

UK-IRELAND FUNCTIONAL AIRSPACE BLOCK

NATIONAL SUPERVISORY AUTHORITY MEMORANDUM OF UNDERSTANDING BETWEEN THE UK CIVIL AVIATION AUTHORITY AND THE SAFETY REGULATION DIVISION OF THE IRISH AVIATION AUTHORITY

1 Introduction

- 1.1 The UK-Ireland Functional Airspace Block (FAB) was originally established on 12 June 2008 under the SES I Regulations through agreements at the State, NSA and ANSP levels. At the NSA level, this was evidenced through a "Memorandum of Understanding on Co-Operation" between the UK CAA and the Safety Regulation Division of the IAA. Since then, the FAB overall has evolved significantly and at the NSA level, co-operation has both broadened and deepened. This enhanced co-operation both anticipated, and was further encouraged by, the changes brought about by SES II, whereby Regulation (EC) No 1070/2009 amended the four high-level SES I Regulations.
- 1.2 The FAB is based on operational requirements and is evolving such that those requirements operate regardless of State boundaries, and where the provision of air navigation services and related functions are performance driven and optimised with a view to introducing enhanced co-operation between the ANSPs. The FAB contributes to the overall legislative objective of achieving the required capacity and efficiency of the ATM network within the single European sky and maintaining a high level of safety and contributing to the overall performance of the system and a reduced environmental impact. It envisages co-operation between its participating States to the fullest extent possible, and an increasing level of co-operation with States in neighbouring FABs and other third countries.
- 1.3 The FAB seeks to maximise its potential through a SES II FAB performance plan for RP2, through its alignment and co-ordination with Eurocontrol's network functions, and through its links with the SESAR programme. As an established FAB, it will provide the information on, and articulate its compliance with, all FAB requirements as required under Article 6 of Regulation (EU) No 176/2011.

2 Legal context

- 2.1 The UK Civil Aviation Authority (CAA) and the Safety Regulation Division of the Irish Aviation Authority (IAA) are the nominated NSAs for the UK and Ireland respectively, under the Framework Regulation (Regulation (EC) No 549).
- 2.2 The Service Provision Regulation (Regulation (EC) No 550/2004) provides for the certification and supervision by the NSA of air navigation service providers (ANSPs) that provide services in the airspace falling under the responsibility of the Member State that nominated the NSA.
- 2.3 The Regulation provides for the establishment of FABs and lays down the criteria to be met. It also requires Member States to conclude an agreement on supervision within the FAB and that NSAs co-operate closely to ensure adequate supervision of ANSPs providing cross

border services. Such co-operation must include arrangements for the handling of cases of non-compliance with common requirements for certification (as detailed in Regulation (EU) No 1035/2011). In the case of cross-border services, such arrangements must include agreement on the mutual recognition of supervisory tasks and their results. The NSAs may also conclude agreements on the division of responsibilities for supervisory tasks.

- 2.4 As SES implementing legislation develops, it increasingly focuses on FAB rather than national regulatory approaches to wider network considerations and in particular to optimised overall performance of the system. This MoU seeks to align the work of the parties to that approach.

3 Objectives of this Memorandum of Co-Operation

- 3.1 To set out how the two NSAs will continue to broaden and deepen their co-operation in the widest possible context on the supervision of Air Traffic Management and Air Navigation Services (ATM/ANS) matters, with the aim of ensuring efficient and effective supervision of the FAB and facilitating optimised performance of the ANSPs and NSAs.
- 3.2 To set out how the two NSAs will facilitate, at the regulatory level, the two States and/or their ANSPs aspirations for the development of the FAB through mergers, alliances or other arrangements at the operational level.

4 Co-operation Arrangements

- 4.1 While accepting that, subject to any arrangements that may be made under paragraph 2.3 above, a) the NSA of the State with sovereign responsibility will approve the regulatory arrangements within its sovereign airspace; b) it is envisaged that an ANSP will be regulated by its own NSA wherever it operates within a FAB; c) that regulatory oversight of aeronautical data such as ATS routes and positional data will be the responsibility of the NSA of the State that has been assigned that airspace in accordance with ICAO regional plans and agreements; and d) accidents or serious incidents will be investigated in accordance with ICAO Annex 13 in line with co-operation arrangements that are extant between the UK and Ireland in this respect, the NSAs in further developing their co-ordination arrangements will co-operate as follows:

4.2 Establishment of the FAB Supervisory Committee (FSC):

- 4.2.1 In order to facilitate this working relationship and to foster the closest possible co-operation and co-ordination in the supervision of the UK/Ireland FAB, the two NSAs created a Functional Airspace Block Supervisory Committee (FSC) at the FAB's inception in 2008.
- 4.2.2 Its aim is to provide the formal co-ordination and interface forum between the two NSAs on all matters relevant to the FAB. As such, the FSC will normally meet at 6-monthly intervals, but more frequently if required. The primary purpose of this meeting will be to ensure that the FAB continues to meet the current and emerging SES NPP and EASA requirements.

- 4.2.3 The FSC will use the structure of this document and the items listed at Annex A as the basis for the agenda of the 6-monthly meetings in order to ensure that all aspects of the FAB operation are kept under constant review.
- 4.2.4 It is not currently envisaged that the FAB arrangements per se will affect existing economic regulatory arrangements. The CAA expects to continue to regulate NERL under the UK Transport Act 2000 and the NERL Licence, consistent with its obligations under the SES Performance and Charging Regulations. The FSC should however maintain a dialogue with regard to how FAB developments over time could impact this area, both in relation to NERL's economic regulation and the issue of common principles for charging policy within the FAB".
- 4.2.5 The Terms of Reference for the FSC are set out in Annex B.
- 4.3 Co-operate to ensure adequate assessment, review and acceptance where appropriate of the ANSPs FAB related activities. Particular emphasis will be placed on the safety management systems of the ANSPs to ensure they continue to meet existing safety requirements and, wherever possible, enhance safety. The NSAs support the principle of a convergence of the safety management systems of the ANSPs and will work on the creation of a common safety regulatory regime and harmonised application of rules and procedures.
- 4.4 Co-operate, through the FSC, on the handling of cases involving non-compliance with the EASA Common Requirements or other legislative requirements and action to be taken where a FAB-related unsafe condition is deemed to exist. This envisages a full and timely exchange of information and documentation between the NSAs when a non-compliance or unsafe condition is identified by either party, the possibility for the non-certifying NSA to request participation in any audit, inspection or other supervisory task to be undertaken by the certifying NSA, and the notification of any formal decision by the certifying NSA to the other NSA.
- 4.5 Co-operate in responding to ANSP operational proposals to ensure that the FAB continues to meet all relevant requirements and delivers the anticipated benefits.
- 4.6 Having regard to extant national arrangements, provide a forum for dialogue on mechanisms to address the performance framework for RP2 and subsequent Reference Periods, stemming from the Performance Regulation and other European requirements.
- 4.7 Co-operate in responding to proposals from ANSPs which aim to deliver the anticipated environmental benefits in line with European requirements, or national requirements where they do not exist at the European level.
- 4.8 Jointly assess reports and plans stemming from the FAB, focusing on safety, performance management and reporting, airspace design and optimisation, Oceanic transition, airspace management for civil/military co-operation (including the flexible use of airspace), capacity/service delivery and environment and ensure that they have been properly developed (including transparency on costs and benefits) and consulted upon.
- 4.9 Formulate an annual report on the operation of the FAB to be published on the websites of the IAA and the CAA. The content of the report will be agreed by the two NSAs and consistent with European reporting requirements, respecting confidentiality as appropriate.

- 4.10 Co-operate on the common interpretation and application of international requirements originating from ICAO, the European Commission, EASA, Eurocontrol or other authoritative agencies.
- 4.11 Endeavour to harmonise, and then minimise, inconsistencies in ICAO differences filed by the two States, including the ICAO Regional Air Navigation Plan and other agreements.
- 4.12 Co-operate on all aspects of European engagement, including co-ordinating lines on emerging European proposals and the preparation for international meetings associated with the FAB. . Wherever possible, agree a line to take to ensure that the needs of the two States are adequately reflected, where the NSAs act on their behalf, and that representation (e.g. the role of NSA co-ordinator, NSA Focal Point and attendee at FFPG) is clearly documented. This activity will respect agreements already in place and take account of those which may be entered into in the future.
- 4.13 At FAB level, co-operate on regulatory issues associated with the CAA's Future Airspace Strategy, to develop common policies on issues such as Performance Based Navigation and Transition Altitude, through such working groups as may be established under the FSC from time to time.
- 4.14 Seek to share resources wherever possible to minimise the regulatory burden and enhance regulatory efficiency. In particular consider any efficiencies that may be possible through mutual recognition of tasks and processes, and any potential division of responsibility for regulatory tasks.
- 4.15 Explore options for joint initial and development training of NSA personnel, secondment of staff, and best use of existing resources to avoid duplication of effort.
- 4.16 Provide a forum for discussion of possible FAB development, through mergers, alliances or other operational arrangements, with a view to facilitating at regulatory level any emerging proposals from the States or ANSPs. Such proposals could also include any review of the current exclusion from the FAB of the airspace within the ICAO NAT Region where the UK and Ireland are responsible for the provision of air traffic services.
- 4.17 Seek to work with other neighbouring FABs to promote inter-FAB efficiency wherever possible.
- 4.18 Seek to ensure continued military involvement in the governance structures of the FAB, including where appropriate at regulatory level.
- 4.19 Explore options for commonality in procurement of systems.
- 4.20 Formulate a communications strategy to ensure that apart from the annual report, information is made available to interested parties to update them on developments in and benefits accruing from the FAB.
- 4.21 Engage with the States and ANSPs, in the latter case through the FAB Management Board, to discuss significant issues in the FAB as may be appropriate.

5 Review of the MoU

5.1 The two NSAs will agree a process to review this MoU, under the auspices of the FSC, on an annual basis. The NSAs will respond appropriately to any changes or modifications arising from decisions or actions by the ANSPs, the States or relevant European bodies that require an amendment to this MoU, by referring the issue to the FSC, following consultation with affected parties.

6 Dispute Resolution

6.1 The two NSAs will endeavour to resolve any disputes or differences by mutual agreement. In the event that this does not prove possible, a sub-panel of the FSC will be convened to address the problem. This will consist of four members: from the IAA, the director of Safety Regulation and an IAA lawyer; from the CAA, the Director of Airspace Policy and a CAA lawyer. These members may, if required, call upon specific expertise within their organisations to assist in their understanding of any technical issues outside their direct knowledge or experience. They will be invited to meet and seek urgent resolution of the problem, reporting back to the wider FSC membership as soon as possible. In the event that the problem can still not be resolved, the matter will be elevated by the FSC to the respective CEOs of the two NSAs for final determination.

7 Modification of the FAB

7.1 In the event of a proposed modification of the FAB, including but not limited to changes to its defined dimensions or its extension to include other parties, the two NSAs will agree a process to jointly plan for, manage and oversee all regulatory issues associated with the modification, including transitional arrangements and continued compliance with FAB requirements. The process will ensure co-ordination and collaborations between the two NSAs and:

- (a) the State and ANSP parties to the FAB;
- (b) the NSA of any other State that is directly a party to the modification; and
- (c) the NSA of any neighbouring FAB or Member State impacted by the proposed modification.

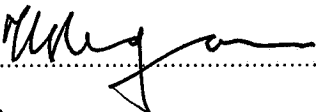
7.2 The two NSAs will also, consistent with their regulatory responsibilities, jointly support the UK/Ireland Member States in meeting their obligations to provide information in respect of proposed modifications, with the framework of Article 5 of Commission Regulation (EU) No 176/2011.

8 Termination/Suspension

8.1 Either party is entitled to withdraw from or suspend the operation of this MoU if it chooses. Before so doing it shall inform the other party giving a minimum period of 90 days notice in writing. The parties will also notify the State and ANSP parties involved in the FAB as well as the NSAs of neighbouring FABs or States who may be impacted by any such decision. The parties will exercise best endeavours to ensure that any such decision is carried out in a manner that minimises any regulatory risks to safe and efficient operations within the FAB and any other affected airspace.

Signatures

Signed for and on behalf of the SRD/IAA

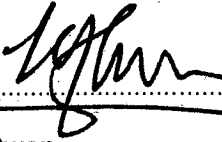


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T Regan
Assistant Director Safety Regulation
Irish Aviation Authority

Dated 25 January 2012

Signed for and on behalf of the UK CAA



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M Swan
Director of Airspace Policy
UK Civil Aviation Authority

Dated 25 January 2012

Annexes:

- A. Areas for consideration by the FAB Supervisory Committee
- B. Terms of Reference for the FAB Supervisory Committee

AREAS FOR FURTHER CONSIDERATION IN TERMS OF NSA POLICY, STRATEGY AND PROCESS**1. Policy**

- 1.1 Development of a Mission Statement
- 1.2 Enhanced role of FAB Supervisory Committee
- 1.3 Safety legislation
- 1.4 Harmonisation of relevant national legislation
- 1.5 Airspace regulation including environmental enhancements
- 1.6 Performance plans
- 1.7 Rule-making process
- 1.8 NSA/ANSP interface through FSC/FMB and working groups
- 1.9 Trend analysis
- 1.10 Harmonised annual NSA report on the FAB
- 1.11 European and ICAO engagement, representation and focal points
- 1.12 Communications on FAB issues
- 1.13 Information exchange
- 1.14 Charging policy and principles
- 1.15 Interactions with Network Manager and SESAR (including the SESAR JU)
- 1.16 Aeronautical information services
- 1.17 Inter-FAB efficiency
- 1.18 Military involvement and FUA
- 1.19 Procurement

2. Strategy

- 2.1 Harmonised regulatory approach
- 2.2 Harmonised regulatory procedures manuals
- 2.3 Future-proofing of systems
- 2.4 Training and education of NSA personnel
- 2.5 Areas of Responsibility
- 2.6 Areas of work
- 2.7 Points of contact NSA to NSA

3. Process

- 3.1 Audits and inspections
- 3.2 Safety Cases at national and FAB level
- 3.3 Certification and supervision
- 3.4 Licensing
- 3.5 Interoperability
- 3.6 Performance monitoring
- 3.7 NSA action and reaction including on handling of non-compliances
- 3.8 Decision-making including response times to ANSP proposals
- 3.9 Correspondence
- 3.10 Communication

4. Other Areas for further development

- 4.1 Joint working groups (including with ANSPs where appropriate) to address safety, performance, airspace change proposals, greater integration of CNS systems.
- 4.2 Participation in the audits of the other NSA.
- 4.3 Sharing of information on CNS approvals.
- 4.4 Sharing of safety occurrence follow-up data.

Terms of Reference for the Functional Airspace Block Supervisory Committee (FSC)

Aim

- The purpose of the FSC will be to facilitate effective co-ordination and provide a high-level interface between the CAA and the IAA/SRD in respect of issues associated with the overall supervision of the UK/Ireland FAB and the continuous meeting of applicable SES and EASA requirements.

Constitution

- The FSC will be constituted of senior staff from the CAA and the IAA/SRD /SRD with the appropriate expertise relevant to the regulatory functions to be performed in respect of the UK/Ireland FAB.
- The FSC will be co-chaired by appropriate senior managers from the CAA and the IAA.
- Secretarial functions will be performed by the hosting NSA.
- Participation by other personnel from the CAA or IAA or representatives of other State authorities or agencies may be required for specific items.

Sub-groups

- Sub-groups may be formed in order to address specific issues on a case by-case basis. In particular, a **FAB Harmonisation Working Group (FABHWG)** has been established. This group will implement decisions of the FSC, propose solutions and courses of action. It will regularly report on its activities to the FSC. It is currently addressing:
 - An agreed working methodology in support of harmonisation of ATC procedures and RT phraseology across the FAB, to address current State ICAO differences, the development of new bespoke procedures and phraseology where the need is identified, and responses to ICAO State Letter and EU Notices of Proposed Rule-making;
 - Alignment on common goals for the development of SERA;
 - Specific collaborative working through attendance at and/or participation in the activities of forums established in each administration which are of relevance to the functioning of the FSC/NSAs such as:
 - The CAA EASA ATM Rulemaking Co-ordination Group meetings – a working group which includes NATS, MoD and DfT, to be informed of, and provide advice to, the technical and strategic work of EASA ATM 001 and 004 groups.
 - The Regulatory Implementation Co-ordination Group sessions – a CAA AATSD working group to establish, chart, plan and monitor actions needed to implement new Regulations.

Other collaborative activities:

- Undertaking familiarisation visits to each others' Area Control centres and facilities and participate as observers in safety oversight audits of respective ACCs.

- Sharing of safety data to enable the focus of NSA oversight action on key risk areas and facilitate work on the FAB Performance Plan in RP2;
 - Conducting joint oversight on maintenance of the FAB safety case and arrangements;
 - Maintaining direct access to each others' CNS/ATM specialists on specific issues as necessary.
- Similarly a **FAB Performance Advisory Group (PAG)** has been established, involving NSA and ANSP members, to consider performance issues within the FAB. This addresses the monitoring of performance during RP1, the development of performance targets/KPIs for RP2, and will jointly work on development of the FAB Performance Plan for RP2.

Functions

The FSC will:

- Co-ordinate the output of the two NSAs in respect to activities associated with the FAB.
- Consider FAB wide safety trends and performance and make proposals where indicated, making use of the FABSHWG.
- Keep the Regulatory Perspectives document under review and update as appropriate taking account, inter alia, of changing European and international requirements and legislation.
- Ensure that the obligations set out in the relevant European Regulations continue to be reflected in the FAB arrangements.
- Provide a forum for interface on FAB-related matters affecting either Ireland or the UK, in order to ensure seamless operation of the FAB.
- Provide a forum to resolve matters of NSA interpretation and standardisation regarding the implementation of European requirements or legislation.
- Consider the long-term aspiration of a broader basis of co-operation between the two authorities, including enabling arrangements.

Meeting Arrangements

- The FC will meet on a 6-monthly basis, alternating between UK and Ireland.
- Additional meetings may be initiated by either party, as required.

Reporting

- The FC will produce an annual report on the basis of its assessment of the reports provided by the ANSPs and the result of any national or joint FAB related audits, inspections or surveys.
- This report will be published on the website of the IAA and the CAA and will respect any confidentiality requirements where appropriate.

Costs

- Each NSA will be responsible for its own costs, including the costs of supporting the FSC.

January 2012