


# Procedure file

Basic information		
NLE - Non-legislative enactments Decision	<a href="#">2008/0111(NLE)</a>	Procedure completed
EU/International Civil Aviation Organisation (ICAO) Memorandum of Cooperation: security audits/inspections and related matters		
Subject		
3.20.01.01 Air safety		
3.20.15.02 Air transport agreements and cooperation		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>TRAN</b> Transport and Tourism		23/06/2008
		ALDE <a href="#">COSTA Paolo</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Education, Youth, Culture and Sport</a>	<a href="#">3013</a>	10/05/2010
European Commission	Commission DG	Commissioner	
	<a href="#">Mobility and Transport</a>	KALLAS Siim	

Key events			
05/06/2008	Legislative proposal published	<a href="#">COM(2008)0335</a>	Summary
25/09/2008	Committee referral announced in Parliament		
07/10/2008	Vote in committee		Summary
08/10/2008	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0374/2008</a>	
21/10/2008	Results of vote in Parliament		
21/10/2008	Decision by Parliament	<a href="#">T6-0479/2008</a>	Summary
02/12/2009	Additional information		Summary
10/05/2010	Act adopted by Council after consultation of Parliament		
10/05/2010	End of procedure in Parliament		
17/05/2010	Formal reconsultation of Parliament		

28/05/2010	Final act published in Official Journal		
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Technical information	
Procedure reference	2008/0111(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 218-p6a; Treaty on the Functioning of the EU TFEU 100-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/63878

Documentation gateway					
Legislative proposal		<a href="#">COM(2008)0335</a>	05/06/2008	EC	Summary
Document attached to the procedure		<a href="#">11475/2008</a>	14/07/2008	CSL	
Committee draft report		<a href="#">PE412.273</a>	19/09/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0374/2008</a>	08/10/2008	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0479/2008</a>	21/10/2008	EP	Summary
Supplementary legislative basic document		<a href="#">08490/2010</a>	27/04/2010	CSL	Summary

Final act
<a href="#">Decision 2010/302</a> <a href="#">OJ L 129 28.05.2010, p. 0068</a> Summary

## EU/International Civil Aviation Organisation (ICAO) Memorandum of Cooperation: security audits/inspections and related matters

**PURPOSE:** to sign a provisional application of a Memorandum of Understanding between the International Civil Aviation Organisation and the Community on security audits/inspections and related matters.

**PROPOSED ACT:** Council Decision.

**BACKGROUND:** currently two sets of security audits are carried out in the EU. Since 2002 the International Civil Aviation Organisation (ICAO) has been monitoring the application of Annex 17 to the Chicago Convention alongside the Commission (on the basis of Regulation (EC) No 2320/2002), which conducts security inspections in order to monitor the application by the Member States of this Regulation. Given that Annex 17 of the Chicago Convention and Regulation (EC) No 2320/2002 contain, to a large extent, similar standards, the Member States are confronted with two compliance monitoring systems with the same objective and ? broadly ? the same scope. In order to make better use of limited resources the ICAO audits in the Community should be reduced.

**CONTENT:** the purpose of this proposal, therefore, is to sign a provisional application of a Memorandum of Understanding between the ICAO and the Community on security audits/inspections and related matters.

In accordance with the mandate given to the Commission to open negotiations with the ICAO, the draft MoC seeks to significantly reduce individual audits by the ICAO in the Member States. To that end the ICAO will assess the European Commission aviation security inspection system, including national authorities? inspection reports together with data received from the Member States, the inspection methodology and any follow-up audits.

In order to guarantee the correct handling of EU classified information, the ICAO is bound to comply with Commission Decision 2001/844/EC, ECSC, Euratom. The Commission is authorised to verify, in situ, which protection measures have been put in place by the ICAO. Although the proposal will have no impact on the Community budget, it nevertheless seeks to reduce significantly the number of individual audits in the Member States, at national and at airport level in order to avoid a duplication of work and to allow for a better use of limited resources. Both the Member States and the aviation industry will, as result, benefit from this MoC.

## EU/International Civil Aviation Organisation (ICAO) Memorandum of Cooperation: security audits/inspections and related matters

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The Committee on Transport and Tourism adopted unanimously, according to the simplified procedure (Rule 43 (1) of the Rules of Procedure), the report drafted by Paolo COSTA (ALDE, IT), under the consultation procedure, approving the proposal for a Council decision on the conclusion of a Memorandum of Cooperation between the International Civil Aviation Organization and the European Community regarding security audits/inspections and related matters.

## EU/International Civil Aviation Organisation (ICAO) Memorandum of Cooperation: security audits/inspections and related matters

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The European Parliament adopted, by 648 votes in favour to 6 against with 15 abstentions, a legislative resolution under the consultation procedure, approving the conclusion of a Memorandum of Cooperation between the International Civil Aviation Organisation and the European Community regarding security audits/inspections and related matters. The report had been tabled for consideration in plenary by Paolo COSTA (ALDE, IT), on behalf of the Committee on Transport and Tourism.

## EU/International Civil Aviation Organisation (ICAO) Memorandum of Cooperation: security audits/inspections and related matters

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The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Decision on the conclusion of a Memorandum of Cooperation between the International Civil Aviation Organization and the European Community regarding security audits / inspections and related matters, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis ? Treaty/EC/Art.80(2), Art. 300(2) and (3) - became Art 100(2), Art 218 (6)(a) of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an interinstitutional non-legislative procedure (NLE).

## EU/International Civil Aviation Organisation (ICAO) Memorandum of Cooperation: security audits/inspections and related matters

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**PURPOSE:** to formally conclude, on behalf of the European Union, the Memorandum of Cooperation (MoC) between the European Community and the International Civil Aviation Organization regarding security audits/inspections and related matters.

**PROPOSED ACT:** Council Decision.

**LEGAL BASIS:** Article 100(2), in conjunction with Article 218(6)(a) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union (TFEU).

**BACKGROUND:** the Council authorised the Commission on 30 November 2007 to open negotiations on an agreement regarding aviation security audits/inspections and related matters between the

European Community and the International Civil Aviation Organization (ICAO).

On behalf of the Union, the Commission negotiated a Memorandum of Cooperation (MoC) which was signed on 17 September 2008 on behalf of the Community subject to its possible conclusion at a later date.

Following the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union should make a notification to the International Civil Aviation Organization (ICAO) as regards the European Union having replaced and succeeded the European Community. It is necessary

to take account of this modification in the framework of the MoC.

CONTENT: by this proposed decision, the MoC between the European Community and the International Civil Aviation Organization regarding security audits/inspections and related matters is hereby approved on behalf of the Union.

It aims to formally notify that as a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to 'the European Community' in the text of the Agreement are, where appropriate, to be read as 'the European Union'.

## EU/International Civil Aviation Organisation (ICAO) Memorandum of Cooperation: security audits/inspections and related matters

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PURPOSE: to formally conclude, on behalf of the European Union, the Memorandum of Cooperation (MoC) between the European Community and the International Civil Aviation Organization regarding security audits/inspections and related matters.

LEGISLATIVE ACT: Decision No 458/2010/EU of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions.

CONTENT: on 30 November 2007, the Council adopted the Commission recommendation to authorise the Commission to open negotiations on an agreement regarding aviation security audits / inspections and related matters between the European Community and the International Civil Aviation Organization (ICAO).

On behalf of the Union, the Commission has negotiated a Memorandum of Cooperation (MoC) with the ICAO regarding security audits/inspections and related matters.

The MoC was signed on 17 September 2008 on behalf of the Community subject to its possible conclusion at a later date, in conformity with Decision 2009/97/EC of the Council of 24 July 2008 on the signing and provisional application of a Memorandum of Cooperation between the International Civil Aviation Organisation and the European Community regarding security audits/ inspections and related matters.

By this Decision, the Memorandum of Cooperation (MoC) between the European Community and the International Civil Aviation Organisation regarding security audits/inspections and related matters is hereby approved on behalf of the Union.