

EU/USA Memorandum of Cooperation: civil aviation research and development

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PURPOSE: to conclude a Memorandum of Cooperation between the European Union and the United States of America in civil aviation research and development.

PROPOSED ACT: Council Decision.

BACKGROUND: the Single European Sky Air Traffic Management Research (SESAR) Programme is the technological pillar of the Single European Sky (SES). It is a three phase Programme that has defined, is developing and will deploy a high quality, new generation of ATM technologies, systems and procedures compliant with SES objectives and requirements.

The SESAR Programme is now in its development phase which consists of over 300 consistent and coordinated research, development and validation projects centrally managed by the [SESAR Joint Undertaking](#) (SJU).

In the USA, the Federal Aviation Administration (FAA) has also launched an ATM modernisation programme, known as NextGen.

Considering the parallelism of SESAR and NextGen, the European airspace users have raised a strong requirement to secure interoperability between SESAR and NextGen to ensure safe and seamless operations worldwide, to increase market opportunities for the European industry and to avoid costly duplication of equipment on board aircrafts. US companies already have access to European research and development programmes such as SESAR. It is therefore, essential to guarantee reciprocal opportunities for European industry.

Based on the Commission's recommendation, on 9 October 2009, the Council adopted a decision that mandated the Commission to open negotiations on behalf of the EU with the FAA for a Memorandum of Cooperation for research and development in the field of civil aviation. The proposed Memorandum of Cooperation with the USA provides a sound and legally binding basis for establishing cooperative research and development activities, while duly addressing sensitive issues such as liability, Intellectual Property Rights (IPR) and reciprocity. In addition, the Memorandum has the potential to set the international standards in aviation providing a worldwide interoperability.

The Council also requested the Commission to develop, in parallel, an Annex addressing SESAR-NextGen interoperability.

IMPACT ASSESSMENT: in the specific case of ATM modernisation, the coordinated support, between EU and USA, to ICAO standardisation activities will be a driving force with the potential to turn common SESAR-NextGen standards into international standards for ATM. Failing to guarantee interoperability would imply duplication of airborne equipment in thousands of aircraft flying both in Europe and in the US, representing an investment that airlines are unable to afford in this time of financial crisis.

LEGAL BASIS: Article 100(2), in conjunction with Article 218, paragraph (6) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposed draft Memorandum defines the terms and conditions for mutual cooperation between the EU and the USA for the promotion and development of civil aviation research and development. It constitutes an important instrument that, through a legally binding framework and respecting commonly agreed reciprocity principles, will allow the parties to jointly pursue their common objective to ensure greener and more efficient air transport systems. The draft Memorandum will allow the two parties to establish cooperative research and development activities in any civil aviation issue.

The proposed Memorandum of Cooperation consists of :

1. a main body document, establishing the main principles of cooperation and governance arrangements;
2. Annexes and Appendices to the Annexes that further address specific technical objectives in the field of civil aviation research and development.

As requested by the Council in its mandate, the first Annex addresses SESAR-NextGEN interoperability.

Cooperation: the objectives of this Memorandum may be achieved by cooperation in any of the following areas:

- the exchange of information regarding programs and projects, research results, or publications;
- the execution of joint analyses;
- the coordination of research and development programs and projects, and their execution based on shared effort;
- the exchange of scientific and technical staff;
- the exchange of specific equipment, software, and systems for research activities and compatibility studies;
- the joint organisation of symposia or conferences; and
- reciprocal consultations with the aim of establishing concerted action in appropriate international bodies.

Governance: the governance arrangements consist of a Joint Committee composed of representatives of the Commission, assisted by representatives of the EU Members States, and representatives of the FAA. The Joint Committee may address any matter related to the functioning of the Memorandum and its Annexes and Appendices.

These Annexes and Appendices shall describe, as appropriate, the nature and the duration of cooperation for a specific area or purpose, treatment of intellectual property, liability, funding, allocation of costs, and other relevant matters. Unless explicitly stated otherwise, in case of an incompatibility between a provision in an Annex or Appendix and a provision in this Memorandum, the provision in the Memorandum shall have precedence.

BUDGETARY IMPLICATION: this proposal has no implication for the EU budget. Each Party shall bear the costs of the activities it performs pursuant to this Memorandum.

