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Treaty Series No. 2 (1987)

Protocol

amending the EUROCONTROL International
Convention relating to Co-operation for the
Safety of Air Navigation of 13 December 1960
and a Multilateral Agreement relating to
Route Charges

Brussels, 12 February 1981

[The United Kingdom instrument of ratification of the Protocol and Agreement was deposited on
16 January 1984 and the Protocol and Agreement entered into force on 1 January 1986]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 1987*

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LIST OF CONTENTS

	<i>Page</i>
Protocol	3
List of signatures and ratifications...	17
Annex 1	18
Annex 2	25
Annex 3	26
Multilateral Agreement relating to Route Charges	31
List of signatures and ratifications...	39
Annex 1	40
Annex 2	41

PROTOCOL
AMENDING THE EUROCONTROL INTERNATIONAL
CONVENTION RELATING TO CO-OPERATION FOR THE
SAFETY OF AIR NAVIGATION OF 13 DECEMBER 1960

The Federal Republic of Germany, The Kingdom of Belgium, The French Republic, The United Kingdom of Great Britain and Northern Ireland, Ireland, The Grand Duchy of Luxembourg, The Kingdom of the Netherlands, The Portuguese Republic,

Considering that developments in air traffic require the revision of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 providing for the establishment of a European system organised jointly by the Member States for the control of general air traffic in the upper airspace,

Considering that it is desirable to continue and to strengthen the co-operation between the States within the framework of EUROCONTROL, in particular through the formulation of common long-term objectives and medium-term plans in consultation with users of air traffic services, in order to achieve maximum efficiency at minimum cost in the provision of air traffic services.

Desiring to extend and to strengthen co-operation with other States which have an interest in the execution of the tasks entrusted to EUROCONTROL in order to increase its efficiency, in particular with regard to traffic flow management,

Desiring to encourage interested States to become Members of EUROCONTROL,

Have agreed as follows:

ARTICLE I

The EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960⁽¹⁾, as amended by the Additional Protocol signed at Brussels on 6 July 1970⁽²⁾, in turn amended by the Protocol signed at Brussels on 21 November 1978⁽³⁾, hereinafter called "the Convention", is hereby amended as provided in the following articles.

ARTICLE II

Article 1 of the Convention shall be replaced by the following:

"ARTICLE I

1. *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. They have accordingly agreed:*

⁽¹⁾ Treaty Series No. 39 (1963), Cmnd. 2114.

⁽²⁾ Treaty Series No. 119 (1972), Cmnd. 5140.

⁽³⁾ Miscellaneous No. 4 (1979), Cmnd. 7477.

- (a) to establish common long-term objectives in the field of air navigation and, in that framework, to institute a medium-term common plan for air traffic services and facilities;
- (b) to draw up common plans for advanced training, for procedural measures, and for research and development programmes relating to facilities and services for the safety, efficiency and expeditious flow of air traffic;
- (c) to concert any other measures necessary to ensure the safe and orderly flow of air traffic;
- (d) to constitute a common fund of experience in operational, technical and financial aspects of air navigation;
- (e) to co-ordinate their activities with regard to air traffic flow management by establishing an international system of air traffic flow management in order to ensure the most effective utilisation of the 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. The Organisation shall comprise two organs:

- a 'Permanent Commission for the safety of air navigation', hereinafter called 'the Commission', which shall constitute the organ responsible for formulating the Organisation's general policy;
- an 'Agency for the safety of air navigation', hereinafter called 'the Agency', the Statute of which is in Annex 1 to the present Convention. The Agency shall be the organ responsible for the performance of the tasks prescribed by the present Convention or entrusted to it, in pursuance thereof, by the Commission.

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

ARTICLE III

Article 2 of the Convention shall be revoked. Article 6 of the Convention shall become Article 2 and shall read as follows:

"ARTICLE 2

1. The Organisation shall undertake the following tasks:
 - (a) to analyse the future needs of air traffic and new techniques necessary for meeting such needs;
 - (b) to develop and adopt common long-term objectives in the field of air navigation;
 - (c) to co-ordinate the medium-term national plans in order to establish a common medium-term plan in respect of air traffic services and facilities within the framework of the long-term objectives referred to in (b) above;
 - (d) to promote common policies for ground and airborne air navigation systems, and the training of the staff of air traffic services;
 - (e) to study and promote measures for improving cost-effectiveness and efficiency in the field of air navigation;

- (f) *to promote and conduct studies, tests and trials relating to air navigation; to collect and distribute the results of studies, tests and trials carried out by the Contracting Parties in the field of air navigation;*
- (g) *to co-ordinate the Contracting Parties' research and development programmes relating to new techniques in the field of air navigation;*
- (h) *to examine matters in the field of air navigation being studied by the International Civil Aviation Organization and other international organisations concerned with civil aviation;*
- (i) *to study amendments to the Regional Air Navigation Plans to be submitted to the International Civil Aviation Organization;*
- (j) *to perform any other tasks with which it might be entrusted pursuant to Article 1.1 (c);*
- (k) *to assist the Contracting Parties and interested non-member States in the institution and operation of an international air traffic flow management system;*
- (l) *to establish and collect charges levied on users of air navigation services in accordance with the Multilateral Agreement relating to Route Charges, and on behalf of the Contracting Parties and of non-member States parties to that Agreement.*

Special agreements may be concluded by the Organisation and non-member States interested in participating in the performance of such tasks.

2. At the request of one or more Contracting Parties, the Organisation may be entrusted with the following tasks:

- (a) *to assist such Parties in the performance of specific air navigation tasks such as the design and setting up of air traffic facilities and services;*
- (b) *to provide and operate, wholly or in part, air traffic services and facilities on behalf of such Parties;*
- (c) *to assist such Parties in the calculation and collection of charges which are levied by them on users of air navigation services and which are not covered by the Multilateral Agreement relating to Route Charges.*

The performance of such tasks shall in each case be governed by a special agreement between the Organisation and the Parties concerned.

3. The Organisation may further, at the request of one or more non-member States, be entrusted with the following tasks:

- (a) *to assist such States in air traffic flow management and in the planning and provision of air navigation services and equipment;*
- (b) *to assist such States in the calculation and collection of charges not covered by the Multilateral Agreement relating to Route Charges which are levied by them on users of air navigation services.*

The performance of such tasks shall in each case be governed by special agreements between the Organisation and the States concerned."

ARTICLE IV

Articles 3 and 37 of the Convention shall be combined into a new Article 3 and shall read as follows:

“ ARTICLE 3

1. *The present 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 2.*

2. *Any amendment which a Contracting Party wishes to make to the list of its Flight Information Regions in Annex 2 shall be subject to the unanimous agreement of the Commission if it would result in a change in the overall limits of the airspace covered by the Convention. Any amendment which does not result in such a change shall be notified to the Organisation by the Contracting Party concerned.*

3. *For the purposes of the present 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.”*

ARTICLE V

Article 5 of the Convention shall be replaced by the following:

“ ARTICLE 5

1. *The Commission shall be composed of representatives of the Contracting Parties. Each Contracting Party may appoint several delegates in order, in particular, to allow the representation of the interests of both civil aviation and national defence, but shall have only one vote.*

2. *For the purpose of Article 2.1 (1) the Commission shall be enlarged to include representatives of non-member States which are parties to the Multilateral Agreement relating to Route Charges. The Commission thus enlarged shall take decisions in accordance with the provisions of the said Agreement.*

3. *Where provision to that effect is made in other agreements concluded between the Organisation and non-member States in accordance with Article 2.1, in particular for air traffic flow management, the Commission shall be enlarged and shall take decisions in accordance with the provisions of those agreements.”*

ARTICLE VI

Article 7 of the Convention shall become Article 6 and shall read as follows:

“ ARTICLE 6

1. *For the accomplishment of the tasks assigned to the Organisation by Article 2.1, the Commission shall take the following measures:*

(a) *with regard to the Contracting Parties:*

it shall take a decision:

—in the cases referred to in Article 2.1 (b) and (c);

—in the cases referred to in Article 2.1 (a) and (d) to (k) whenever the Commission deems it necessary for the Contracting Parties to commit themselves to common action; in such cases it may also issue a recommendation to the Contracting Parties;

(b) with regard to the Agency:

—it shall approve the annual work programme and the investment and work programmes extending over several years to be submitted to it by the Agency for the accomplishment of the tasks referred to in Article 2.1, and also the budget and the activity report; it shall give directives to the Agency, whenever it deems this to be necessary for the accomplishment of the tasks assigned to the Agency;

—it shall take all necessary measures in exercising its supervisory powers under the present Convention and the Statute of the Agency;

—it shall give the Agency a discharge in respect of its administration of the budget.

2. In addition, the Commission shall:

(a) approve the Staff Regulations and the Financial Regulations as well as measures to be taken in pursuance of Article 7.2, and of Article 19.3 of the Statute of the Agency;

(b) appoint the members of the control board for a five-year period in pursuance of Article 22.1 of the Statute of the Agency.

3. The Commission shall authorise the opening by the Agency of negotiations relating to the special agreements referred to in Article 2 and shall approve the agreements negotiated by the Agency.

4. Proceedings on behalf of the Organisation may be initiated by the Commission before the arbitral tribunal provided for under Article 31.”

ARTICLE VII

Article 8 of the Convention shall become Article 7 and shall read as follows:

“ ARTICLE 7

1. Decisions shall be taken by the Commission by unanimous vote of the Contracting Parties and shall be binding on the Contracting Parties. However, should a Contracting Party notify the Commission that overriding national considerations prevent it from acting on a unanimous decision taken in respect of the matters referred to in Article 2.1 (b) and (c), it may derogate from that decision subject to communication to the Commission of the grounds for the derogation. Within six months of such notification, the Commission shall either revise its previous decision or decide whether certain conditions or limits should apply to the derogation. In either case, the Commission's decision shall require a unanimous vote of the Contracting Parties.

2. The Commission shall decide upon the measures referred to in Articles 6.2 (a), 6.3 and 11.3 by unanimity of the votes cast.

3. Unless otherwise provided, directives and measures in the cases provided for in Article 6.1 (b) and 6.4 shall require a majority of the votes in the Commission, it being understood that:

- those votes shall be subject to the weighting provided for in Article 8 below,
- those votes shall represent the majority of the Contracting Parties voting.

4. The measures referred to in Article 6.2 (b) shall be taken by the Commission in accordance with paragraph 3 above, provided that the majority calculated accordingly is not less than 70% of the weighted votes cast.

5. Recommendations by the Commission shall require the votes of the majority of the Contracting Parties.”

ARTICLE VIII

Article 9 of the Convention shall become Article 8 and shall read as follows:

“ ARTICLE 8

1. The weighting referred to in Article 7 shall be determined according to the following table:

<i>Annual contribution of a Contracting Party as a percentage of the total annual contributions of all the Contracting Parties</i>	<i>Number of votes</i>
<i>Less than 1%</i>	<i>1</i>
<i>From 1 to less than 2%</i>	<i>2</i>
<i>From 2 to less than 3%</i>	<i>3</i>
<i>From 3 to less than 4½%</i>	<i>4</i>
<i>From 4½ to less than 6%</i>	<i>5</i>
<i>From 6 to less than 7½%</i>	<i>6</i>
<i>From 7½ to less than 9%</i>	<i>7</i>
<i>From 9 to less than 11%</i>	<i>8</i>
<i>From 11 to less than 13%</i>	<i>9</i>
<i>From 13 to less than 15%</i>	<i>10</i>
<i>From 15 to less than 18%</i>	<i>11</i>
<i>From 18 to less than 21%</i>	<i>12</i>
<i>From 21 to less than 24%</i>	<i>13</i>
<i>From 24 to less than 27%</i>	<i>14</i>
<i>From 27 to less than 30%</i>	<i>15</i>
<i>30%</i>	<i>16</i>

2. The numbers of votes shall be initially established with effect from the date of entry into force of the Protocol opened for signature at Brussels in 1981 by reference to the above table and in accordance with the rule in Article 19 of the Statute of the Agency 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 IX

Articles 10 and 11 of the Convention shall become Articles 9 and 10.

ARTICLE X

Article 12 of the Convention shall become Article 11 and shall read as follows:

“ARTICLE 11

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

2. *The Commission shall in particular, without prejudice to the provisions of Articles 6.3 and 13, be alone empowered to conclude on behalf of the Organisation those agreements with international organisations, the Contracting Parties or other States which are necessary for the performance of the Organisation's tasks provided for in Article 2.*

3. *At the proposal of the Agency, the Commission may delegate to the Agency the decision to open negotiations and to conclude agreements necessary for the performance of the tasks referred to in Article 2.”*

ARTICLE XI

A new Article 12 shall be inserted in the Convention and shall read as follows:

“ARTICLE 12

The Agreements between the Organisation and one or more Contracting Parties, or one or more non-member States, or an international organisation, relating to the tasks 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 Articles 6.3 and 11.3.”

ARTICLE XII

Articles 13 and 14 of the Convention shall be revoked. Article 31 of the Convention shall become Article 13. Article 15 of the Convention shall become Article 14. Article 16 of the Convention shall be revoked.

ARTICLE XIII

Article 17 of the Convention shall become Article 15 and shall read as follows:

“ARTICLE 15

In the event of the Organisation performing 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 XIV

Article 18 of the Convention shall become Article 16 and shall read as follows:

“ ARTICLE 16

In the event of the Organisation performing 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 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 XV

Article 19 of the Convention shall become Article 17 and shall read as follows:

“ ARTICLE 17

In the event of the Organisation performing the tasks provided for in Article 2.2 (b), infringements of the air navigation regulations committed in the airspace in which the provision of air traffic services is entrusted to the Agency 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 XVI

A new Article 18 shall be inserted in the Convention and shall read as follows:

“ ARTICLE 18

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 not less favourable than that accorded by each Contracting Party to comparable international organisations.”

ARTICLE XVII

Article 20 of the Convention shall be revoked. Articles 21, 22 and 23 of the Convention shall become Articles 19, 20 and 21. In the old Article 22.4 the reference to Article 36 of the Statute of the Agency shall be replaced by a reference to Article 25 of the Statute.

ARTICLE XVIII

Article 24 of the Convention shall become Article 22 and shall read as follows:

“ARTICLE 22

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 in the exercise of his 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.*

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

ARTICLE XIX

A new Article 23 shall be inserted in the Convention and shall read as follows:

“ ARTICLE 23

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 XX

A new Article 24 shall be inserted in the Convention and shall read as follows:

“ ARTICLE 24

By reason of its own social security scheme, the Organisation, the Director General and staff 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 1981.”

ARTICLE XXI

Article 26 of the Convention shall read as follows:

“ ARTICLE 26

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. 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 XXII

Article 28 of the Convention shall be revoked.

ARTICLE XXIII

Article 29 of the Convention shall become Article 28 and shall read as follows:

“ARTICLE 28

In the event of the Organisation performing the tasks provided for in 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 shall be binding on the Agency, which shall take all necessary measures to ensure the application of such agreements and regulations.”

ARTICLE XXIV

Article 30 of the Convention shall become Article 29 and shall read as follows:

“ARTICLE 29

In the event of the Organisation performing the tasks provided for in Article 2.2 (b), the Agency shall be bound to give those Contracting Parties which so request all necessary information relating to the aircraft of which it has cognisance in the exercise of its functions, in order that the Contracting Parties may be able to verify that international agreements and national regulations are being applied.”

ARTICLE XXV

Article 32 of the Convention shall become Article 30.

ARTICLE XXVI

Article 33 of the Convention shall become Article 31.

ARTICLE XXVII

Article 34 of the Convention shall become Article 32; paragraph 3 thereof shall be replaced by the following:

“3. The provisions of Articles 1, 11, 19 and 20 of the Statute annexed hereto shall not, however, be subject to modification by the Commission.”

ARTICLE XXVIII

Article 35 of the Convention shall become Article 33 and shall read as follows:

“ARTICLE 33

In the event of a state of emergency or war, the provisions of the present Convention shall not affect the freedom of action of the Contracting Parties involved.”

ARTICLE XXIX

Article 36 of the Convention shall become Article 34.

ARTICLE XXX

Article 38 of the Convention shall be revoked.

ARTICLE XXXI

Article 39 of the Convention shall become Article 35; paragraphs 1 and 2 thereof shall be replaced by the following:

"1. The validity of the present Convention, as amended by the Protocol opened for signature at Brussels in 1981 shall be extended for a period of twenty years from the date of entry into force of the said Protocol.

2. That period shall be automatically prolonged for periods of five years, unless a Contracting Party has, by written notice given to the Government of the Kingdom of Belgium at least two years before the expiry of the current period, expressed its intention to terminate the Convention. The Government of the Kingdom of Belgium shall notify the Governments of the other States parties to the Convention of such notice."

ARTICLE XXXII

Article 40 of the Convention shall be revoked.

ARTICLE XXXIII

Article 41 of the Convention shall become Article 36; paragraphs 1 and 4 thereof shall be replaced by the following:

"1. The accession to the present Convention, as amended by the Protocol opened for signature at Brussels in 1981, of any State not signatory to the said Protocol shall be subject:

- (a) to the agreement of the Commission carried by a unanimous vote, and*
- (b) to the State depositing at the same time an instrument of accession to the Multilateral Agreement relating to Route Charges opened for signature at Brussels in 1981.*

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

ARTICLE XXXIV

Article 42 of the Convention shall be revoked.

ARTICLE XXXV

Annex I to the Convention, incorporating the Statute of the Agency, shall be replaced by Annex 1 to the present Protocol.

ARTICLE XXXVI

Annex II to the Convention shall be replaced by Annex 2 to the present Protocol, entitled "Flight Information Regions (Article 3 of the Convention)."

ARTICLE XXXVII

The Protocol of Signature of the Convention shall be revoked.

ARTICLE XXXVIII

The following amendments shall be made to the Additional Protocol to the Convention signed at Brussels on 6 July 1970⁽²⁾, as amended by the Protocol signed at Brussels on 21 November 1978⁽³⁾:

1. The references to Articles 21 and 22 of the Convention and to paragraph 1 of Article 22 of the Convention in Article 1.1 of the 1970 Protocol are replaced by references to Articles 19 and 20 of the Convention as amended by the Protocol opened for signature at Brussels in 1981, and to paragraph 1 of Article 20 of the Convention as amended by the said Protocol.

2. For the purposes of applying Article 2 of the 1978 Protocol, the reference to Article 14 of the Statute of the Agency in Article 3.1 of the 1970 Protocol is replaced by a reference to Article 12 of the Statute of the Agency set out in Annex 1 to the Convention as amended by the Protocol opened for signature at Brussels in 1981.

3. The reference to Article 33 of the Convention in Article 5 of the 1970 Protocol is replaced by a reference to Article 31 of the Convention as amended by the Protocol opened for signature at Brussels in 1981.

4. The reference to Article 41 of the Convention in Article 8.1 and 2 of the 1970 Protocol is replaced by a reference to Article 36 of the Convention as amended by the Protocol opened for signature at Brussels in 1981.

ARTICLE XXXIX

The transitional provisions covering transfer from the arrangements existing under the Convention to the arrangements under the Convention as amended by the present Protocol are set out in Annex 3 to the present Protocol.

ARTICLE XL

1. The present Protocol shall be open to signature by all States parties to the Convention until 28 February 1981.

It shall also be open to signature, prior to the date of its entry into force, by any other State invited to the diplomatic conference at which it is adopted, and any other State granted the right of signature by unanimous agreement of the Permanent Commission.

2. The present Protocol shall be subject to ratification. The instruments of ratification shall be deposited with the Government of the Kingdom of Belgium.

3. The present Protocol shall enter into force on 1 March 1983, provided that all the States parties to the Convention have ratified it by that date. If not, it shall enter into force on either 1 July or 1 January following the deposit of the last instrument of ratification, according to whether it was deposited during the first or the second six months of the year.

4. In the case of any State signatory to the present Protocol which is not party to the Convention and whose instrument of ratification is deposited after the date of entry into force of the present Protocol, the Protocol shall enter into force on the first day of the second month following the date on which the instrument of ratification is deposited.

5. Any State signatory to the present Protocol which is not party to the Convention shall, on ratification of the Protocol, also become a party to the Convention as amended by the Protocol.

6. The Government of the Kingdom of Belgium shall notify the Governments of the other States parties to the Convention and the Government of any State signatory to the present Protocol of any signature, the deposit of any instrument of ratification and the dates of entry into force of the present Protocol in accordance with paragraphs 3 and 4 above.

ARTICLE XLI

Ratification of the present Protocol shall be deemed to constitute ratification of the Multilateral Agreement relating to Route Charges opened for signature in 1981.

ARTICLE XLII

The Convention and the present Protocol shall constitute a single instrument, which shall be designated the "EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation as amended at Brussels in 1981".

ARTICLE XLIII

The Government of the Kingdom of Belgium shall cause the present Protocol to be registered with the Secretary-General of the United Nations, in accordance with Article 102 of the Charter of the United Nations, and with the Council of the International Civil Aviation Organization, in accordance with Article 83 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944⁽⁴⁾.

In witness whereof, the undersigned Plenipotentiaries, after presentation of their full powers, found to be in good and due form, have signed the present Protocol.

Done at Brussels, this 12th day of February 1981, in the German, English, French, Dutch and Portuguese languages, in a single original, which shall remain deposited in the archives of the Government of the Kingdom of Belgium, which shall transmit certified copies to the Governments of the other signatory States. In the case of any inconsistency, the text in the French language shall prevail.

⁽⁴⁾ Treaty Series No. 8 (1953), Cmd. 8742.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of instrument of ratification</i>
Belgium	} 12 Feb. 1981	19 Nov. 1984
France		21 Sept. 1983
Germany, Federal Republic of		2 Mar. 1984
Ireland, Republic of		23 July 1985
Luxembourg		29 Mar. 1983
Netherlands		5 Dec. 1985
Portugal		16 Sept. 1983
United Kingdom		16 Jan. 1984

ANNEX 1
Statute of the Agency

ARTICLE 1

The Agency established by Article 1 of the Convention shall be governed by the present Statute.

ARTICLE 2

1. The Agency shall be the organ responsible for the performance of the tasks entrusted to it by the Convention or by the Commission.
2. When the Agency provides air navigation services, its objective shall be:
 - (a) to prevent collisions between aircraft;
 - (b) to ensure the orderly and rapid 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.
3. The Agency shall install the necessary facilities for the performance of its tasks and shall ensure their satisfactory operation.
4. To that end, the Agency shall work in close collaboration with the military authorities in order to meet as efficiently and economically as possible the requirements of air traffic and the special requirements of military aviation.
5. For the accomplishment of its task on the conditions laid down in Article 7.2 below, the Agency may, among other things, construct and operate the buildings and installations it requires, in particular air traffic research and experimental centres, air traffic flow management centres, and schools for the advanced and specialised training of personnel of air navigation services. However, it shall call upon national technical services and make use of existing national installations whenever this is possible, in order to avoid any duplication.

ARTICLE 3

Subject to the powers conferred upon the Commission, the Agency shall be administered by a Committee of Management, hereinafter called "the Committee", and by a Director General.

ARTICLE 4

1. The Committee shall be composed of representatives of each of the Contracting Parties, which may appoint several representatives in order to allow in particular the representation of the interests of both civil aviation and national defence. Only one of the representatives shall have the power to vote and he shall be a highly placed official exercising in his country responsibilities in matters of air navigation. Each representative shall have an alternate who shall validly represent him if he is unable to be present.

2. For the purposes of Article 2.1 (I) of the Convention, the Committee shall be enlarged to include representatives of non-member States which are parties to the Multilateral Agreement relating to Route Charges. The Committee thus enlarged shall take decisions in accordance with the provisions of the said Agreement.

3. Where provision to that effect is made in the other agreements concluded by the Organisation with non-member States in accordance with Article 2.1 of the Convention, in particular for air traffic flow management, the Committee shall be enlarged and shall take decisions in accordance with the provisions of those agreements.

ARTICLE 5

1. For meetings of the Committee a quorum shall consist of the representatives, entitled to vote, of all but one of the Contracting Parties.

2. If the quorum is not attained, the deliberations shall be deferred until a meeting to be convened for a later date not earlier than ten days after the preceding meeting; at that meeting a quorum shall consist of at least half the number of representatives entitled to vote.

ARTICLE 6

1. The Committee shall establish its rules of procedure, including rules governing the election of a President and Vice-President and the appointment of a Secretary.

2. Those rules shall include provisions relating to disqualifications. Furthermore, they shall prescribe that notices convening meetings shall be sent by letter or, in case of urgency, by telegram, and shall include the agenda.

3. The rules shall be subject to the approval of the Commission.

ARTICLE 7

1. The Committee shall make decisions on the organisation of the Agency in respect of which proposals shall be submitted to it by the Director General.

2. It shall, however, submit for the approval of the Commission measures to be taken in pursuance of Article 2.5 above.

ARTICLE 8

Every year the Committee shall report to the Commission on the activities and financial position of the Organisation.

ARTICLE 9

1. At the request of the Commission, the Committee shall prepare investment and work programmes extending over several years. The programmes shall be subject to the approval of the Commission.

2. In particular, the Committee shall, for submission for approval by the Commission in accordance with the provisions of the Convention:

- (a) draw up a programme of tasks provided for in Article 2.1 (a), (e), (f) and (j) of the Convention;
- (b) formulate the long-term common objectives provided for in Article 2.1 (b) of the Convention;
- (c) study the research and development programmes provided for in Article 2.1 (g) of the Convention;
- (d) draw up the medium-term common plans provided for in Article 2.1 (c) of the Convention and formulate the common policies in respect of ground and airborne systems and personnel training provided for in paragraph 1 (d) of the said article;
- (e) adopt the agreements provided for in Article 2 of the Convention;
- (f) arrange for the studies provided for in Article 2.1 (h) and (i) of the Convention.

3. Within the limits of any delegation by the Commission pursuant to Article 11.3 of the Convention, the Committee shall take the decision to open negotiations with a view to conclusion of the agreements referred to in Article 2 of the Convention and shall approve, where appropriate, the agreements negotiated.

ARTICLE 10

The Committee shall draw up, and submit for the Commission's approval:

- regulations relating to tenders, the letting of contracts for the supply of goods and services to the Organisation and the conditions governing such contracts;
- the general conditions of contract for the supply of services by the Organisation.

ARTICLE 11

The Committee shall draw up and submit for the Commission's approval the Financial Regulations, which shall determine, in particular, the accounting procedures to be followed in respect of income and expenditure, the conditions governing payment of national contributions and the terms on which loans may be raised by the Organisation.

ARTICLE 12

1. The Committee shall draw up and submit for the Commission's approval the Agency's Staff Regulations:

- they shall include, in particular, provisions relating to the nationality of personnel, salary scales, pensions, disqualifications for office, professional secrecy and continuity of the service;
- they shall specify those posts which may not be held in plurality with any other post without the special authorisation 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 13

1. The Agency shall be empowered to recruit personnel directly only if the Contracting Parties are unable to make qualified personnel available to it. However, the Agency may agree with States which are not members of the Organisation to permit the employment of qualified personnel from such States in connection with the implementation of the agreements referred to in Article 5.2 and 3 of the Convention.

2. Personnel provided by a national administration shall be subject, throughout the period of their employment by the Agency, to the Agency's Staff Regulations, without prejudice to the retention of those career benefits which are guaranteed by national regulations.

3. Staff provided by a national administration may always be returned to that administration without the return being regarded as a disciplinary measure.

ARTICLE 14

1. Decisions shall be taken by the Committee by a weighted majority vote.

2. A weighted majority shall mean more than half the votes cast, it being understood that:

—those votes are weighted in accordance with Article 8 of the Convention;

—those votes represent a majority of the Contracting Parties voting.

3. Should an equal number of votes be cast for and against the proposal, the President shall decide either to take a second vote during the same meeting, or to include the proposal in the agenda of a further meeting for which he shall fix the date. Should an equal number of votes again be cast during the further meeting, the President shall have a casting vote.

ARTICLE 15

1. The Director General shall be appointed for a term of office of five years by the Committee by a vote taken in accordance with Article 14.2, provided that the majority calculated in accordance with the aforesaid paragraph 2 is not less than 70% of the weighted votes cast. His term of office may be renewed in the same manner.

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

3. Furthermore, in conformity with the general policy established by the Committee and the Commission, the Director General:

(a) shall be responsible for the efficient functioning of the Agency;

(b) may appoint the staff and may terminate their services in accordance with the Staff Regulations;

- (c) may borrow money for a term not exceeding one year in accordance with the Financial Regulations and within the limits determined for that purpose by the Commission;
 - (d) may enter into contracts both for the supply of goods and services to the Organisation and the sale of goods and services by the Organisation in accordance with the Regulations referred to in Article 10 and within the limits determined for those purposes by the Commission.
4. The Director General may discharge the aforesaid functions without prior reference to the Committee, but in all cases he shall keep the Committee informed of the measures taken in the exercise of the aforesaid powers.
5. The Committee shall determine the conditions under which a substitute for the Director General may be appointed should he be unable to perform his duties.

ARTICLE 16

1. Estimates of all receipts and expenditure of the Agency shall be prepared for each financial year.
2. The budget shall be balanced as between receipts and expenditure. Agency receipts and expenditure in respect of research and experimental centres, schools and any other institutions set up under Article 2.5 above shall be recorded in detail in a special statement.
3. Financial Regulations adopted pursuant to Article 11 above shall make provision for estimating, putting into effect and auditing the Agency's receipts and expenditures, subject to the provisions of the present Statute.

ARTICLE 17

1. The financial year shall begin on 1 January and end on 31 December.
2. The estimates for each financial year shall be submitted by the Committee for the approval of the Commission not later than 31 October in each year.

ARTICLE 18

The Committee shall submit for approval by the Commission proposals concerning the format of the budget and the unit of account to be used.

ARTICLE 19

1. Without prejudice to the provisions of paragraph 2 below, the annual contribution of each Contracting Party to the budget shall be determined, for each financial year, in accordance with the following formula:
 - (a) an initial 30% of the contribution shall be calculated in proportion to the value of the Gross National Product of the Contracting Party, as defined in paragraph 3 below;
 - (b) a further 70% of the contribution shall be calculated in proportion to the value of the route facility cost-base of the Contracting Party, as defined in paragraph 4 below.

2. No Contracting Party shall be required to pay, in any given financial year, a contribution in excess of 30% of the total amount of contributions from the Contracting Parties. Should the contribution of any one Contracting Party calculated in accordance with paragraph 1 above exceed 30%, the excess shall be distributed among the other Contracting Parties according to the rules laid down in the aforesaid paragraph.

3. The Gross National Product to be used for the calculations shall be obtained from the statistics compiled by the Organisation for Economic Co-operation and Development—or failing that by any other body affording equivalent guarantees and designated under a decision of the Commission—by calculating the arithmetical mean for the last three years for which those statistics are available. The value of the Gross National Product shall be that which is calculated on the basis of factor cost and current prices expressed in European Units of Account.

4. The route facility cost-base to be used for the calculations shall be the cost-base established in respect of the last year but one preceding the financial year concerned.

ARTICLE 20

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 shall specify the maximum amount which the Organisation may borrow during the year covered by that budget.

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

ARTICLE 21

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

ARTICLE 22

1. The accounts of all budgetary receipts and expenditure shall be examined annually by a control board consisting of two expert officials belonging to the administrations of the Contracting Parties. These officials, who shall have different nationalities, shall be appointed by the Commission on the proposal of the Committee in accordance with Article 6.2 (b) of the Convention. The expenditures relating to the control board shall be borne by the Organisation.

2. The audit, which shall be made from the vouchers and if necessary *in situ*, shall be designed to establish the regularity of the receipts and expenditures and to verify that the financial administration is satisfactory. The control board shall present a report to the Commission after the end of each financial year.

ARTICLE 23

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

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

ARTICLE 24

The Committee shall determine the working languages of the Agency.

ARTICLE 25

The Agency shall issue the publications necessary for its operation.

ARTICLE 26

The Committee shall submit for the approval of the Commission any modifications of the Statute which are considered to be necessary by the Committee, subject to the provisions of Article 32.3 of the Convention.

ANNEX 2

**Flight Information Regions
(Article 3 of the Convention)**

<i>Contracting Parties</i>	<i>Flight Information Regions</i>
The Federal Republic of Germany	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
The Kingdom of Belgium } The Grand Duchy of Luxembourg ... }	Bruxelles Upper Flight Information Region Bruxelles Flight Information Region
The French Republic ...	France Upper Flight Information Region Paris Flight Information Region Brest Flight Information Region Bordeaux Flight Information Region Marseille Flight Information Region
The 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
Ireland	Shannon Upper Flight Information Region Shannon Flight Information Region
The Kingdom of the Netherlands	Amsterdam Flight Information Region
The Portuguese Republic ...	Lisboa Upper Flight Information Region Lisboa Flight Information Region Santa Maria Flight Information Region

ANNEX 3

**Transitional provisions covering transfer from the arrangements
existing under the EUROCONTROL International Convention
relating to Co-operation for the Safety of Air Navigation
of 13 December 1960**

to the arrangements under the Convention as amended by the present Protocol

ARTICLE 1

Definition

For the purposes of the present Annex:

- “ seven States ” means the Federal Republic of Germany, the Kingdom of Belgium, the French Republic, the United Kingdom of Great Britain and Northern Ireland, Ireland, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands;
- “ four States ” means the Federal Republic of Germany, the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands;
- “ transitional period ” means the period from the date of entry into force of the present Protocol until such time as the Commission, by a unanimous vote of the seven States on a proposal from the four States, has agreed on future arrangements for the Maastricht Centre and has decided to implement them.

ARTICLE 2

Maastricht Control Centre

1. The following provisions of this article shall apply during the transitional period.
 2. (a) Maastricht Control Centre, including its staff, shall continue to be the responsibility of the Organisation, whose property it shall remain.
 - (b) The said Centre shall continue to provide air traffic control services in the airspace entrusted to it in pursuance of the Convention of 13 December 1960. In the exercise of its functions the Organisation shall apply the provisions of paragraphs 10 to 15 of this article.
 - (c) The operating costs in respect of such functions shall be financed by the four States in accordance with a cost-sharing formula to be agreed between them.
 3. The seven States shall contribute to the cost of investments in respect of the Maastricht Centre approved prior to the entry into force of the present Protocol in proportion to their respective Gross National Products as defined in Article 19.3 of Annex 1.

4. (a) The Contributions of the seven States, on the basis referred to in paragraph 3, shall be used to finance only such new investments at Maastricht as are necessary to maintain the scale of the facilities and services approved up to the date of entry into force of the present Protocol or to preserve the level of safety.

(b) By derogation from Article 7 of the Convention, decisions on such investments shall be taken by the Committee and the Commission by a majority vote of the seven States, it being understood that:

- the votes are weighted in accordance with the table below,
- the votes represent at least five out of the seven States.

(c) The table referred to in sub-paragraph (b) above is as follows:

WEIGHT TABLE	
Gross National Product	
according to factor cost and current prices in thousands of millions	
of French francs	
	<i>Number of votes</i>
Less than 10	1
From 10 inclusive to 20 exclusive	2
From 20 inclusive to 30 exclusive	3
From 30 inclusive to 46 $\frac{2}{3}$ exclusive	4
From 46 $\frac{2}{3}$ inclusive to 63 $\frac{1}{3}$ exclusive	5
From 63 $\frac{1}{3}$ inclusive to 80 exclusive	6
From 80 inclusive to 110 exclusive	7
From 110 inclusive to 140 exclusive	8
From 140 inclusive to 200 exclusive	9
From 200 inclusive to 260 exclusive	10
From 260 inclusive to 320 exclusive	11
From 320 inclusive to 380 exclusive	12

and thereafter one additional vote for each additional increase or fraction thereof of sixty thousand million French francs.

5. A sum equivalent to the receipts from route charges in respect of the amounts for annual amortisation and interest on the capital expenditure at the Maastricht Centre shall be payable by the four States in accordance with a cost-sharing formula to be agreed between them. This sum shall be redistributed to the seven States in proportion to their average contributions to the Investment Budgets from 1974 to 1980 in the case of investments financed before 31 December 1980, and to their actual contributions in the case of investments financed after that date.

6. (a) From the date of entry into force of the present Protocol, the radar installations and transmitting and receiving stations which form an integral part of the Maastricht Centre system and are used to provide air traffic services shall become the property of the States in which they are located.

(b) The said States shall purchase the above-mentioned facilities at the then current written-down value. The proceeds of the sale shall be distributed among the seven States in proportion to their average contributions to the Investment Budgets from 1974 to 1980 in the case of investments financed before 31 December 1980, and to their actual national contributions in the case of investments financed after that date.

7. The installations, equipment and technical services made available to the military authorities of the Federal Republic of Germany, in accordance with the Agreement concluded on 3 November 1977 between the Government of the Federal Republic of Germany and EUROCONTROL relating to the collocation of the German Air Force at the EUROCONTROL Maastricht UAC, shall continue to be made available.

8. Expenditure in respect of investment costs of the Maastricht Centre which is entered in the Organisation's budget and is met by the seven States shall be set out in a special budgetary annex.

9. Expenditure in respect of the operating and maintenance costs of the Maastricht Centre which is entered in the Organisation's budget and is met by the four States shall be set out in a special budgetary annex.

10. The Contracting Parties shall, to the extent that they are competent to do so, and in particular in respect of the allocation of radio frequencies, take the necessary measures to ensure that the Organisation can accomplish all those operations which fulfil its purpose.

11. (a) For the accomplishment of its task, the Agency shall apply for the purpose of air traffic control the regulations in force in the territories of the Contracting Parties and in the airspace in respect of which the air traffic services have been entrusted to them under international agreements to which they are parties.

(b) In case of difficulty in applying the provisions of (a) above, the Agency shall bring the matter before the Commission which shall make recommendations to the Contracting Parties regarding the necessary measures to be taken.

12. For the accomplishment of its task and within the limits of the powers conferred on the air traffic services, the Agency shall give all 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 paragraph 11 above.

13. Infringements of the air navigation regulations committed in the airspace in which the air traffic services have been entrusted to the Agency 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.

14. International agreements and national regulations relating to the admission to, flight over and security of the territory of the Contracting Parties shall be binding on the Agency which shall take all the necessary measures to ensure the application of such agreements and regulations.

15. In order that the Contracting Parties may be able to verify that national regulations and international agreements are being applied, the Agency shall be bound to give those Contracting Parties which so request all the necessary information relating to the aircraft of which it has cognisance in the exercise of its functions.

ARTICLE 3

Karlsruhe Control Centre

On the date of entry into force of the present Protocol, Karlsruhe Control Centre shall become the property of the Federal Republic of Germany, which shall purchase the Centre at the then current written-down value. The proceeds of the sale shall be distributed among the seven States in proportion to their average contributions to the Investment Budgets from 1974 to 1980 in the case of investments financed before 31 December 1980, and to their actual contributions in the case of investments financed after that date.

ARTICLE 4

Facilities located in Ireland

From the date of entry into force of the present Protocol, the Shannon Control Centre, the Mount Gabriel secondary radar installation and radio-telephony stations and the Woodcock Hill secondary radar installation shall become the property of Ireland. In the four years thereafter, route charge receipts corresponding to the cost allowed for amortisation of these facilities shall be distributed among the seven States in proportion to their average contributions to the Investment Budgets from 1974 to 1980 in the case of investments financed before 31 December 1980, and to their actual national contributions in the case of investments financed after that date.

ARTICLE 5

Residual payments

1. Any entitlement to reimbursement under existing provisions in respect of amortisation of approved indirect investments shall cease on the date of entry into force of the present Protocol.

2. The payments due pursuant to decisions taken by the Organisation prior to the entry into force of the present Protocol shall still be effected thereafter in accordance with the rules laid down by such decisions and shall be set out in special budgetary annexes.

ARTICLE 6

Transitional budgetary provisions

1. Within three months following the entry into force of the present Protocol, a budget shall be drawn up and approved by the Commission.

2. This budget shall have retroactive effect from the date of entry into force of the present Protocol and shall terminate on 31 December of the then current year.

3. During the period of preparation of the budget referred to in paragraph 1 above, the Commission may invite the Contracting Parties to make appropriate advances to the working capital fund.

4. Advances in respect of working capital shall be offset against the contributions determined pursuant to Article 19 of Annex 1 to the present Protocol.

**MULTILATERAL AGREEMENT
RELATING TO ROUTE CHARGES**

The Federal Republic of Germany, The Republic of Austria, The Kingdom of Belgium, Spain, The French Republic, The United Kingdom of Great Britain and Northern Ireland, Ireland, The Grand Duchy of Luxembourg, The Kingdom of the Netherlands, The Portuguese Republic, The Swiss Confederation, hereinafter called "the Contracting States";

The European Organisation for the Safety of Air Navigation, hereinafter called "EUROCONTROL";

Considering that the agreements concluded by European States with EUROCONTROL for the collection of route charges must be replaced owing to the amendment of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960⁽¹⁾;

Recognising that co-operation in respect of the establishment and collection of route charges has proved effective in the past;

Desirous of continuing and strengthening the co-operation established;

Resolved to operate, with due regard to the guidelines recommended by the International Civil Aviation Organization, a uniform European route charges system accessible to as many European States as possible;

Convinced that this uniformity will also facilitate consultation with users;

Considering that it is desirable for the States participating in the EUROCONTROL route charges system to strengthen the Organisation's powers in regard to the recovery of charges;

Recognising that such a system requires a new legal basis;

Have agreed as follows:

ARTICLE 1

1. The Contracting States agree to adopt a common policy in respect of charges for *en route* air navigation facilities and services, hereinafter called "route charges", in the airspace of the Flight Information Regions falling within their competence.

2. They accordingly agree to create a joint system for the establishment and collection of route charges and to use for this purpose the services of EUROCONTROL.

3. To this end the Permanent Commission and the Committee of Management of EUROCONTROL shall be enlarged to include representatives of the Contracting States which are not members of EUROCONTROL and are hereinafter called the "enlarged Commission" and the "enlarged Committee".

⁽¹⁾ Treaty Series No. 39 (1963), Cmnd. 2114.

4. The Flight Information Regions mentioned in paragraph 1 above are listed in Annex 1 to this Agreement. Any amendment which a Contracting State wishes to make to the list of its Flight Information Regions shall be subject to the unanimous agreement of the enlarged Commission if it would result in a change in the overall limits of the airspace covered by this Agreement. Any amendment which does not result in such a change shall be notified to EUROCONTROL by the Contracting State concerned.

ARTICLE 2

Each Contracting State shall have one vote in the enlarged Commission, subject to the provisions of Article 6.1 (b).

ARTICLE 3

1. The enlarged Commission shall undertake the establishment of the joint system of route charges in such a manner that:

- (a) those charges are established according to a common formula which takes account of the costs incurred by the Contracting States in respect of *en route* air navigation facilities and services and of the operation of the system, as well as the costs incurred by EUROCONTROL in operating the system;
- (b) those charges are collected by EUROCONTROL as a single charge per flight.

2. The enlarged Commission shall, for the above purposes:

- (a) establish the principles governing the assessment of the costs referred to in paragraph 1 (a) above;
- (b) establish the formula to be applied in calculating the route charges;
- (c) approve, for each charging period, the rate at which the costs referred to in paragraph 1 (a) above are to be recovered;
- (d) determine the unit of account in which the route charges are expressed;
- (e) determine 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;
- (f) determine the principles governing exemption from the route charges;
- (g) approve reports of the enlarged Committee;
- (h) adopt the financial regulations applicable to the route charges system;
- (i) approve agreements between EUROCONTROL and any State wishing to avail itself of EUROCONTROL's resources or technical assistance in connection with air navigation charges not covered by this Agreement;
- (j) approve the budgetary annex proposed by the enlarged Committee in accordance with Article 5.1 (c).

3. The enlarged Commission shall establish its rules of procedure by a unanimous vote of all Contracting States.

ARTICLE 4

Each Contracting State shall have one vote in the enlarged Committee, subject to the provisions of Article 6.2 (b).

ARTICLE 5

1. The enlarged Committee shall undertake:
 - (a) the preparation of decisions for the enlarged Commission;
 - (b) the supervision of the operation of the route charges system, including the use of the resources employed by EUROCONTROL for this purpose, and the taking of all necessary measures, particularly in respect of recovery of route charges, in conformity with the decisions of the enlarged Commission;
 - (c) the reporting to the enlarged Commission on the resources required for the operation of the route charges system and the submission to it of the budgetary annex relating to EUROCONTROL's activities in connection with route charges;
 - (d) the performance of any other tasks entrusted to it by the enlarged Commission.
2. The enlarged Committee shall establish its rules of procedure, subject to the provisions of Article 6.2 (a).

ARTICLE 6

1. The decisions of the enlarged Commission shall be taken as follows:
 - (a) decisions on the matters referred to in Article 3.2 (a) to (f) and (h) shall require a unanimous vote of all Contracting States and shall be binding on all Contracting States; failing a unanimous decision, the enlarged Commission shall take a decision by a two-thirds majority of the votes cast; any Contracting State which is unable for overriding national considerations to apply that decision shall submit to the enlarged Commission an explanatory statement of the reasons therefor;
 - (b) decisions on the matters referred to in Article 3.2 (i) and (j) shall require a two-thirds majority of the votes cast, provided that the votes comprise the weighted majority of the Member States of EUROCONTROL in accordance with the provisions reproduced in Annex 2 to this Agreement; every year EUROCONTROL shall notify the Contracting States which are not Member States of EUROCONTROL of the number of votes to which the Member States are entitled under the said provisions;
 - (c) decisions on the matters referred to in Article 3.2 (g) shall require a two-thirds majority of the votes cast. The same applies to proceedings introduced on behalf of EUROCONTROL by the enlarged Commission before the arbitral tribunal mentioned in Article 25.
2. (a) The rules of procedure of the enlarged Committee, including the rules relating to the taking of decisions, shall require approval by the enlarged Commission by a unanimous vote of all Contracting States.

(b) However, in the matters referred to in Article 5.1 (c), the decisions of the enlarged Committee shall be adopted in accordance with the provisions of paragraph 1 (b) of this article.

ARTICLE 7

EUROCONTROL shall assess, in accordance with the applicable rules, the route charges due for each flight in the airspace defined in Article 1.

ARTICLE 8

EUROCONTROL shall collect the route charges referred to in Article 7. For that purpose, they shall constitute a single charge due in respect of each flight, which shall constitute a single claim by EUROCONTROL, payable at its headquarters.

ARTICLE 9

The person liable to pay the charge shall be the person who was the operator of the aircraft at the time when the flight was performed.

ARTICLE 10

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

ARTICLE 11

Where a debtor has not paid the amount due, measures may be taken to enforce recovery.

ARTICLE 12

1. Proceedings for recovery of the amount due shall be instituted either by EUROCONTROL or, at EUROCONTROL's request, by a Contracting State.
2. Recovery shall be effected by either judicial or administrative procedure.
3. Each Contracting State shall inform EUROCONTROL of the procedures applied in that State and of the competent courts, tribunals or administrative authorities.

ARTICLE 13

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

- (a) where the debtor has his residence or registered office;
- (b) where the debtor has a place of business, if neither his residence nor his registered office is situated in the territory of a Contracting State;
- (c) in the absence of the grounds of jurisdiction set out in (a) and (b) above, where the debtor has assets;
- (d) in the absence of the grounds of jurisdiction set out in (a) to (c) above, where EUROCONTROL has its headquarters.

ARTICLE 14

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

ARTICLE 15

The following decisions taken in a Contracting State shall be recognised and enforced in the other Contracting States:

- (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 16

Decisions referred to in Article 15 shall not be recognised or enforced in the following cases:

- (a) if the court, tribunal or administrative authority of the State of origin was not competent in accordance with Article 13;
- (b) if the decision is manifestly incompatible with the public policy of the State 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 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 State addressed;
- (e) if the decision is incompatible with a decision relating to the same route charges given in the State addressed;
- (f) if the court, tribunal or authority of the State 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 State in which the recognition is sought, unless the same result would have been obtained by the application of the rules of private international law of that State.

ARTICLE 17

The decisions referred to in Article 15, if enforceable in the State of origin, shall be enforced in accordance with the law of the State addressed. If necessary, an order of enforcement shall on request be issued by a court, tribunal or an administrative authority of the State addressed.

ARTICLE 18

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 15 have been met;
 - (d) a document establishing that the decision is enforceable in the State 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 State addressed so requires. No legalisation or similar formality shall be required.

ARTICLE 19

1. The request can be rejected only for one of the reasons set forth in Article 16. In no case may the decision be reviewed on its merits in the State addressed.
2. The procedure for the recognition and enforcement of the decision shall be governed by the law of the State addressed insofar as this Agreement does not otherwise provide.

ARTICLE 20

The amount collected by EUROCONTROL shall be paid to the Contracting States in accordance with the decisions of the enlarged Committee.

ARTICLE 21

Where the claim is recovered by a Contracting State, the amount collected shall be paid without delay to EUROCONTROL, which shall proceed in accordance with Article 20. The recovery costs incurred by that State shall be charged to EUROCONTROL.

ARTICLE 22

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

ARTICLE 23

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

ARTICLE 24

In the event of a state of emergency or war, the provisions of this Agreement shall not affect the freedom of action of the Contracting States involved.

ARTICLE 25

1. Any dispute which may arise either between the Contracting States, or between the Contracting States and EUROCONTROL represented by the enlarged Commission, relating to the interpretation or application of this Agreement or of its annexes, and which it has not been possible to settle by direct negotiation or by any other method, shall be referred to arbitration on the request of any one of the parties.

2. For that purpose, each of the parties shall in each case appoint an arbitrator, and the arbitrators shall agree on the appointment of a third arbitrator.

3. The arbitral tribunal shall determine its own procedure.

4. Each party shall bear the costs in respect of its own arbitrator and its representation in the proceedings before the tribunal; the costs in respect of the third arbitrator and any other costs shall be borne equally by the parties to the dispute. The arbitral tribunal may however determine a different sharing of costs if it thinks fit.

5. The decisions of the arbitral tribunal shall be binding on the parties to the dispute.

ARTICLE 26

This Agreement shall replace the Multilateral Agreement relating to the Collection of Route Charges of 8 September 1970⁽²⁾.

This provision is without prejudice to any agreement between EUROCONTROL and a non-member State of EUROCONTROL relating to the collection of route charges which concerns the Flight Information Regions referred to in Article 1 of this Agreement, which shall remain in force until that State becomes a party to this Agreement.

ARTICLE 27

1. This Agreement shall be open for signature, prior to the date of its entry into force, by any State which is at the time of signature participating in the EUROCONTROL system of collection of route charges or is granted the right of signature by a unanimous decision of the Permanent Commission.

2. This Agreement shall be subject to ratification. The instruments of ratification shall be deposited with the Government of the Kingdom of Belgium. Ratification of the Protocol, opened for signature at Brussels on 12 February 1981, amending the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, hereinafter called "the Protocol" shall also constitute ratification of this Agreement.

⁽²⁾ Treaty Series No. 27 (1972), Cmnd. 4916.

3. This Agreement shall enter into force on the date of entry into force of the Protocol in the case of EUROCONTROL, the Member States of EUROCONTROL, and States which have deposited their instruments of ratification before that date.

4. Where any State deposits its instrument of ratification after the date of the entry into force of this Agreement, this Agreement shall enter into force in respect of that State on the first day of the second month following the date on which the instrument of ratification was deposited.

5. EUROCONTROL shall become a party to this Agreement by its signature.

6. The Government of the Kingdom of Belgium shall notify the Governments of the other signatory States to this Agreement of each signature of this Agreement, of the deposit of any instrument of ratification and of the date of entry into force of this Agreement.

ARTICLE 28

1. Any State may accede to this Agreement.

With the exception of European States which accede to the amended Convention referred to in Article 27.2, States may accede to this Agreement only with the approval of the enlarged Commission carried by a unanimous vote.

2. The instrument of accession shall be deposited with the Government of the Kingdom of Belgium, which shall notify the Governments of the other Contracting States.

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

ARTICLE 29

1. States parties to the amended Convention shall be bound by this Agreement for as long as the said amended Convention remains in force.

2. States which are not parties to the amended Convention shall be bound by this Agreement for a period of five years from the date on which the Agreement enters into force in respect of the State concerned or until the expiry of the Convention, whichever is the earlier. This five-year period shall be automatically extended for further five-year periods save where the State concerned notifies the Government of the Kingdom of Belgium in writing, not less than two years before the expiry of the current period, of its intention to withdraw from the Agreement. The Government of the Kingdom of Belgium shall notify the Governments of the other Contracting States in writing of such notice.

3. The Government of the Kingdom of Belgium shall notify the Governments of the other Contracting States in writing of any notice given by a Contracting Party to the amended Convention of its intention to denounce the said Convention.

ARTICLE 30

The Government of the Kingdom of Belgium shall cause this Agreement to be registered with the Secretary General of the United Nations, in accordance with Article 102 of the Charter of the United Nations, and with the Council of the International Civil Aviation Organization, in accordance with Article 83 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944.

In witness whereof, the undersigned Plenipotentiaries, after presentation of their full powers, found to be in good and due form, have signed this Agreement.

Done at Brussels, this 12th day of February 1981, in the German, English, Spanish, French, Dutch and Portuguese languages, the six texts being equally authentic, in a single original, which shall be deposited in the archives of the Government of the Kingdom of Belgium, which shall transmit certified copies to the Governments of the other signatory States. In the event of any inconsistency, the text in the French language shall prevail.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of instrument of ratification</i>
Austria	} 12 Feb. 1981 {	30 Dec. 1985
Belgium		19 Nov. 1984
France		21 Sept. 1983
Germany, Federal Republic of		2 Mar. 1984
Ireland, Republic of		23 July 1985
Luxembourg		29 Mar. 1983
Netherlands		5 Dec. 1985
Portugal		16 Sept. 1983
Spain		9 Feb. 1983
Switzerland		16 Jan. 1984
United Kingdom		
EUROCONTROL		Not required

ANNEX 1

Flight Information Regions

<i>Contracting Parties</i>	<i>Flight Information Regions</i>
The Federal Republic of Germany	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
The Republic of Austria ...	Wien Flight Information Region
The Kingdom of Belgium ... The Grand Duchy of Luxembourg	Bruxelles Upper Flight Information Region Bruxelles Flight Information Region
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
The French Republic ...	France Upper Flight Information Region Paris Flight Information Region Brest Flight Information Region Bordeaux Flight Information Region Marseille Flight Information Region
The 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
Ireland	Shannon Upper Flight Information Region Shannon Flight Information Region
The Kingdom of the Netherlands	Amsterdam Flight Information Region
The Portuguese Republic ...	Lisboa Upper Flight Information Region Lisboa Flight Information Region Santa Maria Flight Information Region
The Swiss Confederation ...	Genève Upper Flight Information Region Genève Flight Information Region Zürich Upper Flight Information Region Zürich Flight Information Region

ANNEX 2

(Article 6.1 (b))

Extracts from the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 amended by the Protocol opened for signature at Brussels in 1981

ARTICLE 7.3 OF THE CONVENTION

“3. Unless otherwise provided, directives and measures in the cases provided for in Article 6.1 (b) and 6.4 shall require a majority of the votes in the Commission, it being understood that:

- those votes shall be subject to the weighting provided for in Article 8 below,
- those votes shall represent the majority of the Contracting Parties voting.”

ARTICLE 8 OF THE CONVENTION

“ARTICLE 8

1. The weighting referred to in Article 7 shall be determined according to the following table:

<i>Annual contribution of a Contracting Party as a percentage of the total annual contributions of all the Contracting Parties</i>	<i>Number of votes</i>
Less than 1%	1
From 1 to less than 2%	2
From 2 to less than 3%	3
From 3 to less than 4½%	4
From 4½ to less than 6%	5
From 6 to less than 7½%	6
From 7½ 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 numbers of votes shall be initially established with effect from the date of entry into force of the Protocol opened for signature at Brussels in 1981 by reference to the above table and in accordance with the rule in Article 19 of the Statute of the Agency 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 19 OF ANNEX 1 OF THE CONVENTION (STATUTE OF THE AGENCY)

“ARTICLE 19

1. Without prejudice to the provisions of paragraph 2 below, the annual contribution of each Contracting Party to the budget shall be determined, for each financial year, in accordance with the following formula:

- (a) an initial 30% of the contribution shall be calculated in proportion to the value of the Gross National Product of the Contracting Party, as defined in paragraph 3 below;
- (b) a further 70% of the contribution shall be calculated in proportion to the value of the route facility cost-base of the Contracting Party, as defined in paragraph 4 below.

2. No Contracting Party shall be required to pay, in any given financial year, a contribution in excess of 30% of the total amount of contributions from the Contracting Parties. Should the contribution of any one Contracting Party calculated in accordance with paragraph 1 above exceed 30%, the excess shall be distributed among the other Contracting Parties according to the rules laid down in the aforesaid paragraph.

3. The Gross National Product to be used for the calculations shall be obtained from the statistics compiled by the Organisation for Economic Cooperation and Development — or failing that by any other body affording equivalent guarantees and designated under a decision of the Commission — by calculating the arithmetical mean for the last three years for which those statistics are available. The value of the Gross National Product shall be that which is calculated on the basis of factor cost and current prices expressed in European Units of Account.

4. The route facility cost-base to be used for the calculations shall be the cost-base established in respect of the last year but one preceding the financial year concerned.”