aircraft operator for the purpose of carrying out random checks and inspections,
- (b) require the owner or any person employed at the premises or any person in charge of the premises to give to him or her such information in the person’s power or control that the authorised person may reasonably require and to produce to him or her any records (in whatever form kept) or books or documents found by or produced to the authorised person,

- (c) at such premises, inspect and take copies of, or extracts from any books, records or other documents (including in the case of information in non-legible form a copy of or extract from such information in permanent legible form),
- (d) inspect and copy or extract information from any data (within the meaning of the Data Protection Act 1988) found or produced to the authorised person,
- (e) require any person by or on whose behalf data equipment is or has been used on the premises in relation to the business of the aircraft operator concerned or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the authorised person all reasonable assistance in relation to its use,
- (f) secure for later inspection the premises or any records, books, documents or products found in the premises.

(2) Where an authorised person carries out any random check or inspection under this section, he or she shall, if requested by a person affected, produce his or her authorisation showing his or her identity and position.

(3) An authorised person shall not, in order to carry out a random check or inspection under this section, other than with the consent of the occupier, enter a private dwelling unless a warrant under this section has been obtained authorising such entry.

(4) An authorised person shall be accompanied by a member of the Garda Síochána where, in the course of carrying out or attempting to carry out a random check or inspection under this section a premises is required to be broken open for that check or inspection or the use of force is necessary.

(5) If a judge of the District Court is satisfied on the sworn information of an authorised person that there are reasonable grounds for suspecting that there is information required by an authorised person held on any premises or any part of any

premises or there is anything which an authorised person requires to inspect for purposes of enforcing this Part, the judge may issue a warrant authorising an authorised person, accompanied, if appropriate, by other authorised persons or by a member or members of the Garda Síochána, at any time or times, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if necessary by reasonable force, the premises and to carry out a random check or inspection under this section.

(6) An application under subsection (5) shall be made to the judge of the District Court in whose district court district the premises is situated.

(7) In this section—

‘authorised person’ means—

- (a) an authorised officer,
- (b) an authorised officer of the company, or
- (c) an officer of Eurocontrol;

‘premises’ includes an aircraft.

Evidence in proceedings.

57C.—For the purposes of this Act, a document purporting to be published by Eurocontrol shall be admissible in any proceedings, without further proof, as evidence of the matters mentioned in the said document, unless the contrary is shown.”.

(2) Section 1(2) of the Act of 1993 does not apply to an amendment to that Act provided for in *subsection (1)(c)* of this section.

4.—The Aer Lingus Act 2004 is amended by inserting, after section 7, the following new section:

Amendment of Aer Lingus Act 2004.

“Confirmation of certain matters.

7A.—(1) Notwithstanding section 13(2) and the Aer Lingus Act 2004 (Commencement of Certain Provisions) Order 2005—

- (a) section 2 (in so far as it relates to section 5(2) of the Air Companies (Amendment) Act 1993), and
- (b) section 7,

are deemed to have come into operation on 19 August 2004.

(2) Without prejudice to the generality of subsection (1), the issue of shares in Aer Lingus Group public limited company on 20 August 2004

is confirmed and deemed always to have had full effect.

(3) Nothing in this section shall affect any proceedings commenced in any court concerning the validity of the issue of shares in the Company under section 7 where those proceedings were commenced before 8 March 2006.”.

Amendment of  
Aviation  
Regulation Act  
2001.

5.—(1) The Aviation Regulation Act 2001 is amended—

(a) in section 2(1), by inserting after the definition of “organiser” the following:

“ ‘Regulation (EC) No. 261/2004’ means Council Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004<sup>1</sup>, establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights;”,

(b) in section 8, by inserting after subsection (3) the following:

“(4) The Commission is designated for the purposes of Article 16 of Regulation (EC) No. 261/2004.”,

(c) in section 13, by inserting “, except in accordance with section 40(8B),” after “functions of the Commission”,

(d) in section 40—

(i) in subsection (5), by substituting “3 months” for “2 months”, and

(ii) in subsection (8), by substituting “2 months” for “one month”, and

(iii) by inserting after subsection (8) the following:

“(8A) Where a referral is made under subsection (5), whether before or after the passing of the *Aviation Act 2006*, and there is no person holding office as a commissioner, then a decision under subsection (8) may only be made (other than a decision made before the passing of that Act) within the period referred to in that subsection—

(a) where a commissioner is appointed within the period of 6 months of the referral, by the commissioner from the time he or she is appointed,

(b) where a commissioner is not appointed within the period referred to in paragraph (a), from the end of that period by the deputy commissioner, unless a commissioner is appointed, or

(c) where a commissioner is appointed within the period referred to in paragraph (a) but

<sup>1</sup>O.J. No. L46, 17.2.2004, p.1

due to his or her incapacity to act as a commissioner or ceasing to be a commissioner before making the decision within the period of 2 months referred to in subsection (8)—

- (i) within that period of 2 months, by the deputy commissioner, or
- (ii) if another commissioner has been appointed within the period referred to in subsection (8), by the other commissioner within that period.

(8B) A decision under subsection (8) shall only be made by a commissioner, other than in the circumstances mentioned in subsection (8A)(b) or (c)(i) where no commissioner has been appointed.”

and

- (e) in section 41(1), by substituting for paragraph (e) the following:

“(e) in any case where the Commission considers that the immediate giving of the notice is required, by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender’s—

- (i) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
- (ii) facsimile machine generates a message confirming successful transmission of the total number of pages of the notice.”

- (f) by inserting after section 45 the following:

“Directions—  
Regulation  
(EC) No.  
261/2004.

45A.—(1) Where the Commission either on its own initiative or following a complaint by a passenger is of the opinion that an operating air carrier is failing to comply with or is infringing Regulation (EC) No. 261/2004, it may issue a direction to the carrier to comply with the Regulation or cease the infringement and to comply with any instructions contained in the direction. The carrier may, within 14 days of the issue of the direction, make representations to the Commission, which the Commission shall consider. The Commission shall, where it has received such representations, reply in writing to the carrier within 2 months of such receipt. The Commission in its reply may confirm, vary or withdraw the direction. Where the direction is confirmed

(with or without variation) the direction takes effect on the date the reply is given.

(2) Where a direction has been issued to an operating air carrier who—

- (a) has not made representations to the Commission within the period of 14 days of the issue of the direction to the carrier, after such period, or
- (b) has made such representations and the Commission has replied to the carrier confirming the direction with or without variation, after the reply is given,

fails to comply with the direction, the carrier commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding €5,000, or
- (ii) on conviction on indictment, to a fine not exceeding €150,000.

(3) Where a direction or reply is required to be given to an operating air carrier, the direction or reply shall be addressed to the carrier and shall be given to the carrier in one of the following ways—

- (a) by delivering it to the carrier,
- (b) by leaving it at the address at which the carrier carries on business,
- (c) by sending it by post in a pre-paid registered letter addressed to the carrier at the address at which the carrier carries on business,
- (d) if an address for the service of a direction or reply has been furnished by the carrier, by leaving it at, or sending it by pre-paid registered post addressed to the carrier to, that address,
- (e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the carrier carries on business or, if an address for the service of a direction or reply has been furnished by the carrier, that address:

provided that—

(i) the sender's—

- (I) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
- (II) facsimile machine generates a message confirming successful transmission of the total number of pages of the direction or reply,

and

(ii) the direction or reply is also given in one of the other ways mentioned in any of the preceding paragraphs.

(4) For the purposes of subsection (3), a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

(5) A copy of a direction or reply, which has endorsed on it a certificate purporting to be signed by a commissioner, the deputy commissioner or an officer of the Commission (authorised in that behalf by the Commission) stating that the copy is a true copy of the direction or reply may, without proof of signature of that person, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the direction or reply.

(6) In this section—

‘direction’ means a direction under subsection (1);

‘operating air carrier’ has the meaning assigned to it in Article 2 of Regulation (EC) No. 261/2004;

‘passenger’ means a passenger to whom Article 3 of Regulation (EC) No. 261/2004 applies;

‘reply’ means a reply by the Commission under subsection (1).”.

(2) The European Communities (Compensation and Assistance to Air Passengers) (Denied Boarding, Cancellation or Long Delay of Flights) Regulations 2005 (S.I. No. 274 of 2005) are revoked.

[No. 7.]

*Aviation Act 2006.*

[2006.]

Repeal.

6.—Paragraphs (a), (b) and (c) of section 67 of the Act of 1993 are repealed.

Short title.

7.—This Act may be cited as the Aviation Act 2006.

[2006.]

*Aviation Act 2006.*

[No. 7.]

SCHEDULE 1

*Section 2.*

**FINAL ACT**

OF THE DIPLOMATIC CONFERENCE ON THE PROTOCOL  
CONSOLIDATING THE EUROCONTROL INTERNATIONAL  
CONVENTION RELATING TO CO-OPERATION FOR THE  
SAFETY OF AIR NAVIGATION OF 13 DECEMBER 1960, AS  
VARIOUSLY AMENDED

(Brussels, 27 June 1997)

**FINAL ACT**

OF THE DIPLOMATIC CONFERENCE ON THE PROTOCOL  
CONSOLIDATING THE EUROCONTROL INTERNATIONAL  
CONVENTION RELATING TO CO-OPERATION FOR THE  
SAFETY OF AIR NAVIGATION OF 13 DECEMBER 1960, AS  
VARIOUSLY AMENDED

(Brussels, 27 June 1997)

THE PLENIPOTENTIARIES OF:

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF AUSTRIA,

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF CROATIA,

THE KINGDOM OF DENMARK,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND,

THE HELLENIC REPUBLIC,

THE REPUBLIC OF HUNGARY,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF MALTA,

THE PRINCIPALITY OF MONACO,

THE KINGDOM OF NORWAY,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE KINGDOM OF SWEDEN,

THE SWISS CONFEDERATION,

THE CZECH REPUBLIC,

THE REPUBLIC OF TURKEY,

*Assembled* at Brussels on 27 June 1997;

*Have decided* to incorporate in the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, as amended at Brussels in 1981, the amendments which are set out in Annex 1 to the present Final Act;

*Have adopted* the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, which was opened for signature on 27 June 1997, and which is set out in Annex 2 to the present Final Act;

*Have noted* the following statement by the Kingdom of the Netherlands, on behalf of the European Community Member States, Members of EUROCONTROL:

“The European Community Member States, Members of EUROCONTROL, declare that their signature of the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, which was opened for signature on 27 June 1997, and which is set out in Annex 2 to the present Final Act is without prejudice to the Community’s exclusive competence in certain areas covered by that Convention and to the Community’s membership of EUROCONTROL for the purpose of exercising such exclusive competence.”;

*Have noted* the following statement by the Kingdom of Belgium:

“While signing this text without entering any formal reservation, the Kingdom of Belgium hereby declares that it attaches particular importance both to airspace being organised in such a way as to guarantee that there will be no discrimination in the accessibility of its airports, and to the promotion of dialogue between the social partners.”;

*Have noted* the following statement by the Hellenic Republic:

“The Hellenic Republic signs the Final Act of the Diplomatic Conference on the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, on the understanding that the implementation and application of the provisions of the aforesaid Protocol must be in conformity with the ICAO legal framework and procedures.”;

*Have noted* the following statement by the Federal Republic of Germany:

“The Federal Republic of Germany considers it essential that EUROCONTROL’s future Regulation on data protection meet at least the standard of the European Community Directive on data protection.

There must be a guarantee that personal data transmitted by the Organisation to a Contracting Party should be afforded by the said Contracting Party the same protection as that provided for by the above-mentioned Regulation.”;

*Have adopted* the following resolutions:

- I. *Resolution urging Member States to ratify the Protocol at their earliest convenience*

The Conference,

*Assembled* at Brussels on 27 June 1997 for the purpose of adopting the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation;

*Having* unanimously adopted the aforesaid Protocol;

*Considering* that it is highly desirable that the aforesaid Protocol should come into force as soon as possible;

*Urges* all Contracting Parties to ratify, accept or approve the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation as soon as possible;

*Requests* the Director General of EUROCONTROL to take all practical measures, in co-operation with Contracting Parties, to provide assistance, if requested, in the process of ratification, acceptance or approval of the aforesaid Protocol.

## II. *Resolution on early implementation of the Protocol*

The Conference,

*Assembled* at Brussels on 27 June 1997 for the purpose of adopting the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation;

*Having* unanimously adopted the aforesaid Protocol;

*Having noted* the decisions taken by the Ministers of Transport of the member States of the European Civil Aviation Conference (ECAC) meeting in Copenhagen on 14 February 1997 regarding the ECAC Strategy;

*Having noted* the invitation by the ECAC Ministers of Transport to the EUROCONTROL Permanent Commission to consider arrangements for the implementation in advance of the revised EUROCONTROL Convention as proposed in the ECAC Strategy;

*Recognising* the need for an early implementation, where appropriate, of certain provisions in the revised Convention in order to entrust the EUROCONTROL Organisation and in particular its Agency with the roles and duties as reflected in the ECAC Institutional Strategy;

*Reconfirming* their commitment to attain, through the provisions of the revised Convention and in close cooperation with all parties concerned, a safe and efficient European air traffic management system as well as an efficient common route charges system;

*Urges* all Contracting Parties to participate, to the fullest extent possible, in the realisation of the early implementation of certain provisions in the revised Convention.

*Have adopted* the following joint declarations:

### I. *Joint Declaration on the draft EUROCONTROL regulation on Data Protection*

The Conference,

*Assembled* at Brussels on 27 June 1997 for the purpose of adopting the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation;

*Having* unanimously adopted the aforesaid Protocol;

*Having noted* the draft EUROCONTROL Regulation on Data Protection;

*Makes* the following joint declaration:

The signatory States undertake to ensure that an internal data protection regulation of the EUROCONTROL Organisation will be approved by the Council at the earliest possible opportunity.

II. *Joint Declaration on the necessary steps to establish a transparency function for the Council Audit Board and to ensure its introduction in the context of early implementation of the Protocol*

The Conference,

*Assembled* at Brussels on 27 June 1997 for the purpose of adopting the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation;

*Having* unanimously adopted the aforesaid Protocol;

*Having noted* the provisions in the aforesaid Protocol with regard to the creation of an efficient and autonomous management structure for the EUROCONTROL Agency that will assist in ensuring an efficient, streamlined and transparent decision making mechanism for ATM in Europe in accordance with the ECAC institutional Strategy for ATM in Europe;

*Having noted* that the EUROCONTROL Agency is the organ responsible for achieving the objectives and performing the tasks laid down in the Convention or by the governing bodies of EUROCONTROL;

*Recognising* the desirability of enabling the EUROCONTROL Agency to ascertain an adequate level of transparency in the management structure through a Board with the appropriate terms of reference;

*Makes* the following joint declaration:

The signatory States undertake to take the necessary steps to establish a transparency function for the Council Audit Board as referred to in Article 7.5 of the Convention and to further ensure its introduction in the context of the early implementation of certain provisions of the consolidating Protocol.

IN WITNESS WHEREOF, the Plenipotentiaries have signed the present Final Act.

DONE at Brussels, this 27th day of June 1997, in a single original, which shall remain deposited in the archives of the Government of the Kingdom of Belgium, which shall transmit certified copies to the Governments of the other signatory States.

For the Federal Republic of Germany,

For the Republic of Austria,

For the Kingdom of Belgium,

For the Republic of Bulgaria,

For the Republic of Cyprus,

For the Republic of Croatia,

For the Kingdom of Denmark,

For the Kingdom of Spain,

For the French Republic,  
For the United Kingdom of Great Britain and Northern Ireland,  
For the Hellenic Republic,  
For the Republic of Hungary,  
For Ireland,  
For the Italian Republic,  
For the Grand Duchy of Luxembourg,  
For the Republic of Malta,  
For the Principality of Monaco,  
For the Kingdom of Norway,  
For the Kingdom of the Netherlands,  
For the Portuguese Republic,  
For Romania,  
For the Slovak Republic,  
For the Republic of Slovenia,  
For the Kingdom of Sweden,  
For the Swiss Confederation,  
For the Czech Republic,  
For the Republic of Turkey,

ANNEX 1 to the FINAL ACT

**AMENDMENTS**

MADE BY THE DIPLOMATIC CONFERENCE OF 27 JUNE  
1997

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AMENDMENTS MADE BY THE DIPLOMATIC  
CONFERENCE OF 27 JUNE 1997

Article I

The EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Additional Protocol of 6 July 1970, in turn amended by the Protocol of 21 November 1978, all amended by the Protocol of 12 February 1981, hereinafter called “the Convention” is amended as provided in the following articles.

Article II

Paragraphs 1 and 2 of Article 1 of the Convention shall be replaced by the following:

“Article 1

1. *In order to achieve harmonisation and integration with the aim of establishing a uniform European air traffic management system, the Contracting Parties agree to strengthen their co-operation and to develop their joint activities in the field of air navigation, making due allowance for defence needs and providing maximum freedom for all airspace users consistent with the required level of safety in the provision of cost-effective air traffic services, and taking into account the need to minimise, where this is feasible, inter alia, in operational, technical and economic terms, any adverse environmental impact.*

*The pursuit of these objectives shall not prejudice the principle that every State has complete and exclusive sovereignty over the airspace above its territory nor the capacity of every State to exercise its prerogatives with regard to security and defence in its national airspace.*

*To this end, they agree:*

- (a) *to determine a European policy in the air traffic management field, involving the definition of strategies and programmes whose objective is to develop the capacity needed to meet the requirements of all civil and military users in a cost-effective manner while maintaining the required level of safety;*
- (b) *to commit themselves to the establishment of specific targets regarding the efficiency and effectiveness of air traffic management operations in the Flight Information Regions listed in Annex II to this Convention in which States, pursuant to the relevant provisions of the Convention on International Civil Aviation, have agreed to provide air traffic services without prejudice to the principles of free movement in airspace not subject to the sovereignty of the States which result from conventions, international agreements, and the rules or principles of customary public international law;*
- (c) *to introduce an air traffic management performance review and target setting system;*
- (d) *to implement a common convergence and implementation plan for air navigation services and facilities in Europe;*
- (e) *to adopt and apply common standards and specifications;*
- (f) *to harmonise air traffic services regulations;*
- (g) *to develop the available capacity to meet the air traffic demand and to ensure its most effective utilisation through the joint establishment, operation and development of a common European air traffic flow management system, in the framework of the introduction of a uniform European air traffic management system;*
- (h) *to encourage common procurement of air traffic systems and facilities;*

- (i) *to implement a common policy for the establishment and calculation of charges levied on users of en route air navigation facilities and services, hereinafter called “route charges”;*
  - (j) *to implement a mechanism, separate from service provision, for the multilateral development and harmonisation of a safety regulatory regime in the field of air traffic management within a total aviation safety system approach;*
  - (k) *to participate in the design, the implementation and the monitoring of a global navigation satellite system;*
  - (l) *to identify new possibilities for common actions in the field of design, implementation, monitoring or operation of systems and services in air navigation;*
  - (m) *in the context of a “gate-to-gate” concept, to develop an overall policy and an appropriate, efficient and effective process for the strategic design and planning of routes and airspace.*
2. *For this purpose they hereby establish a “European Organisation for the Safety of Air Navigation (EUROCONTROL)”, hereinafter called “the Organisation”, which shall act in co-operation with the national civil and military authorities and the user organisations. The Organisation shall comprise three organs:*
- (a) *a General Assembly, which shall constitute the organ responsible for the formulation and approval of the Organisation’s general policy, including:*
    - (i) *the common policy for route charges and the Organisation’s other charges activities;*
    - (ii) *the performance review and assessment functions of the Organisation;*
    - (iii) *the setting of objectives for the Organisation, including those of standardisation, planning, performance and safety regulation;*
    - (iv) *the technical and financial selection of major framework programmes for co-operation;*
    - (v) *external relations with States and organisations and applications for accession to this Convention.*
  - (b) *a Council, which shall constitute the organ tasked with implementing the General Assembly’s decisions and, subject to the powers conferred upon the latter, ruling on all measures which are addressed to and binding on the Contracting Parties, and supervising the Agency’s work;*
  - (c) *an Agency, whose Statute is contained in Annex I to this Convention, which shall be the organ entrusted to undertake the Organisation’s tasks, in accordance with the provisions of the following articles of this Convention and the tasks assigned to it by the General*

*Assembly or the Council, to initiate relevant proposals and to deploy the technical, financial and staff resources to achieve the objectives laid down.”*

### Article III

Article 2 of the Convention shall be replaced by the following :

#### “Article 2

1. *The Organisation shall undertake the following tasks:*
  - (a) *to develop and endorse detailed plans for the harmonisation and integration of the air traffic services and systems of the Contracting Parties, in particular the ground and airborne air navigation systems, with a view to the establishment of a uniform European air traffic management system;*
  - (b) *to coordinate the implementation plans of the Contracting Parties so as to secure convergence towards a uniform European air traffic management system;*
  - (c) *to examine and coordinate on behalf of the Contracting Parties matters in the field of air navigation studied by the International Civil Aviation Organization (ICAO) and other international organisations concerned with civil aviation and to coordinate and submit amendments or proposals to these bodies;*
  - (d) *to define, design, develop, validate and organise the implementation of a uniform European air traffic management system;*
  - (e) *to develop and operate a common European air traffic flow management system at a common international centre in the framework of (d) above;*
  - (f) *to develop, adopt, and keep under review common standards, specifications and practices for air traffic management systems and services;*
  - (g) *to develop and endorse procedures towards a strategy for the common procurement of air traffic systems and facilities;*
  - (h) *to coordinate the Contracting Parties’ research and development programmes relating to new techniques in the field of air navigation, to collect and distribute their results and to promote and conduct common studies, tests and applied research as well as technical developments in this field;*
  - (i) *to establish an independent performance review system that will address all aspects of air traffic management, including policy and planning, safety management at and around airports and in the airspace, as well as financial and economic aspects of services rendered, and set targets that will address all these aspects;*
  - (j) *to study and promote measures for improving cost-effectiveness and efficiency in the field of air navigation;*

- (k) *to develop and endorse common criteria, procedures and methods to ensure the highest efficiency and quality of air traffic management systems and air traffic services;*
  - (l) *to develop proposals for the harmonisation of European air traffic services regulations;*
  - (m) *to support the improvement of efficiency and flexibility in the use of airspace between civil and military users;*
  - (n) *to develop and endorse coordinated or common policies to improve air traffic management at and around airports;*
  - (o) *to develop and endorse common criteria for the selection, and common policies for the training, licensing, and proficiency checking of air traffic services staff;*
  - (p) *to develop, establish and operate the future common European system elements entrusted to it by the Contracting Parties;*
  - (q) *to establish, bill and collect the route charges on behalf of the Contracting Parties participating in the common route charges system as provided for in Annex IV;*
  - (r) *to establish and implement a mechanism for the multilateral development and harmonisation of safety regulation in the air traffic management field;*
  - (s) *to perform any other task relating to the principles and objectives of this Convention.*
2. *At the request of one or more Contracting Parties and on the basis of a special agreement or agreements between the Organisation and the Contracting Parties concerned, the Organisation may:*
- (a) *assist such Contracting Parties in the planning, specification and setting up of air traffic systems and services;*
  - (b) *provide and operate, wholly or in part, air traffic facilities and services on behalf of such Contracting Parties;*
  - (c) *assist such Contracting Parties in the establishment, billing and collection of charges which are levied by them on users of air navigation services and which are not covered by Annex IV to this Convention.*
3. *The Organisation may:*
- (a) *conclude special agreements with non-Contracting Parties interested in participating in the performance of the tasks provided for in Article 2.1;*
  - (b) *at the request of non-Contracting Parties or other international organisations, perform on their behalf any other tasks pursuant to this Article, on the basis of*

*special agreements between the Organisation and the Parties concerned.*

4. *The Organisation shall, as far as is practicable, ensure that its service provision functions, in particular those provided for in Articles 2.1 (e), 2.1 (g), 2.1 (p), 2.1 (q), 2.2 and 2.3 (b), are exercised independently of its regulatory functions.*
5. *In order to facilitate the execution of its tasks, the Organisation may, by decision of the General Assembly, create undertakings governed by specific articles of association governed either by public international law or by the national law of a Contracting Party, or acquire majority shareholdings in such undertakings.”*

#### Article IV

Article 3 of the Convention shall be replaced by the following :

#### “Article 3

1. *This Convention shall apply to en route air navigation services and related approach and aerodrome services for air traffic in the Flight Information Regions listed in Annex II.*
2. (a) *Any amendment which a Contracting Party wishes to make to the list of its Flight Information Regions in Annex II shall be decided upon by the General Assembly by unanimity of the votes cast if it would result in a change in the overall limits of the airspace covered by this Convention.*  
  
(b) *Any amendment which does not result in such a change shall nevertheless be notified to the Organisation by the Contracting Party concerned.*
3. *For the purposes of this Convention the expression “air traffic” shall comprise civil aircraft and those military, customs and police aircraft which conform to the procedures of the International Civil Aviation Organization.*

*On the basis of a special agreement, as provided for in Article 2.2(b), a Contracting Party may request that the expression “air traffic” shall apply to other air traffic operating within its territory.”*

#### Article V

The reference to the Statute annexed thereto in Article 4 of the Convention shall be replaced by a reference to the Statute at Annex I and in the English text of the said Article 4, the words “*in the present Convention*” shall be replaced by “*in this Convention*”.

#### Article VI

Article 5 of the Convention shall be replaced by the following:

“Article 5

1. *The General Assembly shall be composed of representatives of the Contracting Parties at Ministerial level. Each Contracting Party may appoint several delegates in order, in particular, to allow the interests of both civil aviation and national defence to be represented, but shall have only a single voting right.*
2. *The Council shall be composed of representatives of the Contracting Parties at the level of the Directors General for Civil Aviation. Each Contracting Party may appoint several delegates in order, in particular, to allow the interests of both civil aviation and national defence to be represented, but shall have only a single voting right.*
3. *On matters relating to the common route charges system, the General Assembly and the Council shall be made up of representatives of the Contracting Parties participating in the common route charges system under the conditions stipulated in Annex IV.*
4. *The representatives of international organisations which can contribute to the work of the Organisation shall, where appropriate, be invited by the General Assembly, or the Council, to participate as observers, in bodies of the Organisation.”*

Article VII

Article 6 of the Convention shall be replaced by the following :

“Article 6

1. *The General Assembly shall take decisions with regard to the Contracting Parties, the Council and the Agency, in particular in the cases referred to in Article 1.2(a).*

*In addition, the General Assembly shall:*

- (a) *appoint the Director General of the Agency, on the Council’s recommendation;*
  - (b) *authorise recourse on behalf of the Organisation to the Permanent Court of Arbitration of The Hague in the cases referred to in Article 34;*
  - (c) *establish the principles applied for the operation of the common European air traffic flow management system provided for in Article 2.1(e);*
  - (d) *approve amendments to Annex I in conformity with the voting conditions provided for in Article 8.1;*
  - (e) *approve amendments to Annexes II and IV in conformity with the voting conditions provided for in Article 8.3;*
  - (f) *periodically review the tasks of the Organisation.*
2. *To formulate the common policy for route charges, the General Assembly shall, inter alia:*

- (a) *establish the principles governing the assessment of the costs chargeable by the Contracting Parties and the Organisation to the users in respect of the en-route air navigation facilities and services provided to them;*
  - (b) *determine the formula to be applied in calculating route charges;*
  - (c) *determine the principles governing exemption from the route charges and may further decide that for certain categories of flights thus exempted from the payment of route charges governed by Annex IV, the costs incurred in respect of en-route air navigation facilities and services may be recovered directly by the Contracting Parties;*
  - (d) *approve reports by the Council relating to route charges.*
3. *The General Assembly may:*
- (a) *refer to the Council for examination any matter falling within its competence;*
  - (b) *delegate to the Council, where necessary, the power to take decisions in the matters falling within its general competence, referred to in Article 1.2(a);*
  - (c) *establish other subsidiary bodies as it may consider to be necessary.”*

#### Article VIII

Article 7 of the Convention shall become Article 8 and shall read as follows:

#### “Article 8

1. *Decisions taken with regard to the Contracting Parties by the General Assembly, in particular on the basis of Article 1.2(a) and the first subparagraph of Article 6.1, or by the Council, in particular on the basis of Article 1.2(b) and Article 7.1, shall be taken by a majority of the votes cast, on condition that the said majority represents at least three-quarters of the weighted votes cast, according to the weighting provided for in Article 11, and at least three-quarters of the Contracting Parties casting a vote.*

*This rule shall also apply to decisions taken in the cases referred to in Articles 2.1(i), (p), (r) and (s), 2.5, 6.1(a), (c) and (d), 6.2, 6.3(b), 7.2(d), (j) and (k), 7.3, 7.6 and 7.7, 12, 13.2 and 13.3.*

*This rule shall also apply to decisions taken in pursuance of Article 3 of Annex IV. These decisions, when they refer to the unit rates, tariffs and conditions of application of the Route Charges System referred to in Article 3(c) of Annex IV, shall not apply in regard to a Contracting Party if that Contracting Party has voted against and so decides. In this case, this Contracting Party shall submit an explanatory statement of its reasons and cannot put in question the common policy as defined in Article 6.2.*

2. *Decisions taken with regard to the Agency by the General Assembly, in particular on the basis of Article 1.2(a) and (c) and the first subparagraph of Article 6.1, or by the Council, in particular on the basis of Article 1.2(b) and (c), shall be taken by a majority of the votes cast, on condition that the majority represents more than half the weighted votes cast, according to the weighting provided for in Article 11, and more than half the Contracting Parties casting a vote. In matters of particular importance, and where at least one-third of the Contracting Parties entitled to vote so request, the majority must represent at least three-quarters of the weighted votes cast instead of more than half.*

*This rule shall also apply to decisions taken in the cases referred to in Articles 6.1(b), 6.3(a), 7.2(a) to (c), (e) to (i), (l) and (m), 9.2 and 10.2.*

3. *However, decisions shall be taken by unanimity of the votes cast with regard to applications to accede to the Organisation as referred to in Article 39, any amendments made to Annex II, except in the case referred to in Article 3.2(b), and to Annex IV, and the conditions governing withdrawal or accession referred to in Articles 36.4, 36.5, 38.3 and 38.4.*
4. *Decisions taken by the General Assembly and the Council shall be binding on the Contracting Parties and the Agency, subject to the provisions of Article 9.”*

#### Article IX

A new Article 7 shall be inserted in the Convention and shall read as follows:

#### “Article 7

1. *The Council, pursuant to the powers conferred on it by this Convention, may take decisions with regard to the Contracting Parties, in the tasks referred to in Article 2.1.*
2. *The Council, pursuant to its supervisory powers as conferred on it in regard to the Agency by this Convention:*
  - (a) *shall approve, after having consulted representative organisations of airspace users recognised by the Council, the Agency’s five-year and annual work programmes submitted to it by the Agency for the accomplishment of the tasks referred to in Article 2, together with the five-year financial plan and the budget, including the financial obligations, the Agency’s activity report and the reports submitted pursuant to Articles 2.2 (c), 10.3 and 11.1 of the Statute of the Agency;*
  - (b) *shall approve the principles governing the general structure of the Agency;*
  - (c) *shall supervise the activities of the Agency in the field of air navigation charges;*

- (d) shall determine, after having consulted the representative organisations of airspace users and airports recognised by the Council, the general conditions for the operation of the common European air traffic flow management system provided for in Article 2.1 (e), taking due account of the prerogatives exercised by the States in regard to management of their airspace. These general conditions shall specify, *inter alia*, the rules applicable as well as the procedures for recording non-compliance with these rules;
  - (e) shall issue directives to the Agency on the basis of regular reports from the latter or whenever it deems it to be necessary for the accomplishment of the tasks assigned to the Agency, and shall approve arrangements for co-operation between the Agency and national organisations concerned to enable the Agency to initiate the appropriate proposals;
  - (f) shall appoint, on a proposal by the Director General, the firm of consultant auditors to assist the Audit Board in the examination of the accounts of all receipts and expenditure;
  - (g) may require that the Agency's services be the subject of administrative and technical inspections;
  - (h) shall give the Director General discharge in respect of his/her administration of the budget;
  - (i) shall approve the appointment by the Director General of the Directors of the Agency;
  - (j) shall approve the Statute of the Director General, the Staff Regulations, the Financial Regulations and the Contract Regulations;
  - (k) may authorise the opening by the Agency of negotiations related to the special agreements referred to in Article 2, adopt the agreements negotiated before submitting them for approval by the General Assembly or conclude such agreements where the Council has been delegated powers pursuant to the provisions of Article 13.3;
  - (l) shall approve a Regulation on data protection;
  - (m) in the performance of the tasks provided for in Article 2.1(f), shall determine the rules and procedures applicable to standards, specifications and practices for air traffic management systems and services.
3. The Council shall establish a Performance Review Commission and a Safety Regulation Commission. These Commissions will initiate relevant proposals to the Council and receive administrative support and assistance from the Agency services which have the necessary degree of independence to exercise their functions.
  4. The Council shall establish a Civil/Military Interface Standing Committee.
  5. The Council shall establish an Audit Board to which it may

*delegate duties and, under specific terms of reference, delegate powers.*

6. *The Council may be assisted by other committees in other fields of activity of the Organisation.*
7. *The Council may delegate duties, and, under specific terms of reference, delegate powers to the Civil/Military Interface Standing Committee and any Committee created after the entry into force of this Convention. Such delegations of duties or powers shall not prevent the Council from being able to raise matters at any time as part of its task of general supervision.”*

#### Article X

Article 8 of the Convention shall become Article 11 and shall read as follows:

#### “Article 11

1. *The weighting referred to in Article 8 shall be determined according to the following table:*

Annual Contribution of a Contracting Party as a percentage of the total annual contributions of all the Contracting Parties	Number of votes
Less than 1% .....	1
From 1 to less than 2% .....	2
From 2 to less than 3% .....	3
From 3 to less than 4½% .....	4
From 4½ to less than 6% .....	5
From 6 to less than 7½% .....	6
From 7½ to less than 9% .....	7
From 9 to less than 11% .....	8
From 11 to less than 13% .....	9
From 13 to less than 15% .....	10
From 15 to less than 18% .....	11
From 18 to less than 21% .....	12
From 21 to less than 24% .....	13
From 24 to less than 27% .....	14
From 27 to less than 30% .....	15
30% .....	16

2. *The number of votes shall be initially established with effect from the date of entry into force of the Protocol opened for signature at Brussels in 1997 by reference to the above table and in accordance with the rule in Article 10 above for determining the annual contributions of the Contracting Parties to the Organisation’s budget.*
3. *In the event of the accession of a State, the numbers of votes of the Contracting Parties shall be re-established in accordance with the same procedure.*
4. *The numbers of votes shall be re-established each year in accordance with the foregoing provisions.”*

Article XI

Article 9 of the Convention shall become Article 12 and shall read as follows :

“Article 12

*The General Assembly and the Council shall establish their rules of procedure, including rules governing the election of a President and Vice-President, and the rules of application of the voting procedures and the quorum.”.*

Article XII

A new Article 9 shall be inserted in the Convention and shall read as follows:

“Article 9

1. *Where a Contracting Party notifies the General Assembly or the Council that overriding national considerations pertaining to national defence and security interests prevent it from acting on a decision adopted by a majority of the votes cast as provided for in Article 8.1 above, it may derogate from that decision subject to communication to the General Assembly or the Council of an explanation of the reasons and a statement as to whether:*
  - (a) *the derogation refers to a matter on which there is no objection to the decision taking effect for the other Contracting Parties, it being understood that the Contracting Party concerned shall not apply the decision or shall apply it only in part;*
  - (b) *the derogation refers to a question of such importance to national defence and security interests that the decision must not be implemented at all until a second decision has been taken pursuant to the arrangements described in sub-paragraph 2(b) below.*
2. (a) *In the event of the application of the circumstances of sub-paragraph 1(a) above, the Director General shall provide the General Assembly or the Council with reports at least annually to show progress being made towards a situation in which no Contracting Party derogates.*
  - (b) *In the event of the application of sub-paragraph 1(b) above, implementation of the decision shall be suspended and, within a period to be determined, be submitted to the General Assembly for a second decision, even if the first was a Council decision. If, as a result of this re-examination, the second decision confirms the first, a Contracting Party may derogate therefrom under the conditions laid down in sub-paragraph 1(a) above. The General Assembly will review the first decision within a period not exceeding one year.*
3. *In the event of a state of war or conflict, the provisions of this Convention shall not affect the freedom of action of any of the Contracting Parties affected. The same principle*

*shall apply in the event of a state of crisis or national emergency. In particular, each Contracting Party may temporarily resume responsibility for all or part of the air traffic services in the airspace under its control on the grounds of overriding national considerations, especially in the area of defence. The European air traffic management system architecture should allow the effective resumption of such services in accordance with the Contracting Parties' requirements."*

#### Article XIII

Article 10 of the Convention shall be revoked. A new Article 10 shall be inserted in the Convention and shall read as follows:

#### "Article 10

1. *The annual contribution of each Contracting Party to the budget shall be determined, for each financial year, in accordance with the following formula:
 
  - (a) *an initial 30% of the contribution shall be calculated in proportion to the value of the Gross National Product of the Contracting Party, as defined in paragraph 2 below;*
  - (b) *a further 70% of the contribution shall be calculated in proportion to the value of the route facility cost base of the Contracting Party, as defined in paragraph 3 below.**
2. *The Gross National Product to be used for the calculations shall be obtained from the statistics compiled by the Organisation for Economic Cooperation and Development — or failing that by any other body affording equivalent guarantees and designated under a decision of the Council — by calculating the arithmetical mean for the last three years for which those statistics are available. The value of the Gross National Product shall be that which is calculated on the basis of factor cost and current prices expressed in the appropriate European Unit of Account.*
3. *The route facility cost base to be used for the calculations shall be the cost base established in respect of the last year but one preceding the financial year concerned."*

#### Article XIV

Article 11 of the Convention shall become Article 13 and shall read as follows:

#### "Article 13

1. *The Organisation shall maintain with the appropriate States and other international organisations the necessary relations for the realisation of its aims.*
2. *The General Assembly shall, without prejudice to the provisions of Article 7.2(k), of paragraph 3 of this article and of Article 15, be alone empowered to conclude on behalf of the Organisation the special agreements which are*

*necessary for the performance of the tasks provided for in Article 2.*

3. *The General Assembly may, on a proposal from the Council, delegate to the latter the decision to conclude the special agreements which are necessary for the performance of the tasks provided for in Article 2.*

#### Article XV

Article 12 of the Convention shall become Article 14 and shall read as follows:

#### “Article 14

*The special agreements referred to in Article 2 shall stipulate the respective tasks, rights and obligations of the Parties to the agreements, together with the financial arrangements, and shall establish the measures to be taken. Such agreements may be negotiated by the Agency in accordance with the provisions of Article 7.2(k).”*

#### Article XVI

Article 13 of the Convention shall become Article 15 and shall read as follows:

#### “Article 15

*Within the scope of the directives given by the Council, those relations which are essential for the co-ordination of air traffic and for the operation of the services of the Agency may be established by the Agency with the appropriate technical services, public or private, of the Contracting Parties, of non-Contracting Parties or of international organisations. For that purpose, contracts of a purely administrative, technical or commercial nature, in so far as they are required for the operation of the Agency, may be entered into by the Agency, in the name of the Organisation, on condition that the Agency so informs the Council.”*

#### Article XVII

Article 14 of the Convention shall become Article 16.

In the Dutch text of paragraph 1 of Article 14 of the Convention, which becomes paragraph 1 of Article 16, the words “*de onroerende goederen*” shall be replaced by “*die onroerende goederen*” and in paragraph 2 of the said Article, the word “*verreberichtgeving*” shall be replaced by “*telecommunicatie*”.

#### Article XVIII

Article 15 of the Convention shall become Article 17 and shall read as follows:

#### “Article 17

*In the performance of the tasks provided for in Article 2.2(b), the Agency shall apply the regulations in force in the territories of the*

*Contracting Parties and in the airspace in respect of which the provision of air traffic services is entrusted to them under international agreements to which they are Parties.”*

#### Article XIX

Article 16 of the Convention shall become Article 18 and shall read as follows:

#### “Article 18

*In the performance of the tasks provided for in Article 2.2(b), the Agency shall, within the limits of the powers conferred on the air traffic services, give all the necessary instructions to aircraft commanders. The aircraft commanders shall be bound to comply with those instructions, except in the cases of force majeure provided for in the regulations referred to in the preceding article.”*

#### Article XX

Article 17 of the Convention shall become Article 20 and shall read as follows:

#### “Article 20

*In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), infringements of the air navigation regulations committed in the airspace in which the Agency performs these tasks shall be recorded in reports by officers specifically authorised by the Agency for that purpose, without prejudice to the right under national law of officers of the Contracting Parties to report infringements of the same nature. The reports referred to above shall have the same effect in national courts as those drawn up by national officers qualified to report infringements of the same nature.”*

#### Article XXI

Articles 18 and 19 of the Convention shall become Articles 21 and 22.

In the English text of paragraph 2 of Article 18 of the Convention, which becomes paragraph 2 of Article 21, the words “*not less*” shall be replaced by “*no less*”.

In paragraph 1 of Article 19 of the Convention, which becomes paragraph 1 of Article 22, the words “*The Organisation shall be exonerated, in the State in which its seat is located, and in the territories of the Contracting Parties,*” shall be replaced by “*The Organisation shall be exonerated in the territories of the Contracting Parties.*”

In paragraph 3 of Article 19 of the Convention, which becomes paragraph 3 of Article 22, the words “*its property, assets and income*” shall be replaced by “*as well as its property, assets and income*”.

In the English text of paragraphs 2, 3 and 4 of Article 19 of the Convention, which become paragraphs 2, 3 and 4 of Article 22, the words “*The Organisation shall be*” shall be replaced by “*It shall be*”.

In the German text of paragraph 6 of Article 19 of the Convention, which becomes paragraph 6 of Article 22, the words “*öffentlicher Versorgungsbetriebe*” shall be replaced by “*der öffentlichen Versorgung*” and in the English text of the said paragraph 6, the words “*for public utility services*” shall be replaced by “*for general utilities*”.

Article XXII

A new Article 19 shall be inserted in the Convention and shall read as follows:

“Article 19

1. *In the performance of the tasks provided for in Article 2.1(e), the Organisation shall determine, in accordance with the general conditions provided for in Article 7.2(d), the necessary regulatory measures, and shall communicate them to aircraft operators and to the appropriate air traffic services. The Contracting Parties shall ensure that aircraft operators, aircraft commanders and the appropriate air traffic services comply therewith, unless prevented by compelling reasons of safety.*
2. *Compliance by a Contracting Party’s air traffic services with the general conditions and the regulatory measures referred to in paragraph 1 above shall be the sole responsibility of the said Contracting Party.*
3. *In the event of non-compliance by an aircraft operator or an aircraft commander with the general conditions or the regulatory measures referred to in paragraph 1 above, proceedings may be instituted against the offender at the Organisation’s request:*
  - (a) *by the Contracting Party where non-compliance was recorded, in its own territory;*
  - (b) *by the Organisation, in accordance with the grounds of jurisdiction set out in Article 35, if the Contracting Party, where the proceedings are to be instituted, agrees.*
4. *The Contracting Parties shall incorporate into their national legislation provisions which ensure the observance of the general conditions provided for in Article 7.2(d).”*

Article XXIII

Articles 20, 21, 22 and 23 of the Convention shall become Articles 23, 24, 25 and 26.

In the French text of paragraph 1 of Article 20 of the Convention, which becomes paragraph 1 of Article 23, the words “*tous droits de douane et taxes d’effet équivalent, autres que des redevances ou impositions représentatives de services rendus*” shall be replaced by “*tous droits de douane et taxes ou redevances d’effet équivalent, autres que des redevances représentatives de services rendus*”.

In paragraph 2 of Article 20 of the Convention, which becomes paragraph 2 of Article 23, the words “*in the territory of the Party into which*” shall be replaced by “*in the territory of the Contracting Party into which*” and in the French text of the said paragraph 2 the words “*à moins que ce ne soit, dans des conditions*” shall be replaced by “*sauf dans les conditions.*”

In the German text of paragraph 3 of Article 20 of the Convention, which becomes paragraph 3 of Article 23, the words “*wurden, an*

*diese ausgeliefert und für ihre Liegenschaften, ihre dienstlichen Anlagen*” shall be replaced by *“wurden, tatsächlich an diese ausgeliefert und für ihre dienstlichen Liegenschaften oder Anlagen”*.

In paragraph 4 of Article 20 of the Convention, which becomes paragraph 4 of Article 23, the words *“Furthermore, the”* shall be replaced by *“The”* and the reference to Article 25 of the Statute shall be replaced by a reference to Article 13 of the Statute; in the Dutch text of the said paragraph 4, the word *“publicaties”* shall be replaced by *“publicaties”*.

In the German text of paragraph 2 of Article 22 of the Convention, which becomes paragraph 2 of Article 25, the words *“die in den Haushalten des Personals lebenden”* shall be replaced by *“die mit dem Personal im gemeinsamen Haushalt lebenden”*.

In the German text of sub-paragraph 3(a) of Article 22 of the Convention, which becomes sub-paragraph 3(a) of Article 25, the words *“in seinen Haushalten lebenden”* shall be replaced by *“mit ihm im gemeinsamen Haushalt lebenden”*.

In the German text of sub-paragraph 5(b) of Article 22 of the Convention, which becomes sub-paragraph 5(b) of Article 25, the words *“seine Kraftfahrzeuge”* shall be replaced by *“sein privates Kraftfahrzeug”*.

In the French text of paragraph 7 of Article 22, which becomes paragraph 7 of Article 25, the words *“Directeur Général”* shall be replaced by *“Directeur général”*; in the English text of the said paragraph 7 the words *“done by him in the exercise of his functions”* and *“driven by him”* shall be replaced by *“done by him/her in the exercise of his/her functions”* and *“driven by him/her”* and in the German text of the said paragraph 7 the words *“Vorrechten, Erleichterungen und Befreiungen”* shall be replaced by *“Vorrechten, Befreiungen und Erleichterungen”*.

In the German text of Article 23 of the Convention, which becomes Article 26, the word *“Tagungsort”* shall be replaced by *“Sitzungsort”*.

#### Article XXIV

Article 24 of the Convention shall become Article 27 and shall read as follows:

##### “Article 27

*By reason of its own social security scheme, the Organisation, the Director General and personnel of the Organisation, shall be exempt from all compulsory contributions to national social security bodies, without prejudice to arrangements between the Organisation and Contracting Parties existing at the entry into force of the Protocol opened for signature at Brussels in 1997.”*

#### Article XXV

Article 25 of the Convention shall become Article 28.

#### Article XXVI

Article 26 of the Convention shall become Article 29, paragraph 2 thereof shall be replaced by the following:

“2. *The property and assets of the Organisation may not be seized, nor may execution be levied upon them, except by a judicial decision. Such judicial decision shall not be made unless the Organisation has been given reasonable notice of the proceedings in question and has had an adequate opportunity to oppose the making of the decision. The installations of the Organisation shall not, however, be seized nor shall execution be levied upon them.*”

In the French text of paragraph 3 of Article 26 of the Convention, which becomes paragraph 3 of Article 29, the words “*dans leur territoire respectif*” shall be replaced by “*sur leur territoire respectif*” and the words “*Directeur Général*” by “*Directeur général*”.

#### Article XXVII

Article 27 of the Convention shall become Article 30.

In the German text of paragraph 1 of Article 27 of the Convention, which becomes paragraph 1 of Article 30, the words “*um die reibungslose Ausübung der Gerichtsbarkeit*” shall be replaced by “*um die ordnungsgemäe Rechtspflege*” and the words “*Vorrechte, Befreiungen, Ausnahmen oder Erleichterungen*” par “*Vorrechte, Immunitäten, Befreiungen oder Erleichterungen*” and in the English text of the said paragraph 1, the words “*in the present Convention*” shall be replaced by “*in this Convention*”.

#### Article XXVIII

Article 28 of the Convention shall become Article 31 and shall read as follows:

##### “Article 31

*In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), international agreements and national regulations relating to the admission to, flight over and security of, the territory of the Contracting Parties concerned shall be binding on the Agency, which shall take all necessary measures to ensure the application of such agreements and regulations.”*

#### Article XXIX

Article 29 of the Convention shall become Article 32 and shall read as follows:

##### “Article 32

*In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), the Agency shall give to those Contracting Parties which so request all necessary information relating to the aircraft of which it has cognisance in the exercise of its functions related to the airspace of the Contracting Party concerned, in order that the Contracting Parties concerned may be able to verify that international agreements and national regulations are being applied.”*

#### Article XXX

Article 30 of the Convention shall become Article 33 and shall read as follows:

“Article 33

*The Contracting Parties recognise that it is necessary for the Agency to achieve financial equilibrium and undertake to make available to it the appropriate financial resources, within the limits and conditions defined in the present Convention and the Statute of the Agency at Annex I.”*

Article XXXI

Article 31 of the Convention shall become Article 34 and shall read as follows:

“Article 34

- 1. Any dispute arising between two or more Contracting Parties or between one or more Contracting Parties and the Organisation relating to the interpretation, application or performance of this Convention, including its existence, validity or termination, which cannot be settled within a period of six months by direct negotiation or by any other means, shall be referred to arbitration of the Permanent Court of Arbitration in The Hague in accordance with the Optional Rules for Arbitration of the said Court.*
- 2. The number of arbitrators shall be three.*
- 3. The place of arbitration shall be The Hague. The International Bureau of the Permanent Court of Arbitration shall serve as Registrar, and shall provide such administrative services as the Permanent Court of Arbitration shall direct.*
- 4. The decisions of the Permanent Court of Arbitration shall be binding on the Parties to the dispute.”*

Article XXXII

Articles 32 and 33 of the Convention shall be revoked.

Article XXXIII

Article 34 of the Convention shall become Article 37 and shall read as follows:

“Article 37

*The Contracting Parties undertake to ensure to the Agency the application of current statutory provisions designed to safeguard the continuity of those general utilities required for the proper running of operational services.”*

Article XXXIV

Article 35 of the Convention shall become Article 38 and shall read as follows:

“Article 38

- 1. The Convention, as amended by the Protocol of 12 February 1981 and subsequently by the Protocol opened for signature at Brussels in 1997, shall be extended for an indefinite period.*

2. *Once the Convention as thus extended has been in force for twenty years, any Contracting Party may terminate application, as far as it is concerned, of the Convention by giving written notification to the Government of the Kingdom of Belgium, which shall inform the Governments of the other Contracting States of such notification.*

*The decision to withdraw shall take effect at the end of the year following the year in which notification of withdrawal is given, provided that the special agreement provided for in paragraph 3 below has been concluded by that date. Failing this, the decision to withdraw shall take effect on the date laid down in the said special agreement.*

3. *The rights and obligations, in particular of a financial nature, of the withdrawing Contracting Party shall be determined in a special agreement concluded between it and the Organisation.*

*This agreement shall require to be approved by unanimity of the votes cast by the General Assembly with the withdrawing Contracting Party taking no part in the vote.*

4. *The Organisation may be dissolved if the number of Contracting Parties is reduced to less than 50% of the Parties signatories to the aforesaid 1997 Protocol, subject to a decision of the General Assembly carried by unanimity of the votes cast.*
5. *If, in application of the above, the Organisation is dissolved, its legal personality and capacity, within the meaning of Article 4, shall continue to exist for the purposes of winding up the Organisation.”*

#### Article XXXV

A new Article 35 shall be inserted in the Convention and shall read as follows:

#### “Article 35

1. *Without prejudice to the application of the provisions of Annex IV for the enforced recovery of route charges, the courts of the Contracting Parties shall have sole jurisdiction to hear disputes arising between the Organisation, represented by the Director General, and any natural person or corporate body, in connection with the application of acts of the Organisation.*
2. *Without prejudice to the application of the provisions of Annex IV for the enforced recovery of route charges, proceedings shall be instituted in the Contracting Party:*
  - (a) *where the defendant has his/her residence or registered office;*
  - (b) *where the defendant has a place of business, if neither his/her residence nor his/her registered office is situated in the territory of a Contracting Party;*
  - (c) *in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) and (b) above, where the defendant has assets;*

(d) *in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) to (c) above, where EUROCONTROL has its headquarters.”*

Article XXXVI

Article 36 of the Convention shall become Article 39 and shall read as follows:

“Article 39

1. *The accession to the Convention, as amended by the Protocol of 12 February 1981 and by the Protocol opened for signature at Brussels in 1997, of any State not signatory to the latter Protocol shall be subject to the agreement of the General Assembly expressed by unanimity of the votes cast.*
2. *The President of the General Assembly shall notify the non-signatory State of the decision to accept the accession.*
3. *The instrument of accession shall be deposited with the Government of the Kingdom of Belgium which shall notify the Governments of the other signatory and acceding States.*
4. *Accession shall take effect from the first day of the second month following the deposit of the instrument of accession.”*

Article XXXVII

A new Article 36 shall be inserted in the Convention and shall read as follows:

“Article 36

1. *The amendments made in conformity with the conditions prescribed in this Convention, to the Statute of the Agency set out in Annex I, and to Articles 16 et seq. of the provisions relating to the common route charges system set out in Annex IV, shall be valid and have effect in the territory of the Contracting Parties.*
2. *The tax provisions set out in Annex III and Articles 1 to 15 of the provisions relating to the common route charges system set out in Annex IV shall not be subject to amendment by the General Assembly.*
3. *Each Contracting Party shall be bound by Annex IV for a period of five years from the date on which this Convention enters into force. The five-year period shall be extended automatically for further five-year periods. A Contracting Party which has notified the General Assembly in writing, not less than two years before the expiry of the five-year period, that it does not consent to the extension of the period, shall cease to be bound by Annex IV at the expiry of this five-year period.*
4. *The rights and obligations of the withdrawing Contracting Party may be determined if necessary in a special agreement concluded between it and the Organisation.*

*This agreement will require to be approved by unanimity of the votes cast by the General Assembly, with the withdrawing Contracting Party taking no part in the vote.*

5. *The Contracting Party which is no longer bound by Annex IV may at any time request the General Assembly in writing to be bound once more by Annex IV. The Contracting Party in question shall again be bound by Annex IV six months after the day on which the General Assembly accepts the said request by unanimity of the votes cast by the Contracting Parties participating in the common system. The Contracting Party concerned shall be bound by Annex IV for a period of five years from the day on which it became bound. This period shall be extended automatically subject to the same conditions as those set out in paragraph 3 above.*

#### Article XXXVIII

A new Article 40 shall be inserted in the Convention and shall read as follows:

#### “Article 40

1. *The accession to the Convention, as amended by the Protocol of 12 February 1981 and by the Protocol opened for signature at Brussels in 1997, shall be open to regional economic integration organisations on terms and conditions to be agreed between the Contracting Parties and those organisations, of which one or more signatory States are members, these terms and conditions to be contained in an additional Protocol to the Convention.*
2. *The instrument of accession shall be deposited with the Government of the Kingdom of Belgium which shall notify the other Parties.*
3. *Accession of a regional economic integration organisation shall take effect from the first day of the second month following the deposit of the instrument of accession, provided that the additional Protocol referred to in paragraph 1 above has entered into force.*

#### Article XXXIX

Annex I to the Convention, relating to the Statute of the Agency, shall be replaced by Annex I to the consolidated version of the text of the Convention set out at annex to the Protocol, opened for signature at Brussels in 1997.

#### Article XL

Annex II to the Convention, relating to the Flight Information Regions (Article 3 of the Convention), shall be replaced by Annex II to the consolidated version of the text of the Convention set out at annex to the Protocol, opened for signature at Brussels in 1997.

#### Article XLI

Annex III (Tax Provisions) to the consolidated version of the text of the Convention set out at annex to the Protocol, opened for signature at Brussels in 1997, shall be Annex III to the Convention.

Article XLII

Annex IV (Provisions relating to the common route charges system) to the consolidated version of the text of the Convention set out at annex to the Protocol opened for signature at Brussels in 1997, shall be Annex IV to the Convention.

ANNEX 2 to the FINAL ACT

PROTOCOL CONSOLIDATING THE EUROCONTROL  
INTERNATIONAL CONVENTION RELATING TO CO-  
OPERATION FOR THE SAFETY OF AIR NAVIGATION OF  
13 DECEMBER 1960, AS VARIOUSLY AMENDED

PROTOCOL CONSOLIDATING THE EUROCONTROL  
INTERNATIONAL CONVENTION RELATING TO CO-  
OPERATION FOR THE SAFETY OF AIR NAVIGATION OF  
13 DECEMBER 1960, AS VARIOUSLY AMENDED

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF AUSTRIA,

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF CROATIA,

THE KINGDOM OF DENMARK,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND,

THE HELLENIC REPUBLIC,

THE REPUBLIC OF HUNGARY,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF MALTA,

THE PRINCIPALITY OF MONACO,

THE KINGDOM OF NORWAY,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE KINGDOM OF SWEDEN,

THE SWISS CONFEDERATION,

THE CZECH REPUBLIC,

THE REPUBLIC OF TURKEY,

*Considering* that the growth in air traffic, the need to centralise the national policy measures of each European State at European level and technological developments in air traffic require a revision of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the amending Protocol of 12 February 1981, in order to provide for the establishment of a uniform European air traffic management system for the control of general air traffic in European airspace and at and around airports;

*Considering* that it is desirable to strengthen the co-operation between the States within the framework of EUROCONTROL with the aim of efficiently organising and safely managing the airspace for both civil and military users, based upon the fundamental principle that the airspace should, from the perspective of the airspace users, be considered as a seamless system, in particular through the establishment of common policies, objectives, plans, standards and specifications, including a common policy in respect of route charges, in close consultation with users of air traffic services and taking due account of defence interests;

*Considering* the need to ensure that all airspace users may enjoy maximum efficiency at the minimum cost consistent with the required level of safety and the need to minimise the adverse environmental impact by means of harmonisation and integration of the services responsible for air traffic management in Europe;

*Considering* that the Contracting Parties acknowledge the need to harmonise and integrate their air traffic management systems in order to create a uniform European air traffic management system;

*Considering* the importance of local air traffic management initiatives, particularly at airport level;

*Considering* that the operation of a common route charges system, with due regard to the guidelines recommended by the International Civil Aviation Organization, in particular concerning equity and transparency, supports the financial bases of the uniform European air traffic management system and facilitates consultation with users;

*Considering* that EUROCONTROL constitutes for the Contracting Parties the body for co-operation in the field of air traffic management;

*Desiring* to extend and to strengthen co-operation with the European or international institutions which have an interest in the execution of the tasks entrusted to EUROCONTROL in order to increase its efficiency;

*Considering* therefore that it is expedient to create a European air traffic management system operating beyond the territorial limits of the individual Contracting Parties throughout the airspace covered by the Convention;

*Considering* that it is important for the Contracting Parties to provide the Organisation with the legal means necessary to fulfil its tasks, mainly in the area of route charge recovery and air traffic flow management;

*Recognising* that the safe and efficient realisation of the Organisation's tasks will benefit from the separation where practicable of its regulatory and service provision functions;

*Desiring* to encourage other European States to become members of this international organisation.

Have agreed as follows:

#### **Article I**

The EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Protocol of 6 July 1970, in turn amended by the Protocol of 21 November 1978, all amended by the Protocol of 12 February 1981, hereinafter called "the Convention", is hereby replaced by the consolidated version of the Convention annexed hereto, which incorporates the text of the Convention remaining in force together with the amendments made by the Diplomatic Conference held on 27 June 1997.

#### **Article II**

1. This Protocol shall be opened for signature by all States Parties to the Convention on 27 June 1997.

It shall also be open, prior to the date of its entry into force, for signature by any other State invited to the Diplomatic Conference at which it was adopted and any other State authorised to sign it by unanimous vote of the Permanent Commission.

2. This Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Kingdom of Belgium.
3. This Protocol shall enter into force on 1 January 2000 provided all the States Parties to the Convention have ratified, accepted or approved it by that date. Where this condition is not met, it shall enter into force either on 1 July or 1 January following the date of deposit of the last instrument of ratification, acceptance or approval, according to whether the said deposit is effected in the first or the second half of the year.
4. In the case of any State signatory to this Protocol which is not a Party to the Convention and whose instrument of ratification, acceptance or approval is deposited after the date of this Protocol's entry into force, the latter shall enter into force in respect of that State on the first day of the second month following the deposit of the relevant instrument of ratification, acceptance or approval.
5. Any State signatory to this Protocol which is not a Party to the Convention shall become a Party to the Convention by virtue of ratification, acceptance or approval of this Protocol.

6. The Government of the Kingdom of Belgium shall notify the Governments of the other States Parties to the Convention and any other States signatories to this Protocol of each signature, each deposit of an instrument of ratification, acceptance or approval and each date of entry into force of this Protocol pursuant to paragraphs 3 and 4 above.

### **Article III**

With effect from the entry into force of this Protocol, the Protocol of 6 July 1970, as amended by the Protocol of 21 November 1978, and by Article XXXVIII of the Protocol of 12 February 1981, shall be replaced by Annex III (entitled "Tax Provisions") to the consolidated version of the text of the Convention annexed hereto.

### **Article IV**

With effect from the entry into force of this Protocol, the Multilateral Agreement relating to Route Charges of 12 February 1981 shall be terminated and replaced by the relevant provisions of the consolidated text of the Convention annexed hereto, including its Annex IV (entitled "Provisions relating to the common route charges system").

### **Article V**

The Government of the Kingdom of Belgium shall have this Protocol registered with the Secretary-General of the United Nations pursuant to Article 102 of the Charter of the United Nations and with the Council of the International Civil Aviation Organisation pursuant to Article 83 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having presented their Full Powers, found to be in good and due form, have signed this Protocol.

DONE at Brussels, this 27th day of June 1997, in the German, English, Bulgarian, Croatian, Danish, Spanish, French, Greek, Hungarian, Italian, Dutch, Norwegian, Portuguese, Romanian, Slovak, Slovenian, Swedish, Czech and Turkish languages, in a single original, which shall remain deposited in the archives of the Government of the Kingdom of Belgium which shall transmit certified copies to the Governments of the other signatory States. In the case of any inconsistency, the text in the French language shall prevail.

For the Federal Republic of Germany,

For the Republic of Austria,

For the Kingdom of Belgium,

For the Republic of Bulgaria,

For the Republic of Cyprus,

For the Republic of Croatia,

For the Kingdom of Denmark,

For the Kingdom of Spain,

For the French Republic,

For the United Kingdom of Great Britain and Northern Ireland,

For the Hellenic Republic,

For the Republic of Hungary,

For Ireland,

For the Italian Republic,

For the Grand Duchy of Luxembourg,

For the Republic of Malta,

For the Principality of Monaco,

For the Kingdom of Norway,

For the Kingdom of the Netherlands,

For the Portuguese Republic,

For Romania,

For the Slovak Republic,

For the Republic of Slovenia,

For the Kingdom of Sweden,

For the Swiss Confederation,

For the Czech Republic,

For the Republic of Turkey,

CONSOLIDATED VERSION WHICH INCORPORATES THE  
TEXTS REMAINING IN FORCE OF THE EXISTING CON-  
VENTION AND THE AMENDMENTS MADE BY THE DIPLO-  
MATIC CONFERENCE OF 27 JUNE 1997

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CONSOLIDATED TEXT OF THE ENACTING TERMS OF  
THE CONVENTION

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CONSOLIDATED VERSION WHICH INCORPORATES THE  
TEXTS REMAINING IN FORCE OF THE EXISTING CON-  
VENTION AND

THE AMENDMENTS MADE BY THE DIPLOMATIC  
CONFERENCE

OF 27 JUNE 1997

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CONSOLIDATED TEXT OF THE ENACTING TERMS OF  
THE CONVENTION

Article 1

1. In order to achieve harmonisation and integration with the aim of establishing a uniform European air traffic management system, the Contracting Parties agree to strengthen their co-operation and to develop their joint activities in the field of air navigation, making due allowance for defence needs and providing maximum freedom for all airspace users consistent with the required level of safety in the provision of cost-effective air traffic services, and taking into account the need to minimise, where this is feasible, *inter alia*, in operational, technical and economic terms, any adverse environmental impact.

The pursuit of these objectives shall not prejudice the principle that every State has complete and exclusive sovereignty over the airspace above its territory nor the capacity of every State to exercise its prerogatives with regard to security and defence in its national airspace.

To this end, they agree

- (a) to determine a European policy in the air traffic management field, involving the definition of strategies and programmes whose objective is to develop the capacity needed to meet the requirements of all civil and military users in a cost-effective manner while maintaining the required level of safety;
- (b) to commit themselves to the establishment of specific targets regarding the efficiency and effectiveness of air traffic management operations in the Flight Information Regions listed in Annex II to this Convention in which States, pursuant to the relevant provisions of the Convention on International Civil Aviation, have agreed to provide air traffic services without prejudice to the principles of free movement in airspace not subject to the sovereignty of the States which result from conventions, international agreements, and the rules or principles of customary public international law;
- (c) to introduce an air traffic management performance review and target setting system;
- (d) to implement a common convergence and implementation plan for air navigation services and facilities in Europe;
- (e) to adopt and apply common standards and specifications;
- (f) to harmonise air traffic services regulations;
- (g) to develop the available capacity to meet the air traffic demand and to ensure its most effective utilisation through the joint establishment, operation and development of a common European air traffic flow management system, in the framework of the introduction of a uniform European air traffic management system;

- (h) to encourage common procurement of air traffic systems and facilities;
  - (i) to implement a common policy for the establishment and calculation of charges levied on users of en route air navigation facilities and services, hereinafter called “route charges”;
  - (j) to implement a mechanism, separate from service provision, for the multilateral development and harmonisation of a safety regulatory regime in the field of air traffic management within a total aviation safety system approach;
  - (k) to participate in the design, the implementation and the monitoring of a global navigation satellite system;
  - (l) to identify new possibilities for common actions in the field of design, implementation, monitoring or operation of systems and services in air navigation;
  - (m) in the context of a “gate-to-gate” concept, to develop an overall policy and an appropriate, efficient and effective process for the strategic design and planning of routes and airspace.
2. For this purpose they hereby establish a “European Organisation for the Safety of Air Navigation (EUROCONTROL)”, hereinafter called “the Organisation”, which shall act in co-operation with the national civil and military authorities and the user organisations. The Organisation shall comprise three organs:
- (a) a General Assembly, which shall constitute the organ responsible for the formulation and approval of the Organisation’s general policy, including:
    - (i) the common policy for route charges and the Organisation’s other charges activities;
    - (ii) the performance review and assessment functions of the Organisation;
    - (iii) the setting of objectives for the Organisation, including those of standardisation, planning, performance and safety regulation;
    - (iv) the technical and financial selection of major framework programmes for co-operation;
    - (v) external relations with States and organisations and applications for accession to this Convention;
  - (b) a Council, which shall constitute the organ tasked with implementing the General Assembly’s decisions and, subject to the powers conferred upon the latter, ruling on all measures which are addressed to and binding on the Contracting Parties, and supervising the Agency’s work;
  - (c) an Agency, whose Statute is contained in Annex I to this Convention, which shall be the organ entrusted

to undertake the Organisation's tasks, in accordance with the provisions of the following articles of this Convention and the tasks assigned to it by the General Assembly or the Council, to initiate relevant proposals and to deploy the technical, financial and staff resources to achieve the objectives laid down.

3. The headquarters of the Organisation shall be in Brussels.

#### Article 2

1. The Organisation shall undertake the following tasks:
  - (a) to develop and endorse detailed plans for the harmonisation and integration of the air traffic services and systems of the Contracting Parties, in particular the ground and airborne air navigation systems, with a view to the establishment of a uniform European air traffic management system;
  - (b) to coordinate the implementation plans of the Contracting Parties so as to secure convergence towards a uniform European air traffic management system;
  - (c) to examine and coordinate on behalf of the Contracting Parties matters in the field of air navigation studied by the International Civil Aviation Organization (ICAO) and other international organisations concerned with civil aviation and to coordinate and submit amendments or proposals to these bodies;
  - (d) to define, design, develop, validate and organise the implementation of a uniform European air traffic management system;
  - (e) to develop and operate a common European air traffic flow management system at a common international centre in the framework of (d) above;
  - (f) to develop, adopt, and keep under review common standards, specifications and practices for air traffic management systems and services;
  - (g) to develop and endorse procedures towards a strategy for the common procurement of air traffic systems and facilities;
  - (h) to coordinate the Contracting Parties' research and development programmes relating to new techniques in the field of air navigation, to collect and distribute their results and to promote and conduct common studies, tests and applied research as well as technical developments in this field;
  - (i) establish an independent performance review system that will address all aspects of air traffic management, including policy and planning, safety management at and around airports and in the airspace, as well as financial and economic aspects of services rendered, and set targets that will address all these aspects;

- (j) to study and promote measures for improving cost-effectiveness and efficiency in the field of air navigation;
  - (k) to develop and endorse common criteria, procedures and methods to ensure the highest efficiency and quality of air traffic management systems and air traffic services;
  - (l) to develop proposals for the harmonisation of European air traffic services regulations;
  - (m) to support the improvement of efficiency and flexibility in the use of airspace between civil and military users;
  - (n) to develop and endorse coordinated or common policies to improve air traffic management at and around airports;
  - (o) to develop and endorse common criteria for the selection, and common policies for the training, licensing, and proficiency checking of air traffic services staff;
  - (p) to develop, establish and operate the future common European system elements entrusted to it by the Contracting Parties;
  - (q) to establish, bill and collect the route charges on behalf of the Contracting Parties participating in the common route charges system as provided for in Annex IV;
  - (r) to establish and implement a mechanism for the multilateral development and harmonisation of safety regulation in the air traffic management field;
  - (s) to perform any other task relating to the principles and objectives of this Convention.
2. At the request of one or more Contracting Parties and on the basis of a special agreement or agreements between the Organisation and the Contracting Parties concerned, the Organisation may:
- (a) assist such Contracting Parties in the planning, specification and setting up of air traffic systems and services;
  - (b) provide and operate, wholly or in part, air traffic facilities and services on behalf of such Contracting Parties;
  - (c) assist such Contracting Parties in the establishment, billing and collection of charges which are levied by them on users of air navigation services and which are not covered by Annex IV to this Convention.
3. The Organisation may:
- (a) conclude special agreements with non-Contracting Parties interested in participating in the performance of the tasks provided for in Article 2.1;

- (b) at the request of non-Contracting Parties or other international organisations, perform on their behalf any other tasks pursuant to this Article, on the basis of special agreements between the Organisation and the Parties concerned.
4. The Organisation shall, as far as is practicable, ensure that its service provision functions, in particular those provided for in Articles 2.1 (e), 2.1 (g), 2.1 (p), 2.1 (q), 2.2 and 2.3 (b), are exercised independently of its regulatory functions.
5. In order to facilitate the execution of its tasks, the Organisation may, by decision of the General Assembly, create undertakings governed by specific articles of association governed either by public international law or by the national law of a Contracting Party, or acquire majority shareholdings in such undertakings.

### Article 3

1. This Convention shall apply to en route air navigation services and related approach and aerodrome services for air traffic in the Flight Information Regions listed in Annex II.
2. (a) Any amendment which a Contracting Party wishes to make to the list of its Flight Information Regions in Annex II shall be decided upon by the General Assembly by unanimity of the votes cast if it would result in a change in the overall limits of the airspace covered by this Convention.
- (b) Any amendment which does not result in such a change shall nevertheless be notified to the Organisation by the Contracting Party concerned.
3. For the purposes of this Convention the expression “air traffic” shall comprise civil aircraft and those military, customs and police aircraft which conform to the procedures of the International Civil Aviation Organization.

On the basis of a special agreement, as provided for in Article 2.2(b), a Contracting Party may request that the expression “air traffic” shall apply to other air traffic operating within its territory.

### Article 4

The Organisation shall have legal personality. In the territory of the Contracting Parties it shall have the fullest legal capacity to which corporate bodies are entitled under national law; it shall *inter alia* have the right to acquire or transfer movable or immovable property and to go to law. Except as otherwise provided in this Convention or the Statute at Annex I, it shall be represented by the Agency, which shall act in its name. The Agency shall administer the property of the Organisation.

### Article 5

1. The General Assembly shall be composed of representatives of the Contracting Parties at Ministerial level. Each

Contracting Party may appoint several delegates in order, in particular, to allow the interests of both civil aviation and national defence to be represented, but shall have only a single voting right.

2. The Council shall be composed of representatives of the Contracting Parties at the level of the Directors General for Civil Aviation. Each Contracting Party may appoint several delegates in order, in particular, to allow the interests of both civil aviation and national defence to be represented, but shall have only a single voting right.
3. On matters relating to the common route charges system, the General Assembly and the Council shall be made up of representatives of the Contracting Parties participating in the common route charges system under the conditions stipulated in Annex IV.
4. The representatives of international organisations which can contribute to the work of the Organisation shall, where appropriate, be invited by the General Assembly, or the Council, to participate as observers, in bodies of the Organisation.

#### Article 6

1. The General Assembly shall take decisions with regard to the Contracting Parties, the Council and the Agency, in particular in the cases referred to in Article 1.2(a).

In addition, the General Assembly shall:

- (a) appoint the Director General of the Agency, on the Council's recommendation;
  - (b) authorise recourse on behalf of the Organisation to the Permanent Court of Arbitration of The Hague in the cases referred to in Article 34;
  - (c) establish the principles applied for the operation of the common European air traffic flow management system provided for in Article 2.1(e);
  - (d) approve amendments to Annex I in conformity with the voting conditions provided for in Article 8.1;
  - (e) approve amendments to Annexes II and IV in conformity with the voting conditions provided for in Article 8.3;
  - (f) periodically review the tasks of the Organisation.
2. To formulate the common policy for route charges, the General Assembly shall, *inter alia*:
    - (a) establish the principles governing the assessment of the costs chargeable by the Contracting Parties and the Organisation to the users in respect of the en-route air navigation facilities and services provided to them;
    - (b) determine the formula to be applied in calculating route charges;

- (c) determine the principles governing exemption from the route charges and may further decide that for certain categories of flights thus exempted from the payment of route charges governed by Annex IV, the costs incurred in respect of en-route air navigation facilities and services may be recovered directly by the Contracting Parties;
  - (d) approve reports by the Council relating to route charges.
3. The General Assembly may:
- (a) refer to the Council for examination any matter falling within its competence;
  - (b) delegate to the Council, where necessary, the power to take decisions in the matters falling within its general competence, referred to in Article 1.2(a);
  - (c) establish other subsidiary bodies as it may consider to be necessary.

#### Article 7

1. The Council, pursuant to the powers conferred on it by this Convention, may take decisions with regard to the Contracting Parties, in the tasks referred to in Article 2.1.
2. The Council, pursuant to its supervisory powers as conferred on it in regard to the Agency by this Convention:
  - (a) shall approve, after having consulted representative organisations of airspace users recognised by the Council, the Agency's five-year and annual work programmes submitted to it by the Agency for the accomplishment of the tasks referred to in Article 2, together with the five-year financial plan and the budget, including the financial obligations, the Agency's activity report and the reports submitted pursuant to Articles 2.2 (c), 10.3 and 11.1 of the Statute of the Agency;
  - (b) shall approve the principles governing the general structure of the Agency;
  - (c) shall supervise the activities of the Agency in the field of air navigation charges;
  - (d) shall determine, after having consulted the representative organisations of airspace users and airports recognised by the Council, the general conditions for the operation of the common European air traffic flow management system provided for in Article 2.1 (e), taking due account of the prerogatives exercised by the States in regard to management of their airspace. These general conditions shall specify, *inter alia*, the rules applicable as well as the procedures for recording non-compliance with these rules;
  - (e) shall issue directives to the Agency on the basis of regular reports from the latter or whenever it deems it to be necessary for the accomplishment of the

- tasks assigned to the Agency, and shall approve arrangements for co-operation between the Agency and national organisations concerned to enable the Agency to initiate the appropriate proposals;
- (f) shall appoint, on a proposal by the Director General, the firm of consultant auditors to assist the Audit Board in the examination of the accounts of all receipts and expenditure;
  - (g) may require that the Agency's services be the subject of administrative and technical inspections;
  - (h) shall give the Director General discharge in respect of his/her administration of the budget;
  - (i) shall approve the appointment by the Director General of the Directors of the Agency;
  - (j) shall approve the Statute of the Director General, the Staff Regulations, the Financial Regulations and the Contract Regulations;
  - (k) may authorise the opening by the Agency of negotiations related to the special agreements referred to in Article 2, adopt the agreements negotiated before submitting them for approval by the General Assembly or conclude such agreements where the Council has been delegated powers pursuant to the provisions of Article 13.3;
  - (l) shall approve a Regulation on data protection;
  - (m) in the performance of the tasks provided for in Article 2.1(f), shall determine the rules and procedures applicable to standards, specifications and practices for air traffic management systems and services.
3. The Council shall establish a Performance Review Commission and a Safety Regulation Commission. These Commissions will initiate relevant proposals to the Council and receive administrative support and assistance from the Agency services which have the necessary degree of independence to exercise their functions.
  4. The Council shall establish a Civil/Military Interface Standing Committee.
  5. The Council shall establish an Audit Board to which it may delegate duties and, under specific terms of reference, delegate powers.
  6. The Council may be assisted by other committees in other fields of activity of the Organisation.
  7. The Council may delegate duties and, under specific terms of reference, delegate powers to the Civil/Military Interface Standing Committee and any Committee created after the entry into force of this Convention. Such delegations of duties or powers shall not prevent the Council from being able to raise matters at any time as part of its task of general supervision.

### Article 8

1. Decisions taken with regard to the Contracting Parties by the General Assembly, in particular on the basis of Article 1.2(a) and the first subparagraph of Article 6.1, or by the Council, in particular on the basis of Article 1.2(b) and Article 7.1, shall be taken by a majority of the votes cast, on condition that the said majority represents at least three-quarters of the weighted votes cast, according to the weighting provided for in Article 11, and at least three-quarters of the Contracting Parties casting a vote.

This rule shall also apply to decisions taken in the cases referred to in Articles 2.1(i), (p), (r) and (s), 2.5, 6.1(a), (c) and (d), 6.2, 6.3(b), 7.2(d), (j) and (k), 7.3, 7.6 and 7.7, 12, 13.2 and 13.3.

This rule shall also apply to decisions taken in pursuance of Article 3 of Annex IV. These decisions, when they refer to the unit rates, tariffs and conditions of application of the Route Charges System referred to in Article 3(c) of Annex IV, shall not apply in regard to a Contracting Party if that Contracting Party has voted against and so decides. In this case, this Contracting Party shall submit an explanatory statement of its reasons and cannot put in question the common policy as defined in Article 6.2.

2. Decisions taken with regard to the Agency by the General Assembly, in particular on the basis of Article 1.2(a) and (c) and the first subparagraph of Article 6.1, or by the Council, in particular on the basis of Article 1.2(b) and (c), shall be taken by a majority of the votes cast, on condition that the majority represents more than half the weighted votes cast, according to the weighting provided for in Article 11, and more than half the Contracting Parties casting a vote. In matters of particular importance, and where at least one-third of the Contracting Parties entitled to vote so request, the majority must represent at least three-quarters of the weighted votes cast instead of more than half.

This rule shall also apply to decisions taken in the cases referred to in Articles 6.1(b), 6.3(a), 7.2(a) to (c), (e) to (i), (l) and (m), 9.2 and 10.2.

3. However, decisions shall be taken by unanimity of the votes cast with regard to applications to accede to the Organisation as referred to in Article 39, any amendments made to Annex II, except in the case referred to in Article 3.2(b), and to Annex IV, and the conditions governing withdrawal or accession referred to in Articles 36.4, 36.5, 38.3 and 38.4.
4. Decisions taken by the General Assembly and the Council shall be binding on the Contracting Parties and the Agency, subject to the provisions of Article 9.

### Article 9

1. Where a Contracting Party notifies the General Assembly or the Council that overriding national considerations

pertaining to national defence and security interests prevent it from acting on a decision adopted by a majority of the votes cast as provided for in Article 8.1 above, it may derogate from that decision subject to communication to the General Assembly or the Council of an explanation of the reasons and a statement as to whether:

- (a) the derogation refers to a matter on which there is no objection to the decision taking effect for the other Contracting Parties, it being understood that the Contracting Party concerned shall not apply the decision or shall apply it only in part;
  - (b) the derogation refers to a question of such importance to national defence and security interests that the decision must not be implemented at all until a second decision has been taken pursuant to the arrangements described in sub-paragraph 2(b) below.
2. (a) In the event of the application of the circumstances of sub-paragraph 1(a) above, the Director General shall provide the General Assembly or the Council with reports at least annually to show progress being made towards a situation in which no Contracting Party derogates.
  - (b) In the event of the application of sub-paragraph 1(b) above, implementation of the decision shall be suspended and, within a period to be determined, be submitted to the General Assembly for a second decision, even if the first was a Council decision. If, as a result of this re-examination, the second decision confirms the first, a Contracting Party may derogate therefrom under the conditions laid down in sub-paragraph 1(a) above. The General Assembly will review the first decision within a period not exceeding one year.
3. In the event of a state of war or conflict, the provisions of this Convention shall not affect the freedom of action of any of the Contracting Parties affected. The same principle shall apply in the event of a state of crisis or national emergency. In particular, each Contracting Party may temporarily resume responsibility for all or part of the air traffic services in the airspace under its control on the grounds of overriding national considerations, especially in the area of defence. The European air traffic management system architecture should allow the effective resumption of such services in accordance with the Contracting Parties' requirements.

#### Article 10

1. The annual contribution of each Contracting Party to the budget shall be determined, for each financial year, in accordance with the following formula:
  - (a) an initial 30% of the contribution shall be calculated in proportion to the value of the Gross National Product of the Contracting Party, as defined in paragraph 2 below;
  - (b) a further 70% of the contribution shall be calculated

in proportion to the value of the route facility cost base of the Contracting Party, as defined in paragraph 3 below.

2. The Gross National Product to be used for the calculations shall be obtained from the statistics compiled by the Organisation for Economic Cooperation and Development—or failing that by any other body affording equivalent guarantees and designated under a decision of the Council—by calculating the arithmetical mean for the last three years for which those statistics are available. The value of the Gross National Product shall be that which is calculated on the basis of factor cost and current prices expressed in the appropriate European Unit of Account.
3. The route facility cost base to be used for the calculations shall be the cost base established in respect of the last year but one preceding the financial year concerned.

#### Article 11

1. The weighting referred to in Article 8 shall be determined according to the following table:

Annual Contribution of a Contracting Party as a percentage of the total annual contributions of all the Contracting Parties	Number of votes
Less than 1% .....	1
From 1 to less than 2% .....	2
From 2 to less than 3% .....	3
From 3 to less than 4½% .....	4
From 4½ to less than 6% .....	5
From 6 to less than 7½% .....	6
From 7½ to less than 9% .....	7
From 9 to less than 11% .....	8
From 11 to less than 13% .....	9
From 13 to less than 15% .....	10
From 15 to less than 18% .....	11
From 18 to less than 21% .....	12
From 21 to less than 24% .....	13
From 24 to less than 27% .....	14
From 27 to less than 30% .....	15
30% .....	16

2. The number of votes shall be initially established with effect from the date of entry into force of the Protocol opened for signature at Brussels in 1997 by reference to the above table and in accordance with the rule in Article 10 above for determining the annual contributions of the Contracting Parties to the Organisation's budget.
3. In the event of the accession of a State, the numbers of votes of the Contracting Parties shall be re-established in accordance with the same procedure.

4. The numbers of votes shall be re-established each year in accordance with the foregoing provisions.

#### Article 12

The General Assembly and the Council shall establish their rules of procedure, including rules governing the election of a President and Vice-President, and the rules of application of the voting procedures and the quorum.

#### Article 13

1. The Organisation shall maintain with the appropriate States and other international organisations the necessary relations for the realisation of its aims.
2. The General Assembly shall, without prejudice to the provisions of Article 7.2(k), of paragraph 3 of this article and of Article 15, be alone empowered to conclude on behalf of the Organisation the special agreements which are necessary for the performance of the tasks provided for in Article 2.
3. The General Assembly may, on a proposal from the Council, delegate to the latter the decision to conclude the special agreements which are necessary for the performance of the tasks provided for in Article 2.

#### Article 14

The special agreements referred to in Article 2 shall stipulate the respective tasks, rights and obligations of the Parties to the agreements, together with the financial arrangements, and shall establish the measures to be taken. Such agreements may be negotiated by the Agency in accordance with the provisions of Article 7.2(k).

#### Article 15

Within the scope of the directives given by the Council, those relations which are essential for the co-ordination of air traffic and for the operation of the services of the Agency may be established by the Agency with the appropriate technical services, public or private, of the Contracting Parties, of non-Contracting Parties or of international organisations. For that purpose, contracts of a purely administrative, technical or commercial nature, in so far as they are required for the operation of the Agency, may be entered into by the Agency, in the name of the Organisation, on condition that the Agency so informs the Council.

#### Article 16

1. The character of public interest shall, where necessary, be recognised, in accordance with national law and with the consequences which result from the provisions of that law relating to expropriation in the public interest, as regards the acquisition of immovable property necessary for the siting of the Organisation's installations, subject to the agreement of the Government concerned. The procedure of expropriation for reasons of public interest may be set

in motion by the competent authorities of the State concerned, in accordance with its national law, for the purpose of acquiring such property failing amicable agreement.

2. In the territory of the Contracting Parties where the procedure referred to in the preceding paragraph is not in existence, the Organisation may have the benefit of those procedures for compulsory purchase which can be used for the benefit of civil aviation and telecommunications.
3. The Contracting Parties recognise the right of the Organisation to benefit, in respect of any installations and services established on its behalf in their respective territories, from the application of national law as to those restrictions on the rights of owners of immovable property which may exist in the public interest for the benefit of national services for the same purpose and in particular as to easements in the public interest.
4. The Organisation shall bear the expenses consequent upon the application of the provisions of this Article, including the compensation payable in accordance with the law of the State in the territory of which the property is situated.

#### Article 17

In the performance of the tasks provided for in Article 2.2(b), the Agency shall apply the regulations in force in the territories of the Contracting Parties and in the airspace in respect of which the provision of air traffic services is entrusted to them under international agreements to which they are Parties.

#### Article 18

In the performance of the tasks provided for in Article 2.2(b), the Agency shall, within the limits of the powers conferred on the air traffic services, give all the necessary instructions to aircraft commanders. The aircraft commanders shall be bound to comply with those instructions, except in the cases of force majeure provided for in the regulations referred to in the preceding article.

#### Article 19

1. In the performance of the tasks provided for in Article 2.1(e), the Organisation shall determine, in accordance with the general conditions provided for in Article 7.2(d), the necessary regulatory measures, and shall communicate them to aircraft operators and to the appropriate air traffic services. The Contracting Parties shall ensure that aircraft operators, aircraft commanders and the appropriate air traffic services comply therewith, unless prevented by compelling reasons of safety.
2. Compliance by a Contracting Party's air traffic services with the general conditions and the regulatory measures referred to in paragraph 1 above shall be the sole responsibility of the said Contracting Party.
3. In the event of non-compliance by an aircraft operator or an aircraft commander with the general conditions or the

regulatory measures referred to in paragraph 1 above, proceedings may be instituted against the offender at the Organisation's request:

- (a) by the Contracting Party where non-compliance was recorded, in its own territory;
  - (b) by the Organisation in accordance with the grounds of jurisdiction set out in Article 35, if the Contracting Party, where the proceedings are to be instituted, agrees.
4. The Contracting Parties shall incorporate into their national legislation provisions which ensure the observance of the general conditions provided for in Article 7.2(d).

#### Article 20

In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), infringements of the air navigation regulations committed in the airspace in which the Agency performs these tasks shall be recorded in reports by officers specifically authorised by the Agency for that purpose, without prejudice to the right under national law of officers of the Contracting Parties to report infringements of the same nature. The reports referred to above shall have the same effect in national courts as those drawn up by national officers qualified to report infringements of the same nature.

#### Article 21

1. The circulation of publications and other information material sent by or to the Organisation in connection with its official activities shall not be restricted in any way.
2. For its official communications and the transfer of all its documents, the Organisation shall enjoy treatment no less favourable than that accorded by each Contracting Party to comparable international organisations.

#### Article 22

1. The Organisation shall be exonerated in the territories of the Contracting Parties from all duties, taxes and charges in respect of its creation, dissolution or liquidation.
2. It shall be exonerated from any duties, taxes and charges entailed by the acquisition of the immovable property required for the accomplishment of its task.
3. It shall be exonerated from all direct taxes applicable to it, as well as its property, assets and income.
4. It shall be exonerated from any indirect fiscal charges consequential on the issue of loans and incident upon the Organisation.
5. It shall be exonerated from any taxation of an exceptional or discriminating nature.
6. The exonerations provided for in this article shall not

apply to taxes and charges collected as payment for general utilities.

#### Article 23

1. The Organisation shall be exonerated from all customs duties and taxes or charges of equivalent effect, other than charges in respect of services rendered, and shall be exempt from any import or export prohibition or restriction in respect of materials, equipment, supplies and other articles imported for the official use of the Organisation and destined for the buildings and installations of the Organisation or for its functioning.
2. The goods so imported may not be sold, loaned or transferred, either without payment or against payment, in the territory of the Contracting Party into which they have been introduced, except under the conditions fixed by the Government of the Contracting Party concerned.
3. Any control measures deemed to be expedient may be taken to ensure that the materials, equipment, supplies and other articles referred to in paragraph 1 and imported for consignment to the Organisation have been effectively delivered to that Organisation and are effectively used for its official buildings and installations or for its functioning.
4. The Organisation shall be exonerated from all customs duties and exempt from any import or export prohibition or restriction in respect of the publications falling within the scope of Article 13 of the Statute annexed hereto.

#### Article 24

1. The Organisation may hold any currency and have accounts in any currency in so far as is necessary for the execution of the transactions required for its purpose.
2. The Contracting Parties undertake to give the Organisation the necessary authorisations for all the transfers of funds, in accordance with the conditions prescribed under national regulations and international agreements as applicable, entailed by the establishment and activity of the Organisation, including the issue and service of loans when the issue of those loans has been authorised by the Government of the Contracting Party concerned.

#### Article 25

1. The Agency may call upon the services of qualified persons who are nationals of the Contracting Parties.
2. The staff of the Organisation and members of their families forming part of their households, shall enjoy the exemption from measures restricting immigration and governing aliens' registration generally accorded to staff members of comparable international organisations.
3. (a) The Contracting Parties, in time of international crisis, shall accord to the staff of the Organisation, and the members of their families forming part of

their households, the same repatriation facilities as the staff of other international organisations.

- (b) The provisions of (a) above shall not affect the staff's obligations to the Organisation.
4. No exception may be made to the provisions of paragraphs 1 and 2 of this Article except for reasons of public policy, public safety or public health.
5. The staff of the Organisation:
- (a) shall be granted exemption from customs duties and charges, other than those in respect of services rendered, in the case of the importation of their personal effects, movable property and other household effects which are not new, which they bring from abroad on first taking up residence in the territory in question, and in the case of the re-exportation of those same effects and movable property, when they relinquish their duties;
- (b) may, on taking up their duties in the territory of any one of the Contracting Parties, import their personal motor car temporarily with exemption from duty, and subsequently, but not later than on termination of their period of service, re-export that vehicle with exemption from duty, subject, however, in either event, to any conditions deemed to be necessary in each individual case by the Government of the Contracting Party concerned;
- (c) shall enjoy inviolability for all their official papers and documents.
6. The Contracting Parties shall not be obliged to grant to their own nationals the facilities provided for in paragraph 5 (a) and (b) above.
7. In addition to the privileges, exemptions and facilities granted to the staff of the Organisation, the Director General of the Agency shall enjoy immunity from jurisdiction in respect of acts, including words spoken and written, done by him/her in the exercise of his/her functions; this immunity shall not apply in the case of a motor traffic offence or in the case of damage caused by a motor vehicle belonging to or driven by him/her.
8. The Governments concerned shall take all the necessary measures to ensure the unrestricted transfer of net salaries.

#### Article 26

Representatives of the Contracting Parties shall, while exercising their functions and in the course of their journeys to and from the place of meeting, enjoy inviolability for all their official papers and documents.

Article 27

By reason of its own social security scheme, the Organisation, the Director General and personnel of the Organisation, shall be exempt from all compulsory contributions to national social security bodies, without prejudice to arrangements between the Organisation and Contracting Parties existing at the entry into force of the Protocol opened for signature at Brussels in 1997.

Article 28

1. The contractual liability of the Organisation shall be governed by the law applicable to the contract concerned.
2. With regard to non-contractual liability, the Organisation shall make reparation for damage caused by the negligence of its organs, or of its servants in the scope of their employment, in so far as that damage can be attributed to them. The foregoing provision shall not preclude the right to other compensation under the national law of the Contracting Parties.

Article 29

1. (a) The installations of the Organisation shall be inviolable. The property and assets of the Organisation shall be exempt from any measure of requisition, expropriation or confiscation.  
  
(b) The archives of the Organisation and all official papers and documents belonging to it shall be inviolable, wherever located.
2. The property and assets of the Organisation may not be seized, nor may execution be levied upon them, except by a judicial decision. Such judicial decision shall not be made unless the Organisation has been given reasonable notice of the proceedings in question and has had an adequate opportunity to oppose the making of the decision. The installations of the Organisation shall not, however, be seized nor shall execution be levied upon them.
3. Nevertheless, in order to enable judicial inquiries to be carried out and to ensure the execution of judicial decisions in their respective territories, the competent authorities of the State in which the Organisation has its headquarters and of other States in which installations and archives of the Organisation are located shall, after having informed the Director General of the Agency, have access to such installations and archives.

Article 30

1. The Organisation shall collaborate at all times with the competent authorities of the Contracting Parties in order to facilitate the good administration of justice, to ensure the observance of police regulations and to prevent any abuse to which the privileges, immunities, exemptions or facilities specified in this Convention could give rise.
2. The Organisation shall facilitate, as far as possible, the execution of public works inside or in the vicinity of any

immovable property allocated for its use in the territories of the Contracting Parties.

#### Article 31

In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), international agreements and national regulations relating to the admission to, flight over and security of, the territory of the Contracting Parties concerned shall be binding on the Agency, which shall take all necessary measures to ensure the application of such agreements and regulations.

#### Article 32

In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), the Agency shall give to those Contracting Parties which so request all necessary information relating to the aircraft of which it has cognisance in the exercise of its functions related to the airspace of the Contracting Party concerned, in order that the Contracting Parties concerned may be able to verify that international agreements and national regulations are being applied.

#### Article 33

The Contracting Parties recognise that it is necessary for the Agency to achieve financial equilibrium and undertake to make available to it the appropriate financial resources, within the limits and conditions defined in the present Convention and the Statute of the Agency at Annex I.

#### Article 34

1. Any dispute arising between two or more Contracting Parties or between one or more Contracting Parties and the Organisation relating to the interpretation, application or performance of this Convention, including its existence, validity or termination, which cannot be settled within a period of six months by direct negotiation or by any other means, shall be referred to arbitration of the Permanent Court of Arbitration in The Hague in accordance with the Optional Rules for Arbitration of the said Court.
2. The number of arbitrators shall be three.
3. The place of arbitration shall be The Hague. The International Bureau of the Permanent Court of Arbitration shall serve as Registrar, and shall provide such administrative services as the Permanent Court of Arbitration shall direct.
4. The decisions of the Permanent Court of Arbitration shall be binding on the Parties to the dispute.

Article 35

1. Without prejudice to the application of the provisions of Annex IV for the enforced recovery of route charges, the courts of the Contracting Parties shall have sole jurisdiction to hear disputes arising between the Organisation, represented by the Director General, and any natural person or corporate body, in connection with the application of acts of the Organisation.
2. Without prejudice to the application of the provisions of Annex IV for the enforced recovery of route charges, proceedings shall be instituted in the Contracting Party:
  - (a) where the defendant has his/her residence or registered office;
  - (b) where the defendant has a place of business, if neither his/her residence nor his/her registered office is situated in the territory of a Contracting Party;
  - (c) in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) and (b) above, where the defendant has assets;
  - (d) in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) to (c) above, where EUROCONTROL has its headquarters.

Article 36

1. The amendments made in conformity with the conditions prescribed in this Convention, to the Statute of the Agency set out in Annex I, and to Articles 16 et seq. of the provisions relating to the common route charges system set out in Annex IV, shall be valid and have effect in the territory of the Contracting Parties.
2. The tax provisions set out in Annex III and Articles 1 to 15 of the provisions relating to the common route charges system set out in Annex IV shall not be subject to amendment by the General Assembly.
3. Each Contracting Party shall be bound by Annex IV for a period of five years from the date on which this Convention enters into force. The five-year period shall be extended automatically for further five-year periods. A Contracting Party which has notified the General Assembly in writing, not less than two years before the expiry of the five-year period, that it does not consent to the extension of the period, shall cease to be bound by Annex IV at the expiry of this five-year period.
4. The rights and obligations of the withdrawing Contracting Party may be determined if necessary in a special agreement concluded between it and the Organisation.

This agreement will require to be approved by unanimity of the votes cast by the General Assembly, with the withdrawing Contracting Party taking no part in the vote.
5. The Contracting Party which is no longer bound by Annex IV may at any time request the General Assembly in

writing to be bound once more by Annex IV. The Contracting Party in question shall again be bound by Annex IV six months after the day on which the General Assembly accepts the said request by unanimity of the votes cast by the Contracting Parties participating in the common system. The Contracting Party concerned shall be bound by Annex IV for a period of five years from the day on which it became bound. This period shall be extended automatically subject to the same conditions as those set out in paragraph 3 above.

#### Article 37

The Contracting Parties undertake to ensure to the Agency the application of current statutory provisions designed to safeguard the continuity of those general utilities required for the proper running of operational services.

#### Article 38

1. The Convention, as amended by the Protocol of 12 February 1981 and subsequently by the Protocol opened for signature at Brussels in 1997, shall be extended for an indefinite period.
2. Once the Convention as thus extended has been in force for twenty years, any Contracting Party may terminate application, as far as it is concerned, of the Convention by giving written notification to the Government of the Kingdom of Belgium, which shall inform the Governments of the other Contracting States of such notification.

The decision to withdraw shall take effect at the end of the year following the year in which notification of withdrawal is given, provided that the special agreement provided for in paragraph 3 below has been concluded by that date. Failing this, the decision to withdraw shall take effect on the date laid down in the said special agreement.

3. The rights and obligations, in particular of a financial nature, of the withdrawing Contracting Party shall be determined in a special agreement concluded between it and the Organisation.

This agreement shall require to be approved by unanimity of the votes cast by the General Assembly with the withdrawing Contracting Party taking no part in the vote.

4. The Organisation may be dissolved if the number of Contracting Parties is reduced to less than 50% of the Parties signatories to the aforesaid 1997 Protocol, subject to a decision of the General Assembly carried by unanimity of the votes cast.
5. If, in application of the above, the Organisation is dissolved, its legal personality and capacity, within the meaning of Article 4, shall continue to exist for the purposes of winding up the Organisation.

Article 39

1. The accession to the Convention, as amended by the Protocol of 12 February 1981 and by the Protocol opened for signature at Brussels in 1997, of any State not signatory to the latter Protocol shall be subject to the agreement of the General Assembly expressed by unanimity of the votes cast.
2. The President of the General Assembly shall notify the non-signatory State of the decision to accept the accession.
3. The instrument of accession shall be deposited with the Government of the Kingdom of Belgium which shall notify the Governments of the other signatory and acceding States.
4. Accession shall take effect from the first day of the second month following the deposit of the instrument of accession.

Article 40

1. The accession to the Convention, as amended by the Protocol of 12 February 1981 and by the Protocol opened for signature at Brussels in 1997, shall be open to regional economic integration organisations on terms and conditions to be agreed between the Contracting Parties and those organisations, of which one or more signatory States are members, these terms and conditions to be contained in an additional Protocol to the Convention.
2. The instrument of accession shall be deposited with the Government of the Kingdom of Belgium which shall notify the other Parties.
3. Accession of a regional economic integration organisation shall take effect from the first day of the second month following the deposit of the instrument of accession, provided that the additional Protocol referred to in paragraph 1 above has entered into force.

*The present consolidated text of the enacting terms of the Convention and its Annexes are drawn up in the German, English, Bulgarian, Croatian, Danish, Spanish, French, Greek, Hungarian, Italian, Dutch, Norwegian, Portuguese, Romanian, Slovak, Slovenian, Swedish, Czech and Turkish languages. In accordance with the final provision of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, the final provision of the Protocol of 12 February 1981 amending the aforesaid Convention as well as the final provision of the Protocol opened for signature at Brussels in 1997 consolidating the aforesaid Convention, as variously amended, the text in the French language shall prevail, in the event of any inconsistency between the texts.*

ANNEX ISTATUTE OF THE AGENCY

## Statute of the Agency

Article 1

1. The Agency shall be the organ responsible for achieving the objectives and performing the tasks laid down in the Convention or set by the General Assembly or by the Council and their subsidiary bodies. It shall initiate and submit proposals to the relevant bodies related to the exercise of the various functions and the performance of the various tasks of these bodies as well as to other tasks delegated to the Organisation. It shall also provide support to the General Assembly and the Council and their subsidiary bodies in the execution of their supervisory functions.
2. In the performance of its tasks, the Agency may be assisted, where necessary, by civil and military experts appointed by States or by the service providers' organisations concerned.
3. The Agency shall act as the focal point for intergovernmental co-operation and coordination in the field of air navigation. It shall submit proposals and provide the necessary support with a view to convergence towards, and implementation of, a uniform European air traffic management system.
4. In particular, it shall provide regulatory, information, support and advisory services to the Contracting Parties, and, on the basis of agreements pursuant to Article 2 of the Convention, to recognised international organisations and to non-Contracting States.
5. In particular, the Agency shall:
  - (a) coordinate the implementation plans of the Contracting Parties to ensure convergence towards a uniform European air traffic management system;
  - (b) examine matters in the field of air navigation under study by the International Civil Aviation Organization (ICAO) and other international organisations concerned with civil aviation and coordinate and submit amendments to ICAO documents;
  - (c) develop proposals for detailed planning for the harmonisation and integration of the air traffic services and systems, in particular the ground and airborne components of air navigation systems of the Contracting Parties, with a view to the establishment of a uniform European air traffic management system;
  - (d) develop proposals concerning the arrangements for the strategic planning and design of routes and supporting airspace structures, in coordination with civil and military experts appointed by States;

- (e) develop proposals for the harmonisation of air traffic services regulations, develop coordinated or common policies to improve air traffic management at and around airports and support the improvement of efficiency and flexibility in the use of airspace between civil and military users;
  - (f) make proposals or play an advisory role in all aspects of policy and planning. Its scope is not limited to en-route air traffic management but enlarged to cater for an integrated “gate-to-gate” approach to air traffic management. It is assisted by national experts in preparing these proposals;
  - (g) study and promote measures for improving cost-effectiveness and efficiency in the field of air navigation;
  - (h) develop common criteria, procedures and methods to ensure the highest efficiency and quality of air traffic management systems and air traffic services;
  - (i) coordinate Research, Development, Trials and Evaluation (RDTE) programmes of national air traffic management organisations, including the collection and dissemination of results;
  - (j) conduct common studies, tests and applied research as well as other technical developments;
  - (k) define, design, develop, validate and organise the implementation of a uniform system for European air traffic management under the aegis of the Council.
6. When the Agency provides air navigation services, its aim shall be:
- (a) to prevent collisions between aircraft;
  - (b) to ensure the orderly and expeditious flow of air traffic;
  - (c) to provide advice and information conducive to the safe and efficient conduct of flights;
  - (d) to notify appropriate organisations regarding aircraft in need of search and rescue aid, and assist such organisations as required.
7. The Agency shall work in close collaboration with the users’ organisations in order to meet as efficiently and economically as possible the requirements of civil aviation. It shall work in close collaboration with the military authorities to meet, under the same conditions, the special requirements of military aviation.
8. For the accomplishment of its task, the Agency may, among other things, construct and operate the buildings and installations it requires. However, it shall call upon national technical services and make use of existing national installations whenever this is technically and economically justified, in order to avoid any duplication.

Article 2

1. Subject to the powers conferred upon the General Assembly and the Council, the Agency shall be managed by a Director General who shall enjoy wide management independence with regard to the implementation, utilisation and efficient operation of the technical, financial and personnel resources placed at his disposal. To this end, he/she shall take the measures which he/she deems necessary in order to fulfil his/her obligations.
2. Nevertheless, the Director General shall, with a view to submission for approval by the Council in accordance with the provisions of the Convention:
  - (a) elaborate annual and five-year work programmes stating the impact on the trends in the costs and unit rates;
  - (b) draw up the five-year financial plan and the budget including the financial obligations, and, as provided for in Annex IV, the unit rates and tariffs;
  - (c) present an annual report to the Council on the activities and financial position of the Organisation;
  - (d) present the principles governing the general structure of the Agency, the details of this structure being the sole responsibility of the Director General.
3. Furthermore, the Director General shall:
  - (a) submit reports at regular intervals and seek instructions from the Council whenever there is a risk of the objectives not being achieved, of the deadlines or financial ceilings being exceeded, or in the event of major changes to programmes;
  - (b) negotiate the agreements referred to in Article 2 of the Convention, within the framework of the directives issued by the Council.

Article 3

The Director General shall draw up and submit for the Council's approval, the Contract Regulations relating to:

- (a) the letting of contracts for the supply of goods and services to the Organisation;
- (b) the supply of goods and services by the Organisation;
- (c) the sale or disposal of surplus assets.

Article 4

The Director General shall draw up, and submit for the Council's approval, the Financial Regulations, which shall determine, in particular, the conditions governing payment of national contributions, as well as the terms on which loans may be raised by the Agency, and will ensure proper financial management, including internal audit.

Article 5

1. Without prejudice to the right of the Contracting Parties to submit proposals, the Director General shall draw up and submit for the Council's approval, the Agency's Staff Regulations:
  - (a) they shall include, in particular, provisions relating to the nationality of personnel, selection and recruitment procedures and principles, salary scales, pensions, internal tax, disqualification for office, professional secrecy and continuity of the service;
  - (b) the Agency's staff shall be recruited from among nationals of the Contracting Parties. Personnel from non-Contracting States may be employed pursuant to the agreements provided for in Article 2.3 of the Convention, or in exceptional cases by duly substantiated decision of the Director General.
2. The Administrative Tribunal of the International Labour Organisation shall have sole jurisdiction in disputes between the Organisation and the personnel of the Agency, to the exclusion of the jurisdiction of all other courts and tribunals, national or international.

Article 6

1. The Director General shall be appointed for a term of office of five years by the General Assembly by a majority of the votes cast, on condition that the said majority attains three-quarters of the weighted votes cast according to the weighting provided for in Article 11 of the Convention and at least three-quarters of the Contracting Parties casting a vote. His/her term of office may be renewed once in the same manner. The Statute of the Director General shall be approved by the Council.
2. The Director General shall represent the Organisation in legal proceedings and for all civil purposes.
3. Furthermore, in conformity with the policies adopted by the General Assembly and the Council, the Director General:
  - (a) may appoint the staff and may terminate their services in accordance with the Staff Regulations; appointments to Grade A1 and A2 functions for a term of office of five years normally, renewable once, shall be subject to approval by the Council;
  - (b) may borrow money in accordance with the Financial Regulations and within the limits determined for that purpose by the Council;
  - (c) may enter into contracts in accordance with the Contract Regulations referred to in Article 3 and within the limits determined for that purpose by the Council;
  - (d) shall draw up and submit for the Council's approval the Regulation on data protection provided for in Article 7.2(1) of the Convention;

- (e) shall draw up and submit for the Council's approval the rules and procedures applicable to standards, specifications and practices for air traffic management systems and services.
4. The Director General may discharge the aforesaid functions without prior reference to the Council, but he/she shall keep the Council informed of all measures taken in the exercise of the aforesaid powers.
5. The Council shall determine the conditions under which a substitute for the Director General may be appointed should he/she be unable to perform his/her duties.

#### Article 7

1. The Budget shall be balanced as between receipts and expenditure.

Estimates of all receipts and expenditure of the Agency shall be prepared for each financial year.

2. The financial year shall begin on 1 January and end on 31 December.
3. The draft budget and draft five-year financial plan shall be submitted by the Director General for the approval of the Council not later than 31 October of the preceding year.

#### Article 8

1. The Organisation may borrow on the international financial markets in order to obtain the necessary resources for the accomplishment of its tasks.
2. The Organisation may issue loans on the financial markets of a Contracting Party in accordance with national law relating to internal loans, or, in the absence of such law, with the agreement of the Contracting Party.
3. The Financial Regulations shall determine the procedures by which the Organisation raises and repays loans.
4. Each budget and each five-year financial plan shall specify the maximum amount which the Organisation may borrow during the years covered by that budget and the five-year financial plan.
5. In matters falling within the scope of this article, the Organisation shall act in agreement with the competent authorities of the Contracting Parties or with their banks of issue.

#### Article 9

The budget and the five-year financial plan may be revised during the financial year, if circumstances so require, in accordance with the requirements prescribed for their preparation and approval.

Article 10

1. The accounts of all the Agency budgetary receipts and expenditure, and the Agency's financial management, shall be audited annually by an Audit Board.
2. The Audit Board shall be assisted in its work by external consultant auditors. The outside firm of consultant auditors shall be appointed by the Council for a three-year term in accordance with Article 7.2(f) of the Convention.
3. The purpose of the audit carried out by the Audit Board, with the assistance of external consultant auditors, shall be to establish the regular nature of receipts and expenditure and to ensure sound financial management. The Audit Board shall submit to the Council at the close of each financial year a report incorporating the Agency's comments. The Council may direct the Agency to take any appropriate measures recommended in the audit report, in pursuance of Article 7.2(a) of the Convention.
4. The Audit Board shall ensure that an appropriate internal control mechanism is put in place within the Agency, which is in line with sound corporate practice and management.
5. The Audit Board may review other financial issues relating to the Agency in line with its Terms of Reference.

Article 11

1. Administrative or technical inspections of the services of the Agency may be carried out, if so required by the Council, acting either on its own initiative or at the request of the Director General.
2. Such inspections shall be made by officers of the administrations of the Contracting Parties, with external assistance if required. Each inspection committee shall consist of at least two persons of different nationalities and should include as far as possible a person who has taken part in a previous inspection.

Article 12

The Council shall determine the working languages of the Agency.

Article 13

The Agency shall issue the publications necessary for its operation.

Article 14

All draft amendments of the Statute shall be submitted for the approval of the General Assembly pursuant to the provisions of Article 6.1(d) of the Convention.

ANNEX IIFLIGHT INFORMATION REGIONS

Flight Information Regions

Federal Republic of Germany

Berlin Upper Flight Information Region

Hannover Upper Flight Information Region

Rhein Upper Flight Information Region

Bremen Flight Information Region

Düsseldorf Flight Information Region

Frankfurt Flight Information Region

München Flight Information Region

Berlin Flight Information Region

Republic of Austria

Wien Flight Information Region

Kingdom of Belgium - Grand Duchy of Luxembourg

Bruxelles Upper Flight Information Region

Bruxelles Flight Information Region

Republic of Bulgaria

Sofia Flight Information Region

Varna Flight Information Region

Republic of Cyprus

Nicosia Flight Information Region

Republic of Croatia

Zagreb Flight Information Region

Kingdom of Denmark

København Flight Information Region

Kingdom of Spain

Madrid Upper Flight Information Region

Madrid Flight Information Region

Barcelona Upper Flight Information Region

Barcelona Flight Information Region

Islas Canarias Upper Flight Information Region

Islas Canarias Flight Information Region

French Republic - Principality of Monaco (\*)

France Upper Flight Information Region

Paris Flight Information Region

Brest Flight Information Region

Bordeaux Flight Information Region

Marseille Flight Information Region (\*)

Reims Flight Information Region

United Kingdom of Great Britain and Northern Ireland

Scottish Upper Flight Information Region

Scottish Flight Information Region

London Upper Flight Information Region

London Flight Information Region

Hellenic Republic

Athinai Upper Flight Information Region

Athinai Flight Information Region

Republic of Hungary

Budapest Flight Information Region

Ireland

Shannon Upper Flight Information Region

Shannon Flight Information Region

Shannon Oceanic Transition Area enclosed by the following co-ordinates: 51° North 15° West, 51° North 8° West, 48° 30' North 8° West, 49° North 15° West, 51° North 15° West at and above FL55

Italian Republic

Milano Upper Flight Information Region

Roma Upper Flight Information Region

Brindisi Upper Flight Information Region

Milano Flight Information Region

Roma Flight Information Region

Brindisi Flight Information Region

Republic of Malta

Malta Flight Information Region

Kingdom of Norway

Oslo Upper Flight Information Region

Stavanger Upper Flight Information Region

Trondheim Upper Flight Information Region

Bodø Upper Flight Information Region

Oslo Flight Information Region

Stavanger Flight Information Region

Trondheim Flight Information Region

Bodø Flight Information Region

Bodø Oceanic Flight Information Region

Kingdom of the Netherlands

Amsterdam Flight Information Region

Portuguese Republic

Lisboa Upper Flight Information Region

Lisboa Flight Information Region

Santa Maria Flight Information Region

Romania

Bucuresti Flight Information Region

Slovak Republic

Bratislava Flight Information Region

Republic of Slovenia

Ljubljana Flight Information Region

Kingdom of Sweden

Malmö Upper Flight Information Region

Stockholm Upper Flight Information Region

Sundsvall Upper Flight Information Region

Malmö Flight Information Region

Stockholm Flight Information Region

Sundsvall Flight Information Region

Swiss Confederation

[2006.]

*Aviation Act 2006.*

[No. 7.]

SCH.1

Switzerland Upper Flight Information Region

Switzerland Flight Information Region

Czech Republic

Praha Flight Information Region

Republic of Turkey

Ankara Flight Information Region

Istanbul Flight Information Region

ANNEX IIITAX PROVISIONS

## Tax provisions

Article 1

1. Without prejudice to the exonerations provided for in Articles 22 and 23 of the Convention, when the Organisation in the exercise of its official activities makes substantial acquisitions of property or employs services of substantial value in respect of which indirect duties, taxes or charges (including such duties, taxes or charges levied on importation other than those referred to in Article 23.1 of the Convention) have been paid or are payable, the Governments of the Member States shall, whenever possible, take appropriate action to offset the effect on the Organisation of such duties, taxes or charges by means of an adjustment of the financial contributions to the Organisation or by means of remission or of reimbursement to the Organisation of the amount of the duties, taxes or charges.
2. With regard to payments by the Organisation to Member States in respect of capital investments made by those States, in so far as the cost thereof is to be refunded by the Organisation, the said States shall ensure that their statements of the amounts in question submitted to the Organisation do not include duties, taxes or charges from which the Organisation would have been exempt or which would be refunded to it or which would be the subject of an adjustment of the financial contributions to the Organisation if the Organisation had made those investments itself.
3. The provisions of this Article shall not apply in respect of duties, taxes or charges collected as payment for public utility services.

Article 2

Property acquired by the Organisation to which Article 1.1 applies may not be sold or otherwise disposed of except in accordance with conditions laid down by the Governments of the States concerned.

Article 3

1. The Director General of the Agency and the Staff members of the Organisation shall be subject to a tax for the benefit of the Organisation on salaries and emoluments paid by the Organisation in accordance with the rules and conditions determined by the General Assembly. Such salaries and emoluments shall be exempt from national income tax.

The Member States may, however, take into account salaries and emoluments exempted from national income tax when assessing the amount of the tax payable on other income of those in receipt of the said salaries and emoluments.

2. Paragraph 1 shall not apply to pensions and annuities paid by the Organisation.
3. The names, titles, addresses as well as remunerations and where appropriate pensions of employees and former employees to whom the provisions of paragraphs 1 and 2 of the present article are applicable shall be communicated periodically to the Member States.

#### Article 4

For the purpose of this Annex, the Organisation shall act in concert with the relevant authorities of the Member States concerned.

#### Article 5

1. This Annex shall replace the Additional Protocol to the Convention signed at Brussels on 6 July 1970, as amended by the Protocol signed at Brussels on 21 November 1978, both in turn amended by Article XXXVIII of the Protocol signed at Brussels on 12 February 1981 amending the Convention.
2. Notwithstanding the provisions of paragraph 1 above, obligations under Article 3 of the Additional Protocol of 6 July 1970 shall remain binding until the relevant claims and commitments have been fully discharged.

### ANNEX IV

#### PROVISIONS RELATING

#### TO THE COMMON ROUTE CHARGES SYSTEM

Provisions relating to the common route charges system

#### Article 1

The Contracting Parties agree to continue to administer a joint system for the establishment, billing and collection of route charges as a single charge per flight and to use for this purpose the services of EUROCONTROL.

#### Article 2

The Organisation shall establish, bill and collect the route charges levied on users of en route air navigation services on a proposal from the Contracting Parties participating in the common route charges system.

#### Article 3

In matters relating to route charges, the Council shall be the body responsible for determining the arrangements for giving effect to the General Assembly's decisions in route charge matters and supervising the Agency's tasks in this field.

The Council shall *inter alia*:

- (a) prepare decisions for the General Assembly in route charge policy matters;

- (b) determine the unit of account in which route charges are expressed;
- (c) determine, in accordance with decisions taken on the basis of Article 6.2 of the Convention, the conditions of application of the system, including the conditions of payment, as well as the unit rates and tariffs and the period during which they are to apply;
- (d) approve reports relating to EUROCONTROL route charges activities;
- (e) adopt the Financial Regulations applicable to the Route Charges System;
- (f) approve the budgetary annexes relating to EUROCONTROL route charges activities.

#### Article 4

The route charges indicated on the bill issued by the Organisation shall constitute a single charge due in respect of each flight, which shall constitute a single claim by EUROCONTROL, payable at its Headquarters.

#### Article 5

1. The charge shall be payable by the person who was the operator of the aircraft at the time when the flight was performed. The charge shall attach as a lien to the aircraft which incurred the charge, irrespective of in whose hands it may be, if the law of the Contracting Party concerned so permits.
2. Where an ICAO designator or any other recognised designator is used in identification of the flight, EUROCONTROL may deem the operator to be the aircraft operating agency to whom the ICAO designator was allocated or was in the process of allocation at the time of the flight or identified in the filed flight plan or identified by use of that ICAO or other recognised designator in communication with air traffic control or by any other means.
3. If the identity of the operator is not known, the owner of the aircraft shall be regarded as the operator unless he/she proves which other person was the operator.
4. The operator and the owner of the aircraft shall be jointly and severally liable to pay the charge, if the law of the Contracting Party concerned so permits.

#### Article 6

1. Where the amount due has not been paid, measures may be taken to enforce recovery, including detention and sale of aircraft, if the law of the Contracting Party where the aircraft has landed so permits.
2. Measures may also include, at EUROCONTROL's request, the review by a Contracting Party or any competent body of the administrative authorisation connected with air transport or air traffic management issued to

a person liable to pay the charge, if the relevant legislation so provides.

#### Article 7

1. Proceedings for recovery of the amount due shall be instituted either by EUROCONTROL or, at EUROCONTROL's request, by a Contracting Party, or by any body authorised for that purpose by a Contracting Party.
2. Recovery shall be effected by judicial or administrative procedure.
3. Each Contracting Party shall inform EUROCONTROL of the procedures applied in that State and of the competent courts, tribunals or administrative authorities.

#### Article 8

Recovery proceedings shall be instituted in the territory of the Contracting Party:

- (a) where the debtor has his/her residence or registered office;
- (b) where the debtor has a place of business, if neither his/her residence nor his/her registered office is situated in the territory of a Contracting Party;
- (c) where, in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) and (b) above, the debtor has assets;
- (d) where EUROCONTROL has its headquarters, in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) to (c) above.

#### Article 9

1. The provisions of Articles 5, 6, 7 and 8 shall not prevent any Contracting Party, or any body authorised by a Contracting Party, acting at the request of EUROCONTROL, from proceeding with the recovery of the amount due by the detention and sale of aircraft in accordance with the administrative or judicial procedure of the relevant Contracting Party.
2. The power so to detain and sell shall extend to the equipment, spare parts, fuel, stores and documents of the aircraft detained or sold.
3. The validity and effect of detention and sale shall be determined by the law of the Contracting Party where the detention has been effected.

#### Article 10

EUROCONTROL shall have the capacity to institute proceedings before the competent courts, tribunals and administrative authorities of States not parties to the Convention.

Article 11

The following decisions taken in a Contracting Party shall be recognised and enforced in the other Contracting Parties:

- (a) final decisions of a court or tribunal;
- (b) decisions of an administrative authority which have been subject to review by a court or tribunal, but are no longer so, either because the court or tribunal has dismissed the appeal by a final decision, or because the appeal has been withdrawn, or because the time for lodging the appeal has expired.

Article 12

The decisions referred to in Article 11 shall not be recognised or enforced in the following cases:

- (a) if the court, tribunal or administrative authority of the Contracting Party of origin was not competent in accordance with Article 8;
- (b) if the decision is contrary to public policy of the Contracting Party addressed;
- (c) if the debtor did not receive notice of the decision of the administrative authority or of the institution of the proceedings in sufficient time to enable him/her to defend the case or to appeal to a court or a tribunal;
- (d) if proceedings relating to the same route charges have been previously instituted and are still pending before a court, tribunal or an administrative authority of the Contracting Party addressed;
- (e) if the decision is incompatible with a decision relating to the same route charges given in the Contracting Party addressed;
- (f) if the court, tribunal or administrative authority of the Contracting Party of origin, in order to arrive at its decision, has decided a preliminary question concerning the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills or succession in a way that conflicts with a rule of the private international law of the Contracting Party addressed, unless the same result would have been obtained by the application of the rules of private international law of that Contracting Party.

Article 13

The decisions referred to in Article 11, if enforceable in the Contracting Party of origin, shall be enforced in accordance with the law of the Contracting Party addressed. If necessary, an order of enforcement shall on request be issued by a court, tribunal or an administrative authority of the Contracting Party addressed.

Article 14

1. The request shall be accompanied by:
  - (a) a certified copy of the decision;
  - (b) in the case of a decision of a court or tribunal rendered by default, the original or a certified copy of a document establishing that notice of the institution of the proceedings was duly served on the debtor;
  - (c) in the case of an administrative decision, a document establishing that the requirements of Article 11 have been met;
  - (d) a document establishing that the decision is enforceable in the Contracting Party of origin and that the debtor has received notice of the decision in due time.
2. A duly certified translation of the documents shall be supplied if the court, tribunal or administrative authority of the Contracting Party addressed so requires. No legalisation or similar formality shall be required.

Article 15

1. The request can be rejected only for one of the reasons set forth in Article 12. In no case may the decision be reviewed on its merits in the Contracting Party addressed.
2. The procedure for the recognition and enforcement of the decision shall be governed by the law of the Contracting Party addressed insofar as the Convention does not otherwise provide.

Article 16

The amount collected by EUROCONTROL shall be paid to the Contracting Parties in accordance with the decisions of the Council.

Article 17

Where the claim is recovered by a Contracting Party, the amount collected shall be paid without delay to EUROCONTROL, which shall proceed in accordance with Article 16. The recovery costs incurred by that Contracting Party shall be charged to EUROCONTROL.

Article 18

The competent authorities of the Contracting Parties shall co-operate with EUROCONTROL in the establishment and collection of route charges.

Article 19

If the Council decides unanimously to abandon recovery of a charge, the Contracting Parties concerned may take

whatever action they deem fit. In such a case, the provisions of the Convention relating to recovery and to recognition and enforcement of decisions shall cease to apply.

*ADDITIONAL PROTOCOL*

*concerning the replacement of the*

*Multilateral Agreement relating to Route Charges of 12 February 1981*

*by*

*the relevant provisions of the consolidated text of the*

*EUROCONTROL International Convention relating to Co-operation for the Safety of Air navigation as amended at Brussels in 1997,*

*including its Annex IV*

---

*ADDITIONAL PROTOCOL*

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*Multilateral Agreement relating to Route Charges of 12 February 1981*

*by*

*the relevant provisions of the consolidated text of the*

*EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation as amended at Brussels in 1997,*

*including its Annex IV*

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF AUSTRIA,

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF CROATIA,

THE KINGDOM OF DENMARK,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND,

THE HELLENIC REPUBLIC,

THE REPUBLIC OF HUNGARY,

IRELAND,  
THE ITALIAN REPUBLIC,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE REPUBLIC OF MALTA,  
THE PRINCIPALITY OF MONACO,  
THE KINGDOM OF NORWAY,  
THE KINGDOM OF THE NETHERLANDS,  
THE PORTUGUESE REPUBLIC,  
ROMANIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF SLOVENIA,  
THE KINGDOM OF SWEDEN,  
THE SWISS CONFEDERATION,  
THE CZECH REPUBLIC,  
THE REPUBLIC OF TURKEY,

Hereinafter called “the National Contracting Parties”,

THE EUROPEAN ORGANISATION FOR THE SAFETY OF  
AIR NAVIGATION,

Hereinafter called “EUROCONTROL”,

*Having* regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation amended in Brussels in 1981, and in particular its articles 6.3, 7.2, 11 and 12;

*Having* regard to Measure No. 85/43 taken by the Permanent Commission of EUROCONTROL regarding the conclusion of the present Additional Protocol;

*Whereas* the National Contracting Parties are this day signing a Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended (hereinafter called “the Protocol”);

*Whereas* EUROCONTROL is, with the National Contracting Parties, party to the Multilateral Agreement relating to Route Charges of 12 February 1981 (hereinafter called “the Multilateral Agreement”);

*Whereas*, however, the Protocol is open for signature only by the National Contracting Parties and by any other State invited to the Diplomatic Conference at which it was adopted and any other State authorised to sign it by the Permanent Commission of EUROCONTROL;

*Whereas* pursuant to Article IV of the Protocol, once the latter enters

into force the Multilateral Agreement shall be terminated and replaced by the relevant provisions of the consolidated text of the Convention annexed to the Protocol, including its Annex IV;

*Whereas* such a substitution is possible only with the consent of all the Parties;

Have agreed as follows:

#### Article 1

With effect from the entry into force of the Protocol of 27 June 1997 consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, the Multilateral Agreement relating to Route Charges of 12 February 1981 shall be terminated.

#### Article 2

The Government of the Kingdom of Belgium shall have the present Additional Protocol registered with the Secretary-General of the United Nations as provided for in Article 102 of the Charter of the United Nations and with the Council of the International Civil Aviation Organisation as provided for in Article 83 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having presented their Full Powers, found in good and due form, have signed the present Additional Protocol.

DONE in Brussels, this 27th day of June 1997, in the German, English, Bulgarian, Croatian, Danish, Spanish, French, Greek, Hungarian, Italian, Dutch, Norwegian, Portuguese, Romanian, Slovak, Slovenian, Swedish, Czech and Turkish languages, in a single original, which shall be deposited in the archives of the Government of the Kingdom of Belgium, which shall transmit certified copies to the signatories. In the event of any inconsistency, the text in the French language shall prevail.

For the Federal Republic of Germany,

For the Republic of Austria,

For the Kingdom of Belgium,

For the Republic of Bulgaria,

For the Republic of Cyprus,

For the Republic of Croatia,

For the Kingdom of Denmark,

For the Kingdom of Spain,

For the French Republic,

For the United Kingdom of Great Britain and Northern Ireland,

For the Hellenic Republic,

For the Republic of Hungary,

For Ireland,  
For the Italian Republic,  
For the Grand Duchy of Luxembourg,  
For the Republic of Malta,  
For the Principality of Monaco,  
For the Kingdom of Norway,  
For the Kingdom of the Netherlands,  
For the Portuguese Republic,  
For Romania,  
For the Slovak Republic,  
For the Republic of Slovenia,  
For the Kingdom of Sweden,  
For the Swiss Confederation,  
For the Czech Republic,  
For the Republic of Turkey,  
For EUROCONTROL.

Section 2.

SCHEDULE 2

FINAL ACT

**OF THE DIPLOMATIC CONFERENCE ON THE PROTOCOL  
ON THE ACCESSION OF THE EUROPEAN COMMUNITY  
TO THE EUROCONTROL INTERNATIONAL CONVENTION  
RELATING TO CO-OPERATION FOR THE SAFETY OF AIR  
NAVIGATION OF 13 DECEMBER 1960, AS VARIOUSLY  
AMENDED AND AS CONSOLIDATED BY THE PROTOCOL  
OF 27 JUNE 1997**

**(Brussels, 8 October 2002)**

**THE PLENIPOTENTIARIES OF**

**THE REPUBLIC OF ALBANIA,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF AUSTRIA,  
THE KINGDOM OF BELGIUM,  
THE REPUBLIC OF BULGARIA,  
THE REPUBLIC OF CYPRUS,  
THE REPUBLIC OF CROATIA,  
THE KINGDOM OF DENMARK,  
THE KINGDOM OF SPAIN,  
THE REPUBLIC OF FINLAND,  
THE FRENCH REPUBLIC,  
THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND,  
THE HELLENIC REPUBLIC,  
THE REPUBLIC OF HUNGARY,  
IRELAND,  
THE ITALIAN REPUBLIC,  
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE REPUBLIC OF MALTA,  
THE REPUBLIC OF MOLDOVA,  
THE PRINCIPALITY OF MONACO,  
THE KINGDOM OF NORWAY,  
THE KINGDOM OF THE NETHERLANDS,  
THE PORTUGUESE REPUBLIC,  
ROMANIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF SLOVENIA,  
THE KINGDOM OF SWEDEN,  
THE SWISS CONFEDERATION,  
THE CZECH REPUBLIC,  
THE REPUBLIC OF TURKEY,  
AND  
THE EUROPEAN COMMUNITY,**

*Assembled at Brussels on 8 October 2002;*

1. *Have unanimously adopted* the text of a Protocol set out in Annex to the present Final Act and hereinafter called “the Accession Protocol”, on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called “the revised Convention”. The said Accession Protocol has been opened for signature at Brussels on 8 October 2002.
2. *Have adopted* the following resolutions regarding respectively the ratification, acceptance or approval by the Contracting Parties at their earliest convenience of the Accession Protocol and the early implementation of the Accession Protocol;

The Conference:

*Assembled at Brussels on 8 October 2002;*

*Having* unanimously adopted the Protocol, hereinafter called “the Accession Protocol”, on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called “the revised Convention”;

***I. Resolution urging Contracting Parties to ratify, accept or approve the Accession Protocol at their earliest convenience***

*Considering* that the accession of the European Community will significantly contribute to the aims and tasks of EUROCONTROL on the terms and conditions contained in the Accession Protocol;

*Recalling* the resolution adopted by the Diplomatic Conference of 27 June 1997 on the Protocol consolidating the EUROCONTROL Convention urging the Contracting Parties to the EUROCONTROL Convention to ratify the above-mentioned Protocol of 27 June 1997 at their earliest convenience;

*Agreeing* on the importance of an entry into force of the revised Convention and of the Accession Protocol as soon as possible;

*Urges* the signatories to the Accession Protocol to ratify, accept or approve that Protocol as soon as possible.

*Requests* the Director General of EUROCONTROL to take all practical measures, in co-operation with the signatory States and the European Community, to provide assistance, if requested, in the process of ratification, acceptance or approval of the Accession Protocol.

***II. Resolution on early implementation of the Accession Protocol***

*Having noted* the Resolution on early implementation of the Consolidating Protocol adopted by the Diplomatic Conference on the adoption of that Protocol on 27 June 1997;

*Considering* the importance of a smooth and efficient implementation of the Accession Protocol;

*Urges* all States and the European Community to develop, to the fullest extent possible, arrangements for the early implementation of certain provisions of the Accession Protocol.

3. *Have adopted* the following joint declarations on the absence of Community competence in the fields of national security and defence and on RTDE co-ordination:

***I. Joint declaration on the absence of Community competence in the fields of national security and defence***

The signatories to the Protocol on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called “the revised Convention”,

*Having noted* that the European Community has at present no competence with regard to defence and security policies;

*Taking note* of the role of EUROCONTROL as contained in the provisions of the revised Convention relating to military issues;

*Agree that:*

If the competence of the European Community were to be extended to those matters there would be a need to review whether this radically transforms the extent of their obligations under the revised Convention and whether therefore the Protocol in its present form can be applied to those matters.

***II. Joint declaration on RTDE co-ordination***

The signatories to the Protocol on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called “the revised Convention”,

*Having examined* the provisions of the revised Convention relating to the co-ordination of research, technological development and evaluation (RTDE) activities in the fields covered by that Convention;

*Having noted* that Article 2.1.(h) of the revised Convention is applicable to the co-ordination of RTDE activities between EUROCONTROL and its Contracting Parties;

*Having noted* that the co-ordination organised by the EUROCONTROL Agency under Article 1.5 (i) of its Statute concerns its own RTDE activities and those of ATM Organisations;

*Agree that:*

- the “co-ordination of RTDE activities” is the exchange of views, information and experience about RTDE programmes and activities in the area of air traffic management; its main objectives are to promote complementarity and to avoid duplication of work;
- in co-ordinating their RTDE activities, all parties involved shall respect the overall objectives,

competencies, administrative, managerial and budgetary responsibilities and the procedures of their respective institutions or bodies entrusted with the execution of RTDE programmes, as well as their rules governing participation, dissemination and intellectual property rights;

- the Contracting Parties shall remain free to decide on their RTDE strategies, programmes and projects in accordance with their own internal procedures.

4. *Have noted* the following joint declaration by the States signatories to the Consolidating Protocol and this Final Act:

**III. Joint declaration regarding the entry into force of the Consolidating Protocol and the Accession Protocol, and regarding further signatures to the Accession Protocol**

The States signatories to the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, opened for signature on 27 June 1997, hereinafter called “the Consolidating Protocol”, and signatories to the Final Act of the Diplomatic Conference on the Protocol on the accession of the European Community to the EUROCONTROL Convention, opened for signature on 8 October 2002, hereinafter called “the Accession Protocol”;

*Desirous* to clarify the conditions regarding the entry into force of the consolidating Protocol and the Accession Protocol;

*Confirm* their interpretation of Article II, paragraph 3, of the Consolidating Protocol to the effect that the aforesaid Protocol shall enter into force when all States that are parties to the EUROCONTROL Convention on 8 October 2002, have deposited their instruments of ratification, acceptance or approval of the Consolidating Protocol.

*Agree* that EUROCONTROL shall take the appropriate steps to ensure, when considering a request for accession to the EUROCONTROL Convention and for an authorisation to sign the Consolidating Protocol, that adequate commitments are made for signature and for ratification, acceptance or approval, of the Accession Protocol.

**PROTOCOL**

**ON THE ACCESSION OF THE EUROPEAN COMMUNITY TO THE EUROCONTROL INTERNATIONAL CONVENTION RELATING TO CO-OPERATION FOR THE SAFETY OF AIR NAVIGATION OF 13 DECEMBER 1960, AS VARIOUSLY AMENDED AND AS CONSOLIDATED BY THE PROTOCOL OF 27 JUNE 1997**

**THE REPUBLIC OF ALBANIA,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF AUSTRIA,  
THE KINGDOM OF BELGIUM,  
THE REPUBLIC OF BULGARIA,  
THE REPUBLIC OF CYPRUS,  
THE REPUBLIC OF CROATIA,  
THE KINGDOM OF DENMARK,**

**THE KINGDOM OF SPAIN,  
THE REPUBLIC OF FINLAND,  
THE FRENCH REPUBLIC,  
THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND,  
THE HELLENIC REPUBLIC,  
THE REPUBLIC OF HUNGARY,  
IRELAND,  
THE ITALIAN REPUBLIC,  
THE FORMER YUGOSLAV REPUBLIC OF  
MACEDONIA,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE REPUBLIC OF MALTA,  
THE REPUBLIC OF MOLDOVA,  
THE PRINCIPALITY OF MONACO,  
THE KINGDOM OF NORWAY,  
THE KINGDOM OF THE NETHERLANDS,  
THE PORTUGUESE REPUBLIC,  
ROMANIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF SLOVENIA,  
THE KINGDOM OF SWEDEN,  
THE SWISS CONFEDERATION,  
THE CZECH REPUBLIC,  
THE REPUBLIC OF TURKEY,  
AND  
THE EUROPEAN COMMUNITY,**

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 Additional Protocol of 6 July 1970, in turn amended by the Protocol of 21 November 1978, all amended by the Protocol of 12 February 1981, and as amended and consolidated by the Protocol of 27 June 1997, hereinafter referred to as “the Convention”, and in particular Article 40 thereof;

Having regard to the responsibilities granted by the Treaty establishing the European Community of 25 March 1957, as revised by the Amsterdam Treaty of 2 October 1997, to the European Community in certain areas covered by the Convention;

Whereas the European Community Member States, Members of EUROCONTROL, when adopting the Protocol consolidating the Convention which was opened for signature on 27 June 1997, declared that their signature was without prejudice to the Community’s exclusive competence in certain areas covered by that Convention and to the Community’s membership of EUROCONTROL for the purpose of exercising such exclusive competence;

Whereas the purpose of the accession of the European Community to the Convention is to assist the European Organisation for the Safety of Air Navigation, hereinafter referred to as “EUROCONTROL”, in achieving its objectives as set out in the Convention, notably that of being a single and efficient body for Air Traffic Management policy-making in Europe;

Whereas the European Community’s accession to EUROCONTROL requires clarification of the way in which the provisions of the Convention will apply to the European Community and its Member States;

Whereas the terms and conditions of the accession of the European Community to the Convention shall enable the Community to exercise within EUROCONTROL such competencies that have been transferred to it from its Member States;

Whereas arrangements for greater co-operation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries, and such arrangements have yet to come into operation;

HAVE AGREED AS FOLLOWS:

*Article 1*

The European Community, within the framework of its competence, accedes to the Convention on the terms and conditions laid down in this Protocol, in accordance with Article 40 of the Convention.

*Article 2*

For the European Community, within the framework of its competence, the Convention shall apply to en-route air navigation services and related approach and aerodrome services for air traffic in the Flight Information Regions of its Member States listed in Annex II to the Convention, which are within the limits of the territorial applicability of the Treaty establishing the European Community.

The application of this Protocol to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

Application of this Protocol to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will inform the other Contracting Parties to this Protocol of such date of entry into operation.

*Article 3*

Subject to the provisions of this Protocol, provisions in the Convention shall be so interpreted as to also include the European Community within the framework of Community competence, and the various terms used to designate the Contracting Parties to the Convention and their representatives are to be understood accordingly.

*Article 4*

The European Community will not contribute to the budget of EUROCONTROL.

*Article 5*

Without prejudice to the exercise of its voting rights under Article 6, the European Community shall be entitled to be represented and involved in the work of all bodies of EUROCONTROL in which any of its Member States is entitled to be represented as a Contracting Party, and where matters falling within its competence may be dealt with, with the exception of bodies which have an audit function.

In all bodies of EUROCONTROL where it may participate, the European Community will present its positions, within the framework of its competence, in accordance with its institutional rules.

The European Community may not submit candidates for membership of elected EUROCONTROL bodies, nor may it submit candidates for office on the bodies in which it is entitled to participate.

*Article 6*

1. For decisions in matters where the European Community has exclusive competence and for the purpose of the application of the rules provided for in Article 8 of the Convention, the European Community shall exercise the voting rights of its Member States under the Convention, and the votes and weighted votes so cast by the European Community shall be cumulated for the determination of the majorities provided for in the said Article 8 of the Convention. When the Community votes, its Member States shall not vote.

For the purpose of deciding on the number of Contracting Parties to the Convention required for a request for decision-making by a three-quarters majority, as stipulated at the end of the first sub-paragraph of Article 8.2, the Community shall be considered as representing its Member States, which are Members of EUROCONTROL.

A decision proposed with respect to a specific item to be voted on by the European Community shall be postponed if a Contracting Party to the Convention that is not a member of the European Community so requests. The postponement shall be used for consultations between the Contracting Parties to the Convention, assisted by the EUROCONTROL Agency, on the decision proposed. In the event of such a request, the taking of the decision may be postponed for a maximum period of six months.

2. For decisions in matters where the European Community has no exclusive competence, Member States of the European Community shall vote in accordance with their voting rights as provided for in Article 8 of the Convention, and the European Community shall not vote.
3. The European Community shall inform on a case-by-case basis the other Contracting Parties to the Convention of the cases where, with regard to the various items of the agendas of the General Assembly, the Council and other deliberating bodies to which the General Assembly and the Council have delegated powers, it will exercise the voting rights provided for in paragraph 1 above. This obligation shall also apply when decisions are taken by correspondence.

*Article 7*

The scope of the competence transferred to the Community is indicated in general terms in a written declaration made by the European Community at the time of the signature of this Protocol.

This declaration may be modified as appropriate by notification from the European Community to EUROCONTROL. It does not replace or in any way limit the matters that may be covered by the notifications of Community competence to be made prior to EUROCONTROL decision-making by means of formal voting or otherwise.

*Article 8*

Article 34 of the Convention shall apply to any dispute arising between two or more Contracting Parties to this Protocol or between one or more Contracting Parties to this Protocol and EUROCONTROL relating to the interpretation, application or performance of this Protocol, including its existence, validity and termination.

*Article 9*

1. This Protocol shall be opened for signature by all States signatories to the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, opened for signature on 27 June 1997, hereinafter referred to as “the Consolidating Protocol”, and the European Community.

It shall also be open, prior to the date of its entry into force, for signature by any State, duly authorised to sign the Consolidating Protocol, in accordance with Article II of that Protocol.

2. This Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Kingdom of Belgium.
3. This Protocol shall enter into force when it has been ratified, accepted or approved, on the one hand, by all signatory States that are also signatories to the Consolidating Protocol and whose ratification, acceptance or approval is required for the entry into force of the Consolidating Protocol, and on the other hand, by the European Community, on the first day of the second month after the deposit of the last instrument of ratification, acceptance or approval, provided that the Consolidating Protocol has come into force on that date. Where this condition is not met, it shall enter into force on the same date as the Consolidating Protocol.
4. This Protocol shall enter into force with respect to such signatories that have deposited their instruments of ratification, acceptance or approval after its entry into force on the first day of the second month following the deposit of the relevant instruments of ratification, acceptance or approval.
5. The Government of the Kingdom of Belgium shall notify the Governments of the other signatory States of this Protocol and the European Community of each signature, each deposit of an instrument of ratification, acceptance or approval and each date of entry into force of this Protocol pursuant to paragraphs 3 and 4 above.

*Article 10*

Each accession to the Convention after its entry into force shall represent also consent to be bound by this Protocol. The provisions of Articles 39 and 40 of the Convention shall also apply to this Protocol.

*Article 11*

1. This Protocol shall remain in force for an indefinite period.
2. If all EUROCONTROL Member States which are Members of the European Community withdraw from EUROCONTROL, notification of withdrawal from the Convention, as well as from this Protocol, shall be considered to have been given by the European Community together with the notification of withdrawal under Article 38.2 of the Convention of the last Member State of the European Community withdrawing from EUROCONTROL.

*Article 12*

The Government of the Kingdom of Belgium shall have this Protocol registered with the Secretary-General of the United Nations pursuant to Article 102 of the Charter of the United Nations and with the Council of the International Civil Aviation Organization pursuant to Article 83 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944.