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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	12 September 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2016) 574 final
Subject:	Proposal for a COUNCIL DECISION authorising the signature, on behalf of the Union, of a cooperation agreement between the European Union and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA) on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation

Delegations will find attached document COM(2016) 574 final.

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Proposal for a

COUNCIL DECISION

authorising the signature, on behalf of the Union, of a cooperation agreement between the European Union and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA) on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and aims of the proposal**

This proposal for a Council decision is intended to authorise the signature, on behalf of the Union, pursuant to Article 218(5) of the Treaty on the Functioning of the European Union (TFEU), of the cooperation agreement between the European Union and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA)¹ on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation. It complies with Regulation (EU) No 1285/2013, which is the instrument on which the European satellite navigation programmes are based, Article 29 of which provides that the Union may enter into agreements with third countries and international organisations in the context of the Galileo and EGNOS programmes.

The European Union and Africa have been cooperating on satellite navigation since the 2011-2013 action plan implementing the Africa-EU strategic partnership was adopted at the third Africa-EU summit in Tripoli in November 2010. The need for cooperation in this field was reaffirmed in the 2014-2017 roadmap adopted at the Africa-EU summit in April 2014.

Studies have highlighted the major socio-economic advantages for the African continent. The cooperation will also be of benefit to the European space industry which will have the advantage of an expanded African market to develop its technology, deploy a new infrastructure and use the services associated with satellite navigation.²

On 25 September 2014, on the basis of a Commission Recommendation (COM(2014)260), the 'Competitiveness' Council authorised the Commission to negotiate, on behalf of the Union, an international agreement with ASECNA establishing the conditions for the provision of a satellite-based augmentation service (SBAS) in Africa on the basis of the EGNOS European satellite navigation programme. Negotiations started in March 2015. In April 2016 they culminated in a draft agreement establishing a framework for the cooperation required for setting up and operating an independent SBAS system, but based on the European EGNOS system, in ASECNA's area of competence. In keeping with the mandate given by the Council, the agreement comprises a technical part and also covers questions of financing and governance.

- **Consistency with the existing provisions in the policy area and with other Union policies**

The European satellite navigation programmes form a key part of European Union transport policy, especially air transport. They contribute to enhancing the safety and continuity of aerial navigation services and improving them in economic and environmental terms. They have been promoted internationally, mainly as a result of cooperation agreements entered into with countries such as the United States of America, China, South Korea and Israel.

¹ ASECNA is an international organisation based in Dakar, Senegal, whose mission is to ensure the safety of aerial navigation on behalf of its 18 member states: Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Comoros, Congo, the Ivory Coast, Gabon, Guinea-Bissau, Equatorial Guinea, Madagascar, Mali, Mauritania, Niger, Senegal, Togo and France.

² Cost/benefit analyses have valued the socio-economic benefits for the entire African continent at over 4.8 billion euros without taking into account the benefits in terms of economic development and regional integration which could not be quantified.

Given the joint advantages accruing to Europe and Africa from developing satellite navigation services on the African continent, there have been many political initiatives on active cooperation between the European Union and Africa to this end, including:

- Joint statement of the reference group on infrastructure of the Africa-EU strategic partnership for the college-to-college meeting between the European Commission and the African Union Commission (Addis Ababa, 25-26 February 2016);
- The 2014-2017 roadmap adopted at the fourth Africa-EU summit (Brussels, 2 and 3 April 2014);
- Joint business declaration at the 'Fifth EU-Africa business forum' (Brussels, 1 April 2014);
- Joint position adopted at the Ministerial Conference on Transport of the Union for the Mediterranean (Brussels, 14 November 2013);
- Joint Communication to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 8 March 2011 'A partnership for democracy and shared prosperity with the Southern Mediterranean' [COM(2011) 200 final];
- Communication from the Commission 'Action Plan on Global Navigation Satellite System (GNSS) Applications' COM(2010)308 final of 14 June 2010;
- Conclusions of the high-level conference on the issue: 'Space for the African citizen', organised by the Belgian Presidency of the EU on 16 September 2010;
- Seventh 'Space' Council Resolution: 'Global challenges: taking full benefit of European space systems' — Brussels, 25 November 2010;
- Action plan 2011-2013 for the implementation of the Africa-EU strategic partnership, adopted at the third Africa-EU summit (Tripoli, 29 and 30 November 2010);
- Joint business declaration at the 'Fourth EU-Africa business forum' (Tripoli, 26 and 28 November 2010);
- Communication from the Commission to the European Parliament and the Council of 24 June 2009 – 'Partnership between the European Union and Africa – Connecting Africa and Europe: working towards strengthening transport cooperation' COM(2009)301 final, dated 24 June 2009.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis for the proposal is Article 172 of the Treaty on the Functioning of the European Union, in conjunction with Article 218(5).

- **Subsidiarity**

The principle of subsidiarity does not apply in this case as the European satellite navigation system belongs to the European Union.

- **Proportionality**

The provisions of the agreement are in keeping with the aim pursued, namely to enable ASECNA to develop its own system of satellite-based augmentation on the basis of the EGNOS European satellite navigation programme. They also address the European Union's concern to export its satellite navigation know-how to the African continent.

- **Choice of instrument**

An international agreement is being entered into in order to put in place a binding framework for cooperation. Article 29 of Regulation (EU) 1285/2013 provides explicitly for the possibility of entering into agreements with international organisations in the context of the Galileo and EGNOS programmes.

3. RESULTS OF STAKEHOLDER CONSULTATIONS

The Commission has regularly reported, verbally and in writing, on the progress with negotiations to the special committee designated by the Council. Moreover, the Member States of the European Union were informed on the course of the discussions and were able to participate in the negotiation meetings. Finally, the Council working group 'Transport — Intermodal questions and networks' was able to draft preliminary observations on the draft agreement before the negotiations were completed and these were taken into account in the final proposal.

A both socio-economic and technical analysis was conducted on the use in Africa of satellite navigation services based on EGNOS. The results of this analysis were presented and discussed on several occasions with the African countries involved at seminars, workshops and international fora such as the AFI Planning and Implementation Regional Group (APIRG) at the International Civil Aviation Organisation (ICAO).

4. BUDGETARY IMPLICATIONS

The agreement envisaged has no impact on the budget allocated to the European satellite navigation programmes by Regulation (EU) No 1285/2013.

The cost of setting up and operating the infrastructure provided for by the agreement, which belongs to ASECNA, will be financed by ASECNA's budget, by its member states or by contributions, in the form of loans or donations, from countries in the European Union and international financial institutions (European Investment Bank, African Development Bank, etc.).

5. OTHER ELEMENTS

The agreement provides for the setting up of a joint committee for management and correct implementation. Recourse to an arbitration procedure is also provided for in the event of disputes between the two parties to the agreement.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172, in conjunction with Article 218(5),

Having regard to the European Commission's proposal,

Whereas:

- (1) On 25 September 2014, the Council authorised the Commission to negotiate, on behalf of the Union, an international agreement with the Agency for Aerial Navigation Safety in Africa and Madagascar (hereinafter 'ASECNA') establishing the conditions for provision of a satellite-based augmentation service (SBAS) in Africa on the basis of the EGNOS European satellite navigation programme.
- (2) Following the negotiations, the agreement between the European Union and ASECNA on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation was initialled on 12 May 2016.
- (3) The agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

Signature, on behalf of the Union, of the cooperation agreement between the European Union, on the one hand, and the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA), on the other hand, on the development of satellite navigation and the provision of associated services in ASECNA's area of competence for the benefit of civil aviation is authorised.

The text of the agreement is attached to this decision.

Article 2

The Council Secretariat-General shall establish the instrument of full powers to sign the agreement, subject to its conclusion, for the person(s) indicated by the negotiator.

Article 3

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

Done at Brussels,

*For the Council
The President*