

No. 27199

**BELGIUM, FEDERAL REPUBLIC
OF GERMANY, LUXEMBOURG
AND NETHERLANDS
and
EUROPEAN ORGANISATION
FOR THE SAFETY OF AIR NAVIGATION
(EUROCONTROL)**

Agreement relating to the provision and operation of air traffic services and facilities by EUROCONTROL at the Maastricht Area Control Centre (with annexes). Concluded at Brussels on 25 November 1986

Agreement for the application of article 6 of the above-mentioned Agreement (with annex). Concluded at Brussels on 25 November 1986

Authentic texts of the Agreement: German, English, French, Dutch and Portuguese.

Authentic texts of the Agreement for the application of article 6: German, French and Dutch.

Registered by Belgium on 19 April 1990.

AGREEMENT¹ RELATING TO THE PROVISION AND OPERATION OF AIR TRAFFIC SERVICES AND FACILITIES BY EUROCON- TROL AT THE MAASTRICHT AREA CONTROL CENTRE

The Federal Republic of Germany,

The Kingdom of Belgium,

The Grand Duchy of Luxembourg,

The Kingdom of the Netherlands,

hereinafter called “the National Contracting Parties”, on the one part,

And EUROCONTROL, the European Organisation for the Safety of Air Navigation,

hereinafter called “the Organisation”, on the other part,

Whereas the Permanent Commission for the safety of air navigation of the Organisation (hereinafter called “the Commission”), on the proposal of the National Contracting Parties, has adopted future arrangements for the Maastricht Area Control Centre (hereinafter called “the Maastricht Centre”), and will decide on the implementation thereof pursuant to Annex 3 to the Protocol signed at Brussels on 12 February 1981² amending the EUROCONTROL International Convention relating to co-operation for the Safety of Air Navigation of 13 December 1960³ (hereinafter called “the Protocol”),

Whereas the Maastricht Centre will be maintained as a EUROCONTROL establishment for the purpose of providing the Organisation with the essential link between the mandatory tasks in Article 2.1 of the EUROCONTROL Convention amended at Brussels in 1981 (hereinafter called “the amended Convention”) and the practical execution of air traffic services, thus enabling the Organisation to maintain and develop its technical and operational know-how in the air traffic services field,

Whereas the arrangements satisfy the desire of the National Contracting Parties to entrust the Organisation with the provision and operation of air traffic facilities and services on behalf of the National Contracting Parties pursuant to the provisions of the amended Convention, and in particular Articles 2.2 (b) and 12 thereof,

¹ Came into force on 1 January 1990, on which date the Permanent Commission for the safety of air navigation of EUROCONTROL has brought the transitional period to an end as provided for in Annex 3 of the Protocol of 12 February 1981 amending the “EUROCONTROL” International Convention relating to co-operation for the safety of air navigation of 13 December 1960, following deposit with the Government of Belgium of the instrument of ratification, acceptance or approval by the last Contracting Party having completed this formality, in accordance with article 14 (3):

<i>State</i>	<i>Date of deposit of the instrument of ratification or acceptance (A)</i>
Belgium.....	31 March 1987
Germany, Federal Republic of	19 February 1990
Luxembourg.....	7 December 1989
Netherlands	13 October 1988 A
(For the Kingdom in Europe.)	

² United Nations, *Treaty Series*, vol. 1430, p. 279.

³ *Ibid.*, vol. 523, p. 117.

Have agreed as follows:

Article 1

1. The National Contracting Parties shall entrust the Organisation, pursuant to Article 2.2 (b) of the amended Convention, with the provision and operation of en-route air traffic facilities and services, to the extent and in the manner prescribed in this Agreement. For this purpose, the Organisation shall employ the facilities at the Maastricht Centre, and shall provide the staff required for the operation and maintenance of the Centre.

2. Each of the National Contracting Parties shall retain, with regard to the airspace over its territory and within designated portions of the airspace over the high seas, on the basis of the Air Navigation Plan — European Region — of the International Civil Aviation Organization (hereinafter called “ICAO”), its competences and obligations in respect of aeronautical regulations, rule-making, airspace organisation and relations with international organisations, such as ICAO, and with airspace users and other third parties.

Article 2

1. The Organisation shall provide the facilities and operate the services for en-route air traffic, as defined in Article 3.3 of the amended Convention, in the airspace delimited in Annex I to this Agreement.

2. In order to enable the Organisation to assume its competences as referred to in Articles 1.1 and 2.1 of this Agreement, the National Contracting Parties shall make available to the Organisation for joint use free of charge, the installations, equipment and air-ground and ground-ground communications facilities listed in Annex II to this Agreement.

3. The National Contracting Parties, to the extent that they are competent to do so, shall take all measures necessary to enable the Organisation to discharge its responsibility under the present Agreement; this applies in particular to the allocation of radio frequencies.

Article 3

The Organisation shall determine the operational and technical measures required for the operation of air traffic services pursuant to the provisions of Annex I to this Agreement, with the aim of ensuring the safety, efficiency and expeditious flow of air traffic through the most cost-effective means. For this purpose, the Organisation shall:

- (a) Establish through its Agency the means required for the discharge of its task pursuant to Annex I of the amended Convention (Statute of the Agency);
- (b) In agreement with the National Contracting Parties, ensure maximum compatibility between the services provided on the one hand by the Maastricht Centre and on the other by the National Contracting Parties in the airspaces under their control;
- (c) Agree with the National Contracting Parties on the manner in which the facilities referred to in Article 2.2 of this Agreement shall be operated.

Article 4

1. The Agency's Committee of Management shall, on the proposal of the Agency's Director General, establish the operational and technical measures referred to in Article 3 above on the basis of the provisions in Article 5 of this Agreement, as well as the corresponding budgetary appropriations.

2. The Director General shall ensure the day-to-day operation of the air traffic services, including management of staff and equipment. For this purpose:

- (a) He shall observe the Organisation's internal rules and staff service regulations, as well as any measures taken by the Committee of Management and the Commission pursuant to the provisions of Articles 3 and 5 of this Agreement;
- (b) He shall maintain close consultation and coordination in the operational and technical fields with the air traffic services agencies of the National Contracting Parties.

Article 5

With the exception of the provisions of the 2nd, 3rd and 4th sentences of Article 7.1 of the amended Convention, the provisions of the said Convention, and those of Annex 1 thereto, in respect of decision-making procedures in connection with the tasks detailed in Article 2.1 of the Convention shall apply by analogy to the measures of an *inter alia* operational, technical or budgetary nature referred to in Articles 3 and 4 of the present Agreement. Measures voted by a simple or weighted majority shall require to obtain two-thirds of votes cast, this to include those of all of the National Contracting Parties.

Article 6

In the application of this Agreement, the National Contracting Parties shall undertake to establish joint working procedures intended to facilitate the taking of decisions by the Organisation and the achievement of the aims of compatibility, consultation and coordination referred to in Articles 3 and 4 of this Agreement.

Article 7

1. Investments in respect of facilities at the Maastricht Centre required for the performance of the tasks for which the Organisation is responsible under this Agreement shall be undertaken by the Organisation.

2. Such investments shall be financed by means of a special annex to the Organisation's budget. The financing procedure and the resources are specified in Part I of the Financial Protocol in Annex III to this Agreement.

Article 8

1. The operating costs incurred by the Organisation in respect of the Maastricht Centre shall be established in accordance with Part II of the Financial Protocol contained in Annex III to this Agreement, and shall be included in a special budgetary annex to the Organisation's budget. This annex shall be financed by the National Contracting Parties in accordance with a cost-sharing formula to be agreed between them.

2. All other costs incurred by the Organisation in connection with the operation of the Maastricht Centre, which are not included in the special budgetary annex, shall be borne by the Organisation.

Article 9

The EUROCONTROL staff serving at the Maastricht Centre shall be subject to the provisions governing the Organisation's staff.

Article 10

The Agreement between the Federal Republic of Germany and EUROCONTROL concluded on 3 November 1977 for the duration of the 1960 Convention and relating to the co-location of German Air Force units at the Maastricht Centre and the provision of installations, equipment and technical services shall remain unaffected.

Article 11

1. Each National Contracting Party shall be liable for any damage arising from, or in connection with, the services made available to the Organisation in accordance with the provisions of Article 2, paragraphs 2 and 3, of this Agreement to the extent to which such damage is attributable to the said National Contracting Party.

2. Except as provided in paragraph 1 of this Article, the Organisation shall indemnify the National Contracting Parties against any claim arising on account of damage sustained as a result of, or in connection with, the services provided in virtue of Article 1, paragraph 1, and Article 2, paragraph 1, of this Agreement.

3. The Organisation's liability may be invoked pursuant to Article 25.2 of the amended Convention. However, in the cases referred to in paragraph 1 of this Article, the Organisation has a right of recourse against the National Contracting Parties for any indemnification due in this respect.

4. The Organisation may take out insurance in its own name to cover all or some of the risks incurred in connection with this Agreement, including damage due to revenue loss, and in particular risks arising in connection with:

- (a) Liability towards third parties (airlines, users, passengers, etc.),
- (b) Liability towards States, and
- (c) Damage to, or loss of its installations.

Article 12

The provisions contained in the Annexes to this Agreement shall form an integral part hereof. They may however be modified by unanimous decision of the Commission. Any National Contracting Party may require that the implementation of such a decision be subject to written confirmation by the National Contracting Party concerned. However, the provisions laid down in Part II of Annex III to this Agreement, relating to the charging of pensions to the budget, shall not be subject to modification by the Commission.

Article 13

Any disputes which may arise relating to the interpretation or application of this Agreement, or of the Annexes thereto, shall be settled by applying *mutatis mutandis* the provisions of Article 31 of the amended Convention.