



EUROPEAN COMMISSION

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2012/0213 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement providing a general framework for enhanced cooperation between the European Union and the European Organisation for the Safety of Air Navigation

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On 6 October 2011, the Council granted a mandate to the Commission authorising it to open negotiations with the European Organisation for the Safety of Air Navigation (Eurocontrol) in order to conclude a cooperation agreement between the European Union (EU) and Eurocontrol. The Agreement should acknowledge the principles of the Single European Sky (SES), notably the role of the EU as the single regulator for air traffic management (ATM) and the use of the technical expertise of Eurocontrol to help the EU to deliver ATM improvements in Europe in accordance with the SES legal framework and to support the EU in the implementation and development of the SES and other related policies (environment, climate change and research). The Agreement should also facilitate further institutional reform of Eurocontrol, for example, in establishing a new relationship between Eurocontrol and the European Aviation Safety Agency (EASA), and provide a framework for potentially sensitive issues such as pan-European civil-military cooperation.

Based on the negotiating directives of the mandate, a draft Agreement was initialled by the two parties on 24 April 2012.

The proposed draft Agreement defines the terms and conditions of enhanced cooperation between the EU and Eurocontrol to support the EU in the implementation and development of ATM in accordance with the SES legal framework and related EU policies. The objectives are: to contribute to timely and consistent implementation of the SES within the EU and with States that agree to be bound by the SES; to facilitate the necessary civil-military cooperation on ATM in the SES and the use of Eurocontrol expertise in these areas; to facilitate the involvement of non-EU Member States in the SES. In addition, the draft Agreement aims to ensure synergies and avoid duplication of EASA's work in safety-related ATM matters and environmental issues and to consider Eurocontrol's pan-European dimension.

The proposed draft Agreement lists the areas of cooperation concerning the implementation of SES, SESAR and other related EU policies that will be defined further in separate annexes to the Agreement.

The proposed draft Agreement defines the forms and mechanisms of cooperation and coordination between the parties including the stakeholder consultation processes. A Joint Committee set up by the Agreement will be responsible for its management and functioning. In addition, the funding of the activities is defined in accordance with the rules applicable to the parties' respective budgets.

The Commission proposes to the Council to adopt:

- a decision authorising signature of the Agreement and its provisional application before entry into force;
- once this first decision has been adopted, a further decision to conclude the Agreement with a view to its entry into force based on the consent of the European Parliament.

2. LEGAL ELEMENTS OF THE PROPOSAL

The proposed Council Decisions are both based on Article 100, paragraph 2 of the Treaty on the Functioning of the European Union (TFEU). In addition the Council Decision on the signing and provisional application of the Agreement is based on Article 218, paragraph 5 of the TFEU, while the Council Decision on the conclusion is based on Article 218, paragraph 6.

The Agreement on enhanced cooperation between the EU and Eurocontrol is an efficient binding legal instrument that fosters technical cooperation between both parties. It establishes a general framework that allows cooperative activities to be set up in the field of ATM and related policies. The proposed agreement does not impose any additional administrative or financial burden on Member States' authorities.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) The European Commission has negotiated on behalf of the Union the Agreement providing a general framework for enhanced cooperation between the European Union and the European Organisation for the Safety of Air Navigation (hereinafter ‘the Agreement’).
- (2) The Agreement was signed on (...) subject to its conclusion at a later date.
- (3) The Agreement should be approved by the Union.
- (4) It is necessary to lay down procedural arrangements for the participation of the Union in the Joint Committee established by the Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement providing a general framework for enhanced cooperation between the European Union and the European Organisation for the Safety of Air Navigation is hereby approved on behalf of the Union.

¹ OJ C , , p. .

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person(s) empowered to make, on behalf of the Union, the notification provided for in Article 13, 2 of the Agreement, in order to express the consent of the Union to be bound by the Agreement.

Article 3

The Union shall be represented by the Commission in the Joint Committee established under Article 7 of the Agreement.

Article 4

1. The Commission, after consultation with the Special Committee appointed by the Council, shall determine the position to be taken by the Union in the Joint Committee, including with respect to the adoption of Annexes to the Agreement and amendments of such Annexes..

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2. The Commission may take any appropriate action under Articles 5, 6, 8, 9, 10 and 11 of the Agreement.

Article 5

The Commission shall regularly inform the Council of the implementation of the Agreement.

Article 6

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President