COUNCIL DECISION (EU) 2016/1764

of 29 September 2016

on the position to be taken by the European Union within the EU-ICAO Joint Committee on the Decision on the adoption of an annex on Air Traffic Management 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 Article 100(2) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Memorandum of Cooperation between the European Union and the International Civil Aviation Organization (ICAO) providing a framework for enhanced cooperation [1] (hereinafter referred to as the 'Memorandum of Cooperation') entered into force on 29 March 2012.

(2) Pursuant to Article 7.3(c) of the Memorandum of Cooperation, the Joint Committee established by Article 7.1 of the Memorandum of Cooperation may adopt annexes to the Memorandum of Cooperation.

(3) It is appropriate to establish the position to be taken by the Union within the Joint Committee with regard to the adoption of an annex on Air Traffic Management to the Memorandum of Cooperation,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the 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 Air Traffic Management 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, 29 September 2016.

For the Council
The President
P. ŽIGA

[1] OJ L 232, 9.9.2011. p. 2.

DRAFT DECISION OF THE EU-ICAO JOINT COMMITTEE

of …

on the adoption of an annex on Air Traffic Management 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 Memorandum of Cooperation), which entered into force on 29 March 2012, and in particular Article 7.3(c) thereof,

Whereas it is appropriate to include an annex on Air Traffic Management in the Memorandum of Cooperation,

HAS ADOPTED THIS DECISION:

Article 1

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

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

ON AIR TRAFFIC MANAGEMENT

1. **Objectives**

1.1. The Parties agree to cooperate in the field of Air Traffic Management and Air Navigation Services (hereinafter referred to as ATM/ANS) within the framework of the Memorandum of Cooperation (MOC) between the European Union (EU) and the International Civil Aviation Organization (ICAO) signed in Montreal on 28 April 2011 and in Brussels on 4 May 2011.

1.2. Consistent with their commitment to the global harmonisation of requirements included in Standards and Recommended Practices (SARPs) for ATM/ANS and the global interoperability of new technologies and systems in the domain of ATM/ANS, the Parties agree to cooperate closely in a spirit of transparency and dialogue to coordinate their ATM/ANS activities.

2. **Scope**

2.1. In pursuit of the objectives specified in Article 1 of this Annex, the Parties agree to cooperate in the following areas:

— conducting regular dialogue on ATM/ANS matters of mutual interest;

— achieving transparency through the regular exchange of relevant ATM/ANS information;

— participating in ATM/ANS activities;

— monitoring and analysing States' compliance with ICAO Standards and adherence to Recommended Practices in the domain of ATM/ANS;

— cooperating in regulatory and standard-setting matters;

— cooperating in the field of the development and implementation of the ICAO Global Air Navigation Plan (GANP) and its aviation system block upgrade (ASBU) methodology;

— developing and providing technical assistance projects and programmes;

— promoting regional cooperation, in particular within the ICAO European (EUR) region, with specific consideration to the results achieved in the development and implementation of the Single European Sky (SES) and to the work of the European Aviation Safety Agency (EASA) on ATM/ANS matters; and,

— exchanging technical experts in the relevant fields of ATM/ANS.

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 of this Annex. Those working arrangements shall be adopted by the Joint Committee established pursuant to Article 7 of the MOC.

3.2. The undertaking of cooperative activities under this Annex shall be fulfilled, on behalf of the Parties, by the ICAO Air Navigation Bureau (ANB) and the European Commission. The European Commission may involve, as appropriate, the EU Member States and European organisations, including EASA, the SESAR Joint Undertaking, the SESAR Deployment Manager and Eurocontrol.

4. **Dialogue**

4.1. The Parties shall convene meetings and/or teleconferences on a regular basis to discuss ATM/ANS matters of mutual interest and, where necessary and appropriate, to coordinate activities.

5. **Transparency and exchange of information**

5.1. The Parties shall encourage, subject to their applicable rules, transparency in the field of ATM/ANS in their relations with third parties.

5.2. The Parties shall be transparent in their cooperation and collaboration in ATM/ANS activities through the exchange, without prejudice to their applicable rules, of relevant and appropriate data, information and documentation, and by facilitating mutual participation in meetings.

5.3. To that end, each Party shall establish procedures for the exchange of information, which guarantee the confidentiality of information received from the other Party in accordance with Article 6 of the MOC.

6. **Participation in ATM/ANS activities**

6.1. For the purpose of implementing this Annex, each Party shall, as appropriate, invite the other Party to participate, in accordance with established rules of procedure, in ATM/ANS-related activities and meetings as observer with a view to ensuring close cooperation and coordination.

7. **Sharing of ATM/ANS information and analyses**

7.1. Without prejudice to their applicable rules, and in accordance with appropriate working arrangements to be developed, the Parties shall share relevant ATM/ANS information and data, as well as analyses made on the basis of that information and data.

7.2. The Parties shall cooperate closely in actions 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, and the coordination of any technical assistance activities.

7.3. Based on its activities in the field of performance review and target setting, as well as in the monitoring of the implementation of the European ATM Master Plan, the EU shall assist ICAO in the development of a global performance-based approach and of a global monitoring approach for the implementation of the ICAO GANP and ASBU methodology therein. ICAO shall make appropriate and best use of existing EU material or material under development, arising from the development and implementation of the SES, when developing its global approaches.

8. **Regulatory and standard-setting matters**

8.1. Each Party shall ensure that the other Party is kept informed of all relevant laws, regulations, standards, requirements and recommended practices, which may affect the implementation of this Annex, as well as of any modification thereto.

8.2. The Parties shall notify each other in a timely manner of any proposed modifications to their relevant laws, regulations, standards, requirements and recommended practices, in so far as those modifications may have an impact on the application of this Annex. Such notification may also include, as needed, the sharing of appropriate planning instruments, such as relevant annual/multi-annual programmes. 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.

8.3. With a view to the global harmonisation of ATM/ANS regulations and standards, the Parties shall consult each other on technical regulatory matters in the field of ATM/ANS during the respective rule-making or SARPs-development processes, and shall be invited to participate in the associated technical bodies, as and when appropriate.

8.4. To that end, the EU and ICAO shall further streamline their cooperation in view of ensuring the timely review of EU rules following ICAO amendments to the Annexes of the Convention on International Civil Aviation (the Chicago Convention) and of giving timely input to ICAO when amendments to Annexes relevant for ATM/ANS are considered.

8.5. ICAO shall provide the EU with timely information on ICAO decisions and recommendations affecting –ATM/ANS-related SARPs by providing full access to ICAO State letters and Electronic Bulletins.

8.6. Where appropriate, the EU shall endeavour to ensure that relevant EU legislation is in conformity with ICAO ATM/ANS-related SARPs.

8.7. As the European ATM Master Plan is closely related to the ICAO GANP and the ASBU methodology contained therein, the EU, in cooperation with its Member States, will assist ICAO in developing SARPs and supporting materials for new ATM/ANS requirements, based on its needs and experience with the deployment of SESAR. Similarly, ICAO will assist the EU in the updating of its standards for global interoperability for new ATM/ANS requirements, based on its GANP, ASBU methodology and the related Roadmaps.

8.8. Notwithstanding the obligations of EU Member States as Contracting States to the Chicago Convention, the EU shall, where and when 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.

8.9. The undertaking of cooperative activities in regulatory and standard-setting matters shall neither contradict existing ICAO rule-making procedures, nor establish any new legal or reporting obligations on ICAO vis-à-vis the EU or its Member States.

9. **Technical Assistance Projects and Programmes**

9.1. 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, including data, on ATM/ANS-related technical assistance projects and programmes.

10. **Regional Cooperation**

10.1. The Parties shall give priority to activities aimed at accelerating the establishment of the Single European Sky, including the relevant activities of EASA in ATM/ANS, where the regional approach offers opportunities for improved cost-efficiency, oversight and/or harmonisation processes.

10.2. Particular attention in regard to paragraph 10.1 will be given to the regional performance-based approach, European technical regulations in ATM/ANS, Functional Airspace Blocks, the Management of Network Functions (including the European Aviation Crisis Coordination Cell, EACCC) and the deployment and monitoring of new ATM/ANS concepts based on SESAR and the European ATM Master Plan.

10.3. To fulfil the Regional Cooperation expectations, a close working relationship shall be maintained between the EU and the ICAO Regional Office in Paris, including mutual participation in relevant meetings (e.g. Single Sky Committee).

10.4. The EU will organise coordination between European organisations, the EU Member States and the ICAO Regional Office in light of the scope of this Annex, in particular to contribute to the ICAO regional plans.

11. **Expert Assistance**

11.1. Without prejudice to expert assistance schemes developed outside of the scope of this Annex, the EU shall endeavour to make available to ICAO experts with technical expertise in relevant fields of ATM/ANS, 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.

12. **Review**

12.1. The Parties shall review the implementation of this Annex on a regular basis, taking into account, as necessary, relevant policy or regulatory developments.

12.2. Any review of this Annex shall be conducted by the Joint Committee established pursuant to Article 7 of the MOC (the 'Joint Committee').

13. **Entry into Force, Amendments and Termination**

13.1. This Annex shall enter into force on the date of adoption by the Joint Committee and shall remain in force until such time as it is terminated.

13.2. Working arrangements, as far as needed, agreed pursuant to this Annex shall enter into force on the date of adoption by the Joint Committee.

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

13.4. 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 said notice of termination has been withdrawn by mutual consent of the Parties before that six-month period has expired.

13.5. 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 therewith.