Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)

COUNCIL REGULATION (EC) No 219/2007

of 27 February 2007

on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 171 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Whereas:

(1) In order to create the single European sky, on 10 March 2004 the European Parliament and the Council adopted Regulation (EC) No 549/2004 laying down the framework for the creation of the single European sky (the framework Regulation)[(1)], Regulation (EC) No 550/2004 on the provision of air navigation services in the single European sky (the service provision Regulation)[(2)], Regulation (EC) No 551/2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation)[(3)], and Regulation (EC) No 552/2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation)[(4)].

(2) The project to modernise air traffic management in Europe, (the SESAR project), is the technological element of the single European sky. It aims by 2020 to give the Community a high-performance air traffic control infrastructure which will enable the safe and environmentally friendly development of air transport, benefiting fully from the technological advances of programmes such as Galileo.

(3) Following the Community's accession to Eurocontrol, the Commission and Eurocontrol have signed a cooperation framework agreement for the implementation of the single European sky and for research and development activities in the field of air traffic control.

(4) In accordance with the guidelines adopted by the Competitiveness Council of 7 June 2005 concerning the preparation of the future European space programme, the European Union will be responsible for ensuring the availability and continuity of operational services supporting its policies, and it will contribute to the development, deployment and operation of a European space infrastructure by concentrating on space-based applications to contribute to the achievement of its policies.

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EC) No 219/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) The SESAR project aims to integrate and coordinate research and development activities which were previously undertaken in a dispersed and uncoordinated manner in the Community, including the most remote and outlying regions thereof, referred to in Article 299(2) of the Treaty.

(6) By avoiding the duplication of research and development activities, the SESAR project will not lead to an increase in the overall volume of air users' contributions to research and development efforts.

(7) The SESAR project is composed of three phases: a definition phase, a development phase and a deployment phase.

(8) The definition phase of the SESAR project aims to define the different technological steps to be taken, the priorities in the modernisation programmes and the operational implementation plans. It is co-financed by the Community and by the European Organisation for the Safety of Air Navigation (Eurocontrol).

(9) The definition phase started in October 2005 and is carried out under the responsibility of Eurocontrol by a consortium of undertakings chosen after a public invitation to tender. It will finish in 2008 and will result in the European Air Traffic Management Master Plan. This plan will define the work programme for the implementation of the target concepts, including the different deployment strategies.

(10) The definition phase will be followed by the development phase (2008-2013) which will develop new equipments, systems or standards, which will ensure a convergence towards a fully interoperable Air Traffic Management system in Europe.

(11) The development phase will change into the deployment phase (2014-2020), which will be a large scale production and implementation of the new air traffic management infrastructure. The infrastructure should be composed of fully harmonised and interoperable components which guarantee high performance air transport activities in Europe.

(12) Taking into account the number of actors who will need to be involved in this process and the financial resources and technical expertise needed, it is vital for the rationalisation of activities to set up a legal entity capable of ensuring the management of the funds assigned to the SESAR project during its development phase.

(13) It is therefore necessary to set up a Joint Undertaking under Article 171 of the Treaty in order to enable considerable progress to be made in the development of technologies relating to air traffic control systems during the development phase and prepare the deployment phase.

(14) The main task of the Joint Undertaking is to manage the research, development and validation activities of the Sesar project by combining public and private sector funding provided by its members and using external technical resources and in particular by using Eurocontrol's experience and expertise.

(15) The activities undertaken by the Joint Undertaking under the SESAR programme are mainly research and development activities. Therefore, Community funding should

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be paid in particular from its research and development framework programmes. Additional funding can be paid from the Trans-European Network programme in accordance to Article 4(g) of Decision 1692/96/EC of the European Parliament and the Council of 23 July 1996 on Community guidelines for the development of the Trans-European transport network[(5)], which envisages the possibility of financing research and development activities.

(16) The Community funding for the Joint Undertaking should, at this stage of the project, be limited to the development phase within the period covered by the current financial framework 2007-2013. However, this does not prejudge the possibility for the Council to review the scope, governance, funding and duration of the Joint Undertaking on the basis of the progress made in the development phase.

(17) Substantial participation from industry is an essential element for the SESAR project. It is therefore fundamental that the public budget for the development phase of the SESAR project be supplemented by contributions from industry.

(18) The Joint Undertaking should be set up before the end of the definition phase so that it can follow the work of the definition phase and prepare the development phase in order to ensure the rapid implementation of the European Air Traffic Management Master Plan.

(19) The Council should decide on the endorsement of the European Air Traffic Management Master Plan, including its transfer to the Joint Undertaking, to modernise air traffic management in Europe, and should in this context also review the financing of the SESAR project and in particular the pledges of contributions from industry to the Joint Undertaking.

(20) In order to facilitate communication with the founding members, the seat of the Joint Undertaking should be located in Brussels.

(21) The Joint Undertaking is a non-profit entity which shall devote all its resources to the management of a public research programme of European interest. Its two founding members are international organisations acting on behalf of their respective Member States. This entity should therefore be granted, as far as possible, the most extensive exemption from taxation from the hosting State.

(22) The Commission should be assisted by the Single Sky Committee established by Article 5 of Regulation (EC) No 549/2004. The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(6)].

(23) The Commission should inform the European Parliament and the Council on a regular basis of the progress of the Joint Undertaking. This information should be done through periodic evaluations performed by the Commission and on the basis of the annual activity reports of the Joint Undertaking.

(24) The rules for the organisation and operation of the Joint Undertaking should be laid down by drawing up the statutes of the Joint Undertaking as set out in the Annex.

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(25) As route charges are entirely borne by airspace users, the latter contribute financially to the research and development efforts in the air traffic management sector. They should therefore be given appropriate representation within the Joint Undertaking.

(26) Public financing for the definition and development phases of the SESAR project is substantial and investments in a new generation of air traffic management should, to a large extent, be made by Member States, including bodies designated by Member States. Member States (of the European Union and/or of Eurocontrol) should therefore be granted access free of charge, for non-commercial purposes, to the knowledge resulting from the project and be allowed to use this knowledge for their own purposes, including for calls for public tender,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment of a Joint Undertaking

1 In order to manage the activities of the development phase of the project to modernise air traffic management in Europe and to enhance safety, (the SESAR project), a Joint Undertaking is hereby established, known as 'SESAR Joint Undertaking' (the Joint Undertaking).

[[F1]2 The Joint Undertaking shall cease to exist on 31 December 2024. In order to take into account the duration of Horizon 2020 — Framework Programme for Research and Innovation (2014-2020),established under Regulation (EU) No 1291/2013 of the European Parliament and of the Council[(7)] ('Horizon 2020 Framework Programme') calls for proposals under the Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases calls for proposals may be launched until 31 December 2021.**]**

[F2]3 . . . . . .

4 The scope, governance, funding and duration of the Joint Undertaking shall, where appropriate, be reviewed by the Council on the basis of a proposal from the Commission according to the development of the project and of the ATM Master Plan, taking into account the evaluation referred to in Article 7.

5 The aim of the Joint Undertaking shall be to ensure the modernisation of the European air traffic management system by coordinating and concentrating all relevant research and development efforts in the Community. It shall be responsible for the execution of the ATM Master Plan and in particular for carrying out the following tasks:

— organising and coordinating the activities of the development phase of the SESAR project, in accordance with the ATM Master Plan, resulting from the definition phase of the project managed by Eurocontrol, by combining and managing under a single structure public and private sector funding,

— ensuring the necessary funding for the activities of the development phase of the SESAR project in accordance with the ATM Master Plan,

— ensuring the involvement of the stakeholders of the air traffic management sector in Europe, in particular: air navigation service providers, airspace users, professional staff associations, airports, and manufacturing industry; as well as the relevant scientific institutions or the relevant scientific community,

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— organising the technical work of research and development, validation and study, to be carried out under its authority while avoiding fragmentation of such activities,

— **[**[F1]ensuring the supervision of activities related to the development of common products duly identified in the ATM Master Plan, through grants to Members and through the most appropriate measures, such as procurement or the award of grants following calls for proposals to achieve the programme objectives, in accordance with Regulation (EU) No 1291/2013.**]**

6 The Joint Undertaking shall be operational at the latest when the ATM Master Plan has been transferred to the Joint Undertaking.

7 The seat of the Joint Undertaking shall be located in Brussels.

Textual Amendments

F1 Substituted by Council Regulation (EU) No 721/2014 of 16 June 2014 amending Regulation (EC) No 219/2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as regards the extension of the Joint Undertaking until 2024 (Text with EEA relevance).

F2 Deleted by Council Regulation (EU) No 721/2014 of 16 June 2014 amending Regulation (EC) No 219/2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as regards the extension of the Joint Undertaking until 2024 (Text with EEA relevance).

I[F3]*Article 2*

Legal status

The Joint Undertaking shall be a Community body and shall have legal personality. In every Member State, it shall enjoy the most extensive legal capacity accorded to legal persons under the law of that State. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.**]**

Textual Amendments

F3 Substituted by Council Regulation (EC) No 1361/2008 of 16 December 2008 amending Regulation (EC) No 219/2007 on the establishment of a joint undertaking to develop the new generation European air traffic management system (SESAR).

I[F4]*Article 2a*

Staff

1 The Staff Regulations of Officials of the European Communities, the Conditions of Employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Communities for the purpose of applying these Staff Regulations and the Conditions of Employment shall apply to the staff of the Joint Undertaking and its Executive Director.

2 Without prejudice to Article 7(2) of its Statutes, the Joint Undertaking shall exercise the powers conferred on the appointing authority by the Staff Regulations of Officials of the