

**JOINT DECLARATION OF INTENT  
FOR THE CREATION OF A  
FUNCTIONAL AIRSPACE BLOCK ” EUROPE CENTRAL ”**

**BETWEEN THE GOVERNMENTS OF  
GERMANY, BELGIUM, FRANCE, LUXEMBOURG, THE NETHERLANDS, AND  
SWITZERLAND**

**Introduction**

Considering that the airspace under the responsibility of the following States Germany, Belgium, France, Luxembourg, The Netherlands and Switzerland (hereinafter referred to as “the six States”), is one of the most complex air traffic areas in Europe;

Considering that a more integrated Air Traffic Management (ATM) is a major step towards fulfilling the future needs of the civil and military air traffic in this region;

Considering that a Functional Airspace Block (FAB) serves as an important means to enable the best possible use of airspace, taking into account the actual civil and military air traffic regardless of existing national boundaries;

Considering that a FAB is justified by its overall added value, including an optimum use of financial, technical, environmental and human resources as described in Article 5 paragraph 2 of Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 “on the organisation and use of the airspace in the single European sky” (the airspace Regulation)<sup>1</sup>;

Considering that the six States have explored, in the framework of the “Single European Sky” initiative (SES), the general feasibility of a FAB;

The civil and military representatives of the six States, the military and the civil Air Navigation Service Providers (ANSPs), ANA, Belgocontrol, DFS, DSNA, LVNL, EUROCONTROL MUAC and Skyguide, decided to launch a feasibility study on a FAB “Europe Central” (hereinafter referred to as “FABEC”) encompassing the airspace under the responsibility of the six States. This feasibility study, conducted by the ANSPs, was presented on 26 June 2008. It has been endorsed by the six States.

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<sup>1</sup> Switzerland, although not a Member State of the European Union (EU), applies the regulatory framework built by the SES on the basis of the Air Transport Agreement concluded between the European Community and the Swiss Confederation.

## **1. Main objectives**

With the present Joint Declaration of Intent, the civil and military representatives of the government of the six States, hereinafter referred as “the Signatories”, taking into account the conclusions of the FABEC feasibility study and of the related cost/benefit analysis, intend to:

- jointly prepare the construction and implementation of a FAB covering the airspace under the responsibilities of the six States.
- intensify their activities with a view to finalizing a FABEC framework State agreement, hereinafter referred to as the “FABEC agreement”.

However, this Joint Declaration of Intent does not create any rights or obligations under international law.

## **2. Overall principles and objectives**

The creation and subsequent implementation of FABEC should be based on clear strategic objectives and principles, as developed hereinafter:

- a. In order to meet the challenging objectives defined in the framework of SES with regard to FABs, the current Air Navigation Services’ (ANS) system within FABEC should evolve towards an overall harmonized, transparent and progressively integrated system
- b. The objective of the Signatories is to achieve optimal performance of the ATM-system in the airspace of the six States. The term “performance” relates to safety, environmental sustainability (including gas emissions and noise), capacity, cost effectiveness, flight efficiency, military mission effectiveness (training and operations).
- c. To contribute to this objective, the Signatories will aim to achieve uniform airspace design, airspace management and air traffic control within FABEC. The airspace covered by FABEC will be perceived by the users as one continuum, thanks to a seamless provision of ANS.
- d. The legal and politico-economic framework of individual FABEC States should facilitate, support and strengthen this major paradigm shift from what has to date been a largely national arrangement to an efficient, effective and customer oriented ANS environment in a multilateral context.

- e. FABEC should follow a process of continuous improvement, enhanced cooperation and defragmentation in the airspace and the ATM-system. The FABEC agreement should enable and facilitate this process in which the involvement of the Signatories, the ANSPs and the airspace users is necessary.
- f. The six States' sovereignty within their national airspace is not challenged. Each State remains responsible for matters such as oversight, security and military aspects within their national airspace.
- g. Therefore, the responsibilities of the six States in oversight, security and air defense domains should be safeguarded within FABEC at any time and at any place.

### **3. FABEC Aspirational goals and performance targets**

A constant improvement of overall performance should be the main driver for the establishment and implementation of FABEC. Measures proposed for the creation and future operation of FABEC will show a clear impact on overall performance before they are implemented.

The definition of common performance targets and the evaluation of whether they are being met will be an ongoing process and will be closely governed by the States. The targets defined in the different areas should be consistent at all times. An agreed set of key performance indicators should be used.

The Signatories intend to ensure that the Aspirational goals and performance targets of FABEC will address the following domains:

- a) *Safety*
- b) *Environmental sustainability*
- c) *Capacity*
- d) *Cost effectiveness*
- e) *Flight efficiency*
- f) *Military mission effectiveness*

The annex details the Aspirational goals as approved by the Director Generals of Civil Aviation and the Military Authorities of the six States.

#### **4. Provision of Air Navigation Services within FABEC**

The Signatories should ask and encourage the ANSPs to strive for those cooperation models which provide for the best performance within FABEC, at least for the performance targets as defined under section 3 above.

The Signatories consider it is important that all cooperation models possible from a legal point of view within FABEC are examined for implementation, including cooperation agreements, alliances between ANSPs and the consolidation of service provision. To achieve the best performance within FABEC, the Signatories should prepare the necessary legal basis for allowing the ANSPs to implement those cooperation models.

The Signatories consider that the implementation of cooperation models between ANSPs within FABEC should be done in a step-by-step approach. The step-by-step approach should however deliver intermediate benefits to the performances of the ATM-system.

#### **5. Organization of the airspace structure**

The division between airspace covered by the FABEC agreement and airspace not covered by the FABEC agreement over the area of responsibility of the six States should be set at the lowest possible flight levels. The division levels, if any, may be different, depending on interfaces between Terminal control Areas (TMA) and en-route airspace in the different FABEC-States.

However, from an operational perspective, the whole airspace in the area of responsibility of the six States should be considered as one continuum in the FABEC area. The organisation of this airspace should allow and facilitate optimum flight profiles to and from the main airports in, or in the vicinity of the FABEC area, gate-to-gate, as well as mission-effective flight profiles.

The Signatories intend to work jointly on the optimization of the FABEC airspace to allow more efficient use for both civil and military needs.

They intend to provide harmonized modalities and common procedures on the establishment and modification of airspace structures, in particular in cross-border areas, but also with the general aim of a FABEC-wide optimization of civil and military air traffic flows.

The Signatories intend to designate ANSPs in FABEC in such a way that operational flexibility within the FABEC and between ANSPs can be realized, including service arrangements between ANSPs. In this respect, the Signatories intend to consider the possibility of their general prior approval in the FABEC agreement.

## **6. Regulatory harmonization**

A harmonized regulatory framework for the FABEC is a key enabler for its successful implementation.

The Signatories intend to work on a progressively harmonized technical and operational regulation for FABEC, facilitating optimal performance of FABEC and seamless operation.

## **7. Liability**

The Signatories intend to work on the preferred option of creating a “sui generis” FABEC liability regime, in order to offer prompt, fair and adequate compensation for parties suffering damages. In order to draft the “FABEC liability regime” in a way which is acceptable for the six States, the Signatories intend to liaise with their competent authorities. While this task of drafting the liability regime is ongoing, the Signatories should make efforts to define at least the competent jurisdictions and courts, the primary liability as well as the applicable law.

## **8. Supervision within FABEC**

The Signatories intend to liaise with their National Supervisory Authorities (NSAs) to define the appropriate arrangements pursuant to Article 2 of Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 “on the provision of air navigation services in the single European sky” (the service provision Regulation) for guaranteeing harmonized supervision of crossborder service provision. Such arrangements should lay down the specific rights and obligations of the NSAs involved in the supervision.

Taking into account the proposed ANS cooperation models under section 4 above, the Signatories intend to evaluate and propose cooperation models between their NSAs which allow for the most effective oversight of the cooperating ANSPs, including the possibility of consolidation of NSA tasks.

## **9. Civil / military domain**

The Signatories intend to optimize the cooperation between civil and military Air Traffic Services (ATS), inter alia via technical means and harmonized procedures, throughout the whole FABEC. In States where civil and military ATS provision is already integrated, such organization should remain as such also within FABEC.

Military and other State mission needs, and General Air Traffic flows are closely related and their interaction has an impact on the overall performance of the FABEC. Therefore, a harmonized and enhanced Flexible Use of Airspace should be applied in the FABEC.

## **10. Social aspects**

The Signatories intend to ensure that the social partners are kept informed and are consulted by the ANSPs of progress on the setting-up of the FABEC.

## **11. Users**

The Signatories intend to keep the users informed of the progress made and to consult them during the planning and implementation of the FABEC.

## **12. Financial aspects**

The Signatories intend to work towards defining a close coordination on an en-route charging scheme that supports the use of the optimal possible routes by the airlines. This will also address the possibility of a single unit rate if this is shown to enhance the overall performance of FABEC, together with a convergence scheme based on agreed criteria.

### **13. Preparation of a FABEC agreement**

The Signatories intend to work towards the conclusion of a FABEC agreement defining the overall legal and regulatory framework required for the smooth creation and subsequent implementation of FABEC.

One of the objectives of this agreement is to establish a most flexible institutional framework, allowing for a continuous improvement of contractual cooperation, with a view to introducing alliances among ANSPs or an integrated ANSP in the FABEC.

The FABEC agreement will be supplemented by arrangements to be concluded by NSAs and ANSPs.

### **14. Milestones for the implementation of FABEC**

The Signatories intend to prepare for implementation of the FABEC on the basis of the principles laid down in the present Joint Declaration of Intent without delay and in a timely manner in order to respect the following schedule.

The Signatories intend to prepare a FABEC agreement to be signed in 2010.

The ratification procedures required in the different States should be launched immediately after signature of the FABEC agreement with a view to completing the ratification process as soon as possible.

In the mean time, in order to allow step-by-step implementation of the FABEC, consideration should be given to applying the signed agreement provisionally for those items that don't need ratification or which require only a simplified ratification process in accordance with domestic law.

Bilateral and multilateral progress should be made in line with the implementation roadmap defined in that feasibility study, as well as the overall objectives and principles of FABEC.

The Signatories intend to establish a cooperative partnership with civil and military representatives of neighboring States (for example the United Kingdom) in order to further develop optimum solutions for interface problems.

## **15. Governance and steering of FAB implementation**

The Signatories intend to establish a States' Strategic Board and a High Level Implementation Board, for the governance and steering of the FABEC preparations. Their tasks should include:

- finalization of the draft FABEC agreement and, if necessary, provisional arrangements,
- preparation of the arrangements for the provisional and permanent governance,
- steering the preparation of a liability regime,
- liaison with the NSAs and evaluation of their proposed oversight agreement,
- definition of common performance indicators, setting the initial performance targets and evaluating the proposal of the ANSPs,
- steering the harmonisation of regulations,
- preparations for the optimization of the airspace under their responsibility and of civil/military cooperation,
- work towards a converging charging scheme,
- coordination with neighbouring states or FABs,
- provision of pertinent information to the stakeholders.

## **16. Transparency**

The Signatories intend to create mutual transparency and to consult each other without delay if they intend to enter into discussions with third countries for co-operation on the establishment of an alternative or supplementary FAB.

The same transparency principles apply to special partnership and or cooperation arrangements established between certain Signatories or between certain Signatories and third countries which affect the scope and objectives of FABEC.

## **17. Signatures**

This Joint Declaration of Intent is signed in six tri-language originals in the German, French and Dutch languages, each version being equally valid.

The undersigned, being duly authorized by their respective authorities within their Governments, have signed this Joint Declaration of Intent.

## **ANNEX – ASPIRATIONAL GOALS FABEC approved by Director Generals of Civil Aviation and Military Authorities of the six states**

To express their ambitions and to show their commitment towards the achievement of European goals for the ATM sector, the signatories formulated high level aspirational goals. The possibility to achieve these aspirational goals will be assessed and monitored on an annual basis. For this purpose performance targets will be developed. In addition, the signatories will work with their ANSPs to realize quick wins in the FABEC airspace.

### ***Safety***

FABEC development shall take all efforts necessary to ensure an improved safety level. Despite the civil traffic growth the current absolute number of ANS-induced accidents and risk bearing incidents shall not increase or will even decrease.

### ***Capacity***

FABEC development should offer an airspace capacity allowing to satisfy the demand of increased civil air traffic in the range of 50% from 2005 to 2018 taking into account the currently agreed delay target of max 1 min per flight and taking into account the military needs.

### ***Cost effectiveness***

Given expected levels of growth FABEC development and other European programmes should, over the next 10 years, enable an overall reduction of a quarter in real average unit costs. On the military side, a decrease in ATM cost shall be realised.

### ***Flight efficiency***

FABEC development shall significantly contribute to improve the flight efficiency by improvements of routes, flight profiles and distances flown.

### ***Environment***

FABEC development shall reduce considerably the impact per flight on environment through improvements of routes, flight profiles and distances flown, in line with broader European programmes.

### ***Military mission effectiveness***

FABEC development should significantly contribute to improve military mission effectiveness by improvements of training capabilities and readiness postures as required by States. When the military missions need to be segregated, FABEC initiatives will allow them to be realized in suitable areas while keeping reasonable distances from airbases.