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COM(2017) 258 final

2017/0104 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of the Cooperation Agreement between the European Union and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA) on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

This proposal for a Council decision is intended to authorise the conclusion, on behalf of the Union, pursuant to Article 218(6) of the Treaty on the Functioning of the European Union (TFEU), of the Cooperation Agreement between the European Union and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA)¹ on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation. It complies with Regulation (EU) No 1285/2013, which is the instrument on which the European satellite navigation programmes are based, Article 29 of which provides that the Union may enter into agreements with third countries and international organisations in the context of the Galileo and EGNOS programmes.

The European Union and Africa have been cooperating on satellite navigation since the 2011-2013 action plan implementing the Africa-EU strategic partnership was adopted at the third Africa-EU summit in Tripoli in November 2010. The need for cooperation in this field was reaffirmed in the 2014-2017 roadmap adopted at the Africa-EU summit in April 2014.

Studies have highlighted the major socio-economic advantages for the African continent. The cooperation will also benefit the European space industry, which — through the extension of its market to include Africa — will be able to develop its technology, deploy new infrastructure and use the services associated with satellite navigation².

On 25 September 2014, on the basis of a Commission Recommendation (COM(2014)260), the 'Competitiveness' Council authorised the Commission to negotiate, on behalf of the Union, an international agreement with ASECNA establishing the conditions for the provision of a satellite-based augmentation service (SBAS) in Africa on the basis of the EGNOS European satellite navigation programme. Negotiations started in March 2015. In April 2016 they culminated in a draft agreement establishing a framework for the cooperation required for setting up and operating an independent SBAS system, but based on the European EGNOS system, in ASECNA's area of competence. In keeping with the mandate given by the Council, the Agreement comprises a technical part and also covers questions of financing and governance.

On 21 November 2016, on the basis of a Commission proposal of 12 September 2016 (COM(2016)574), the Council adopted Decision (EU) 2016/2234³ authorising, on behalf of the Union, the signature of the Agreement. This Agreement was formally signed on 5 December 2016 in Brussels by the European Union and ASECNA.

¹ ASECNA is an international organisation based in Dakar, Senegal, whose mission is to ensure the safety of aerial navigation on behalf of its 18 member states: Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Comoros, Congo, the Ivory Coast, Gabon, Guinea-Bissau, Equatorial Guinea, Madagascar, Mali, Mauritania, Niger, Senegal, Togo and France.

² Cost/benefit analyses have valued the socio-economic benefits for the entire African continent at over 4.8 billion euros without taking into account the benefits in terms of economic development and regional integration which could not be quantified.

³ OJEU L 337, 13.12.2016, p. 1.

- **Consistency with the existing provisions in the policy area and with other Union policies**

The European satellite navigation programmes form a key part of European Union transport policy, especially air transport. They contribute to enhancing the safety and continuity of aerial navigation services and improving them in economic and environmental terms. They have been promoted internationally, mainly as a result of cooperation agreements entered into with countries such as the United States of America, China, South Korea and Israel.

Given the joint advantages accruing to Europe and Africa from developing satellite navigation services on the African continent, there have been many political initiatives on active cooperation between the European Union and Africa to this end over the past few years, including:

- Joint statement of the reference group on infrastructure of the Africa-EU strategic partnership for the college-to-college meeting between the European Commission and the African Union Commission (Addis Ababa, 25-26 February 2016);
- The 2014-2017 roadmap adopted at the fourth Africa-EU summit (Brussels, 2 and 3 April 2014);
- Joint business declaration at the 'Fifth EU-Africa business forum' (Brussels, 1 April 2014);
- Joint position adopted at the Ministerial Conference on Transport of the Union for the Mediterranean (Brussels, 14 November 2013);
- Joint Communication to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 8 March 2011 'A partnership for democracy and shared prosperity with the Southern Mediterranean' [COM(2011) 200 final];
- Communication from the Commission 'Action Plan on Global Navigation Satellite System (GNSS) Applications' COM(2010)308 final of 14 June 2010;
- Conclusions of the high-level conference on the issue: 'Space for the African citizen', organised by the Belgian Presidency of the EU on 16 September 2010;
- Seventh 'Space' Council Resolution: 'Global challenges: taking full benefit of European space systems' — Brussels, 25 November 2010;
- Action plan 2011-2013 for the implementation of the Africa-EU strategic partnership, adopted at the third Africa-EU summit (Tripoli, 29 and 30 November 2010);
- Joint business declaration at the 'Fourth EU-Africa business forum' (Tripoli, 26 and 28 November 2010);
- Communication from the Commission to the European Parliament and the Council of 24 June 2009 – 'Partnership between the European Union and Africa – Connecting Africa and

Europe: working towards strengthening transport cooperation' COM(2009) 301 final, dated 24 June 2009.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis for the proposal is Article 172 of the Treaty on the Functioning of the European Union, in conjunction with Article 218(6).

• Subsidiarity

The principle of subsidiarity does not apply in this case as the European satellite navigation systems belong to the European Union.

• Proportionality

The provisions of the Agreement are in keeping with the aim pursued, namely to enable ASECNA to develop its own system of satellite-based augmentation on the basis of the EGNOS European satellite navigation programme. They also address the European Union's concern to export its satellite navigation know-how to the African continent.

• Choice of the instrument

An international agreement is being entered into in order to put in place a binding framework for cooperation. Article 29 of Regulation (EU) 1285/2013 provides explicitly for the possibility of entering into agreements with international organisations in the context of the Galileo and EGNOS programmes.

3. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES

A both socio-economic and technical analysis was conducted on the use in Africa of satellite navigation services based on EGNOS. The results of this analysis were presented and discussed on several occasions with the African countries involved at seminars, workshops and international fora such as the AFI Planning and Implementation Regional Group (APIRG) at the International Civil Aviation Organisation (ICAO).

Within the European Union, the Commission has regularly reported, verbally and in writing, on the progress with negotiations to the special committee designated by the Council. Moreover, the Member States of the European Union were informed of the course of the discussions and were able to participate in the negotiation meetings. Finally, the Member States of the European Union, in the Council working group 'Transport — Intermodal questions and networks', were able to make observations on the draft agreement before the negotiations were completed. These observations were taken into account in the final version of the Agreement, which was authorised to be signed by the Council on 21 November 2016.

4. BUDGETARY IMPLICATIONS

The Agreement envisaged has no impact on the budget allocated to the European satellite navigation programmes by Regulation (EU) No 1285/2013.

The cost of setting up and operating the infrastructure provided for by the Agreement, which belongs to ASECNA, will be financed by ASECNA's budget, by its member states or by contributions, in the form of loans or donations, from countries in the European Union and

international financial institutions (European Investment Bank, African Development Bank, etc.).

5. OTHER ELEMENTS

The Agreement provides for the setting up of a joint committee for management and correct implementation. Recourse to an arbitration procedure is also provided for in the event of disputes between the two parties to the Agreement.

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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 172 in conjunction with point (a) of the second subparagraph of Article 218(6) and Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) Pursuant to Decision (EU) 2016/2234 of the Council of 21 November 2016⁴, the Cooperation Agreement between the European Union and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA) on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation was signed on 5 December 2016, subject to its conclusion at a later date.
- (2) The European Union strategy aiming, on the basis of European satellite navigation programmes, to develop the use of this technology and provide associated services in ASECNA's area of competence, particularly by creating an autonomous satellite-based augmentation service (SBAS) for the benefit of ASECNA, and more generally to promote the use of satellite navigation on the African continent, is pursued actively under this Agreement.
- (3) The Agreement should be approved on behalf of the European Union.

HAS ADOPTED THIS DECISION:

Article 1

The Cooperation Agreement between the European Union and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA) on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation is approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

⁴ OJ L 337, 13.12.2016, p. 1.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the deposit of the instrument of approval provided for in Article 36 of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

Article 3

This Decision shall enter into force on [...]

Done at Brussels,

*For the Council
The President*