



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 2 May 2011
(OR. en)**

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**AVIATION 103
RELEX 392**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken by the European Union within the EU-ICAO Joint Committee, concerning the Decision on the adoption of an Annex on aviation safety to the Memorandum of Cooperation between the European Union and the International Civil Aviation Organization providing a framework for enhanced cooperation

COUNCIL DECISION No..../2011/EU

of

**on the position to be taken by the European Union
within the EU-ICAO Joint Committee,
concerning the Decision on the adoption of an Annex on aviation safety
to the Memorandum of Cooperation between the European Union
and the International Civil Aviation Organization
providing a framework for enhanced cooperation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 100(2) and 218(9) thereof,

Having regard to the Council Decision of... on the signing, on behalf of the Union, and the provisional application, of a Memorandum of Cooperation between the European Union and the International Civil Aviation Organization providing a framework for enhanced cooperation^{1*} (Memorandum of Cooperation),

Having regard to the proposal from the European Commission,

¹ OJ L

* OJ: Please insert date of the adoption and the footnote with the reference to the publication in OJ for doc. ST 7702/11.

Whereas it is appropriate to establish the position to be adopted on the Union's behalf within the EU-ICAO Joint Committee, set up under the Memorandum of Cooperation with regard to the adoption of an Annex on aviation safety to be added to that Memorandum of Cooperation,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the EU-ICAO Joint Committee, as referred to in Article 7.3.(c) of the Memorandum of Cooperation between the European Union and the International Civil Aviation Organization providing a framework for enhanced cooperation (the Memorandum of Cooperation), with regard to the adoption of an Annex on aviation safety to the Memorandum of Cooperation, shall be based on the draft Decision of the EU-ICAO Joint Committee, attached to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council

The President

DRAFT

DECISION OF THE EU-ICAO JOINT COMMITTEE

of

**on the adoption of an Annex on aviation safety
to the Memorandum of Cooperation between the European Union
and the International Civil Aviation Organization
providing a framework for enhanced cooperation**

THE EU-ICAO JOINT COMMITTEE,

Having regard to the Memorandum of Cooperation between the European Union and the International Civil Aviation Organization providing a framework for enhanced cooperation (the ICAO MOC), and in particular Article 7.3.(c) thereof,

Whereas it is appropriate to include an Annex on aviation safety in the ICAO MOC,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to this Decision is hereby adopted and shall form an integral part of the ICAO MOC.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at,

*For the EU-ICAO Joint Committee
The Chairpersons*

ANNEX

"ANNEX I - AVIATION SAFETY

1. Objectives

1.1 The Parties agree to cooperate in the field of aviation safety within the framework of the Memorandum of Cooperation between the European Union and the International Civil Aviation Organization (ICAO MOC) initialled in Montreal on 27 September 2010.

1.2 Consistent with their commitment to achieving the highest levels of aviation safety worldwide and to the global harmonisation of safety Standards and Recommended Practices (SARPs), the Parties agree to cooperate closely in a spirit of transparency and dialogue to coordinate their safety activities.

2. Scope

2.1 In pursuit of the objectives specified in Article 1.2, the Parties agree to cooperate in the following areas:

- conducting regular dialogue on safety matters of mutual interest;
- achieving transparency through the regular exchange of safety-relevant information and data and by providing mutual access to databases;

- participating in safety activities;
- mutually recognising the results of ICAO Universal Safety Oversight Audit Programme (USOAP) and EU Standardisation Inspections;
- monitoring and analysing States' compliance with ICAO Standards and adherence to Recommended Practices;
- cooperating in regulatory and standard-setting matters;
- developing and providing technical assistance projects and programmes;
- promoting regional cooperation;
- exchanging experts; and
- providing training.

2.2 The cooperation referred to in paragraph 2.1 shall be developed in those areas where EU competence is exercised.

3. Implementation

3.1 The Parties may establish working arrangements specifying mutually agreed mechanisms and procedures to effectively implement cooperation in the areas referred to in Article 2.1. These working arrangements shall be adopted by the EU-ICAO Joint Committee.

4. Dialogue
 - 4.1 The Parties shall convene meetings and teleconferences on a regular basis to discuss safety matters of mutual interest and, where appropriate, coordinate activities.
5. Transparency, Exchange of Information, Access to Databases
 - 5.1 The Parties shall encourage, subject to their applicable rules, transparency in the field of aviation safety in their relations with third parties.
 - 5.2 The Parties shall be transparent in their cooperation and collaborate in safety activities by exchanging relevant and appropriate safety data, safety information and documentation, providing access to relevant databases and facilitating mutual participation in meetings. To this end, the Parties shall establish working arrangements specifying procedures for the exchange of information and for the provision of database access, which guarantee the confidentiality of information received from the other Party in accordance with Article 6 of the ICAO MOC.
6. Participation in safety activities
 - 6.1 For the purpose of implementing this Annex, each Party shall, as appropriate, invite the other Party to participate in safety-related activities and meetings with a view to ensuring close cooperation and coordination. The arrangements for such participation shall be established in working arrangements agreed by the Parties.

7. Coordination of the ICAO USOAP and EU Standardisation Inspections

7.1 The Parties agree to enhance their cooperation in the areas of USOAP and standardisation inspections in order to ensure effective use of limited resources and avoid a duplication of efforts, while preserving the universality and integrity of ICAO's USOAP.

7.2 In order to verify compliance by EU Member States with ICAO safety-related Standards and adherence to ICAO Recommended Practices , and to meet the objectives specified in paragraph 7.1, the Parties shall establish a framework for conducting, as appropriate:

- (a) ICAO safety oversight audits of the European Aviation Safety Agency (EASA) regarding safety-related SARPs that are addressed in EU legislation and with regard to certain functions and tasks which EASA performs on behalf of EU Member States; and
- (b) ICAO oversight of the EU Standardisation Inspections conducted by EASA of the national competent authorities of EU Member States regarding safety-related SARPs that are addressed by EU legislation.

7.3 The Parties shall establish working arrangements specifying the mechanisms and procedures necessary for the effective implementation of the framework referred to in paragraph 7.2. These working arrangements shall address, *inter alia*, the following aspects:

- (a) the scope of ICAO USOAP intervention activities including audits and validation missions based on a comparative analysis of EU legislation and ICAO safety-related SARPs;
- (b) mutual participation in each Party's respective audit, inspection and validation activities;
- (c) information to be provided by each Party for the purposes of ICAO USOAP, and EASA Standardisation Inspections;
- (d) ensuring confidentiality where necessary, protection of data, and handling of sensitive information; and
- (e) on-site visits.

8. Sharing of safety information and analyses

8.1 Without prejudice to their applicable rules, the Parties shall share relevant safety data gathered through USOAP and other sources, such as ICAO continuous monitoring approach activities, EASA Standardisation Inspections and SAFA inspections, as well as analyses made on the basis of this data.

- 8.2 The Parties shall cooperate closely in any action taken to secure more effective compliance with SARPs in the EU and in other States. Such cooperation shall include the exchange of information, facilitating dialogue between the Parties concerned, in situ visits or inspections, and the coordination of any technical assistance activities.
9. Regulatory matters
- 9.1 Each Party shall ensure that the other Party is kept informed of all its relevant laws, regulations, standards, requirements and recommended practices, which may affect the implementation of this Annex, as well as any modification thereof.
- 9.2 The Parties shall notify each other in a timely manner of any proposed modifications to their relevant laws, regulations, standards, requirements and recommended practices, insofar as these modifications may have an impact on this Annex. In the light of any such modifications, the EU-ICAO Joint Committee may adopt amendments to this Annex, as necessary, in accordance with Article 7 of the ICAO MOC.
- 9.3 With a view to the global harmonisation of safety regulations and standards, the Parties shall consult each other on technical regulatory matters in the field of aviation safety during the different stages of the rule-making or SARP-development processes, and shall be invited to participate in the associated technical bodies, when appropriate.

- 9.4 ICAO shall provide the EU with timely information on ICAO decisions and recommendations affecting safety-related SARPs, by providing full access to ICAO state letters and electronic bulletins.
- 9.5 Where appropriate, the EU shall endeavour to ensure that relevant EU legislation is in conformity with ICAO aviation safety-related SARPs.
- 9.6 Notwithstanding the obligations of EU Member States as Contracting States to the Chicago Convention, the EU shall, where appropriate, engage in dialogue with ICAO to provide technical information in instances where issues related to compliance with ICAO Standards and adherence to ICAO Recommended Practices emerge pursuant to the application of EU legislation.
10. Technical Assistance Projects and Programmes
- 10.1 The Parties shall coordinate assistance to States in an effort to ensure the effective use of resources and prevent a duplication of effort, and shall exchange information and data on aviation safety-related technical assistance projects and programmes.
- 10.2 The Parties shall engage in joint activities to initiate and coordinate international efforts to identify donors willing and able to contribute targeted technical assistance to States with significant safety deficiencies.

- 10.3 The contributions of the EU shall in particular be directed at programmes and projects aimed at assisting States and regional civil aviation bodies to resolve significant safety deficiencies, implement ICAO SARPs, develop regulatory cooperation, and strengthen State safety oversight systems, including through the establishment of regional safety oversight systems.
11. Regional Cooperation
- 11.1 The Parties shall give priority to activities aimed at accelerating the establishment of Regional Safety Oversight Organisations where the regional approach offers opportunities for improved cost-efficiency, oversight and/or standardisation processes.
12. Expert Assistance
- 12.1 Without prejudice to expert assistance schemes developed outside the scope of this Annex, the EU shall endeavour to make experts with proven technical expertise in relevant fields of aviation safety available to ICAO, upon request, to perform tasks and participate in activities falling within the scope of this Annex. The conditions of such expert assistance shall be specified in a working arrangement between the Parties.
13. Training
- 13.1 Where appropriate, each Party shall facilitate the participation of staff of the other Party in any aviation safety-related training programmes which it provides.

- 13.2 The Parties shall exchange information and materials relating to aviation safety-related training programmes and, where appropriate, coordinate and cooperate in the development of training programmes.
- 13.3 In the framework of the activities covered in Article 10 of this Annex, the Parties shall cooperate in facilitating and coordinating the participation in training programmes of trainees who come from States or regions to which technical assistance is being provided by either Party.
14. Review
- 14.1 The Parties shall review the implementation of this Annex on a regular basis and, as necessary, take into account any relevant policy or regulatory developments.
- 14.2 Any review of this Annex shall be conducted by the EU-ICAO Joint Committee established pursuant to Article 7 of the ICAO MOC.
15. Entry into Force, Amendments and Termination
- 15.1 This Annex shall enter into force on the date of adoption by the EU-ICAO Joint Committee and shall remain in force until terminated.

- 15.2 Working arrangements agreed pursuant to this Annex shall enter into force on their date of adoption by the EU-ICAO Joint Committee.
- 15.3 Any amendments to, or termination of, working arrangements adopted pursuant to this Annex shall be agreed within the EU-ICAO Joint Committee.
- 15.4 This Annex may be terminated at any time by either Party. Such termination shall be effective six months following receipt of written notification of termination by one Party from the other Party, unless the notice of termination has been withdrawn by mutual consent of the Parties before the six-month period has expired.
- 15.5 Notwithstanding any other provision of this Article, if the ICAO MOC is terminated, this Annex and any working arrangement adopted pursuant to it shall terminate simultaneously."
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