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EUROPEAN COMMISSION

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2011/0050 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the conclusion of a Memorandum of Cooperation between the European Union and  
the International Civil Aviation Organisation**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### 1.1. Objectives of the Memorandum of Cooperation

The International Civil Aviation Organization (ICAO) is a UN Specialized Agency acting as the global forum for civil aviation. ICAO works to achieve its vision of safe, secure and sustainable development of civil aviation through cooperation amongst its member States. The legal basis for ICAO is the Chicago Convention of 1944. Currently ICAO covers 190 countries.

The European Union has to work closely with ICAO. Firstly, most aspects of the Chicago Convention are Union competence. ICAO is pursuing policies in the fields of safety, security, environment and air traffic management. Secondly, ICAO standards and requirements form the basis for EU legislation. More, some standards, such as environmental standards for aircraft, are taken over in European law without having the possibility of amending them. For Europe it is therefore important to engage in the ICAO work and policy making to contribute to sound global aviation policies. Also the competitiveness of the European civil aviation industry is at stake. That is why other global players are also actively involved in ICAO activities.

Europe has taken a pragmatic approach to ICAO involvement. This Memorandum of Cooperation is the framework for an **enhanced cooperation in the areas of aviation safety, aviation security, air traffic management, and environmental protection**. The cooperation will, inter alia, take the form of posting experts and financing specific actions. The agreement also establishes a joint committee to oversee its application.

#### 1.2. Procedural aspects

The Council has given a mandate to the Commission on 17 December 2009 to launch the negotiations on such agreement. The Commission conducted the negotiations during the course of 2010 in full respect of this mandate. The Memorandum of Cooperation was subsequently initialled on 27 September 2010 during the opening of the 37<sup>th</sup> ICAO Assembly.

This procedure concerns the Council Decision to conclude the international agreement. In parallel, a Council Decision will formally approve the signature of the international agreement and will make the agreement provisionally applicable, triggering the creation of a joint committee. This joint committee will adopt the annexes on security, environment and air traffic management, so as to cover the full scope of the activities.

#### 1.3. Consistency with other policies and objectives of the Union

The Memorandum of Cooperation will serve fundamental objectives of the European external aviation policy through the formalisation of the cooperation between ICAO and Europe.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

Member States were regularly informed throughout the negotiation process. The Commission respected the conditions of the Council mandate.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

### **3.1. Summary of the proposed action**

The Memorandum of Cooperation provides the framework to provide support to ICAO with the view to financing specific actions or to posting experts to the ICAO secretariat. It allows pooling and coordinating the European support.

### **3.2. Legal basis**

TFEU Treaty Articles 100(2) and 218(6).

### **3.3. Subsidiarity principle**

The agreement covers issues where the European Union has competence and where relations with ICAO need to be maintained at the European level.

### **3.4. Proportionality principle**

Only such agreement is able to pool European efforts and provide for a better coordination of support between Member States.

## **4. BUDGETARY IMPLICATION**

The Memorandum of Cooperation would provide for a financial support of €500,000 per year for an initial period of 3 years and be the purpose of a contribution-specific agreement in the framework of the Financial and Administrative Framework Agreement. This budget can be complemented by financial support from Member States or the European Aviation Safety Agency.

Proposal for a

**COUNCIL DECISION**

**on the conclusion of a Memorandum of Cooperation between the European Union and the International Civil Aviation Organisation**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The Commission has negotiated a Memorandum of Cooperation with the International Civil Aviation Organisation in accordance with the mandate annexed to document 16021/1/09 REV 1, adopted by the Council on 17 December 2009 authorising the Commission to open negotiations;
- (2) The Memorandum of Cooperation has been initialled by both parties on 27 September 2010 during the course of the 37th Assembly of the International Civil Aviation Organisation in Montréal;
- (3) The Memorandum of Cooperation was signed on behalf of the Union and provisionally applied, subject to its possible conclusion at a later date;
- (4) The Memorandum of Cooperation should be approved accordingly.

HAS ADOPTED THIS DECISION:

*Article 1*

The conclusion of the Memorandum of Cooperation between the European Union and the International Civil Aviation Organisation is hereby approved on behalf of the Union.

*Article 2*

The President of the Council is hereby authorized to designate the person(s) empowered to make the notification provided for in Article 9.2.

*Article 3*

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

Done at Brussels,

*For the Council  
The President*

## **MEMORANDUM OF COOPERATION**

### **between the European Union and International Civil Aviation Organisation providing a framework for enhanced cooperation**

The International Civil Aviation Organization (“ICAO”);

and

The European Union (“EU”);

Hereinafter referred to as “the Parties”:

RECALLING the Convention on International Civil Aviation signed at Chicago on 7 December 1944 (hereinafter referred to as the “Chicago Convention”) and in particular Articles 55 a) and 65 thereof;

RECALLING the Treaty on the Functioning of the European Union (EU) signed in Lisbon on 13 December 2007 and in particular Articles 218 and 220 thereof;

BEARING IN MIND ICAO Assembly Resolution A1-10, which authorized the Council to make appropriate arrangements with public international organizations whose activities affect international civil aviation, particularly with regard to technical collaboration, exchange of information and documents, attendance at meetings, and such other matters as may promote effective cooperation;

RECALLING the ICAO Policy and Framework for Cooperation with respect to Regional Civil Aviation Bodies and Regional Organizations aimed at, inter alia, concluding cooperation agreements with such bodies and organisations, as recommended by an EC/ICAO Symposium on regional organizations, which took place on 10-11 April 2008 in Montréal;

TAKING INTO ACCOUNT that most ICAO Standards in the fields of aviation safety, aviation security, air traffic management and environmental protection are addressed in relevant EU law;

TAKING INTO ACCOUNT the "Memorandum of Cooperation (MOC) between the European Aviation Safety Agency (EASA) and the International Civil Aviation Organization (ICAO) Regarding Safety Oversight Audit and Related Matters", signed in Montréal on 21 March 2006;

TAKING INTO ACCOUNT the "Memorandum of Cooperation between the European Community and the International Civil Aviation Organization Regarding Security Audits/Inspections and Related Matters", signed in Montréal on 17 September 2008;

WHEREAS the European Community and the United Nations signed on 29 April 2003, a new Financial and Administrative Framework Agreement (FAFA) to which ICAO adhered through an Agreement with the European Community signed on 7 December 2004;

WHEREAS this Memorandum of Cooperation does not supersede or prejudice existing forms of cooperation between the Parties as long as they remain in force;

HAVING REGARD to ICAO Assembly Resolution A36-2 which, inter alia, recognizes that the establishment of regional and sub-regional safety oversight systems, including regional safety oversight organizations, has great potential to assist States in complying with their obligations under the Chicago Convention through economies of scale and harmonization on a larger scale, and which also requests the Secretary General to continue to foster coordination and cooperation between USOAP and audit programmes of other organizations related to aviation safety, and furthermore directs the Council to promote the concept of regional and sub-regional safety oversight systems, including regional safety oversight organizations;

WHEREAS the Parties share the vision of achieving the highest degree of uniformity of European operational regulations, requirements and procedures with a view to achieving compliance with ICAO standards contained in the Annexes to the Chicago Convention for the sake of aviation safety, aviation security, air traffic management and environmental protection;

WHEREAS each Party plays an important role in achieving this goal;

WHEREAS the Parties wish to engage and communicate with each other on regional cooperation;

WHEREAS the EU has adopted common rules in the fields of aviation safety and aviation security and the European Aviation Safety Agency (EASA) and the European Commission (EC) conduct inspections in Member States of the EU to monitor the application of those rules;

CONSIDERING that in the EU, the European Commission has enforcement powers to ensure the implementation of EU legislation in the fields of aviation safety, aviation security, air traffic management and environmental protection;

CONSIDERING that the primary objectives of the ICAO audit programmes and the EU's inspection programmes are to enhance aviation safety and security by evaluating the implementation of respective standards, identifying deficiencies, if any, and ensuring the rectification of deficiencies in the EU, where necessary;

WHEREAS the EU has established an Office in Montreal with a view to facilitating the strengthening of relations and cooperation between the EU and ICAO and enabling increased participation and contributions by the EU in ICAO's activities at ICAO Headquarters;

CONSIDERING that, without prejudice to the rights or obligations of EU Member States under the Chicago Convention or to the relationship between EU Member States and ICAO resulting from their membership of ICAO, it is desirable to establish mutual cooperation between the EU and ICAO in the areas of aviation safety, aviation security, air traffic management and environmental protection in a manner ensuring greater harmonization of standards and closer coordination of respective activities and with a view to achieving better use of limited resources and avoiding duplication of efforts while preserving the integrity of both Parties;

AND

WHEREAS the Parties recognize the necessity to protect, to the extent required under their respective rules, classified information received from the other Party;

AGREE ON THE FOLLOWING

*1. GENERAL PROVISIONS*

1. The Parties agree to strengthen their relationship and establish closer cooperation in the fields of aviation safety, aviation security, air traffic management and environmental protection and facilitate, in accordance with established rules of procedure, their participation in activities and attendance at meetings as observer through the signing of this Memorandum of Cooperation (MOC) for the benefit of international civil aviation.
2. This MOC is without prejudice to the rights or obligations of EU Member States under the Chicago Convention or to the relationship between ICAO and the EU Member States resulting from Member States' membership of ICAO.
3. This MOC shall not cover or extend to any ICAO or EU decision-making, including on standardization or rule-making matters, but shall establish regulatory cooperation in the preparation stages of such activities.
4. The Office of the European Union in Montréal, which represents the EU at ICAO's Headquarters, shall facilitate EU-ICAO relations and serve as the main EU contact point for ICAO in all matters relating to the implementation of this MOC.

*2. OBJECTIVES*

- 2.1 This MOC shall:
  - a) establish a framework for enhanced relations between the Parties;
  - b) strengthen cooperation between the Parties;
  - c) identify areas of mutual cooperation between the Parties; and
  - d) establish the terms, conditions and mechanisms for implementing cooperation between the Parties.

*3. SCOPE*

- 3.1 This MOC shall establish cooperation between the Parties in the following areas:
  - a) aviation safety;
  - b) aviation security;
  - c) air traffic management; and
  - d) environmental protection.

3.2 Each of the areas referred to in paragraph 3.1 of this Article shall be the subject of separate Annexes to the MOC.

3.3 The Parties may establish working arrangements specifying the mutually agreed mechanisms and procedures necessary to effectively implement cooperation activities established in the Annexes to this MOC.

3.4 The Annexes adopted pursuant to this MOC shall form an integral part of this MOC.

#### 4. *FORMS OF COOPERATION*

4.1 The Parties shall:

- a) establish mechanisms for consultation, coordination and cooperation and exchange of information;
- b) facilitate the harmonization of performance requirements and interoperability of new technologies and systems;
- c) coordinate respective audit and inspection programmes and results and technical assistance activities with a view to making better use of limited resources and avoiding duplication of efforts;
- d) exchange information on compliance with ICAO Standards;
- e) establish arrangements for the EU to offer expertise and resources to ICAO, including in the form of secondments under the exclusive authority of the Secretary General, technical assistance and specialized training, where practicable;
- f) allow participation of the other party in their respective activities related to audit and inspection programmes and training programmes, as appropriate, while EU observers may participate in ICAO audit missions of EU States only with the consent of the latter, EU experts participating in ICAO audits under secondment as ICAO auditors shall keep any information related to the audit mission as strictly confidential in accordance with applicable ICAO rules; and
- g) without prejudice to non-disclosure obligations of either party and subject to the application of respective confidentiality rules as laid down in Article 6, share electronic information, data and official publications and provide mutual access to databases and strengthen links between them in order to complement each other's existing databases.

#### 5. *COOPERATION ACTIVITIES*

5.1 The Parties agree, as specified in the Annexes to this MOC, to jointly execute the following cooperation activities. The Parties shall:

5.1.1 Establish mechanisms for consultation, cooperation and information sharing, including the following:

- a) establish and implement joint mechanisms for regular dialogue, consultation and information sharing;
- b) ensure that each Party is kept informed, in a timely manner, about decisions, activities, initiatives, meetings and events of relevance to this MOC in the areas of aviation safety, aviation security, air traffic management and environmental protection, and receives relevant documentation. Where appropriate, briefings may be conducted;
- c) provide access free of charge to all official documents and publications;
- d) make databases and information on websites available to the other Party; and
- e) ensure that the EU receives and has electronic access to all ICAO State letters whose subject matter is relevant to the scope of this MOC and its Annexes.

5.1.2 Establish cooperative frameworks to better coordinate audit and inspection programmes with a view to making better use of limited resources and avoiding duplication of efforts.

5.1.3 Establish joint mechanisms for close coordination of programme planning and technical assistance.

5.1.4 Cooperate in promoting global interoperability of new technologies and systems and establish joint mechanisms to strengthen cooperation with regard to the use of new technologies.

5.1.5 Ensure timely mutual consultation with a view to achieving improved coordination and coherence between regulations, policies, approaches and ICAO SARPs.

5.1.6 Establish working arrangements to facilitate the exchange of expertise and resources as follows:

- a) ICAO shall provide the EU with expertise and advice on best practices to implement SARPs;
- b) the EU shall provide expertise to ICAO, including in the form of secondments to the ICAO Secretariat;
- c) the EU shall endeavour to provide ICAO with a financial contribution to cover costs incurred pursuant to the implementation of this MOC, including administrative costs, supply of documentation and publications and related services, use of room facilities at ICAO Headquarters and information technology costs;
- d) the EU shall endeavour to provide ICAO with financial contributions for supporting ICAO technical cooperation programmes and for other ICAO activities to be agreed within the Joint Committee, consistent with the Financial and Administrative Framework Agreement (FAFA); and
- e) any new framework and terms and conditions for secondments and financial contributions to ICAO in the framework of this MOC shall be established in working arrangements for that purpose agreed in the Joint Committee. These working arrangements shall include the possibility for the EU to request ICAO for financial information in the framework of those contributions.

5.1.7 Inform each other about any relevant training programmes and facilitate participation by the other Party, as appropriate.

5.1.8 Organize relevant events jointly and coordinate events, where appropriate.

## 6. *CONFIDENTIALITY*

6.1 Each Party shall take all reasonable precautions necessary to protect information received under this MOC and its Annexes from unauthorized disclosure. A Party may, upon providing information to the other Party, designate the portions of the information that it considers to be exempt from disclosure.

6.2 The Parties agree to safeguard, to the extent required under their respective rules, regulations and legislation, the protection of classified information received from the other Party in application of this MOC and its Annexes.

6.3 In particular, subject to their respective rules, regulations and legislation, the Parties shall not disclose information received from each other under this MOC and its Annexes that is considered proprietary. Such information shall be appropriately marked as such in accordance with their respective rules.

6.4 The Parties shall agree on working arrangements on further procedures for the protection of classified information provided pursuant to this MOC and its Annexes, as required. Such procedures shall include the possibility for each Party to verify which protection measures have been put in place by the other Party.

## 7. *JOINT COMMITTEE OF THE PARTIES*

7.1 A Joint Committee is established, composed of representatives of each Party. The Joint Committee shall be chaired by one representative of each Party. The Joint Committee shall be responsible for the effective functioning of Annexes to this MOC, including the adoption of the Annexes.

7.2 A meeting of the Joint Committee shall be convened at least once a year to review the implementation of the Annexes to this MOC and shall be organized cost-effectively. Either Party may request a meeting of the Joint Committee at any time.

7.3 The Joint Committee may consider any matter related to the functioning and implementation of the Annexes to this MOC. In particular, it shall be responsible for:

- a) resolving any question relating to the application and implementation of the Annexes to this MOC;
- b) considering ways to enhance the operation of the Annexes to this MOC and make, as appropriate, recommendations to the Parties for its amendment;
- c) adopting Annexes to this MOC and working arrangements within the scope of the Annexes or amendments to them;
- d) considering financial and resource-related issues related to the implementation of the MOC and its Annexes; and

e) resolving any difference or dispute concerning the interpretation or application of this MOC and its Annexes.

7.4 The Joint Committee shall operate on the basis of agreement between the Chairpersons representing their respective Party.

## 8. *DISPUTE RESOLUTION*

8.1 Either Party may request consultations with the other Party on any matter related to this MOC. The other Party shall reply promptly to such a request and shall enter into consultations at a time agreed by the Parties within 45 days.

8.2 The Parties shall make every effort to resolve any differences between them arising from their cooperation under this MOC at the lowest possible technical level by consultation.

8.3 In the event that any difference is not resolved as provided for in paragraph 8.2 of this Article, either Party may refer the dispute to the Joint Committee, which shall consult on the matter, in accordance with Article 7 of this MOC, with a view to resolving it by negotiation.

8.4 Notwithstanding paragraphs 8.1 to 8.3 above, the dispute resolution provisions of the FAFSA shall be applied when addressing any dispute arising from an issue of financial management.

8.5 Nothing in this MOC shall be deemed as a waiver of any privilege and immunities of the Parties.

## 9. *ENTRY INTO FORCE, AMENDMENTS AND TERMINATION*

9.1 Pending its entry into force, this MOC shall be applied provisionally from the date of signature.

9.2 This MOC shall enter into force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed and shall remain in force until terminated.

9.3 This MOC may be terminated at any time by either Party. Such termination shall be effected by six months' written notification from one Party to the other Party unless the said notice of termination has been withdrawn by mutual consent of the Parties before the expiry of this period.

FOR THE EUROPEAN UNION

FOR THE INTERNATIONAL CIVIL AVIATION  
ORGANISATION

**ANNEX**  
**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 (MOC) between the European Union and the International Civil Aviation Organization (ICAO) initialled in Montréal 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 paragraph 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 recognizing the results of ICAO Universal Safety Oversight Audit Programme (USOAP) and EU Standardisation Inspections;
- monitoring and analyzing 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 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 through the exchange of relevant and appropriate safety data, safety information and documentation, by providing access to relevant databases and by facilitating mutual participation in meetings. To this end, the Parties shall establish working arrangements specifying procedures for the exchange of information, for the provision of database access and which guarantee the confidentiality of information received from the other Party in accordance with Article 6 of the 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 modalities 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 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 with one another 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 Joint Committee may adopt amendments to this Annex, as necessary, in accordance with Article 7 of the 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 of 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 Joint Committee established pursuant to Article 7 of the MOC.

### **15. Entry into Force, Amendments and Termination**

15.1 This Annex shall enter into force on the date of adoption by the Joint Committee and shall remain in force until terminated.

15.2 Working arrangements agreed pursuant to this Annex shall enter into force on the date of adoption by the Joint Committee.

15.3 Any amendments to, or termination of, working arrangements adopted pursuant to this Annex shall be agreed within the Joint Committee.

15.4 This Annex may be terminated at any time by either Party. Such termination shall be effective 6 months following receipt of written notification of termination by one party from the other party, unless the said 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 MOC is terminated, this Annex and any working arrangement adopted pursuant to it shall terminate simultaneously.

## **LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS**

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

1.1. Title of the proposal/initiative: Memorandum of Cooperation between the European Union and the International Civil Aviation Organisation providing a framework for enhanced cooperation

1.2. Policy area(s) concerned in the ABM/ABB structure: European Aviation Policy – international relations

1.3. Nature of the proposal/initiative: international agreement

1.4. Objective(s): enhance the cooperation with the International Civil Aviation Organisation to enhance cooperation with ICAO by providing financial support for specific actions or post experts

1.5. Grounds for the proposal/initiative: the International Civil Aviation Organisation is the source of global aviation standards and policy. As the Union is competent for European aviation policy, it is important to engage in the ICAO regulatory work and policy making to contribute to sound global aviation policies. Also the competitiveness of the civil aviation industry is at stake.

1.6. Duration and financial impact: the agreement is concluded for an unlimited duration with the possibility for the two parties to terminate subject to a six months notification period. A yearly budget of €500,000 is foreseen for the first three years. This amount can be amended in view of the needs and the experience.

1.7. Management method(s) envisaged: The Memorandum of Cooperation foresees the creation of a joint committee to overview all activities – EU grant contracts will provide the detailed modalities.

### **2. MANAGEMENT MEASURES**

2.1. Monitoring and reporting rules: (1) Joint committee will follow up all actions financed under this memorandum of cooperation; (2) EU grant agreement foresee standard monitoring and reporting rules (3) the EU liaison office in Montreal will follow activities.

2.2. Management and control system: beyond the measures described in 2.1, the ICAO and the Commission financial services are in close contact to ensure rigorous application and control.

2.3. Measures to prevent fraud and irregularities: EU funding will be regulated through EU grant agreements which foresee the necessary measures, including prevention of conflict of interest, payment in instalments, justification of expenses and recovery procedures

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected: 060203 – Support activities to the European Transport policy and passenger rights

3.2. Estimated impact on expenditure:

*3.2.1. Summary of estimated impact on expenditure €500,000/year. The concrete actions could take the form of posting experts in the ICAO headquarters, joint conferences or technical assistance to third countries, under ICAO coordination.*

*3.2.2. Estimated impact on operational appropriations: the largest part of total appropriations will be operational.*

*3.2.3. Estimated impact on appropriations of an administrative nature: not significant.*

*3.2.4. Compatibility with the current multiannual financial framework: the foreseen expenditure is compatible with the multiannual financial framework.*

*3.2.5. Third-party participation in financing: the concrete actions are not expected to involve third party funding.*

3.3. Estimated impact on revenue: the activities are not expected to raise revenue.

## LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Memorandum of Cooperation between the European Union and the International Civil Aviation Organisation (ICAO)

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>1</sup>

060203 Support Activities to the European Transport Policy and Passenger Rights

#### 1.3. Nature of the proposal/initiative

X The proposal/initiative relates to a **new action**

#### 1.4. Objectives

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

Pursue a European aviation policy and enhance the cooperation with ICAO, which is the UN special body responsible for civil aviation.

##### 1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective No.:0602

ABM/ABB activity(ies) concerned :Inland, air and maritime transport

##### 1.4.3. *Expected result(s) and impact*

The framework for cooperation in the areas of safety, security, environment and air traffic management should lead to the coordination and pooling of European efforts towards ICAO. Hence the framework is an additional tool to influence the global agenda and policy in view of European priorities.

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<sup>1</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

#### 1.4.4. *Indicators of results and impact*

Indicators for monitoring are the extent to which this framework agreement allows Europe to pool its resources and pursue its agenda and objectives at the international level. For Europe, it is important to see ambitious safety, security and environmental standards adopted at the international levels to protect the flying public.

The indicators are of a qualitative nature: how have the actions financed under this Memorandum contributed to influencing the ICAO process and producing results, which are of particular European interest.

### 1.5. **Grounds for the proposal/initiative**

#### 1.5.1. *Requirement(s) to be met in the short or long term*

The EU has gained competence in most areas of aviation. This competence should be translated at the international level by a single European voice and commonly agreed actions. The Memorandum of Cooperation with ICAO provides for a framework of coordinated European actions and supports the ICAO activities in a direction which fits the European objectives.

#### 1.5.2. *Added value of EU involvement*

The EU action coordinates and completes the actions of Member States.

#### 1.5.3. *Lessons learned from similar experiences in the past*

This is a new action, based on the EU competence in civil aviation, which needs to be translated into coordinated action in international forums. The European positions in various ICAO meetings and working groups is becoming more and more coordinated. The memorandum of cooperation is a logical and necessary step in this evolution.

#### 1.5.4. *Coherence and possible synergy with other relevant instruments*

The memorandum of cooperation will provide for additional tools to complete the contributions of EU Member States to ICAO activities and increase visibility of Europe at the global level.

### 1.6. **Duration and financial impact**

Proposal/initiative of **limited duration**

Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from 2011,
- followed by full-scale operation.

## 1.7. Management mode(s) envisaged<sup>2</sup>

- Centralised direct management** by the Commission
- Centralised indirect management** with the delegation of implementation tasks to:
- Shared management** with the Member States
- Decentralised management** with third countries

X **Joint management** with international organisations: the memorandum of cooperation provides for the creation of a joint committee with ICAO and Commission as members and where Member States will be involved.

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

A joint committee ICAO – Commission with Member States' involvement will discuss and propose the concrete measures and actions under the Memorandum. Regular monitoring and reporting will be done both at the joint committee level and technical level.

### 2.2. Management and control system

#### 2.2.1. Risk(s) identified

Inappropriate use of funds  
Fraud

#### 2.2.2. Control method(s) envisaged

The EU funds will be committed on the basis of a grant agreement. The EU standard contribution specific agreements contain adequate mitigating measures, including audits and recovery.

### 2.3. Measures to prevent fraud and irregularities

See 5.2.2

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<sup>2</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines will be used:

In order of multiannual financial framework headings and budget lines:

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number		from EFTA <sup>4</sup> countries	from candidate countries <sup>5</sup>	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	060203 Support activities to the European transport policy and passenger rights	DA/NDA <sup>(3)</sup>				
1A	Support activities to the European transport policy and passenger rights	DA	NO	NO	NO	NO

<sup>3</sup> DA= Differentiated appropriations / DNA= Non-Differentiated Appropriations

<sup>4</sup> EFTA: European Free Trade Association.

<sup>5</sup> Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

<b>Heading of multiannual financial framework:</b>	Number 1A	Competitiveness for growth and employment
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DG: MOVE			Year 2011 <sup>6</sup>	Year 2012	Year 2013	Year N+3	TOTAL
• Operational appropriations							
Number of budget line 060203	Commitments	(1)	0.500	0.500	0.500		<b>1.5</b>
	Payments	(2)	0.500	0.500	0.500		<b>1.5</b>
Number of budget line	Commitments	(1a)					
	Payments	(2a)					
Appropriations of an administrative nature financed from the envelop of specific programs <sup>7</sup>							
Number of budget line		(3)					
<b>TOTAL appropriations for DG MOVE</b>	Commitments	=1+1a+3	0.500	0.500	0.500		<b>1.5</b>
	Payments	=2+2a+3	0.500	0.500	0.500		<b>1.5</b>

<sup>6</sup> Year N is the year in which implementation of the proposal/initiative starts.

<sup>7</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

• TOTAL operational appropriations	Commitments	(4)	0	0	0		
	Payments	(5)	0	0	0		
• TOTAL appropriations of an administrative nature financed from the envelop of specific programs		(6)					
<b>TOTAL appropriations under HEADING &lt;....&gt; of the multiannual financial framework</b>	Commitments	=4+ 6	<b>0.500</b>	<b>0.500</b>	<b>0.500</b>		<b>1.5</b>
	Payments	=5+ 6	<b>0.500</b>	<b>0.500</b>	<b>0.500</b>		<b>1.5</b>

<b>Heading of multiannual financial framework:</b>	<b>5</b>	" Administrative expenditure "
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EUR million (to 3 decimal places)

		Year 2011	Year 2012	Year 2013	Year N+3	<b>TOTAL 2011-13</b>
<b>DG: MOVE</b>						
• Human resources		0.025	0.025	0.25	...	<b>0.075</b>
• Other administrative expenditure		0.025	0.025	0.025	...	<b>0.075</b>
<b>TOTAL DG MOVE</b>	Appropriations	0.050	0.050	0.050	...	<b>0.150</b>

<b>TOTAL appropriations under HEADING 5 of the multiannual financial framework</b>	(Total commitments = Total payments)	0.050	0.050	0.050	...	<b>0.150</b>
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EUR million (to 3 decimal places)

		Year N <sup>8</sup>	Year N+1	Year N+2	Year N+3	<b>TOTAL</b>
<b>TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework</b>	Commitments	0.550	0.550	0.550	...	<b>1.650</b>
	Payments	0.550	0.550	0.550	...	<b>1.650</b>

<sup>8</sup> Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. *Estimated impact on operational appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs			Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)										TOTAL	
	OUTPUTS																	
↓	Type of output <sup>9</sup>	Average cost of the output	Number	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number	Cost	Number of outputs	Cost	Total number of outputs	Total cost
SPECIFIC OBJECTIVE No 1 <sup>10...</sup> Inland, air and maritime transport																		
- Output	0.500	1	0.50	1	0.50	1												1.5
- Output																		
- Output																		
Sub-total for specific objective N°1			0.500	1	0.500	1	0.500	1										

<sup>9</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).  
<sup>10</sup> As described in Section 1.4.2. "Specific objective(s)..."

<b>TOTAL COST</b>	0.50 0	1	0.50 0	1	0.500	1										
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### 3.2.3. Estimated impact on appropriations of an administrative nature

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal/initiative requires the use of administrative appropriations, as explained below, only inside heading 5 of the multiannual financial framework: The administrative appropriations required will be met by the appropriations which are already assigned to management of the action and/or will be redeployed, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of existing budgetary constraints.

EUR million (to 3 decimal places)

	Year 2011	Year 2012	Year 2013	Year 2014	... enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
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<b>HEADING 5 of the multiannual financial framework</b>								
Human resources	0.025	0.025	0.025					<b>0.075</b>
Other administrative expenditure	0.025	0.025	0.025					<b>0.075</b>
<b>HEADING 5 of the multiannual financial framework</b>	<b>0.050</b>	<b>0.050</b>	<b>0.050</b>					<b>0.150</b>

### 3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full amounts (or at most to one decimal place)*

	Year 2011	Year 2012	Year 2013	Year 2014	... enter as many years as necessary to show the duration of the impact (see point 1.6)		
<b>• Establishment plan posts (officials and temporary agents)</b>							
XX 01 01 01 (Headquarters and Commission's Representation Offices)	0.015	0.015	0.015				
XX 01 01 02 (Delegations)	0.010	0.010	0.010				
XX 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
<b>•</b>							
<b>TOTAL</b>	<b>0.025</b>	<b>0.025</b>	<b>0.025</b>				

**XX** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary agents	Manage the actions taken in the framework of the Memorandum of Cooperation
External personnel	

### 3.2.4. Compatibility with the current multiannual financial framework

- Proposal/initiative is compatible the current multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.
- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>11</sup>.

### 3.2.5. Third-party contributions: not applicable.

## 3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.

<sup>11</sup> See points 19 and 24 of the Interinstitutional Agreement.