ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION OF THE EU/ICAO JOINT COMMITTEE

of 25 May 2023

on the amendment of the Working Arrangement between the European Union and the International Civil Aviation Organization regarding the cooperation in the area of accident and incident reporting in civil aviation [2023/1666]

THE EU/ICAO JOINT COMMITTEE,

Having regard to the Memorandum of Cooperation between the European Union and ICAO providing a framework for enhanced cooperation, signed at Montréal and Brussels on 28 April and 4 May 2011 (MoC), and in particular its Articles 3.3 and 7.3(c);

Having regard to the Annex on Aviation Safety to the MoC, and in particular its Article 3.1;

Having regard to the ICAO Global Aviation Safety Plan (GASP) (ICAO Doc 10004) and the global safety initiatives (GSI);

Having regard to the Global Aviation Safety Roadmap (GASR, 2006) regarding the implementation of international sharing of data/global data reporting system;

Having regard to Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 ([1]);

Having regard to Regulation (EU) No 996/2010 of the European Parliament and of the Council (EU) of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC ([2]);

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ([3]),

Considering that the definitions of ICAO Accident/Incident Data Reporting (ADREP) taxonomy are primarily based on ICAO Standards and Recommended Practices (SARPs), manuals and guidance material;

([1]) OJ L 122, 24.4.2014, p. 18.
([2]) OJ L 295, 12.11.2010, p. 35.
([3]) OJ L 212, 22.8.2018, p. 1.

Considering that there is a need amongst the ADREP and the European Coordination Centre for Accidents and Incident Reporting System (ECCAIRS) users in ICAO Member States to further utilise information derived from data collection, analysis and sharing to identify safety threats and contributing factors on a global scale;

Considering that the safety of air navigation and harmonisation progress of international civil aviation rely on recognised standards such as the ADREP system and recognising the importance of mutual assistance and cooperation in the field of safety management and data base systems;

Considering the obligation within the European Union of the European Union Aviation Safety Agency (EASA) to assist the European Commission in the management of the European Central Repository that stores all occurrence reports collected in the European Union, and in particular its task to develop and maintain a new version of the ECCAIRS software suite called ECCAIRS 2;

Considering that as of 1 January 2021 EASA has taken over all the functions that the European Commission Directorate-General of the Joint Research Centre (JRC) performed in relation to the ECCAIRS software suite;

Considering that Working Arrangement featuring EASA performing the functions related to ECCAIRS software suite as decided by the Joint Committee on 10 March 2022;

Considering the need to set out areas of collaboration between ICAO and EASA in supporting ECCAIRS 2 implementation, in this case areas related to training and support activities which fall under this Working Arrangement,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to the Working Arrangement done at Montréal on 10 March 2022 regarding the cooperation in the area of accident and incident reporting in civil aviation as annexed to this Decision are hereby adopted.

Article 2

This Decision shall enter into force on the day of its adoption.

For the EU/ICAO Joint Committee
The Chairpersons [only signatures]

ANNEX

WORKING ARRANGEMENT BETWEEN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION AND THE EUROPEAN UNION

REGARDING THE COOPERATION IN THE AREA OF ACCIDENT AND INCIDENT REPORTING IN CIVIL AVIATION

The Working Arrangement is amended as follows:

1. Paragraph 2.2(f) is amended as follows:

   (a) the last sentence is deleted and replaced by the following:

   'If an ICAO State wishes to use the ECCAIRS 2 system, then EASA will arrange and conclude a service arrangement with those States.'

2. Paragraph 2.3 is amended as follows:

   (a) a new paragraph is inserted after paragraph 2.3(f):

   'Specific details of the collaboration between EASA and ICAO in training and support are included in Appendix 1 to this Working Arrangement.'

3. Paragraph 5.4 is amended as follows:

   (a) paragraph 5.4 is deleted and replaced by the following text:

   'Each Party retains the ownership and all rights in and to its copyrights, trademarks, name, logos and any other intellectual property. Except as expressly provided herein, the use of a Party's intellectual property by the other Party is subject to the Party's prior written approval. All derivative works of, based on, derived from or otherwise using any intellectual property of another Party are considered to be the property of that Party, including, for example, all output, copies, reproductions, improvements, modifications, adaptations and translations; notwithstanding the foregoing, such derivative works may be considered Joint Intellectual Property in accordance with paragraph 5.5 below. Except as provided herein, a Party will not sell another Party's intellectual property or produce for sale any materials derived therefrom, nor distribute or disclose another Party's intellectual property in part or in its entirety to third parties.'

4. A new paragraph 5.5 is inserted as follows:

   'The intellectual property rights of jointly developed materials will belong to the Parties jointly. "Joint Intellectual Property" means intellectual property in any products, research, data, analysis, information and other materials that the Parties jointly develop as part of this collaboration. All rights and title to Joint Intellectual Property are subject to the following terms and conditions:

   (a) Upon expiration or termination of this Working Arrangement, the portfolio of Joint Intellectual Property created will be divided between the Parties based on the vested interests of each Party, as agreed through consultations between the Parties. If an agreement cannot be reached, all rights and title to Joint Intellectual Property will remain jointly owned by the Parties.'

5. A new Article 6 'LIABILITY' is inserted as follows:

   '6. LIABILITY'.

6. A new paragraph 6.1 is inserted as follows:

   '6.1. In any event, either Sides will not be liable to the other Party for any direct, indirect, incidental, special, or consequential damages of any kind whatsoever whether or not foreseeable, resulting from, or arising in connection with the activities that are the subject of this Working Arrangement.'

7. Article 6 'AMENDMENTS AND TERMINATION' is amended as follows:

   (a) the Article is renumbered to 7:

   'Article 7 AMENDMENTS AND TERMINATION'.

8. A new Appendix is inserted to the Working Arrangement:

(a) Appendix 1 is inserted after the paragraph 7.2:

'*APPENDIX 1*

COLLABORATION BETWEEN ICAO AND EASA IN TRAINING AND SUPPORT

1. **Objective and scope**

1.1. The objective of this Appendix is to set out areas of collaboration between ICAO and EASA in supporting ECCAIRS 2 implementation. The scope of this Appendix is limited to training and support activities which fall under this Working Arrangement, including the development and delivery of ICAO Implementation Packages ("iPACKs") under the auspices of the ICAO Technical Cooperation Bureau, and other collaboration opportunities such as fellowships, exchange of subject matter expertise, and collaboration on technical cooperation capacity-building projects and programmes (hereinafter referred to collectively as the "Initiatives").

1.2. The details of each Initiative will be agreed in writing between ICAO and EASA and will comply with the provisions of the Working Arrangement and this Appendix.

2. **Partnership Working Group**

2.1. ICAO and EASA will form a Partnership Working Group (the "PWG"), which will work on a consensus basis to:

2.1.1. provide guidance on the development and execution of each individual Initiative on which ICAO and EASA agree to collaborate;

2.1.2. approve the final version of such Initiative and any subsequent updates thereto;

2.1.3. approve the promotion and dissemination of information of the Initiatives;

2.1.4. oversee the performance of the collaboration as a whole; and

2.1.5. consider the financial viability of conducting each individual Initiative.

2.2. The PWG is not a formal Board of Directors and does not have, neither collectively nor individually, any fiduciary duty to or responsibility for any initiative or Party to this Working Arrangement or EASA.

2.3. ICAO and EASA will appoint representatives to the PWG as follows:

2.3.1. Depending on the nature of the Initiatives, ICAO may appoint the Director, Technical Cooperation Bureau, or the Chief, Global Aviation Training or their authorised representative.

2.3.2. EASA may appoint the Director, Strategy and Safety Management Directorate or his/her appointed alternate, as their authorised representative

2.3.3. Additional representatives to the PWG may be appointed by ICAO and EASA on an equal basis to support the abovementioned respective representatives.

2.4. In addition to its responsibilities set out in paragraph 2.1, the PWG will meet as needed throughout the duration of the Initiatives to evaluate such Initiatives, including individual Initiative performance and profiles, coordinate appropriate solutions to problems, and suggest improvements and modifications to the Initiatives.

3. **Task sharing between ICAO and EASA**

3.1. The specific tasks of ICAO and EASA with respect to each individual Initiative will be agreed in writing between ICAO and EASA pursuant to paragraph 1.2.

3.2. ICAO and EASA will promote and publicise the iPACK, or any other Initiative through their respective channels, and will jointly formulate an annual joint activity plan in that regard. Joint activity efforts will be coordinated between the ICAO and EASA and approved by the PWG.

3.3. ICAO and EASA will collaborate to jointly promote the Initiatives on their websites. ICAO and EASA will also take reasonable efforts to jointly market the iPACK, or any other Initiative from time to time through other means and fora, which may include the following:

(a) press releases;

(b) conferences and workshops organised by either ICAO or EASA;

(c) advertisements in ICAO and EASA publications;

(d) electronic newsletters;

(e) social media; and

(f) any other joint activity deemed necessary.

4. **Financial aspects of the collaboration**

4.1. The iPACKs and any other Initiatives will be developed and offered on a full cost recovery basis, with all the implementing financial mechanisms being determined on a case-by-case basis in accordance with provisions to be agreed upon in writing between ICAO and EASA pursuant to paragraph 1.2.

4.2. For each iPACK or any other Initiative, the implementing financial mechanism will include provisions on the implementation, development, and management of the costs and of the revenue, including their assignment between ICAO and EASA. The implementing financial mechanism will also include provisions on the duration and ceiling of the financial commitments and on the limitation of responsibility, also referred to the option of withdrawing from the respective commitments.

4.3. Each individual iPACK or any other Initiative will not be conducted if the implementing financial mechanism referred to in paragraphs 4.1 and 4.2 is not agreed in writing by ICAO and EASA.'