

**TREATY
RELATING TO THE ESTABLISHMENT OF THE
FUNCTIONAL AIRSPACE BLOCK “EUROPE
CENTRAL”
BETWEEN
THE FEDERAL REPUBLIC OF GERMANY, THE
KINGDOM OF BELGIUM,
THE FRENCH REPUBLIC, THE GRAND DUCHY
OF LUXEMBOURG,
THE KINGDOM OF THE NETHERLANDS AND
THE SWISS CONFEDERATION**

Preamble

The Contracting States,

Having regard to the Regulations on the Single European Sky of the European Parliament and the Council of the European Union, the relevant implementing rules, the statement by the Member States on military issues relating to the Single European Sky and the Agreement between the European Community and the Swiss Confederation on air transport;

Having regard to the feasibility study of the Functional Airspace Block "Europe Central" (Functional Airspace Block Europe Central, FABEC) of 18 September 2008;

Having regard to the joint declaration of intent on the creation of a Functional Airspace Block "Europe Central" of 18 November 2008;

Considering that the airspace over the territory and that under the responsibility of the Contracting States of FABEC are among the most complex air traffic areas in Europe;

Considering that a more integrated approach to air traffic management is a major step towards fulfilling the needs of civil and military air traffic in this area;

Considering that close cooperation by air navigation service providers fulfils the needs of civil and military air traffic in this area;

Considering that the creation of FABEC necessarily involves the improved and increasing cross-border provision of air navigation services;

Considering the "Just Culture" environment as set out by the international and European legislation;

Whereas by creating FABEC regardless of existing boundaries, the Contracting States aim to achieve optimum capacity, effectiveness and efficiency of the air traffic management network while maintaining a high level of safety;

Convinced by the added value of the creation of FABEC for environmental sustainability;

have agreed as follows:

CHAPTER 1: GENERAL PRINCIPLES**Article 1 – Definitions**

Unless otherwise stated, the terms used in this Treaty shall have the meaning given to them in the applicable definitions of the Regulations on the Single European Sky in force in the Contracting States. For the purpose of this Treaty, the following definitions shall apply:

- a. "Treaty" means the present Treaty and any amendments thereto, unless provided otherwise;
- b. "airspace concerned" means the airspace over the territory of the Contracting States and that under their responsibility in accordance with International Civil Aviation Organization (ICAO) rules, as defined in Article 3 of this Treaty;
- c. "Chicago Convention" means the *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944, and shall include:
 - any amendment ratified by the Contracting States and applied under Article 94 a) of the Chicago Convention, and
 - any Annex or amendment adopted under Article 90 of the Chicago Convention, insofar as any international standards as referred to in Article 37 of the Chicago Convention and contained in such Annex or amendment are in force for all the Contracting States;

- d. "cross-border area" means the airspace over international boundaries reserved for the exclusive use of specific users for a specific period of time;
- e. "Functional Airspace Block Europe Central (FABEC)" means the Functional Airspace Block established by the Contracting States under this Treaty;
- f. "operational air traffic" means the flights that do not comply with the provisions laid down for general air traffic and for which rules and procedures have been specified by the appropriate national authorities. Operational air traffic may include civil flights such as test flights, which require some degree of deviation from ICAO rules in order to satisfy their operational requirements;
- g. "State aircraft": aircraft used in military, customs and police services shall be deemed to be State aircraft;
- h. "tactical control service" means the military provision of services to support operational air traffic in order to accomplish the assigned mission and to ensure that sufficient spacing is maintained between aircraft at any time;
- i. "territory" means the land areas and territorial waters adjacent thereto under the sovereignty of a Contracting State according to international law.

Article 2 – Subject of this Treaty

- 2.1 This Treaty establishes the FABEC and the FABEC Council for its governance.
- 2.2 This Treaty does not create an international organisation with international legal personality.
- 2.3 This Treaty defines the general conditions and the governance under which the Contracting States have to ensure air traffic management and the provision of air navigation services in the airspace concerned.
- 2.4 This Treaty defines the framework within which the specific technical and operational arrangements covering the fields of action of the air navigation service providers are to be established.

Article 3 – Geographical scope

- 3.1 This Treaty applies to the airspace concerned, which is composed of the following flight information regions (FIR) and upper information regions (UIR) of continental Europe:
 - a. FIR Bremen;
 - b. FIR Langen;
 - c. FIR München;
 - d. UIR Hannover;
 - e. UIR Rhein;
 - f. FIR/UIR Bruxelles;
 - g. FIR Bordeaux;
 - h. FIR Brest;
 - i. FIR Marseille;
 - j. FIR Paris;
 - k. FIR Reims;
 - l. UIR France;
 - m. FIR Amsterdam;
 - n. FIR/UIR Switzerland.
- 3.2 For the French Republic, this Treaty applies only to the European Départements of the French Republic.
- 3.3 For the Kingdom of the Netherlands, this Treaty applies only to the part of the Kingdom of

the Netherlands situated in Europe.	
Article 4 – Sovereignty	
4.1	In case a FIR or an UIR extends into the airspace over the territory of an other Contracting State, the sovereignty of the Contracting State concerned relating to that portion of the airspace over its territory shall not be affected.
4.2	The provisions of this Treaty shall be without prejudice to the competencies of the Contracting States relating to security and military interests.
Article 5 – State aircraft	
5.1	Unless otherwise agreed or regulated, Article 3 c) of the Chicago Convention remains fully applicable to State aircraft.
5.2	The Contracting States shall strive to establish a simplified procedure for diplomatic clearance or special permission for military training activities within the airspace concerned.
Article 6 – Objective of the FABEC	
The objective of the FABEC is to achieve optimal performance in the areas relating to safety, environmental sustainability, capacity, cost-efficiency, flight efficiency and military mission effectiveness, by the design of airspace and the organisation of air traffic management in the airspace concerned regardless of existing boundaries.	
Article 7 – Commitments of the Contracting States	
7.1	To achieve the objective of the FABEC, the Contracting States commit to cooperate and to take the appropriate measures, in accordance with their national procedures, in particular in the following domains: <ul style="list-style-type: none"> a. airspace; b. harmonisation of rules and procedures; c. provision of air navigation services; d. civil – military cooperation; e. charging; f. supervision; g. performance; h. governance.
7.2	The Contracting States shall implement the decisions taken by the FABEC Council and commit to establish the necessary national rules and procedures.
7.3	The Contracting States shall ensure the implementation of this Treaty.
CHAPTER 2: AIRSPACE	
Article 8 – Airspace of the FABEC	
8.1	The Contracting States shall jointly ensure the design and the management of a seamless airspace, as well as the coordinated air traffic flow and capacity management, taking due account of collaborative processes at international level regardless of existing boundaries.
8.2	The Contracting States shall ensure in particular: <ul style="list-style-type: none"> a. the development of a common airspace policy, in close cooperation between civil and military authorities; b. the design of the structure of the airspace concerned to facilitate defragmentation and dynamic sectorisation; c. the examination of modifications concerning the airspace concerned affecting the performance at the FABEC level;

- d. coordination with EUROCONTROL;
- e. consultation of the airspace users, jointly if necessary;
- f. the coordinated establishment of cross-border areas.

Article 9 – Flexible use of airspace

- 9.1 The Contracting States shall cooperate at legal, operational and technical level for the efficient and consistent application of the concept of flexible use of airspace taking into account both civil and military requirements.
- 9.2 The Contracting States shall ensure that common agreements and procedures are set up between civil and military air traffic service providers.
- 9.3 The Contracting States shall ensure that civil and military authorities coordinate at the strategic level of airspace management.
- 9.4 The Contracting States shall ensure that a common airspace management function is established between civil and military air traffic service providers at pre-tactical level.
- 9.5 The Contracting States shall ensure that coordination is made between air traffic services units and controlling military units at tactical level.

CHAPTER 3: HARMONISATION

Article 10 – Harmonisation of rules and procedures

- 10.1 The Contracting States commit to harmonise their substantive rules and procedures relevant to the FABEC.
- 10.2 To this end, the Contracting States shall consult one another on a regular basis with a view to identifying and eliminating differences between their respective regulations.
- 10.3 The Contracting States shall ensure that the air traffic service providers of the airspace concerned develop and implement a common overall Safety Management System.
- 10.4 The Contracting States shall coordinate the classification of the various parts of the airspace concerned in accordance with the European specifications, ensuring that differences existing in practice between them are reduced.

CHAPTER 4: PROVISION OF AIR NAVIGATION SERVICES

Article 11 – Air navigation services

The Contracting States shall ensure the provision of the following air navigation services:

- a. air traffic services;
- b. communication, navigation and surveillance services;
- c. aeronautical information services;
- d. meteorological services.

Article 12 – Air traffic services

- 12.1 The Contracting States shall jointly designate by a common instrument the air traffic service providers of the airspace concerned.
- 12.2 Air traffic service providers of the airspace concerned, not designated in accordance with the paragraph 1, shall be jointly designated by the Contracting States upon notification by the Contracting State concerned if they provide one or more of the following services only:
 - a. aerodrome flight information services;
 - b. air traffic services limited to a control zone of aerodromes;
 - c. air traffic services under military supervision.

12.3	Paragraphs 1 and 2 shall apply without prejudice to arrangements or agreements related to the provision of air traffic services between Contracting States or any Contracting State and a third party existing prior to the entry into force of this Treaty.
12.4	The Contracting States shall inform one another on the rights and obligations of the designated air traffic service providers at national level and of any change in their certification or their legal status.
12.5	The Contracting States shall jointly inform the European Commission and the other Member States of any decision taken under this Article concerning the designation of air traffic service providers.
12.6	The Contracting States shall encourage close cooperation between air traffic service providers.
Article 13 – Communication, navigation and surveillance services	
The Contracting States shall work towards common technical systems and the cost efficient deployment of infrastructure for the provision of communication, navigation and surveillance services by civil air navigation service providers.	
Article 14 – Aeronautical information services	
The Contracting States shall cooperate in the field of aeronautical information and coordinate the provision of aeronautical information services.	
Article 15 – Meteorological services	
15.1	The Contracting States shall ensure cooperation among providers of aeronautical meteorological services.
15.2	Each Contracting State shall designate the provider of the aeronautical meteorological services on an exclusive basis and inform the FABEC Council thereof.
Article 16 – Relations between service providers	
16.1	The Contracting States shall ensure that air navigation service providers formalise the working relationships deemed necessary for the coordination of their services in the airspace concerned by means of written agreements or equivalent legal arrangements.
16.2	The written agreements or equivalent legal arrangements between air traffic service providers concerning cross-border services in the airspace concerned shall be approved by the Contracting States concerned after consultation of the FABEC Council. Once approved, they shall be communicated to the FABEC Council.
16.3	In case of written agreements or equivalent legal arrangements concerning the provision of air traffic services outside the airspace concerned with neighbouring States, the Contracting State(s) concerned shall ensure that such written agreements or equivalent legal arrangements do not affect this Treaty and are communicated to the FABEC Council.
CHAPTER 5: PRINCIPLES GOVERNING CIVIL – MILITARY COOPERATION	
Article 17 – Military activities	
17.1	With due regard to the flexible use of airspace principles and in accordance with national existing arrangements and applicable international agreements, the Contracting States concerned shall conclude, where and when appropriate, written arrangements to enable military training activities in the airspace concerned regardless of existing boundaries.
17.2	The Contracting States concerned shall allow the provision of cross-border air traffic services to State aircraft operating as general air traffic as well as State aircraft operating as operational air traffic by a military or civil air traffic service provider of the other Contracting State concerned pursuant to appropriate written arrangements communicated to the FABEC Council.
17.3	The Contracting States concerned shall allow the provision of tactical control services to

operational air traffic by the air defence organisations and tactical air command and control service organisations of the other Contracting State concerned pursuant to appropriate written arrangements communicated to the FABEC Council.

- 17.4 For the provision of cross-border services in the airspace concerned, the Contracting States shall encourage close cooperation between the civil and military air navigation service providers and the respective air defence and tactical air command and control service organisations.
- 17.5 The Contracting States shall strive to harmonise the relevant civil and military arrangements to facilitate civil-military cooperation, in particular in the field of security.

CHAPTER 6: CHARGING

Article 18 – Charging policy

- 18.1 The Contracting States shall develop and apply common principles governing charging policy within the airspace concerned, taking into account the possibility of national exemptions.
- 18.2 The Contracting States intend to apply a single unit rate for en-route traffic in the airspace concerned and strive to establish a common charging zone in the airspace concerned.
- 18.3 The FABEC Council shall decide on the introduction of, the conditions for and the application of a single unit rate for en-route traffic in the airspace concerned and the establishment of a common charging zone in the airspace concerned.
- 18.4 The jointly proposed single unit rate for en-route traffic in the airspace concerned shall be submitted following a decision on this by the FABEC Council to the relevant EUROCONTROL body for determination.
- 18.5 Prior to the introduction and the application of a single unit rate for en-route traffic in the airspace concerned, the Contracting States shall coordinate their unit rates for en-route traffic in the airspace concerned at the FABEC Council level.
- 18.6 The Contracting States shall in particular:
- a. jointly execute the necessary obligations associated with a common charging zone for en-route traffic in the airspace concerned;
 - b. make appropriate arrangements to ensure consistency and uniformity in the application of the rules and regulations on charging;
 - c. ensure as appropriate the joint coordination with EUROCONTROL.

CHAPTER 7: SUPERVISION

Article 19 – Supervision of the air navigation service providers

- 19.1 The Contracting States shall ensure that the national supervisory authorities closely cooperate on the supervision of the air navigation service providers within the airspace concerned and that their practices are harmonised.
- 19.2 The Contracting States mutually recognise the supervisory tasks of their national supervisory authorities and the results of these tasks.
- 19.3 The Contracting States shall ensure that their national supervisory authorities conclude agreements for the cooperation referred to in paragraph 1, including an arrangement for the handling of cases involving non-compliances with the applicable common requirements and for the mutual recognition of supervisory tasks and the results of these tasks. Such agreements may include an arrangement regarding the division of responsibilities regarding supervisory tasks. The agreements shall be communicated by the national supervisory authorities concerned to the FABEC Council.
- 19.4 The national supervisory authority that certified the air navigation service provider providing cross-border services in the airspace concerned is in charge of the supervision of that air navigation service provider in close cooperation with the national supervisory authority/ authorities of the other Contracting State(s) concerned.

- 19.5 In case the Contracting State over the territory of which the air navigation services referred to in paragraph 4 are provided requires that its own national supervisory authority exercises supervision, the national supervisory authorities concerned shall agree on the conditions for the supervision.
- 19.6 The Contracting States concerned shall ensure that their national supervisory authorities set up a common mechanism for exchange of information, consultation and coordination for provision of cross-border services to ensure that necessary corrective action will be taken without delay.
- 19.7 The Contracting States shall ensure that the decisions taken in accordance with this Article will be enforced.
- 19.8 As a measure of last resort, each Contracting State retains the right to suspend or revoke the approval given in accordance with Article 16, paragraph 2, after due information thereof to the Contracting State concerned and the FABEC Council.

CHAPTER 8: PERFORMANCE

Article 20 – Performance scheme

- 20.1 The Contracting States shall implement a FABEC performance scheme and apply a FABEC performance plan consistent with the European Union-wide performance targets and taking into account military needs. This performance plan shall be approved by the FABEC Council.
- 20.2 The performance plan shall include the FABEC performance targets for at least the following key performance areas:
- a. safety;
 - b. environment;
 - c. capacity;
 - d. cost-efficiency;
 - e. military mission effectiveness.
- 20.3 The performance plan shall contain a set of clear and measurable key performance indicators for the key performance areas for a defined reference period.
- 20.4 The performance plan shall include FABEC incentive schemes.
- 20.5 The FABEC Council shall decide on the implementation and elements of the FABEC performance plan.
- 20.6 Prior to the application of the FABEC performance plan, the FABEC Council shall set performance targets at the FABEC level and shall coordinate the national performance plans.
- 20.7 The elaboration of the performance plan shall be subject to consultation with the stakeholders concerned.
- 20.8 The Contracting States shall ensure that the implementation of the FABEC performance plan is monitored and that corrective measures are taken if necessary.
- 20.9 The Contracting States shall perform periodical assessments of the design and functioning of the FABEC performance scheme and shall take corrective measures if necessary.

CHAPTER 9: GOVERNANCE

Article 21 – The FABEC Council

- 21.1 The FABEC Council is composed of the following representatives from each Contracting State:
- a. one representative from the authority responsible for civil aviation, and
 - b. one representative from the authority responsible for military aviation.

21.2 Upon invitation of the FABEC Council, other participants may attend its meetings as observers.

Article 22 – Functions of the FABEC Council

22.1 The FABEC Council governs the FABEC.

22.2 In order to meet the commitments of the Contracting States under this Treaty, the FABEC Council is tasked with taking decisions in order to:

- a. ensure the implementation of this Treaty and the fulfilment of the objectives of the FABEC in general;
- b. define the development of the civil and military cooperation;
- c. agree on the common design and policy for the airspace concerned;
- d. define the modalities of the cooperation on the application of the concept of flexible use of airspace;
- e. support the harmonisation of the substantive rules and procedures;
- f. facilitate the joint designation process of the air traffic service providers;
- g. adopt the charging policy applicable in the airspace concerned and set the single unit rate for en-route traffic in the airspace concerned;
- h. support the development and the implementation of a common overall Safety Management System;
- i. define strategic objectives for the development of the FABEC, assess the results achieved and take appropriate measures if required;
- j. approve the performance plan and the related performance targets;
- k. adopt its rules of procedure and those of the committees, working groups and the Air Navigation Services Consultative Board;
- l. set up committees other than those established by this Treaty and working groups to assist it in specific matters and approve the proposals of the committees and working groups;
- m. ensure the coordination of the FABEC with adjacent functional airspace blocks, including efficient interfaces;
- n. coordinate the positions of the Contracting States with regard to the application of international agreements regarding in particular the work of ICAO, EUROCONTROL, the European Commission, the European Aviation Safety Agency and joint undertakings in the field of air traffic management;
- o. facilitate the settlement of disputes arising between Contracting States;
- p. take the measures required by the accession of a State to this Treaty;
- q. take the measures required by the denunciation of this Treaty by a Contracting State;
- r. assess the consistency between this Treaty and any changes to Regulations on the Single European Sky;
- s. propose amendments to this Treaty;
- t. ensure consultation of the air navigation service providers, airspace users and other stakeholders where appropriate.

Article 23 – Functioning

23.1 The FABEC Council shall be alternately chaired by one of the Contracting States.

23.2 The decisions of the FABEC Council shall be taken by a unanimous vote. Each Contracting State shall have one vote. The decisions of the FABEC Council shall be considered as decisions of the representatives of the Contracting States.

23.3 Decisions shall become effective two months after the day of their adoption, unless a

	<p>Contracting State informs the other Contracting States within two months of the adoption that it can implement the decision only with the agreement of its legislative bodies. In such case, the decision shall become effective one day after the last Contracting State concerned has informed the other Contracting States that the agreement of the legislative bodies has been obtained.</p> <p>23.4 The rules of procedure, adopted by the FABEC Council, shall set out the arrangements in particular for the convening of meetings, the prior dispatch of the agenda, the appointment and term of office of the Chair, the voting procedure, including the possibility of taking decisions by correspondence.</p> <p>23.5 The FABEC Council shall meet at the invitation of its Chair, at least twice a year and as and when required. Each Contracting State shall be entitled to request the convening of a meeting.</p>
<p>Article 24 – Committees and working groups</p>	
<p>24.1</p> <p>24.2</p> <p>24.3</p> <p>24.4</p>	<p>In order to meet the objective of the FABEC and to assist the FABEC Council, the Airspace Committee, the Harmonisation and Advisory Committee, the Financial and Performance Committee and the National Supervisory Authorities Committee are hereby established. Other committees and working groups may be established by the FABEC Council.</p> <p>The committees and working groups shall be composed of civil and military experts appointed by the Contracting States.</p> <p>Upon invitation of the committees or working groups, other participants may attend their meetings as observers.</p> <p>Unless otherwise provided for in the rules of procedure or by decision of the FABEC Council, committees and working groups shall report directly and exclusively to the FABEC Council.</p>
<p>Article 25 – Airspace Committee</p>	
<p>The Airspace Committee shall assist the FABEC Council on the implementation of Articles 8 and 9 and execute other tasks entrusted to it by the FABEC Council.</p>	
<p>Article 26 – Harmonisation and Advisory Committee</p>	
<p>The Harmonisation and Advisory Committee shall assist the FABEC Council on the implementation of Articles 10 and 12 and execute other tasks entrusted to it by the FABEC Council.</p>	
<p>Article 27 – Financial and Performance Committee</p>	
<p>The Financial and Performance Committee shall assist the FABEC Council on the implementation of Article 18 and, where applicable, Article 20 and execute other tasks entrusted to it by the FABEC Council.</p>	
<p>Article 28 – National Supervisory Authorities Committee</p>	
<p>Without prejudice to Article 24, paragraph 4, and the specific responsibilities directly entrusted to the national supervisory authorities, the National Supervisory Authorities Committee shall assist the FABEC Council on the implementation of Article 19 and, where applicable, Article 20 and execute other tasks entrusted to it by the FABEC Council.</p>	
<p><u>CHAPTER 10: CONSULTATION OF AIR NAVIGATION SERVICE PROVIDERS</u></p>	
<p>Article 29 – Air Navigation Services Consultative Board</p>	
<p>29.1</p> <p>29.2</p> <p>a.</p>	<p>The Air Navigation Services Consultative Board is established to ensure the consultation of the air navigation service providers on matters relating to the provision of services within the FABEC.</p> <p>The Air Navigation Services Consultative Board is composed of:</p> <p>representatives from the FABEC Council, and</p>

- b. representatives from the air navigation service providers.
- 29.3 Upon invitation of the FABEC Council, other participants may attend the meetings as observers.
- 29.4 The FABEC Council shall be provided with the minutes of the meetings of the Air Navigation Services Consultative Board.

CHAPTER 11: CIVIL LIABILITY

Article 30 – Liability regime

- 30.1 A Contracting State shall compensate any damage as referred to in paragraph 4 when this damage:
- a. has occurred in the airspace over its territory or under its responsibility according to ICAO rules, and
 - b. has been caused by the fault of any air traffic service provider designated in accordance with Article 12 or that of its agents or any other person acting on its behalf other than the provider whose principal place of operation is located on the territory of the Contracting State concerned.
- The air traffic service provider mentioned in b) shall hereinafter be referred to as the effective air traffic service provider.
- 30.2 No direct action may be brought against the effective air traffic service provider or its agents or any other person acting on its behalf.
- 30.3 The right to compensation deriving from paragraph 1 shall be extinguished if an action is not brought within a period of two years as from the date of the definitive judicial decisions as provided for in paragraph 4.
- 30.4 Compensation on the basis of paragraph 1 may be claimed only for damage which has not been compensated under any definitive judicial decision taken according to specific national or international laws or regulations. A decision shall be considered as definitive if there is no judicial remedy against it under national or international laws or regulations.
- 30.5 The claim for compensation deriving from paragraphs 1 and 4 shall be filed with the Contracting State concerned. The claim shall be considered and ruled on by the competent authority in accordance with the relevant substantive national laws and regulations of the Contracting State concerned. If no consensus is reached on the claim, the dispute shall be ruled on by the competent court of the Contracting State concerned in accordance with its relevant substantive national laws and regulations.
- 30.6 The effective air traffic service provider shall reimburse the Contracting State concerned for any compensation paid or costs incurred by this Contracting State according to paragraph 1. The Contracting State of the effective air traffic service provider shall ensure the enforcement of this obligation and, in case of default of the effective air traffic service provider, shall take its place at first request as to reimburse the Contracting State concerned.
- 30.7 Any dispute concerning the reimbursement foreseen in paragraph 6, between the Contracting State of the effective air traffic service provider and the Contracting State as referred to in paragraph 1 may be referred by either of the two Contracting States to arbitration under the “Permanent Court of Arbitration optional rules for arbitrating disputes between two States”. The relevant substantive national laws and regulations as referred to in paragraph 5 shall be applicable to the dispute. The provisions of Article 32, paragraphs 3 and 4, shall apply.
- 30.8 Nothing in this Treaty shall prevent the Contracting State referred to in paragraph 1 and the Contracting State of the effective air traffic service provider from agreeing to share costs resulting from damage as referred to in paragraph 1.
- 30.9 Nothing in this Treaty shall limit the right of recourse of a Contracting State or of an effective air traffic service provider against any other natural or legal person.
- 30.10 The Contracting States shall inform one another as soon as they receive any information about any claim for compensation deriving from paragraphs 1 and 4 and as soon as a claim

<p>has been definitively settled.</p> <p>30.11 The designated air traffic service providers shall maintain adequate coverage for the liability incurred under this Treaty so to make effective the obligation imposed to them under paragraph 6.</p> <p>30.12 This Article is applicable without prejudice to international agreements relating to damage caused by the armed forces of one Contracting State on the territory of another Contracting State.</p> <p>30.13 This Article shall prevail over the provisions governing liability in any agreement between two Contracting States related to the provision of air traffic services.</p>
<p><u>CHAPTER 12: ACCIDENTS AND SERIOUS INCIDENTS</u></p>
<p>Article 31 – Investigation of accidents and serious incidents</p> <p>31.1 In the event of an accident or a serious incident according to the Chicago Convention occurring in the airspace concerned, the Contracting State conducting the investigation shall immediately inform the FABEC Council if it identifies shortcomings at the FABEC level.</p> <p>31.2 Communications, notifications and reports on investigations of accidents and serious incidents shall be in English or in one of the national languages of the Contracting States with a translation into English.</p> <p>31.3 The provisions of this Article shall prevail over the provisions governing investigation of accidents and serious incidents in any agreement between two Contracting States related to the provision of air navigation services, in case of differences.</p>
<p><u>CHAPTER 13: INSTITUTIONAL PROVISIONS</u></p>
<p>Article 32 – Settlement of disputes</p> <p>32.1 All disputes arising between Contracting States relating to the interpretation, application or performance of this Treaty, including its existence, validity or termination, which cannot be settled within a period of six months through direct negotiations between the Contracting States concerned or by any other means shall be referred to the FABEC Council.</p> <p>32.2 If a dispute cannot be settled by the FABEC Council within three months of its referral to the FABEC Council, either of the Contracting States concerned shall be entitled to refer the dispute to arbitration under the “Permanent Court of Arbitration optional rules for arbitrating disputes between two States”.</p> <p>32.3 The common costs of the arbitration shall be shared equally by the Contracting States parties to the arbitration procedure.</p> <p>32.4 The decisions of the arbitral tribunal shall be binding on the Contracting States parties to the dispute.</p>
<p>Article 33 – Accession to this Treaty</p> <p>33.1 This Treaty is open to accession. Any State desiring to become a party to this Treaty shall submit its application for accession to the Depositary.</p> <p>33.2 The conditions of accession and any resultant adjustments to this Treaty shall be the subject of an agreement between the Contracting States and the applicant State. The agreement of accession shall be ratified by the Contracting States and by the applicant State after their respective constitutional requirements thereto have been complied with.</p> <p>33.3 The agreement of accession shall enter into force on the first day of the second month following the deposit of the last instrument of ratification with the Depositary.</p> <p>33.4 The FABEC Council shall take all measures required by such accession.</p>
<p>Article 34 – Denunciation of this Treaty</p> <p>34.1 In case of the denunciation of this Treaty by a Contracting State, the Contracting State concerned shall inform the FABEC Council and notify the Depositary of its decision.</p>

34.2	The denunciation shall become effective one year after receipt of the notification by the Depositary.
34.3	The FABEC Council shall take all measures required by such denunciation.
34.4	The Contracting State denouncing from this Treaty shall in principle bear the costs resulting from such denunciation. The financial consequences resulting from such denunciation shall be determined in a special agreement concluded between the denouncing Contracting State and the other Contracting States. The Contracting State's right of denunciation shall remain unaffected.
34.5	The denunciation does not exempt the denouncing Contracting State from complying with paragraph 4 and with Article 32.
Article 35 – Amendments of this Treaty	
35.1	If a Contracting State wishes to amend this Treaty, it shall duly inform the FABEC Council.
35.2	Amendments of this Treaty shall be agreed by the Contracting States, at the proposal of the FABEC Council.
35.3	Amendments of this Treaty shall be ratified by the Contracting States after their respective constitutional requirements thereto have been complied with.
35.4	Amendments of this Treaty shall enter into force on the first day of the second month following the deposit of the last instrument of ratification with the Depositary.
Article 36 – Termination and suspension of this Treaty	
36.1	The Contracting States may unanimously decide to terminate this Treaty at any time.
36.2	Termination shall be effectuated by a written declaration to the Depositary by the Contracting States that this Treaty shall cease to have effect on a date specified by the Contracting States.
36.3	The Contracting States shall jointly determine and allocate the costs resulting from termination.
36.4	Each Contracting State has the right to immediately suspend the application of this Treaty or parts thereof for national security reasons. The Contracting State suspending the application of this Treaty or parts thereof shall inform the other Contracting States immediately of its decision and notify the Depositary accordingly.
36.5	The Contracting State suspending the application of this Treaty or parts thereof shall endeavour to terminate the suspension as soon as possible. It shall inform the other Contracting States immediately of its decision and notify the Depositary accordingly.
36.6	The Contracting State suspending the application of this Treaty or parts thereof shall in principle bear the costs resulting from such suspension. The financial consequences resulting from the suspension shall be determined in a special agreement between the Contracting State suspending the application of this Treaty and the other Contracting States.
36.7	The termination and the suspension do not exempt the Contracting State(s) concerned from complying with Article 32.
Article 37 – International Civil Aviation Organization registration	
This Treaty and any subsequent amendment thereto shall be registered with ICAO in accordance with the provisions of Article 83 of the Chicago Convention.	
Article 38 – Entry into force of this Treaty	
This Treaty shall enter into force on the first day of the second month following the deposit of the last instrument of ratification with the Depositary.	
Article 39 – Depositary and its function	
39.1	The Government of the Kingdom of Belgium is the Depositary of this Treaty. The instruments of ratification shall be deposited with the Government of the Kingdom of

Belgium.

39.2 The Depositary shall:

- a. inform the Contracting States of:
 - each deposit of an instrument of ratification with the date thereof,
 - the date of entry into force of this Treaty and of any amendment,
 - any application by a State to accede to this Treaty,
 - any denunciation by a Contracting State of this Treaty, the date of denunciation and the date on which this Treaty shall cease to have effect for the State concerned;
- b. register this Treaty and any subsequent amendment with ICAO;
- c. inform the European Commission of the date of entry into force of this Treaty and any subsequent amendment;
- d. inform ICAO and the European Commission of:
 - any accession to this Treaty with the date thereof,
 - any denunciation of this Treaty with the date thereof,
 - any suspension or partial suspension of this Treaty with the date thereof,
 - the termination of this Treaty with the date thereof;
- e. provide the Contracting States with certified true copies of this Treaty;
- f. perform any other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Treaty.

DONE at on this.....day of in one original in the Dutch, French and German languages, all language versions being equally authentic.

[Signatures at level of Ministers]