CHAPTER 333

EUROCONTROL ACT

To provide for Malta's membership to Eurocontrol.

7th April, 1989;
1st July, 1989

ACT X of 1989, as amended by Acts XIII of 1997 and IX of 2003; and Legal Notice 424 of 2007 and Act XL of 2023.

Short title.

1. The short title of this Act is the Eurocontrol Act.

Interpretation.
Amended by: IX. 2003.65; Act XL of 2023.

2. (1) In this Act, unless the context otherwise requires -

"Agency" means the Agency comprised in Eurocontrol, the statute of which is annexed to the Convention;

Cap. 641.

"Air Navigation Act" means the Air Navigation Act, or any Act substituting the same;

"Contracting Party" means a State which is or becomes a party to the Convention;

"Contracting Party addressed" in relation to a decision means the Contracting Party in which the decision is sought to be enforced;

"Contracting Party of Origin" in relation to a decision means the Contracting Party in which the decision was given;

"Convention" means the Convention relating to Co-operation for the Safety of Air Navigation (Eurocontrol) signed in Brussels on the 13th December, 1960, as amended by the Additional Protocol thereto signed at Brussels on the 6th July 1970, in its turn amended by the amendment to the Additional Protocol signed at Brussels on the 21st November, 1978, and as amended by the Protocols amending the Convention signed in Brussels on the 12th February, 1981 and the 27th June 1997, which Convention and Protocols are deposited in the Archives of the Kingdom of Belgium; a consolidated text of the Convention and Protocols is reproduced in the Schedule;

"decision creditor" means the person by whom the decision was obtained and includes the successors and assignees of that person;

"decision debtor" means the person against whom the decision was given; and includes any person against whom the decision is enforceable;

"*en route* air navigation services" includes information, directions and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft;

"Eurocontrol" means the European Organization for the Safety of Air Navigation established by the Convention, including, except where the context otherwise requires, the General Assembly, the Council and the Agency comprised in that Organisation;

"installations" means apparatus for locating, directing, affording

navigational aid to, or otherwise communicating with, aircraft in flight, including apparatus for recording or processing material received or transmitted by such apparatus, and any other apparatus for use in connection with any such apparatus as aforesaid;

Where any law makes references to provisions of the Air Navigation Order which were not reproduced in the Air Navigation Act, or any Act substituting the same, the matter shall be regulated by means of a regulatory instrument issued by the Director General.

Cap. 641.

"Minister" means the Minister responsible for civil aviation and to the extent of the authority given, any person authorised in that behalf by such Minister;

"prescribed" means prescribed by regulations under this Act;

"record" includes, in addition to a record in writing -

(*a*) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom;

(*b*) any film, tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom; and

(*c*) any photograph;

and any reference to a copy of a record includes in the case of a record falling within paragraph (*a*) only of this definition, a transcript of the sounds or signals embodied therein, in the case of record falling within paragraph (*b*) only of this definition, a still reproduction of the images embodied therein, and in the case of a record falling within both those paragraphs, such a transcript together with such a still reproduction;

"registering court" in relation to any decision means the court to which the decision was registered;

"relevant authority", in relation to a Contracting Party, means -

(*a*) any court or tribunal which, under the law of the State, has jurisdiction to decide questions as to whether or not a sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or some other person;

(*b*) any administrative authority which, under that law, has jurisdiction to take, or is otherwise authorised to take, decisions in respect of such questions being decisions which in that State are subject to appeal to, or review by, a court or tribunal;

(*c*) any court or tribunal which, under that law, has jurisdiction to decide any appeal from, or carry out any review of, a decision made in respect of any such question by another relevant authority.

(2) In the case of inconsistency between the text of the Convention as reproduced in the Schedule and the text of the Convention deposited in the Archives of the Kingdom of Belgium,

the latter shall prevail.

Enforcement of the Convention, the Additional Protocol, etc. *Amended by: IX. 2003.66.*

3. (1) Where any provision of this Act is inconsistent with any law other than the Constitution, the provisions of this Act shall prevail.

(2) Nothing in this Act shall be interpreted as imposing an obligation on the part of Malta to divulge information of a military nature or affecting the security of a State.

(3) Nothing in the Convention or in this Act shall empower the Government of Malta, except by resolution of Parliament -

(*a*) to entrust Eurocontrol or the Agency to provide and operate wholly or in part air traffic services and facilities on behalf of Malta, or

(*b*) to delegate to Eurocontrol or the Agency the right to establish differently from that obtaining at present the Flight Information Region of Malta.

Legal personality.

4. (1) Eurocontrol shall have the legal capacity of a body corporate. It shall have the right to acquire or transfer movable or immovable property and to sue or be sued in any court of law.

(2) Except as otherwise provided in the Convention anything which may be required or authorised by law to be done by or to Eurocontrol may be done by or to the Agency on behalf of Eurocontrol.

Provision of land, premises, etc.

5. The Minister may provide for Eurocontrol any land, premises, installations, equipment or services (including the services of personnel) in Malta which may be required for the purposes of or in connection with the functions of Eurocontrol under the Convention.

Power to charge for *en route* air navigation services, etc. *Amended by: XIII. 1997.2; IX. 2003.67.*

6. (1) The Minister may make regulations for requiring the payment to Eurocontrol of charges, of such amounts and in such currencies as may be prescribed, in respect of *en route* air navigation services which, whether in pursuance of international arrangements or otherwise, are provided for aircraft by the Director of Civil Aviation, or Eurocontrol or any other person.

(2) The liability for any charges payable by virtue of regulations under subarticle (1) may be imposed upon the operators or owners of aircraft separately or jointly for which the *en route* air navigation services in question are available (whether or not they are actually used or could be used with the equipment installed in the aircraft).

(3) Regulations under subarticle (1) may provide for charges payable by virtue of such regulations to be so payable elsewhere than in Malta and to be recoverable in Malta wherever they are payable (without prejudice to their recovery elsewhere); and liability for any charges payable by virtue of such regulations may be imposed upon the operator or owner of any aircraft whether or not it is registered in Malta, whether or not it is in or over Malta at the time when the services to which the charges relate are provided and whether or not those services are provided from a place in

Malta.

(4) The charges to be prescribed under this article shall be all such rates as the Minister may determine in pursuance of tariffs which are approved under any international agreement to which Malta is a party, and the regulations may prescribe different charges in respect of aircraft of different classes or descriptions or in respect of aircraft used in different circumstances; the said regulations may also prescribe for the payment, with any charges or separately, of interest on the charges in respect of any period during which the charges were due but unpaid, which interest may, notwithstanding any other law, be at a rate higher than 8 per centum per annum as may be determined by such international agreement in respect of the period during which the charges were so due but unpaid, and may dispense with the charges in such cases as may be prescribed by or determined under the regulations.

(5) For the purpose of facilitating the assessment and collection of charges payable by virtue of regulations under this article, the regulations may make provision for requiring operators of aircraft or managers of aerodromes -

(*a*) to make such records of the movements of aircraft, and of such other particulars relating to aircraft, as may be prescribed, and to preserve those records for such period as may be prescribed;

(*b*) to produce for inspection by officers of Eurocontrol at such times as may be prescribed, any records which are required by the regulations or the Air Navigation Order, to be preserved by those operators or managers;

(*c*) to furnish to Eurocontrol such particulars of any such records as may be prescribed.

(6) The requirements mentioned in subarticle (5) may be imposed upon the operator of any aircraft whether or not it is registered in Malta, whether or not it is in or over Malta at the time when the services to which the charges relate are provided and whether or not those services are provided from a place in Malta.

(7) Regulations under subarticle (1) may make provision -

(*a*) in the case of default in the payment of any charge payable by an operator under the regulations, for authorising the detention, pending payment, of the aircraft in respect of which the charge was incurred or of any other aircraft of which the person in default is the operator at the time when the detention begins;

(*b*) for authorising the detention of any aircraft of which the person in default is the operator at the time when the detention begins, pending compliance, in the case of default in complying with any requirement imposed by the regulations on the operators of aircraft with respect to the production for inspection, or the furnishing of particulars, of any records;

and such regulations may make such further provision as appears to

the Minister to be necessary or expedient for effecting such detention, and, in the case of paragraph (*a*), the judicial sale of the aircraft in order to satisfy any charge.

Payment to Eurocontrol. *Amended by: IX. 2003.68.*

7. The Minister may from time to time pay to Eurocontrol, out of the Consolidated Fund, such sums as he may determine, being sums for the payment of which Malta is liable under the Convention.

Immunities and privileges.

Cap. 191.

8. Eurocontrol shall be entitled to the immunities and privileges described in paragraphs 2 to 5 of Part I of the Second Schedule to the Diplomatic Immunities and Privileges Act.

Inviolability of Eurocontrol. Cap. 191.

9. (1) The immunity and privilege described in paragraph 2 of Part I of the Second Schedule of the Diplomatic Immunities and Privileges Act, shall extend to premises occupied by Eurocontrol wholly or mainly for the housing of its installation; and no judgment or order of any court shall be enforced upon anything forming part of any such installation.

(2) Subarticle (1) shall not preclude access to any premises or the inspection of any record or document where the Director-General of the Agency is given advance notice wherever possible of the exercise of the power conferred by this subarticle and the access or inspection is -

(*a*) by a Police officer acting in the execution of a warrant or other legal process;

(*b*) by a Court of Inquiry or an Inspector of Accidents acting in pursuance of The Civil Aviation (Investigation of Accidents) Regulations, 1956, or of regulations made under article 4 of the Civil Aviation Act; or

G.N. 31 of 1956.

Cap. 232.

(*c*) by a Police officer having reason to believe that an offence has been or is being or is about to be committed on the premises.

(3) Without prejudice to the preceding provisions of this article, the property and assets of Eurocontrol shall be immune from the exercise by any person of any right or power to seize or otherwise interfere with such property or assets.

(4) No court or tribunal in Malta shall have jurisdiction in respect of any matter involving Eurocontrol and any of its officers or servants, being a matter which, by virtue of any international agreement to which Malta is a party, is within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation.

(5) For the purpose of subarticle (4), a certificate of the Minister that any matter is or is not, as mentioned in that subarticle, within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation shall be conclusive of what is certified.

Exemption from taxes, duties, etc. *Amended by: IX. 2003.69.* Cap. 318.

10. (1) The Director-General and the staff of Eurocontrol shall be exempt from the payment of income tax on the salaries and emoluments paid to them by Eurocontrol, and of any contributions under the Social Security Act:

Provided that the Commissioner of Inland Revenue may take into account the salaries and emoluments thus exempted when assessing the amount of tax payable on income from other sources.

(2) The provisions of subarticle (1) shall not apply to pensions and annuities paid by Eurocontrol.

(3) Subject to the provisions of subarticle 6 of Article 25 of the Convention, the staff of Eurocontrol shall be exempt from customs duties and charges as provided under paragraphs (*a*) and (*b*) of subarticle 5 of Article 25 of the Convention.

Jurisdiction. *Amended by: IX. 2003.70.*

11. (1) For the purposes of Article 8 of Annex IV to the Convention, the courts of Malta shall have jurisdiction to hear and determine a claim for charges or interest payable to Eurocontrol by virtue of regulations made under article 6, notwithstanding that the person against whom the claim is made is not resident in Malta or otherwise subject to the jurisdiction of the Maltese courts under article 742 of the Code of Organization and Civil Procedure. Cap.12.

(2) Subject to subarticle (3), the courts in Malta shall have jurisdiction to hear and determine a claim against Eurocontrol for damages notwithstanding that the cause for such damages did not take place within the jurisdiction of Malta.

(3) The provisions of subarticle (2) shall not apply in respect of damage or injury sustained wholly within or over a country to which the provisions of the Convention do not apply.

Enforcement of foreign decisions, etc., in respect of *en route* air navigation services. *Amended by: IX. 2003.71.*

12. (1) Subject to the following provisions of this article, where a relevant authority in a Contracting Party has decided as to whether or not any sum is due to Eurocontrol in respect of *en route* air navigation services provided by it or by some other person, the decision creditor may apply to the Court of Appeal, at any time within twelve months after the date of the decision to have the decision registered in one of the Superior Courts of Malta.

(2) On any application as mentioned in subarticle (1), the Court of Appeal shall, subject to the provisions of this article, order the decision to be registered accordingly.

(3) A decision shall not be registered as aforesaid if it is not a decision described in Article 11 of Annex IV to the Convention or if it is a decision falling within the list of Article 12 of Annex IV to the Convention.

(4) For the purposes of this article proceedings in respect of a sum payable to Eurocontrol must be brought against the person liable to pay the sum in the country according to Article 8 of Annex IV to the Convention, and an application as mentioned in subarticle (1) must be accompanied by those documents specified in Article 14 of Annex IV to the Convention.

(5) Where a decision is registered under this article -

(*a*) the decision shall, as from the date of registration, be of the same force and effect, and executive proceedings may be taken thereon, as if it had been a judgment originally obtained on the date of registration in the registering court; and its registration in the Public Registry may be made in accordance with such law, as may from time to time be in force, relative to the registration of judgments in the Public Registry;

(*b*) that decision shall be enforceable by the registering court as if such decision were a judgment delivered by that court;

(*c*) the costs of and incidental to the registration of the decision (including the costs of obtaining a certified copy thereof from the original court or tribunal or administrative authority and of the application for registration) shall be recoverable in like manner as if they were sums payable under the decision.

(6) The Rule Making Board set up under article 29 of the Code of Organization and Civil Procedure shall have power to make rules to provide - Cap. 12.

(*a*) for the mode of registration of decisions referred to in this article;

(*b*) for service on the decision debtor of notice of the application for the registration of a decision under this article;

(*c*) for enabling the registering court, on an application by the decision debtor, to set aside the registration of a decision; and

(*d*) for suspending the execution of a decision registered under this article until the expiration of the period during which the decision debtor may apply to have the registration set aside.

(7) In any action brought in any court in Malta on any decision which might be ordered to be registered under this article, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the decision under this article has previously been refused, or unless the court otherwise orders.

(8) Nothing in this article contained shall be construed to be in derogation of the provisions contained in the British Judgments (Reciprocal Enforcement) Act and in Title V of Book Third of the Code of Organization and Civil Procedure, or in any other law relating to the recognition and enforcement of foreign judgements, in regard to the enforcement of foreign judgments to which subarticle (1) does not apply. Cap. 52. Cap. 12.

13. (1) Any person who, without reasonable cause, fails to comply with any requirement of regulations made by virtue of article 6(5) shall be guilty of an offence and on conviction shall be liable to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69). Penalties. *Amended by: L.N. 424 of 2007.*

(2) Any person who, being in possession of information furnished to or obtained by him in pursuance of regulations under article 6(5), discloses that information otherwise than -

(*a*) with the consent of the person by whom it was furnished or from whom it was obtained; or

(*b*) for the purpose of the regulations; or

(*c*) for the purposes of any proceedings arising out of article 6 or article 11(2), or of any criminal proceedings whether or not arising out of this Act; or

G.N. 31 of 1956.

Cap. 232.

(*d*) for the purposes of any public inquiry or Inspector's investigation held or carried out in pursuance of the Civil Aviation (Investigation of Accidents) Regulations, 1956, or of regulations made under article 4 of the Civil Aviation Act; or

(*e*) for the purpose of any report of any such proceedings, inquiry or investigation as aforesaid,

shall be guilty of an offence, and shall be liable on conviction to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(3) Any person who, in furnishing in pursuance of such regulations any such particulars as are described in article 6(5)(*c*), furnishes any particulars which to his knowledge are false in any material particular, shall be guilty of an offence and, on conviction, shall be liable to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment for a term not exceeding two years or to both.

Authority to accede to the Convention. *Amended by: IX. 2003.72.*

Cap. 304.

14. In virtue of this Act, and in compliance with the provisions of the Ratification of Treaties Act, the Government of Malta is authorised to accede to the Convention.

Language of Schedule and regulations. *Amended by: IX. 2003.73.*

15. (1) The Schedule to this Act shall be in the English language only.

(2) Regulations made under the provisions of this Act may be made in the English language only.

SCHEDULE

Substituted by: IX. 2009.74.

(Articles 2 and 14)

CONSOLIDATED VERSION WHICH INCORPORATES THE TEXTS REMAINING IN FORCE OF THE EXISTING CONVENTION AND THE AMENDMENTS MADE BY THE DIPLOMATIC CONFERENCE OF 27 JUNE 1997

CONSOLIDATED TEXT OF THE ENACTING TERMS OF THE CONVENTION

Article 1

1. In order to achieve harmonisation and integration with the aim of establishing a uniform European air traffic management system, the Contracting Parties agree to strengthen their co-operation and to develop their joint activities in the field of air navigation, making due allowance for defence needs and providing maximum freedom for all airspace users consistent with the required level of safety in the provision of cost-effective air traffic services, and taking into account the need to minimise, where this is feasible, *inter alia*, in operational, technical and economic terms, any adverse environmental impact.

The pursuit of these objectives shall not prejudice the principle that every State has complete and exclusive sovereignty over the airspace above its territory nor the capacity of every State to exercise its prerogatives with regard to security and defence in its national airspace.

To this end, they agree:

(a) to determine a European policy in the air traffic management field, involving the definition of strategies and programmes whose objective is to develop the capacity needed to meet the requirements of all civil and military users in a cost-effective manner while maintaining the required level of safety;

(b) to commit themselves to the establishment of specific targets regarding the efficiency and effectiveness of air traffic management operations in the Flight Information Regions listed in Annex II to this Convention in which States, pursuant to the relevant provisions of the Convention on International Civil Aviation, have agreed to provide air traffic services without prejudice to the principles of free movement in airspace not subject to the sovereignty of the States which result from conventions, international agreements, and the rules or principles of customary public international law;

(c) to introduce an air traffic management performance review and target setting system;

(d) to implement a common convergence and implementation plan for air navigation services and facilities in Europe;

(e) to adopt and apply common standards and specifications;

(f) to harmonise air traffic services regulations;

(g) to develop the available capacity to meet the air traffic demand and to ensure its most effective utilisation through the joint establishment, operation and development of a common European air traffic flow management system, in the framework of the introduction of a uniform

European air traffic management system;

(h) to encourage common procurement of air traffic systems and facilities;

(i) to implement a common policy for the establishment and calculation of charges levied on users of en route air navigation facilities and services, hereinafter called "route charges";

(j) to implement a mechanism, separate from service provision, for the multilateral development and harmonisation of a safety regulatory regime in the field of air traffic management within a total aviation safety system approach;

(k) to participate in the design, the implementation and the monitoring of a global navigation satellite system;

(l) to identify new possibilities for common actions in the field of design, implementation, monitoring or operation of systems and services in air navigation;

(m) in the context of a "gate-to-gate" concept, to develop an overall policy and an appropriate, efficient and effective process for the strategic design and planning of routes and airspace.

2. For this purpose they hereby establish a "European Organisation for the Safety of Air Navigation (EUROCONTROL)", hereinafter called "the Organisation", which shall act in co-operation with the national civil and military authorities and the user organisations. The Organisation shall comprise three organs:

(a) a General Assembly, which shall constitute the organ responsible for the formulation and approval of the Organisation's general policy, including:

(i) the common policy for route charges and the Organisation's other charges activities;

(ii) the performance review and assessment functions of the Organisation;

(iii) the setting of objectives for the Organisation, including those of standardisation, planning, performance and safety regulation;

(iv) the technical and financial selection of major framework programmes for co-operation;

(v) external relations with States and organisations and applications for accession to this Convention;

(b) a Council, which shall constitute the organ tasked with implementing the General Assembly's decisions and, subject to the powers conferred upon the latter, ruling on all measures which are addressed to and binding on the Contracting Parties, and supervising the Agency's work;

(c) an Agency, whose Statute is contained in Annex I to this Convention, which shall be the organ entrusted to undertake the Organisation's tasks, in accordance with the provisions of the following articles of this Convention and the tasks assigned to it by the General Assembly or the Council, to initiate relevant proposals and to deploy the technical, financial and staff resources to achieve the objectives laid down.

3. The headquarters of the Organisation shall be in Brussels.

Article 2

1. The Organisation shall undertake the following tasks:

(a) to develop and endorse detailed plans for the harmonisation and integration of the air traffic services and systems of the Contracting Parties, in particular the ground and airborne air navigation systems, with a view to the establishment of a uniform European air traffic management system;

(b) to coordinate the implementation plans of the Contracting Parties so as to secure convergence towards a uniform European air traffic management system;

(c) to examine and coordinate on behalf of the Contracting Parties matters in the field of air navigation studied by the International Civil Aviation Organization (ICAO) and other international organisations concerned with civil aviation and to coordinate and submit amendments or proposals to these bodies;

(d) to define, design, develop, validate and organise the implementation of a uniform European air traffic management system;

(e) to develop and operate a common European air traffic flow management system at a common international centre in the framework of (d) above;

(f) to develop, adopt, and keep under review common standards, specifications and practices for air traffic management systems and services;

(g) to develop and endorse procedures towards a strategy for the common procurement of air traffic systems and facilities;

(h) to coordinate the Contracting Parties' research and development programmes relating to new techniques in the field of air navigation, to collect and distribute their results and to promote and conduct common studies, tests and applied research as well as technical developments in this field;

(i) establish an independent performance review system that will address all aspects of air traffic management, including policy and planning, safety management at and around airports and in the airspace, as well as financial and economic aspects of services rendered, and set targets that will address all these aspects;

(j) to study and promote measures for improving cost-effectiveness and efficiency in the field of air navigation;

(k) to develop and endorse common criteria, procedures and methods to ensure the highest efficiency and quality of air traffic management systems and air traffic services;

(l) to develop proposals for the harmonisation of European air traffic services regulations;

(m) to support the improvement of efficiency and flexibility in the use of airspace between civil and military users;

(n) to develop and endorse coordinated or common policies to improve air traffic management at and around airports;

(o) to develop and endorse common criteria for the selection, and common policies for the training, licensing, and proficiency checking of air traffic services staff;

(p) to develop, establish and operate the future common European system elements entrusted to it by the Contracting Parties;

(q) to establish, bill and collect the route charges on behalf of the Contracting Parties participating in the common route charges system as provided for in Annex IV;

(r) to establish and implement a mechanism for the multilateral development and harmonisation of safety regulation in the air traffic management field;

(s) to perform any other task relating to the principles and objectives of this Convention.

2. At the request of one or more Contracting Parties and on the basis of a special agreement or agreements between the Organisation and the Contracting Parties concerned, the Organisation may:

(a) assist such Contracting Parties in the planning, specification and setting up of air traffic systems and services;

(b) provide and operate, wholly or in part, air traffic facilities and services on behalf of such Contracting Parties;

(c) assist such Contracting Parties in the establishment, billing and collection of charges which are levied by them on users of air navigation services and which are not covered by Annex IV to this Convention.

3. The Organisation may:

(a) conclude special agreements with non-Contracting Parties interested in participating in the performance of the tasks provided for in Article 2.1;

(b) at the request of non-Contracting Parties or other international organisations, perform on their behalf any other tasks pursuant to this Article, on the basis of special agreements between the Organisation and the Parties concerned.

4. The Organisation shall, as far as is practicable, ensure that its service provision functions, in particular those provided for in Articles 2.1(e), 2.1(g), 2.1(p), 2.1(q), 2.2 and 2.3(b), are exercised independently of its regulatory functions.

5. In order to facilitate the execution of its tasks, the Organisation may, by decision of the General Assembly, create undertakings governed by specific articles of association governed either by public international law or by the national law of a Contracting Party, or acquire majority shareholdings in such undertakings.

Article 3

1. This Convention shall apply to en route air navigation services and related approach and aerodrome services for air traffic in the Flight Information Regions listed in Annex II.

2. (a) Any amendment which a Contracting Party wishes to make to the list of its Flight Information Regions in Annex II shall be decided upon by the General Assembly by unanimity of the votes cast if it would result in a change in the overall limits of the airspace covered by this Convention.

(b) Any amendment which does not result in such a change shall nevertheless be notified to the Organisation by the Contracting Party concerned.

3. For the purposes of this Convention the expression "air traffic" shall comprise civil aircraft and those military, customs and police aircraft which conform to the procedures of the International Civil Aviation Organization.

On the basis of a special agreement, as provided for in Article 2.2(b), a Contracting Party may request that the expression "air traffic" shall apply to other air traffic operating within its territory.

Article 4

The Organisation shall have legal personality. In the territory of the Contracting Parties it shall have the fullest legal capacity to which corporate bodies are entitled under national law; it shall *inter alia* have the right to acquire or transfer movable or immovable property and to go to law. Except as otherwise provided in this Convention or the Statute at Annex I, it shall be represented by the Agency, which shall act in its name. The Agency shall administer the property of the Organisation.

Article 5

1. The General Assembly shall be composed of representatives of the Contracting Parties at Ministerial level. Each Contracting Party may appoint several delegates in order, in particular, to allow the interests of both civil aviation and national defence to be represented, but shall have only a single voting right.

2. The Council shall be composed of representatives of the Contracting Parties at the level of the Directors General for Civil Aviation. Each Contracting Party may appoint several delegates in order, in particular, to allow the interests of both civil aviation and national defence to be represented, but shall have only a single voting right.

3. On matters relating to the common route charges system, the General Assembly and the Council shall be made up of representatives of the Contracting Parties participating in the common route charges system under the conditions stipulated in Annex IV.

4. The representatives of international organisations which can contribute to the work of the Organisation shall, where appropriate, be invited by the General Assembly, or the Council, to participate as observers, in bodies of the Organisation.

Article 6

1. The General Assembly shall take decisions with regard to the Contracting Parties, the Council and the Agency, in particular in the cases referred to in Article 1.2(a).

In addition, the General Assembly shall:

(a) appoint the Director General of the Agency, on the Council's recommendation;

(b) authorise recourse on behalf of the Organisation to the Permanent Court of Arbitration of The Hague in the cases referred to in Article 34;

(c) establish the principles applied for the operation of the common European air traffic flow management system provided for in Article 2.1(e);

(d) approve amendments to Annex I in conformity with the voting conditions provided for in Article 8.1;

(e) approve amendments to Annexes II and IV in conformity with the voting conditions provided for in Article 8.3;

(f) periodically review the tasks of the Organisation.

2. To formulate the common policy for route charges, the General Assembly

shall, *inter alia*:

(a) establish the principles governing the assessment of the costs chargeable by the Contracting Parties and the Organisation to the users in respect of the en-route air navigation facilities and services provided to them;

(b) determine the formula to be applied in calculating route charges;

(c) determine the principles governing exemption from the route charges and may further decide that for certain categories of flights thus exempted from the payment of route charges governed by Annex IV, the costs incurred in respect of en-route air navigation facilities and services may be recovered directly by the Contracting Parties;

(d) approve reports by the Council relating to route charges.

3. The General Assembly may:

(a) refer to the Council for examination any matter falling within its competence;

(b) delegate to the Council, where necessary, the power to take decisions in the matters falling within its general competence, referred to in Article 1.2(a);

(c) establish other subsidiary bodies as it may consider to be necessary.

Article 7

1. The Council, pursuant to the powers conferred on it by this Convention, may take decisions with regard to the Contracting Parties, in the tasks referred to in Article 2.1.

2. The Council, pursuant to its supervisory powers as conferred on it in regard to the Agency by this Convention:

(a) shall approve, after having consulted representative organisations of airspace users recognised by the Council, the Agency's five-year and annual work programmes submitted to it by the Agency for the accomplishment of the tasks referred to in Article 2, together with the five-year financial plan and the budget, including the financial obligations, the Agency's activity report and the reports submitted pursuant to Articles 2.2(c), 10.3 and 11.1 of the Statute of the Agency;

(b) shall approve the principles governing the general structure of the Agency;

(c) shall supervise the activities of the Agency in the field of air navigation charges;

(d) shall determine, after having consulted the representative organisations of airspace users and airports recognised by the Council, the general conditions for the operation of the common European air traffic flow management system provided for in Article 2.1(e), taking due account of the prerogatives exercised by the States in regard to management of their airspace. These general conditions shall specify, *inter alia*, the rules applicable as well as the procedures for recording non-compliance with these rules;

(e) shall issue directives to the Agency on the basis of regular reports from the latter or whenever it deems it to be necessary for the accomplishment of the tasks assigned to the Agency, and shall approve

arrangements for co-operation between the Agency and national organisations concerned to enable the Agency to initiate the appropriate proposals;

(f) shall appoint, on a proposal by the Director General, the firm of consultant auditors to assist the Audit Board in the examination of the accounts of all receipts and expenditure;

(g) may require that the Agency's services be the subject of administrative and technical inspections;

(h) shall give the Director General discharge in respect of his/her administration of the budget;

(i) shall approve the appointment by the Director General of the Directors of the Agency;

(j) shall approve the Statute of the Director General, the Staff Regulations, the Financial Regulations and the Contract Regulations;

(k) may authorise the opening by the Agency of negotiations related to the special agreements referred to in Article 2, adopt the agreements negotiated before submitting them for approval by the General Assembly or conclude such agreements where the Council has been delegated powers pursuant to the provisions of Article 13.3;

(l) shall approve a Regulation on data protection;

(m) in the performance of the tasks provided for in Article 2.1(f), shall determine the rules and procedures applicable to standards, specifications and practices for air traffic management systems and services.

3. The Council shall establish a Performance Review Commission and a Safety Regulation Commission. These Commissions will initiate relevant proposals to the Council and receive administrative support and assistance from the Agency services which have the necessary degree of independence to exercise their functions.

4. The Council shall establish a Civil/Military Interface Standing Committee.

5. The Council shall establish an Audit Board to which it may delegate duties and, under specific terms of reference, delegate powers.

6. The Council may be assisted by other committees in other fields of activity of the Organisation.

7. The Council may delegate duties and, under specific terms of reference, delegate powers to the Civil/Military Interface Standing Committee and any Committee created after the entry into force of this Convention. Such delegations of duties or powers shall not prevent the Council from being able to raise matters at any time as part of its task of general supervision.

Article 11

1. The weighting referred to in Article 8 shall be determined according to the following table:

The weighting referred to in Article 8 shall be determined according to the following table:

Annual Contribution of a Contracting Party as a percentage of the total annual contributions of all the Contracting Parties

Number of votes

Less than 1%	1
From 1 to less than 2%	2
From 2 to less than 3%	3
From 3 to less than $4^1/_2$ %	4
From $4^1/_2$ to less than 6%	5
From 6 to less than $7^1/_2$ %	6
From $7^1/_2$ to less than 9%	7
From 9 to less than 11%	8
From 11 to less than 13%	9
From 13 to less than 15%	10
From 15 to less than 18%	11
From 18 to less than 21%	12
From 21 to less than 24%	13
From 24 to less than 27%	14
From 27 to less than 30%	15
30%	16

2. The number of votes shall be initially established with effect from the date of entry into force of the Protocol opened for signature at Brussels in 1997 by reference to the above table and in accordance with the rule in Article 10 above for determining the annual contributions of the Contracting Parties to the Organisation's budget.

3. In the event of the accession of a State, the numbers of votes of the Contracting Parties shall be re-established in accordance with the same procedure.

4. The numbers of votes shall be re-established each year in accordance with the foregoing provisions.

Article 12

The General Assembly and the Council shall establish their rules of procedure, including rules governing the election of a President and Vice-President, and the rules of application of the voting procedures and the quorum.

Article 13

1. The Organisation shall maintain with the appropriate States and other international organisations the necessary relations for the realisation of its aims.

2. The General Assembly shall, without prejudice to the provisions of Article 7.2(k), of paragraph 3 of this article and of Article 15, be alone empowered to conclude on behalf of the Organisation the special agreements which are necessary for the performance of the tasks provided for in Article 2.

3. The General Assembly may, on a proposal from the Council, delegate to the latter the decision to conclude the special agreements which are necessary for the performance of the tasks provided for in Article 2.

Article 14

The special agreements referred to in Article 2 shall stipulate the respective tasks, rights and obligations of the Parties to the agreements, together with the financial arrangements, and shall establish the measures to be taken. Such agreements may be negotiated by the Agency in accordance with the provisions of

Article 7.2(k).

Article 15

Within the scope of the directives given by the Council, those relations which are essential for the co-ordination of air traffic and for the operation of the services of the Agency may be established by the Agency with the appropriate technical services, public or private, of the Contracting Parties, of non-Contracting Parties or of international organisations. For that purpose, contracts of a purely administrative, technical or commercial nature, in so far as they are required for the operation of the Agency, may be entered into by the Agency, in the name of the Organisation, on condition that the Agency so informs the Council.

Article 16

1. The character of public interest shall, where necessary, be recognised, in accordance with national law and with the consequences which result from the provisions of that law relating to expropriation in the public interest, as regards the acquisition of immovable property necessary for the siting of the Organisation's installations, subject to the agreement of the Government concerned. The procedure of expropriation for reasons of public interest may be set in motion by the competent authorities of the State concerned, in accordance with its national law, for the purpose of acquiring such property failing amicable agreement.

2. In the territory of the Contracting Parties where the procedure referred to in the preceding paragraph is not in existence, the Organisation may have the benefit of those procedures for compulsory purchase which can be used for the benefit of civil aviation and telecommunications.

3. The Contracting Parties recognise the right of the Organisation to benefit, in respect of any installations and services established on its behalf in their respective territories, from the application of national law as to those restrictions on the rights of owners of immovable property which may exist in the public interest for the benefit of national services for the same purpose and in particular as to easements in the public interest.

4. The Organisation shall bear the expenses consequent upon the application of the provisions of this Article, including the compensation payable in accordance with the law of the State in the territory of which the property is situated.

Article 17

In the performance of the tasks provided for in Article 2.2(b), the Agency shall apply the regulations in force in the territories of the Contracting Parties and in the airspace in respect of which the provision of air traffic services is entrusted to them under international agreements to which they are Parties.

Article 18

In the performance of the tasks provided for in Article 2.2(b), the Agency shall, within the limits of the powers conferred on the air traffic services, give all the necessary instructions to aircraft commanders. The aircraft commanders shall be bound to comply with those instructions, except in the cases of force majeure provided for in the regulations referred to in the preceding article.

Article 19

1. In the performance of the tasks provided for in Article 2.1(e), the Organisation shall determine, in accordance with the general conditions provided for in Article 7.2(d), the necessary regulatory measures, and shall communicate them to aircraft operators and to the appropriate air traffic services. The Contracting Parties

shall ensure that aircraft operators, aircraft commanders and the appropriate air traffic services comply therewith, unless prevented by compelling reasons of safety.

2. Compliance by a Contracting Party's air traffic services with the general conditions and the regulatory measures referred to in paragraph 1 above shall be the sole responsibility of the said Contracting Party.

3. In the event of non-compliance by an aircraft operator or an aircraft commander with the general conditions or the regulatory measures referred to in paragraph 1 above, proceedings may be instituted against the offender at the Organisation's request:

(a) by the Contracting Party where non-compliance was recorded, in its own territory;

(b) by the Organisation in accordance with the grounds of jurisdiction set out in Article 35, if the Contracting Party, where the proceedings are to be instituted, agrees.

4. The Contracting Parties shall incorporate into their national legislation provisions which ensure the observance of the general conditions provided for in Article 7.2(d).

Article 20

In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), infringements of the air navigation regulations committed in the airspace in which the Agency performs these tasks shall be recorded in reports by officers specifically authorised by the Agency for that purpose, without prejudice to the right under national law of officers of the Contracting Parties to report infringements of the same nature. The reports referred to above shall have the same effect in national courts as those drawn up by national officers qualified to report infringements of the same nature.

Article 21

1. The circulation of publications and other information material sent by or to the Organisation in connection with its official activities shall not be restricted in any way.

2. For its official communications and the transfer of all its documents, the Organisation shall enjoy treatment no less favourable than that accorded by each Contracting Party to comparable international organisations.

Article 22

1. The Organisation shall be exonerated in the territories of the Contracting Parties from all duties, taxes and charges in respect of its creation, dissolution or liquidation.

2. It shall be exonerated from any duties, taxes and charges entailed by the acquisition of the immovable property required for the accomplishment of its task.

3. It shall be exonerated from all direct taxes applicable to it, as well as its property, assets and income.

4. It shall be exonerated from any indirect fiscal charges consequential on the issue of loans and incident upon the Organisation.

5. It shall be exonerated from any taxation of an exceptional or discriminating nature.

6. The exonerations provided for in this article shall not apply to taxes and

charges collected as payment for general utilities.

Article 23

1. The Organisation shall be exonerated from all customs duties and taxes or charges of equivalent effect, other than charges in respect of services rendered, and shall be exempt from any import or export prohibition or restriction in respect of materials, equipment, supplies and other articles imported for the official use of the Organisation and destined for the buildings and installations of the Organisation or for its functioning.

2. The goods so imported may not be sold, loaned or transferred, either without payment or against payment, in the territory of the Contracting Party into which they have been introduced, except under the conditions fixed by the Government of the Contracting Party concerned.

3. Any control measures deemed to be expedient may be taken to ensure that the materials, equipment, supplies and other articles referred to in paragraph 1 and imported for consignment to the Organisation have been effectively delivered to that Organisation and are effectively used for its official buildings and installations or for its functioning.

4. The Organisation shall be exonerated from all customs duties and exempt from any import or export prohibition or restriction in respect of the publications falling within the scope of Article 13 of the Statute annexed hereto.

Article 24

1. The Organisation may hold any currency and have accounts in any currency in so far as is necessary for the execution of the transactions required for its purpose.

2. The Contracting Parties undertake to give the Organisation the necessary authorisations for all the transfers of funds, in accordance with the conditions prescribed under national regulations and international agreements as applicable, entailed by the establishment and activity of the Organisation, including the issue and service of loans when the issue of those loans has been authorised by the Government of the Contracting Party concerned.

Article 25

1. The Agency may call upon the services of qualified persons who are nationals of the Contracting Parties.

2. The staff of the Organisation and members of their families forming part of their households, shall enjoy the exemption from measures restricting immigration and governing aliens' registration generally accorded to staff members of comparable international organisations.

3. (a) The Contracting Parties, in time of international crisis, shall accord to the staff of the Organisation, and the members of their families forming part of their households, the same repatriation facilities as the staff of other international organisations.

(b) The provisions of (a) above shall not affect the staff's obligations to the Organisation.

4. No exception may be made to the provisions of paragraphs 1 and 2 of this article except for reasons of public policy, public safety or public health.

5. The staff of the Organisation:

(a) shall be granted exemption from customs duties and charges, other than

those in respect of services rendered, in the case of the importation of their personal effects, movable property and other household effects which are not new, which they bring from abroad on first taking up residence in the territory in question, and in the case of the re-exportation of those same effects and movable property, when they relinquish their duties;

(b) may, on taking up their duties in the territory of any one of the Contracting Parties, import their personal motor car temporarily with exemption from duty, and subsequently, but not later than on termination of their period of service, re-export that vehicle with exemption from duty, subject, however, in either event, to any conditions deemed to be necessary in each individual case by the Government of the Contracting Party concerned;

(c) shall enjoy inviolability for all their official papers and documents.

6. The Contracting Parties shall not be obliged to grant to their own nationals the facilities provided for in paragraph 5 (a) and (b) above.

7. In addition to the privileges, exemptions and facilities granted to the staff of the Organisation, the Director General of the Agency shall enjoy immunity from jurisdiction in respect of acts, including words spoken and written, done by him/her in the exercise of his/her functions; this immunity shall not apply in the case of a motor traffic offence or in the case of damage caused by a motor vehicle belonging to or driven by him/her.

8. The Governments concerned shall take all the necessary measures to ensure the unrestricted transfer of net salaries.

Article 26

Representatives of the Contracting Parties shall, while exercising their functions and in the course of their journeys to and from the place of meeting, enjoy inviolability for all their official papers and documents.

Article 27

By reason of its own social security scheme, the Organisation, the Director General and personnel of the Organisation, shall be exempt from all compulsory contributions to national social security bodies, without prejudice to arrangements between the Organisation and Contracting Parties existing at the entry into force of the Protocol opened for signature at Brussels in 1997.

Article 28

1. The contractual liability of the Organisation shall be governed by the law applicable to the contract concerned.

2. With regard to non-contractual liability, the Organisation shall make reparation for damage caused by the negligence of its organs, or of its servants in the scope of their employment, in so far as that damage can be attributed to them. The foregoing provision shall not preclude the right to other compensation under the national law of the Contracting Parties.

Article 29

1. (a) The installations of the Organisation shall be inviolable. The property and assets of the Organisation shall be exempt from any measure of requisition, expropriation or confiscation.

(b) The archives of the Organisation and all official papers and documents

belonging to it shall be inviolable, wherever located.

2. The property and assets of the Organisation may not be seized, nor may execution be levied upon them, except by a judicial decision. Such judicial decision shall not be made unless the Organisation has been given reasonable notice of the proceedings in question and has had an adequate opportunity to oppose the making of the decision. The installations of the Organisation shall not, however, be seized nor shall execution be levied upon them.

3. Nevertheless, in order to enable judicial inquiries to be carried out and to ensure the execution of judicial decisions in their respective territories, the competent authorities of the State in which the Organisation has its headquarters and of other States in which installations and archives of the Organisation are located shall, after having informed the Director General of the Agency, have access to such installations and archives.

Article 30

1. The Organisation shall collaborate at all times with the competent authorities of the Contracting Parties in order to facilitate the good administration of justice, to ensure the observance of police regulations and to prevent any abuse to which the privileges, immunities, exemptions or facilities specified in this Convention could give rise.

2. The Organisation shall facilitate, as far as possible, the execution of public works inside or in the vicinity of any immovable property allocated for its use in the territories of the Contracting Parties.

Article 31

In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), international agreements and national regulations relating to the admission to, flight over and security of, the territory of the Contracting Parties concerned shall be binding on the Agency, which shall take all necessary measures to ensure the application of such agreements and regulations.

Article 32

In the performance of the tasks provided for in Article 2.1(e) and, where appropriate, Article 2.2(b), the Agency shall give to those Contracting Parties which so request all necessary information relating to the aircraft of which it has cognisance in the exercise of its functions related to the airspace of the Contracting Party concerned, in order that the Contracting Parties concerned may be able to verify that international agreements and national regulations are being applied.

Article 33

The Contracting Parties recognise that it is necessary for the Agency to achieve financial equilibrium and undertake to make available to it the appropriate financial resources, within the limits and conditions defined in the present Convention and the Statute of the Agency at Annex I.

Article 34

1. Any dispute arising between two or more Contracting Parties or between one or more Contracting Parties and the Organisation relating to the interpretation, application or performance of this Convention, including its existence, validity or termination, which cannot be settled within a period of six months by direct negotiation or by any other means, shall be referred to arbitration of the Permanent Court of Arbitration in The Hague in accordance with the Optional Rules for Arbitration of the said Court.

2. The number of arbitrators shall be three.

3. The place of arbitration shall be The Hague. The International Bureau of the Permanent Court of Arbitration shall serve as Registrar, and shall provide such administrative services as the Permanent Court of Arbitration shall direct.

4. The decisions of the Permanent Court of Arbitration shall be binding on the Parties to the dispute.

Article 35

1. Without prejudice to the application of the provisions of Annex IV for the enforced recovery of route charges, the courts of the Contracting Parties shall have sole jurisdiction to hear disputes arising between the Organisation, represented by the Director General, and any natural person or corporate body, in connection with the application of acts of the Organisation.

2. Without prejudice to the application of the provisions of Annex IV for the enforced recovery of route charges, proceedings shall be instituted in the Contracting Party:

(a) where the defendant has his/her residence or registered office;

(b) where the defendant has a place of business, if neither his/her residence nor his/her registered office is situated in the territory of a Contracting Party;

(c) in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) and (b) above, where the defendant has assets;

(d) in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) to (c) above, where EUROCONTROL has its headquarters.

Article 36

1. The amendments made in conformity with the conditions prescribed in this Convention, to the Statute of the Agency set out in Annex I, and to Articles 16 *et seq.* of the provisions relating to the common route charges system set out in Annex IV, shall be valid and have effect in the territory of the Contracting Parties.

2. The tax provisions set out in Annex III and Articles 1 to 15 of the provisions relating to the common route charges system set out in Annex IV shall not be subject to amendment by the General Assembly.

3. Each Contracting Party shall be bound by Annex IV for a period of five years from the date on which this Convention enters into force. The five-year period shall be extended automatically for further five-year periods. A Contracting Party which has notified the General Assembly in writing, not less than two years before the expiry of the five-year period, that it does not consent to the extension of the period, shall cease to be bound by Annex IV at the expiry of this five-year period.

4. The rights and obligations of the withdrawing Contracting Party may be determined if necessary in a special agreement concluded between it and the Organisation.

This agreement will require to be approved by unanimity of the votes cast by the General Assembly, with the withdrawing Contracting Party taking no part in the vote.

5. The Contracting Party which is no longer bound by Annex IV may at any time request the General Assembly in writing to be bound once more by Annex IV. The Contracting Party in question shall again be bound by Annex IV six months after the day on which the General Assembly accepts the said request by unanimity

of the votes cast by the Contracting Parties participating in the common system. The Contracting Party concerned shall be bound by Annex IV for a period of five years from the day on which it became bound. This period shall be extended automatically subject to the same conditions as those set out in paragraph 3 above.

Article 37

The Contracting Parties undertake to ensure to the Agency the application of current statutory provisions designed to safeguard the continuity of those general utilities required for the proper running of operational services.

Article 38

1. The Convention, as amended by the Protocol of 12 February 1981 and subsequently by the Protocol opened for signature at Brussels in 1997, shall be extended for an indefinite period.

2. Once the Convention as thus extended has been in force for twenty years, any Contracting Party may terminate application, as far as it is concerned, of the Convention by giving written notification to the Government of the Kingdom of Belgium, which shall inform the Governments of the other Contracting States of such notification.

The decision to withdraw shall take effect at the end of the year following the year in which notification of withdrawal is given, provided that the special agreement provided for in paragraph 3 below has been concluded by that date. Failing this, the decision to withdraw shall take effect on the date laid down in the said special agreement.

3. The rights and obligations, in particular of a financial nature, of the withdrawing Contracting Party shall be determined in a special agreement concluded between it and the Organisation.

This agreement shall require to be approved by unanimity of the votes cast by the General Assembly with the withdrawing Contracting Party taking no part in the vote.

4. The Organisation may be dissolved if the number of Contracting Parties is reduced to less than 50% of the Parties signatories to the aforesaid 1997 Protocol, subject to a decision of the General Assembly carried by unanimity of the votes cast.

5. If, in application of the above, the Organisation is dissolved, its legal personality and capacity, within the meaning of Article 4, shall continue to exist for the purposes of winding up the Organisation.

Article 39

1. The accession to the Convention, as amended by the Protocol of 12 February 1981 and by the Protocol opened for signature at Brussels in 1997, of any State not signatory to the latter Protocol shall be subject to the agreement of the General Assembly expressed by unanimity of the votes cast.

2. The President of the General Assembly shall notify the non-signatory State of the decision to accept the accession.

3. The instrument of accession shall be deposited with the Government of the Kingdom of Belgium which shall notify the Governments of the other signatory and acceding States.

4. Accession shall take effect from the first day of the second month following the deposit of the instrument of accession.

Article 40

1. The accession to the Convention, as amended by the Protocol of 12 February 1981 and by the Protocol opened for signature at Brussels in 1997, shall be open to regional economic integration organisations on terms and conditions to be agreed between the Contracting Parties and those organisations, of which one or more signatory States are members, these terms and conditions to be contained in an additional Protocol to the Convention.

2. The instrument of accession shall be deposited with the Government of the Kingdom of Belgium which shall notify the other Parties.

3. Accession of a regional economic integration organisation shall take effect from the first day of the second month following the deposit of the instrument of accession, provided that the additional Protocol referred to in paragraph 1 above has entered into force.

The present consolidated text of the enacting terms of the Convention and its Annexes are drawn up in the German, English, Bulgarian, Croatian, Danish, Spanish, French, Greek, Hungarian, Italian, Dutch, Norwegian, Portuguese, Romanian, Slovak, Slovenian, Swedish, Czech and Turkish languages. In accordance with the final provision of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, the final provision of the Protocol of 12 February 1981 amending the aforesaid Convention as well as the final provision of the Protocol opened for signature at Brussels in 1997 consolidating the aforesaid Convention, as variously amended, the text in the French language shall prevail, in the event of any inconsistency between the texts.

ANNEX I

STATUTE OF THE AGENCY

Article 1

1. The Agency shall be the organ responsible for achieving the objectives and performing the tasks laid down in the Convention or set by the General Assembly or by the Council and their subsidiary bodies. It shall initiate and submit proposals to the relevant bodies related to the exercise of the various functions and the performance of the various tasks of these bodies as well as to other tasks delegated to the Organisation. It shall also provide support to the General Assembly and the Council and their subsidiary bodies in the execution of their supervisory functions.

2. In the performance of its tasks, the Agency may be assisted, where necessary, by civil and military experts appointed by States or by the service providers' organisations concerned.

3. The Agency shall act as the focal point for intergovernmental co-operation and coordination in the field of air navigation. It shall submit proposals and provide the necessary support with a view to convergence towards, and implementation of, a uniform European air traffic management system.

4. In particular, it shall provide regulatory, information, support and advisory services to the Contracting Parties, and, on the basis of agreements pursuant to Article 2 of the Convention, to recognised international organisations and to non Contracting States.

5. In particular, the Agency shall:

(a) coordinate the implementation plans of the Contracting Parties to ensure convergence towards a uniform European air traffic management

system;

(b) examine matters in the field of air navigation under study by the International Civil Aviation Organization (ICAO) and other international organisations concerned with civil aviation and coordinate and submit amendments to ICAO documents;

(c) develop proposals for detailed planning for the harmonisation and integration of the air traffic services and systems, in particular the ground and airborne components of air navigation systems of the Contracting Parties, with a view to the establishment of a uniform European air traffic management system;

(d) develop proposals concerning the arrangements for the strategic planning and design of routes and supporting airspace structures, in coordination with civil and military experts appointed by States;

(e) develop proposals for the harmonisation of air traffic services regulations, develop coordinated or common policies to improve air traffic management at and around airports and support the improvement of efficiency and flexibility in the use of airspace between civil and military users;

(f) make proposals or play an advisory role in all aspects of policy and planning. Its scope is not limited to en-route air traffic management but enlarged to cater for an integrated "gate-to-gate" approach to air traffic management. It is assisted by national experts in preparing these proposals;

(g) study and promote measures for improving cost-effectiveness and efficiency in the field of air navigation;

(h) develop common criteria, procedures and methods to ensure the highest efficiency and quality of air traffic management systems and air traffic services;

(i) coordinate Research, Development, Trials and Evaluation (RDTE) programmes of national air traffic management organisations, including the collection and dissemination of results;

(j) conduct common studies, tests and applied research as well as other technical developments;

(k) define, design, develop, validate and organise the implementation of a uniform system for European air traffic management under the aegis of the Council.

6. When the Agency provides air navigation services, its aim shall be:

(a) to prevent collisions between aircraft;

(b) to ensure the orderly and expeditious flow of air traffic;

(c) to provide advice and information conducive to the safe and efficient conduct of flights;

(d) to notify appropriate organisations regarding aircraft in need of search and rescue aid, and assist such organisations as required.

7. The Agency shall work in close collaboration with the users' organisations in order to meet as efficiently and economically as possible the requirements of civil aviation. It shall work in close collaboration with the military authorities to meet, under the same conditions, the special requirements of military aviation.

8. For the accomplishment of its task, the Agency may, among other things, construct and operate the buildings and installations it requires. However, it shall call upon national technical services and make use of existing national installations whenever this is technically and economically justified, in order to avoid any duplication.

Article 2

1. Subject to the powers conferred upon the General Assembly and the Council, the Agency shall be managed by a Director General who shall enjoy wide management independence with regard to the implementation, utilisation and efficient operation of the technical, financial and personnel resources placed at his disposal. To this end, he/she shall take the measures which he/she deems necessary in order to fulfil his/her obligations.

2. Nevertheless, the Director General shall, with a view to submission for approval by the Council in accordance with the provisions of the Convention:

(a) elaborate annual and five-year work programmes stating the impact on the trends in the costs and unit rates;

(b) draw up the five-year financial plan and the budget including the financial obligations, and, as provided for in Annex IV, the unit rates and tariffs;

(c) present an annual report to the Council on the activities and financial position of the Organisation;

(d) present the principles governing the general structure of the Agency, the details of this structure being the sole responsibility of the Director General.

3. Furthermore, the Director General shall:

(a) submit reports at regular intervals and seek instructions from the Council whenever there is a risk of the objectives not being achieved, of the deadlines or financial ceilings being exceeded, or in the event of major changes to programmes;

(b) negotiate the agreements referred to in Article 2 of the Convention, within the framework of the directives issued by the Council.

Article 3

The Director General shall draw up and submit for the Council's approval, the Contract Regulations relating to:

(a) the letting of contracts for the supply of goods and services to the Organisation;

(b) the supply of goods and services by the Organisation;

(c) the sale or disposal of surplus assets.

Article 4

The Director General shall draw up, and submit for the Council's approval, the Financial Regulations, which shall determine, in particular, the conditions governing payment of national contributions, as well as the terms on which loans may be raised by the Agency, and will ensure proper financial management, including internal audit.

Article 5

1. Without prejudice to the right of the Contracting Parties to submit proposals,

the Director General shall draw up and submit for the Council's approval, the Agency's Staff Regulations:

(a) they shall include, in particular, provisions relating to the nationality of personnel, selection and recruitment procedures and principles, salary scales, pensions, internal tax, disqualification for office, professional secrecy and continuity of the service;

(b) the Agency's staff shall be recruited from among nationals of the Contracting Parties. Personnel from non-Contracting States may be employed pursuant to the agreements provided for in Article 2.3 of the Convention, or in exceptional cases by duly substantiated decision of the Director General.

2. The Administrative Tribunal of the International Labour Organisation shall have sole jurisdiction in disputes between the Organisation and the personnel of the Agency, to the exclusion of the jurisdiction of all other courts and tribunals, national or international.

Article 6

1. The Director General shall be appointed for a term of office of five years by the General Assembly by a majority of the votes cast, on condition that the said majority attains three-quarters of the weighted votes cast according to the weighting provided for in Article 11 of the Convention and at least three-quarters of the Contracting Parties casting a vote. His/her term of office may be renewed once in the same manner. The Statute of the Director General shall be approved by the Council.

2. The Director General shall represent the Organisation in legal proceedings and for all civil purposes.

3. Furthermore, in conformity with the policies adopted by the General Assembly and the Council, the Director General:

(a) may appoint the staff and may terminate their services in accordance with the Staff Regulations; appointments to Grade A1 and A2 functions for a term of office of five years normally, renewable once, shall be subject to approval by the Council;

(b) may borrow money in accordance with the Financial Regulations and within the limits determined for that purpose by the Council;

(c) may enter into contracts in accordance with the Contract Regulations referred to in Article 3 and within the limits determined for that purpose by the Council;

(d) shall draw up and submit for the Council's approval the Regulation on data protection provided for in Article 7.2(l) of the Convention;

(e) shall draw up and submit for the Council's approval the rules and procedures applicable to standards, specifications and practices for air traffic management systems and services.

4. The Director General may discharge the aforesaid functions without prior reference to the Council, but he/she shall keep the Council informed of all measures taken in the exercise of the aforesaid powers.

5. The Council shall determine the conditions under which a substitute for the Director General may be appointed should he/she be unable to perform his/her duties.

Article 7

1. The Budget shall be balanced as between receipts and expenditure.

Estimates of all receipts and expenditure of the Agency shall be prepared for each financial year.

2. The financial year shall begin on 1 January and end on 31 December.

3. The draft budget and draft five-year financial plan shall be submitted by the Director General for the approval of the Council not later than 31 October of the preceding year.

Article 8

1. The Organisation may borrow on the international financial markets in order to obtain the necessary resources for the accomplishment of its tasks.

2. The Organisation may issue loans on the financial markets of a Contracting Party in accordance with national law relating to internal loans, or, in the absence of such law, with the agreement of the Contracting Party.

3. The Financial Regulations shall determine the procedures by which the Organisation raises and repays loans.

4. Each budget and each five-year financial plan shall specify the maximum amount which the Organisation may borrow during the years covered by that budget and the five-year financial plan.

5. In matters falling within the scope of this article, the Organisation shall act in agreement with the competent authorities of the Contracting Parties or with their banks of issue.

Article 9

The budget and the five-year financial plan may be revised during the financial year, if circumstances so require, in accordance with the requirements prescribed for their preparation and approval.

Article 10

1. The accounts of all the Agency budgetary receipts and expenditure, and the Agency's financial management, shall be audited annually by an Audit Board.

2. The Audit Board shall be assisted in its work by external consultant auditors. The outside firm of consultant auditors shall be appointed by the Council for a three-year term in accordance with Article 7.2(f) of the Convention.

3. The purpose of the audit carried out by the Audit Board, with the assistance of external consultant auditors, shall be to establish the regular nature of receipts and expenditure and to ensure sound financial management. The Audit Board shall submit to the Council at the close of each financial year a report incorporating the Agency's comments. The Council may direct the Agency to take any appropriate measures recommended in the audit report, in pursuance of Article 7.2(a) of the Convention.

4. The Audit Board shall ensure that an appropriate internal control mechanism is put in place within the Agency, which is in line with sound corporate practice and management.

5. The Audit Board may review other financial issues relating to the Agency in line with its Terms of Reference.

Article 11

1. Administrative or technical inspections of the services of the Agency may be carried out, if so required by the Council, acting either on its own initiative or at the request of the Director General.

2. Such inspections shall be made by officers of the administrations of the Contracting Parties, with external assistance if required. Each inspection committee shall consist of at least two persons of different nationalities and should include as far as possible a person who has taken part in a previous inspection.

Article 12

The Council shall determine the working languages of the Agency.

Article 13

The Agency shall issue the publications necessary for its operation.

Article 14

All draft amendments of the Statute shall be submitted for the approval of the General Assembly pursuant to the provisions of Article 6.1(d) of the Convention.

ANNEX II

FLIGHT INFORMATION REGIONS

Federal Republic of Germany

- Berlin Upper Flight Information Region
- Hannover Upper Flight Information Region
- Rhein Upper Flight Information Region
- Bremen Flight Information Region
- Düsseldorf Flight Information Region
- Frankfurt Flight Information Region
- München Flight Information Region
- Berlin Flight Information Region

Republic of Austria

- Wien Flight Information Region

Kingdom of Belgium - Grand Duchy of Luxembourg

- Bruxelles Upper Flight Information Region
- Bruxelles Flight Information Region

Republic of Bulgaria

- Sofia Flight Information Region
- Varna Flight Information Region

Republic of Cyprus

- Nicosia Flight Information Region

Republic of Croatia

- Zagreb Flight Information Region

Kingdom of Denmark

København Flight Information Region

Kingdom of Spain

Madrid Upper Flight Information Region

Madrid Flight Information Region

Barcelona Upper Flight Information Region

Barcelona Flight Information Region

Islas Canarias Upper Flight Information Region

Islas Canarias Flight Information Region

French Republic - Principality of Monaco (*)

France Upper Flight Information Region

Paris Flight Information Region

Brest Flight Information Region

Bordeaux Flight Information Region

Marseille Flight Information Region (*)

Reims Flight Information Region

United Kingdom of Great Britain and Northern Ireland

Scottish Upper Flight Information Region

Scottish Flight Information Region

London Upper Flight Information Region

London Flight Information Region

Hellenic Republic

Athinai Upper Flight Information Region

Athinai Flight Information Region

Republic of Hungary

Budapest Flight Information Region

Ireland

Shannon Upper Flight Information Region

Shannon Flight Information Region

Shannon Oceanic Transition Area enclosed by the following co ordinates: 51° North 15° West, 51° North 8° West, 48° 30' North 8° West, 49° North 15° West, 51° North 15° West at and above FL55

Italian Republic

Milano Upper Flight Information Region

Roma Upper Flight Information Region

Brindisi Upper Flight Information Region

Milano Flight Information Region

Roma Flight Information Region

Brindisi Flight Information Region

Republic of Malta

Malta Flight Information Region

Kingdom of Norway

Oslo Upper Flight Information Region

Stavanger Upper Flight Information Region

Trondheim Upper Flight Information Region

Bodø Upper Flight Information Region

Oslo Flight Information Region

Stavanger Flight Information Region

Trondheim Flight Information Region

Bodø Flight Information Region

Bodø Oceanic Flight Information Region

Kingdom of the Netherlands

Amsterdam Flight Information Region

Portuguese Republic

Lisboa Upper Flight Information Region

Lisboa Flight Information Region

Santa Maria Flight Information Region

Romania

Bucuresti Flight Information Region

Slovak Republic

Bratislava Flight Information Region

Republic of Slovenia

Ljubljana Flight Information Region

Kingdom of Sweden

Malmö Upper Flight Information Region

Stockholm Upper Flight Information Region

Sundsvall Upper Flight Information Region

Malmö Flight Information Region

Stockholm Flight Information Region

Sundsvall Flight Information Region

Swiss Confederation

Switzerland Upper Flight Information Region

Switzerland Flight Information Region

Czech Republic

Praha Flight Information Region

Republic of Turkey

Ankara Flight Information Region

Istanbul Flight Information Region

ANNEX III

TAX PROVISIONS

Article 1

1. Without prejudice to the exonerations provided for in Articles 22 and 23 of the Convention, when the Organisation in the exercise of its official activities makes substantial acquisitions of property or employs services of substantial value in respect of which indirect duties, taxes or charges (including such duties, taxes or charges levied on importation other than those referred to in Article 23.1 of the Convention) have been paid or are payable, the Governments of the Member States shall, whenever possible, take appropriate action to offset the effect on the Organisation of such duties, taxes or charges by means of an adjustment of the financial contributions to the Organisation or by means of remission or of reimbursement to the Organisation of the amount of the duties, taxes or charges.

2. With regard to payments by the Organisation to Member States in respect of capital investments made by those States, in so far as the cost thereof is to be refunded by the Organisation, the said States shall ensure that their statements of the amounts in question submitted to the Organisation do not include duties, taxes or charges from which the Organisation would have been exempt or which would be refunded to it or which would be the subject of an adjustment of the financial contributions to the Organisation if the Organisation had made those investments itself.

3. The provisions of this Article shall not apply in respect of duties, taxes or charges collected as payment for public utility services.

Article 2

Property acquired by the Organisation to which Article 1.1 applies may not be sold or otherwise disposed of except in accordance with conditions laid down by the Governments of the States concerned.

Article 3

1. The Director General of the Agency and the Staff members of the Organisation shall be subject to a tax for the benefit of the Organisation on salaries and emoluments paid by the Organisation in accordance with the rules and conditions determined by the General Assembly. Such salaries and emoluments shall be exempt from national income tax.

The Member States may, however, take into account salaries and emoluments exempted from national income tax when assessing the amount of the tax payable on other income of those in receipt of the said salaries and emoluments.

2. Paragraph 1 shall not apply to pensions and annuities paid by the Organisation.

3. The names, titles, addresses as well as remunerations and where appropriate pensions of employees and former employees to whom the provisions of paragraphs 1 and 2 of the present article are applicable shall be communicated periodically to the Member States.

Article 4

For the purpose of this Annex, the Organisation shall act in concert with the relevant authorities of the Member States concerned.

Article 5

1. This Annex shall replace the Additional Protocol to the Convention signed at Brussels on 6 July 1970, as amended by the Protocol signed at Brussels on 21 November 1978, both in turn amended by Article XXXVIII of the Protocol signed at Brussels on 12 February 1981 amending the Convention.

2. Notwithstanding the provisions of paragraph 1 above, obligations under Article 3 of the Additional Protocol of 6 July 1970 shall remain binding until the relevant claims and commitments have been fully discharged.

ANNEX IV

PROVISIONS RELATING TO THE COMMON ROUTE CHARGES SYSTEM

Article 1

The Contracting Parties agree to continue to administer a joint system for the establishment, billing and collection of route charges as a single charge per flight and to use for this purpose the services of EUROCONTROL.

Article 2

The Organisation shall establish, bill and collect the route charges levied on users of en route air navigation services on a proposal from the Contracting Parties participating in the common route charges system.

Article 3

In matters relating to route charges, the Council shall be the body responsible for determining the arrangements for giving effect to the General Assembly's decisions in route charge matters and supervising the Agency's tasks in this field.

The Council shall *inter alia*:

(a) prepare decisions for the General Assembly in route charge policy matters;

(b) determine the unit of account in which route charges are expressed;

(c) determine, in accordance with decisions taken on the basis of Article 6.2 of the Convention, the conditions of application of the system, including the conditions of payment, as well as the unit rates and tariffs and the period during which they are to apply;

(d) approve reports relating to EUROCONTROL route charges activities;

(e) adopt the Financial Regulations applicable to the Route Charges System;

(f) approve the budgetary annexes relating to EUROCONTROL route charges activities.

Article 4

The route charges indicated on the bill issued by the Organisation shall constitute a single charge due in respect of each flight, which shall constitute a single claim by EUROCONTROL, payable at its Headquarters.

Article 5

1. The charge shall be payable by the person who was the operator of the aircraft at the time when the flight was performed. The charge shall attach as a lien to the aircraft which incurred the charge, irrespective of in whose hands it may be, if the law of the Contracting Party concerned so permits.

2. Where an ICAO designator or any other recognised designator is used in identification of the flight, EUROCONTROL may deem the operator to be the aircraft operating agency to whom the ICAO designator was allocated or was in the process of allocation at the time of the flight or identified in the filed flight plan or identified by use of that ICAO or other recognised designator in communication with air traffic control or by any other means.

3. If the identity of the operator is not known, the owner of the aircraft shall be regarded as the operator unless he/she proves which other person was the operator.

4. The operator and the owner of the aircraft shall be jointly and severally liable to pay the charge, if the law of the Contracting Party concerned so permits.

Article 6

1. Where the amount due has not been paid, measures may be taken to enforce recovery, including detention and sale of aircraft, if the law of the Contracting Party where the aircraft has landed so permits.

2. Measures may also include, at EUROCONTROL's request, the review by a Contracting Party or any competent body of the administrative authorisation connected with air transport or air traffic management issued to a person liable to pay the charge, if the relevant legislation so provides.

Article 7

1. Proceedings for recovery of the amount due shall be instituted either by EUROCONTROL or, at EUROCONTROL's request, by a Contracting Party, or by any body authorised for that purpose by a Contracting Party.

2. Recovery shall be effected by judicial or administrative procedure.

3. Each Contracting Party shall inform EUROCONTROL of the procedures applied in that State and of the competent courts, tribunals or administrative authorities.

Article 8

Recovery proceedings shall be instituted in the territory of the Contracting Party:

(a) where the debtor has his/her residence or registered office;

(b) where the debtor has a place of business, if neither his/her residence nor his/her registered office is situated in the territory of a Contracting Party;

(c) where, in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) and (b) above, the debtor has assets;

(d) where EUROCONTROL has its headquarters, in the absence of the grounds of jurisdiction set out in sub-paragraphs (a) to (c) above.

Article 9

1. The provisions of Articles 5, 6, 7 and 8 shall not prevent any Contracting Party, or any body authorised by a Contracting Party, acting at the request of

EUROCONTROL, from proceeding with the recovery of the amount due by the detention and sale of aircraft in accordance with the administrative or judicial procedure of the relevant Contracting Party.

2. The power so to detain and sell shall extend to the equipment, spare parts, fuel, stores and documents of the aircraft detained or sold.

3. The validity and effect of detention and sale shall be determined by the law of the Contracting Party where the detention has been effected.

Article 10

EUROCONTROL shall have the capacity to institute proceedings before the competent courts, tribunals and administrative authorities of States not parties to the Convention.

Article 11

The following decisions taken in a Contracting Party shall be recognised and enforced in the other Contracting Parties:

(a) final decisions of a court or tribunal;

(b) decisions of an administrative authority which have been subject to review by a court or tribunal, but are no longer so, either because the court or tribunal has dismissed the appeal by a final decision, or because the appeal has been withdrawn, or because the time for lodging the appeal has expired.

Article 12

The decisions referred to in Article 11 shall not be recognised or enforced in the following cases:

(a) if the court, tribunal or administrative authority of the Contracting Party of origin was not competent in accordance with Article 8;

(b) if the decision is contrary to public policy of the Contracting Party addressed;

(c) if the debtor did not receive notice of the decision of the administrative authority or of the institution of the proceedings in sufficient time to enable him/her to defend the case or to appeal to a court or a tribunal;

(d) if proceedings relating to the same route charges have been previously instituted and are still pending before a court, tribunal or an administrative authority of the Contracting Party addressed;

(e) if the decision is incompatible with a decision relating to the same route charges given in the Contracting Party addressed;

(f) if the court, tribunal or administrative authority of the Contracting Party of origin, in order to arrive at its decision, has decided a preliminary question concerning the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills or succession in a way that conflicts with a rule of the private international law of the Contracting Party addressed, unless the same result would have been obtained by the application of the rules of private international law of that Contracting Party.

Article 13

The decisions referred to in Article 11, if enforceable in the Contracting Party of origin, shall be enforced in accordance with the law of the Contracting Party

addressed. If necessary, an order of enforcement shall on request be issued by a court, tribunal or an administrative authority of the Contracting Party addressed.

Article 14

1. The request shall be accompanied by:

(a) a certified copy of the decision;

(b) in the case of a decision of a court or tribunal rendered by default, the original or a certified copy of a document establishing that notice of the institution of the proceedings was duly served on the debtor;

(c) in the case of an administrative decision, a document establishing that the requirements of Article 11 have been met;

(d) a document establishing that the decision is enforceable in the Contracting Party of origin and that the debtor has received notice of the decision in due time.

2. A duly certified translation of the documents shall be supplied if the court, tribunal or administrative authority of the Contracting Party addressed so requires. No legalisation or similar formality shall be required.

Article 15

1. The request can be rejected only for one of the reasons set forth in Article 12. In no case may the decision be reviewed on its merits in the Contracting Party addressed.

2. The procedure for the recognition and enforcement of the decision shall be governed by the law of the Contracting Party addressed insofar as the Convention does not otherwise provide.

Article 16

The amount collected by EUROCONTROL shall be paid to the Contracting Parties in accordance with the decisions of the Council.

Article 17

Where the claim is recovered by a Contracting Party, the amount collected shall be paid without delay to EUROCONTROL, which shall proceed in accordance with Article 16. The recovery costs incurred by that Contracting Party shall be charged to EUROCONTROL.

Article 18

The competent authorities of the Contracting Parties shall co-operate with EUROCONTROL in the establishment and collection of route charges.

Article 19

If the Council decides unanimously to abandon recovery of a charge, the Contracting Parties concerned may take whatever action they deem fit. In such a case, the provisions of the Convention relating to recovery and to recognition and enforcement of decisions shall cease to apply.