



**ASECNA**

THE REVISED DAKAR

**CONVENTION**

ADOPTED IN OUAGADOUGOU, BURKINA  
FASO AND ENDORSED IN LIBREVELLE,  
REPUBLIC OF GABON

# SOMMAIRE

# CONVENTION ON THE AGENCY FOR THE SAFETY OF AIR NAVIGATION IN AFRICA AND MADAGASCAR (ASECNA)

## THE FOLLOWING SIGNATORY STATES:

The Republic of Benin,  
Burkina Faso,  
The Republic of Cameroon,  
The Central African Republic,  
The Republic of Congo,  
The Republic of Cote d'Ivoire,  
The Republic of France,  
The Republic of Gabon,  
The Republic of Guinea Bissau,  
The Republic of Equatorial Guinea,  
The Islamic Republic of Mauritania,  
The Republic of Madagascar,  
The Republic of Mali,  
The Republic of Niger,  
The Republic of Senegal,  
The Republic of Chad,  
The Republic of Togo,  
The Union of Comoros.

- Mindful of the Convention on International Civil Aviation signed in Chicago on 7 December 1944 and its Annexes;
- Mindful of the Convention on Diplomatic Relations signed in Vienna on 18 April 1961;
- Mindful of the Convention on the Law of Treaties signed in Vienna on 23 May 1969;
- Considering that civil aviation is an economic and social development factor;
- Considering that air transport significantly contributes to the strengthening of relations between peoples;
- Considering that civil aviation development must be carried out in a safe and orderly manner;
- Considering the contribution made to air transport in Africa by the Agency for the Safety of Air Navigation in Africa and Madagascar (ASECNA), established by the Convention signed in Dakar on 25 October 1974 and all the amendments thereto;
- Considering the need to modernize, expand and develop collective endeavour;
- Considering the greatest wish to coordinate the action of States in the field of personnel training and air navigation services as well as in the field of studies and research on air traffic issues;
- Considering the need to react to the evolution of expectations about the safety, regularity and sustainable development of air transport in the airspace managed by the Agency for the Safety of Air Navigation in Africa and Madagascar (ASECNA);
- Eager to continue pooling their resources to better ensure aviation safety;
- Reaffirming their shared commitment based on the principles of solidarity, unity and equity;

## HEREBY AGREE AS FOLLOWS:

### **Article 1: Purpose and Name**

The States Parties have hereby agreed to establish an international public institution called Agency for the Safety of Air Navigation in Africa and Madagascar (ASECNA), hereinafter referred to as “ASECNA” or “the Agency. It shall have a corporate status and financial autonomy.

The Agency shall be charged with providing air navigation services as needed to ensure the safety and flight regularity of air traffic in general in the airspaces entrusted to the Agency by the States Parties as stipulated in the Annex to this Convention.

### **Article 2: Missions of the Agency**

ASECNA shall provide public services in the area of air navigation safety and aeronautical meteorology.

The Agency shall be responsible for the provision of air navigation services en route in the airspaces listed in the Annex to this Convention, the organization of these airspaces and air routes in accordance with the provisions of ICAO, the publication of aeronautical information, forecasting and reporting in the field of aeronautical meteorology.

The Agency shall, on the airports listed in the Annex to this Convention, provide air traffic approach and aerodrome air traffic services, fire fighting and aircraft rescue services, as well as publish aeronautical information, forecast and report in the field of meteorology, in line with the conditions laid down in the Agency’s statutes annexed to this Convention.

The Agency shall be responsible for drawing up specifications on functions, systems and means, as well as working procedures and methods implemented. It shall also be responsible for studies, drafting specifications on the purchase, receipt, installation, technical verification, the keeping in a functional state and use of equipment and facilities meant for communication, navigation, surveillance and air traffic management systems as well as aviation weather, implementing a safety and quality management system, in accordance with the Standards and Recommended Practices (SARPs) of the International Civil Aviation Organisation (ICAO).

The Agency shall also be charged with the management of civil aviation training schools. It may also provide education benefits and services directly related to its missions.

The States Parties shall ensure the safety of infrastructure and equipment necessary for air navigation services set up in their respective territories, the safety of which is beyond the responsibilities of the Agency in its capacity as assignee and manager of the said equipment and infrastructure.

### **Article 3: Committee of Ministers**

The Committee of Ministers in charge of civil aviation of the States Parties shall be the Agency’s supreme organ.

It shall formulate the Agency’s general policy, notably its strategy, and ensure its implementation.

In this wise, it shall be charged with:

- ensuring compliance with the requirements for safety in the services provided by the Agency;
- the formulation of its pricing policy;
- the examination and approval of its multi-year plans;
- the appointment of the Agency’s Director General in compliance with the conditions laid down in the statutes annexed to this Convention.

The Committee shall take decisions on applications to adhere to the Convention.

It shall adopt the amendments in annex to this Convention excluding those in the annex to the

Agency's international statutes.

It shall be the sole competent authority to empower the Agency to undertake arbitration proceedings against a State Party.

The Chairperson of the Committee shall prepare, convene and chair Committee meetings. He shall propose an agenda thereof.

The Committee may confer any mission on its Chairperson in line with the functions of the Committee.

Any matter between two or more States Parties or between one or several States Parties and the Agency may be referred to the Committee for an amicable settlement, in line with the conditions laid down in Article 21 of this Convention.

#### ***Article 4: Meetings of the Committee of Ministers***

The Committee of Ministers shall meet in an ordinary session once a year.

It may meet in an extraordinary session:

- when convened by its Chairperson;
- at the request of one-third of States Parties.

It shall establish its internal rules and regulations.

#### ***Article 5: Unavoidable absence of a member of the Committee of Ministers***

In the event of the unavoidable absence of a member of the Committee of Ministers, he can be replaced for the purpose of a Committee meeting by any other person designated by the State whose representative is absent, with the exception of the Agency's agents.

#### ***Article 6 : Secretariat and preparation of meetings of the Committee of Ministers***

The preparation and secretariat of the meetings of the Committee of Ministers shall be taken care of by the Chairperson of the Board of Directors.

#### ***Article 7: Administration of the Agency***

The Agency shall be run by a Board of Directors whose composition and functions are laid down in the statutes annexed to this convention.

#### ***Article 8: Technical Cooperation***

The Agency's services may assist, in the conditions to be defined with the other stakeholders, in the implementation of technical cooperation agreements on aviation and meteorology signed between any other State or Organization and the beneficiary States Parties.

Such operations shall be identified in a special budget account in the Agency's accounting.

#### ***Article 9: Creation of Specialized Companies***

In order to facilitate the conduct of States' aviation activities, the Agency's Board of Directors may, subject to the decision of the Committee of Ministers, proceed with the creation of specialized companies in the field of aviation. Such companies shall be governed by the national law of the States in which they operate.

**Article 10: Delegation of Management**

In the implementation of delegated management contracts, the Agency may be entrusted with:

- a) in each of the States Parties, airport services and facilities, air navigation, fire fighting and aviation weather for airports where these services are not covered under Article 2 of this convention;
- b) in non-party States, airport services and facilities, air navigation, fire fighting and aviation weather.

These services shall be provided with the funds of the State that is signatory to the delegated management contract. They shall require a specific budget and accounting.

Pursuant to the missions in Article 2 of this Convention, the Agency's management acts shall in no way affect the assets and resources placed under its management in the light of the delegated management contracts signed in the implementation of this article.

The Agency's management acts under its missions in this article shall in no way affect the assets and resources placed under its management in the light of Article 2 of this Convention.

The delegated management contracts must comply with a sample contract established by the Agency's Board of Directors. The Board shall approve the said contracts and ascertain each year their sound technical and financial implementation on the basis of a report drawn by the Agency's Director General or by any other means deemed appropriate.

**Article 11: Minimum Service**

In application of the principle of continuity of public service whose compliance is imperative on the Agency and its staff, a minimum air navigation service shall be organized, where necessary, when circumstances such as natural disasters, riots, mutinies and strikes arise.

The Agency's personnel required for minimum service shall be compelled to continue working.

In the event where the security of the staff is threatened in a State owing to the circumstances mentioned in the first paragraph of this Article, the State concerned shall, in conjunction with the Agency, take necessary measures to protect the said staff, where necessary with the Agency's means.

**Article 12: Representation in aerodrome management bodies**

The Agency shall be represented in the aerodrome management bodies where it operates.

The State party concerned shall take legislative, regulatory and conventional measures necessary to facilitate the implementation of the provisions of this Article.

**Article 13: Resources**

To meet its expenditure, the Agency shall have resources derived from:

- fees collected from users;
- proceeds from the execution of delegated management contracts provided for in Article 10 of this Convention;
- loans;
- payments for studies and other services provided;
- proceeds from the disposal and rental of assets;
- grants, donations and legacies.

The States Parties shall undertake to implement their procedure for the forceful recovery of the Agency's debts which are public funds.

**Article 14: Contribution to the cost of services not provided by the Agency**

The Agency shall make available to States parties a share of air navigation charges, as a contribution to the cost of services related to air navigation that the Agency does not directly provide (search and rescue service, bird strike, accident investigations). The modalities for determining and allocating this quota shall be determined by the Board of Directors.

**Article 15: Accounting Regime**

The Agency shall be subject to a system of public accounting and audit. The funds and assets managed by the Agency shall be public.

**Article 16: Staff**

The Agency shall recruit and use employees who are nationals of States Parties in accordance with the provisions of the Agency's statutes, the unique status and the staff remuneration code annexed to this Convention.

The Agency may, in the services installed in a State Party, use employees who are non-nationals of this State.

**Article 17: Organization and Functioning of the Agency**

The organization and functioning of the Agency shall be clearly laid down in the statutes and the Agency's specifications annexed hereto.

**Article 18: International Statutes**

The Agency's international statutes shall be annexed to this Convention.

**Article 19: Membership**

Membership to this Convention shall be open to any State interested. It shall be subject to the unanimous approval of States Parties which shall be by a resolution taken by the Committee of Ministers.

The membership instrument shall be submitted to the Government of the Republic of Senegal, which shall notify the governments of other States Parties.

Membership shall take effect from the date determined by the Committee of Ministers. During any new accession, the acceding State shall make available to the Agency the facilities and means needed for its operation.

**Article 20: Ratification**

This Convention and its Annexes shall be ratified in the manner provided for by the Constitution of each State.

Ratification instruments shall be submitted to the Government of the Republic of Senegal.

The Convention shall enter into force on the first day of the month following the submission of the ratification instrument of the signatory State which shall be the last to carry out this formality and, latest, on 1 January of the third year following the endorsement of this convention, subject to ratification by at least one-third of the signatory States by this date. Subject to this, the States that have submitted their ratification instruments shall be parties to this Convention. Unless otherwise declared by them, the other signatory States shall accept that this Convention be implemented provisionally.

The Government of the Republic of Senegal shall notify the other signatories of the submission of any ratification instrument and of the date of enforcement of the Convention.

**Article 21: Settlement of disputes**

Any dispute between States Parties, or between one and several States Parties and the Agency, on the interpretation or implementation of this Convention and its Annexes, which cannot be resolved through consultations within a deadline of six (6) months, shall be referred to the Board of Directors by the general management and then, if the matter is still not settled, to the mediation of the Chairperson of the Committee of Ministers who shall report to the Committee. Where necessary, the dispute shall then be submitted for the mediation of Heads of State of the States Parties. If within a time limit of eighteen (18) months from the day the dispute arose, the dispute is not settled, it shall be submitted as a last resort to an arbitral agency in accordance with the conditions laid down in Paragraph 2 of Article 18 of the Agency's international statutes.

**Article 22: Termination**

1. Any State Party may terminate this Convention by giving a nine-month prior notice to the Depository State.

The Depository State shall notify the other States Parties thereof.

Within the period of the prior notice provided for in the first paragraph of this Article, the State concerned can suspend its decision to terminate the Convention. It shall notify the Depository State of its decision and the Depository State shall notify the other States Parties thereof. This suspension shall result in the interruption of the deadline for prior notice. Beyond a time limit of six months with effect from the date of interruption of the deadline for prior notice, the suspension shall be a waiver to terminate the Convention.

At the expiry of the deadline for prior notice, the State concerned shall cease to be a member of the Agency, subject to the approval and signing by this date of the protocol agreement provided for in Paragraph 2 above. Failing, the termination shall take effect from the date fixed by the Committee of Ministers.

When the termination of the Convention is at the initiative of the State where the Agency is headquartered, the Depository State of the Convention or a State hosting a regional and/or general community service as referred to or defined in the statutes annexed to this Convention, this State shall notify the other States Parties thereof in accordance with the conditions for prior notice defined in paragraphs one and four of this Article. The deadline for prior notice shall take effect from the date on which all the other States Parties have the notification of the decision to terminate the Convention. The State concerned shall communicate this date to the other States Parties within the shortest time possible. Any conservatory measures necessary for the sound functioning of the Agency shall be taken by the Committee of Ministers.

2. The rights and obligations of ASECNA and the State Party terminating the Convention, namely concerning finance, heritage and staff, shall be laid down in a protocol agreement signed between the State concerned and the Agency represented by the General Manager. This protocol shall be approved first by the Committee of Ministers.

3. In the event of termination of this Convention by a State Party, ASECNA shall, as of right and in accordance with the conditions laid down in the Agency's statutes annexed to this Convention, be authorized to continue the supply and management, on or from the territory of this State, of general and/or regional community services which it provides as well as its facilities and equipment which are the support thereof.

**Article 23: Dissolution**

The Agency shall automatically be dissolved by law if the number of States Parties reduces to less than six in a period of twenty-four months. It may be dissolved for any reason whatsoever, upon approval by the States Parties following a decision taken by 4/5 majority.

The Agency's corporate status shall remain for the purposes of liquidation.

In the event of dissolution, the Committee of Ministers shall designate and define the mandate of a liquidator charged with liquidation.



**Article 24: Amendments to the Convention and to the Annex relating to international Statutes**

Any State Party can propose amendments to this Convention and to the annex relating to the Agency's international statutes.

Any proposed amendment shall be submitted to the Chairperson of the Committee of Ministers who shall immediately transmit it to all States Parties.

Amendments to this Convention and to the Annex relating to the Agency's international statutes shall be tabled for examination by the Committee of Ministers within a time limit of ninety days with effect from the day the proposal is submitted to the Chairperson of the Committee of Ministers.

Amendments to this Convention and to the Annex relating to the ASECNA's international statutes adopted by members of the Committee of Ministers during a meeting to train plenipotentiaries shall then be ratified in the manner provided for by the Constitution of each State.

Amendments shall come into force on all States Parties on the thirtieth day following the submission of ratification instruments by all the States which have voted in favour of the adoption of the amendments in the Committee of Ministers.

**Article 25: Amendments to other Annexes**

1. Any State Party can propose amendments to Annexes V, VI and VII to this Convention as stipulated in Article 28 of this Convention.

Any draft amendment shall be communicated to States Parties by the Chairperson of the Board of Directors at least four months to the meeting wherein the amendment is proposed for adoption. These amendments shall be examined and adopted by the Committee of Ministers during an ordinary or extraordinary session convened to this effect.

The adoption of these amendments shall require a quorum of two-third of States Parties and a three-quarter majority of the States present and voting. Abstention shall not impede the adoption of the amendments. These amendments shall be effective from the date fixed by the Committee of Ministers in its deliberations.

2. Any State Party can propose amendments to Annexes II, III and IV to this Convention as stipulated in Article 28 of this Convention.

Any draft amendment shall be communicated to States Parties by the Chairperson of the Board of Directors at least two months before the home consultation wherein the amendments will be examined and adopted.

The adoption of these amendments shall require the decision of at least two-thirds of States Parties, with a three-quarter majority.

These amendments shall come into force with effect from the date of their adoption.

**Article 26 Registration**

In accordance with Article 83 of the Convention on international civil aviation signed in Chicago on 7 December 1944, this Convention and its Annexes shall be registered at ICAO by the Government of the Depository State.

**Article 27: Repeal and legal continuity**

1. Upon entry into force, this Convention shall repeal and replace the Convention on the Agency for the Safety of Air Navigation in Africa and Madagascar (ASECNA) signed in Dakar on 25 October 1975 and the amendments thereto.

2. Deeds of the Committee of Ministers or its Chairperson, the Board of Directors or its Chairperson and its Director General adopted by virtue of the Dakar Convention of 25 October 1974, shall remain in force insofar as they are compatible with this Convention and its Annexes. These deeds shall continue to have effects as long as they have not been repealed, annulled or amended while implementing this Convention.

The Agency shall take over all rights and obligations of ASECNA as instituted by the Dakar Convention of 25 October 1974, provided that such rights and obligations are compatible with this Convention and its Annexes.

**Article 28: Annexes to the Convention**

The Annexes to this Convention are:

- I. The Agency's International Statutes;
- II. The list of airspaces stipulated in Article 2 of the Convention;
- III. The list of aerodromes stipulated in Article 2 of the Convention;
- IV. The list of facilities contributing to the safety of international air navigation stipulated in Article 2 of the Statutes;
- V. The Statutes of the Agency;
- VI. The Specifications of the Agency;
- VII. The unique status and staff remuneration code.

**Article 29: Impact of the Convention and its Annexes on the domestic law of States Parties**

This Convention and its Annexes shall take precedence over the domestic law of States Parties in the domains they govern.

In testimony whereof, the undersigned plenipotentiaries, duly authorized by their respective Governments, have signed this Convention.

Done in Libreville on 28 April 2010

**For the Republic of Benin**

**Rémi HOUNDEGLA**  
*Chargé d'Affaires a.i. for Benin*

**For Burkina Faso**

**Barrister Gilbert G. Noël OUEDRAOGO**  
*Minister of Transport*

**For the Republic of Cameroon**

**BELLO BOUBA MAÏGARI**  
*Minister of Transport*

**For the Central African Republic**

**Col. Parfait Anicet MBAY**  
*Minister of State for Transport and Civil Aviation*

**For the Republic of Congo**

Minister of State, Coordinator of the Basic Infrastructure Pool, Minister of Transport, Civil Aviation and Merchant Marine

**For the French Republic**

**Jérôme PEYRAT**

*Director of Cabinet of the Secretary of State in charge of Cooperation and Francophonie to the Minister of Foreign and European Affairs*

**For the Republic of Guinea Bissau**

**José Carlos ESTEVES**

*Secretary of State for Transport and Communication*

**For the Republic of Madagascar**

**Rolland RANJATOELINA**

*Minister of Transport*

**For the Islamic Republic of Mauritania**

**CAMARA MOUSSA SEYDI BOUBOU**

*Minister of Equipment and Transport*

**For the Republic of Senegal**

**Karim WADE**

*Minister of State, Minister of International Cooperation, Regional Development, Air Transport and Infrastructure*

**For the Republic of Togo**

**Comlan KADJE**

*Minister of Public Works and Transport*

**For the Republic of Côte d'Ivoire**

Dr Albert FLINDE  
Minister of Transport

**For the Gabonese Republic**

**Remy OSSELE NDONG**

*Minister of Transport*

**For the Republic of Equatorial Guinea**

**Vicente EHATE TOMI**

*Minister of Transport, Technologies, Post and Telecommunications*

**For the Republic of Mali**

**Hamed Diane SEMEGA**

*Minister of Equipment and Transport*

**For the Republic of Niger**

**Col. AHMED MOHAMED**

*Minister of Transport, Tourism and Handicrafts*

**For the Republic of Chad**

**ADOUM YOUNOUSMI**

*Minister of Infrastructure and Transport*

**For the Union of Comoros**

**ABDILLAH MOUIGNI**

*Secretary General in the Ministry of Transport, Tourism and Investments*



# **ASECNA**

AGENCY FOR THE SAFETY OF AIR NAVIGATION  
IN AFRICA AND MADAGASCAR (ASECNA)



ANNEX I  
INTERNATIONAL STATUTES

# INTERNATIONAL STATUTES OF THE AGENCY FOR THE SAFETY OF AIR NAVIGATION IN AFRICA AND MADAGASCAR

## ***Article 1: Corporate Status***

The Agency for the Safety of Air Navigation in Africa and Madagascar, hereinafter referred to as «ASECNA» or «Agency», shall have a corporate status. In line with its missions, it shall be capable of:

- a) signing contracts;
- b) acquiring and disposing of movable and immovable property;
- c) going to court.

## ***Article 2: Definition and inviolability of premises***

The premises of the Agency shall include land, buildings and installations occupied or used for purposes of its business.

The premises of the Agency shall be inviolable. Agents and employees of Member States can only enter these premises to perform their duties with the consent of or at the invitation of the Director General of the Agency or his representative. This consent shall be presumably obtained when a disaster warrants urgent intervention of emergency and fire-fighting services.

## ***Article 3: Protection of communications and correspondence***

1. Official communications addressed to the Agency or sent by it, irrespective of their mode of transmission and the form in which they are sent, shall not be blocked in any way. These communications cannot be censored. These provisions shall extend to publications, documents, fixed and cinematographic plans, films and sound recordings included in the missions of the Agency, as well as exhibition material.
2. The official correspondence of the Agency shall be inviolable.
3. The Agency shall have the right to dispatch and receive its correspondence by special mail or in sealed bags.

## ***Article 4: Protection of archives***

The archives of the Agency and, generally, all documents belonging to it or in its possession, shall be inviolable wherever they are.

## ***Article 5: Immunity from execution***

1. The Agency, its property and assets shall enjoy immunity from execution.
2. The execution of court judgments cannot take place at the headquarters of the Agency or its representations, delegations and training institutions, unless with the consent of the Director General or his designated representative.
3. The property and assets of the Agency, regardless of where they are located and who is keeping them, shall not be subject to search, requisition, confiscation, expropriation or any other form of constraint or measure.

## ***Article 6: Limitation on Privileges and Immunities***

The principle of inviolability provided for in Articles 2, 3 and 4 of these international statutes shall not be applicable by the Agency to employees, agents, experts and persons duly authorized by the States Parties and international organizations to oversee the safety of the Agency's air navigation facilities.

In addition, the Agency shall accept to lift one of the immunities provided for in Articles 2, 3, 4 and 5 of these international statutes if it is likely to impede court action or the enforcement of police regulations and if it can be lifted without prejudice to the Agency's interests.

**Article 7: Funds and Currency**

The Agency may freely:

- a) receive and keep funds and currencies of all kind and operate accounts in any currency;
- b) transfer funds and currencies within the territory of each Member State, to other Member States or to non-member States and vice versa.

**Article 8: Taxation**

1. In order to accomplish the missions provided for in the Convention, the Agency, its revenue, assets and other property shall be exempt from all direct and indirect taxes.
2. Because of the public service mission of ensuring the safety of air navigation assigned to the Agency by the Member States, it shall be exempt from any fees and taxes related to the use of aeronautical frequency. However, subject to paragraph one of this article, it shall settle all its telecommunication bills (telephone, telex, facsimile/fax, email, internet, etc..), under the conditions set by the operators.
3. Acquisitions and leases of buildings constructed by the Agency within the framework of its activities and operation shall be exempt from registration and real estate taxes.

**Article 9: Customs Regime**

1. The Agency shall be exempt from all customs duties and charges having equivalent effect and from any prohibitions and restrictions on import and export of equipment, materials, products and goods required for carrying out its activities. This exemption shall extend to publications, documents, fixed and cinematographic plans, films and sound recordings imported or exported in line with the Agency's mission and exhibition material.
2. Used equipment and materials, sent by the Agency for repairs in the Agency's maintenance centres or to suppliers and vice versa shall also be exempt from customs duties and charges having equivalent effect and from any restrictive or prohibitive measure on import and export.
3. Each year and where necessary, the Agency shall forward the list of equipment, materials, products and goods mentioned in this article to the customs administration of each Member State.
4. Equipment, materials, products, spare parts and consumables imported duty-free cannot be sold or transferred or borrowed out, either gratuitously or profitably, unless approved by the Member State in whose territory they were introduced.

**Article 10: International character of personnel functions**

In the execution of their tasks, the Director General, directors, the Agency's representatives to Member States, the accounting officer, the Financial Controller and other members of the staff must not seek or accept instructions from any external authority. Each Member State shall undertake to respect the international character of the functions of the Agency's staff and officials and shall not seek to influence any of its nationals in the discharge of their duties.

**Article 11: Cooperation with authorities of Member States**

The Agency shall constantly cooperate with the relevant authorities to facilitate efficient administration of justice, ensure the enforcement of police regulations and avoid any abuse that could result from the immunities, privileges and facilities provided for in this Annex.

The Agency and the competent authorities shall agree to meet regularly to ensure sound implementation of the provision in paragraph 1 of this article.

In the event of disagreement, the Agency and the State party concerned shall undertake to make every effort to resolve the dispute by making use of the provision in the second paragraph of this article, before resorting to the dispute settlement mechanism provided for in Article 21 of the Convention.

***Article 12: Expropriation for public utility and public works***

1. Public utility shall be recognized as appropriate in accordance with national laws, with the effects stemming from the provisions thereof relating to expropriation for public utility, real estate acquisitions necessary for the setting up of the Agency's installations, subject to the agreement of the governments concerned. The procedure of expropriation for public utility may be conducted by the competent authorities of the State concerned, in accordance with national legislation, upon failure of amicable agreement.

2. The Agency shall bear the costs of the possible implementation of such provisions, including the amount of compensation payable in accordance with the laws of the State in whose territory the property is situated.

3. The Agency shall facilitate, whenever possible, the realization of public works in the territory of the Member States pending execution within or in the vicinity of buildings that have been allocated to it.

***Article 13: Privileges and immunities granted to persons***

1. Definitions

For purposes of this article, the following terms shall mean:

- «ASECNA Staff»: the various categories of staff occupying a position within ASECNA;
- «Host State»: the State hosting the Agency's headquarters, its establishment or service in which ASECNA staff mentioned in the provisions of this article are employed.

2. The Chairperson and Board members of the Agency as well as their alternates and advisers, duly authorized representatives of the Member States, observers and representatives of other States, institutions or organizations attending meetings convened by the Agency, shall, when exercising their official functions and during their journeys to and from the venue of the meetings, be entitled to the following privileges, immunities and facilities:

- Immunity from arrest or detention and from seizure of their personal luggage;
- Immunity from indictment for acts carried out by them in their official capacity, including their spoken and written words, even after leaving office. However, there shall be no immunity from indictment for damage resulting from an accident caused by a vehicle or other means of transport owned or operated by them or in case of violation of traffic regulations on this means of transport;
- Inviolability of all their official papers and documents;
- Exemption from all measures restricting immigration and all formalities of registration of foreigners;
- The same treatment in currency regulations and those regarding foreign exchange, as that given to representatives of foreign governments on temporary official mission;
- Same treatment in customs matters with respect to their personal luggage as that given to representatives of foreign governments on temporary official mission.



3. ASECNA staff on official mission in the territory of a Member State and outside the host State shall enjoy the following privileges, immunities and facilities:

- Immunity from indictment for acts carried out by them in their official capacity, including their spoken and written words, even after leaving office. However, there shall be no immunity from indictment for damage resulting from an accident caused by a vehicle or other means of transport owned or operated by them or in case of violation of traffic regulations on this means of transport;
- Inviolability of all their official papers and documents;
- Exemption from all measures restricting immigration and all formalities of registration of foreigners;
- The same treatment in currency regulations and those regarding foreign exchange, as that given to representatives of foreign governments on temporary official mission;

4. The Director General of the Agency, his spouse and dependent children shall, in the territory of the Member States, enjoy the privileges, immunities, facilities and courtesy accorded to members of foreign diplomatic missions accredited to the governments of the Member States.

In addition, the Director General shall be subject to the provisions of paragraphs 6, 7 and 8 of this Article.

5. The Agency's directors, representatives and delegates in the Member States, heads of its training institutions, their spouses and dependent children shall, provided they are not nationals of the host State or do not have their permanent residence there, enjoy immunities, facilities and courtesies accorded to members of foreign diplomatic missions accredited to the Government of the Member States.

When the Agency's directors, representatives and delegates in the Member States, heads of training institutions are nationals of the host State or have their permanent residence there, they shall enjoy the following privileges and immunities:

- Immunity from indictment for acts carried out by them in their official capacity, including their spoken and written words, even after leaving office. However, there shall be no immunity from indictment for damage resulting from an accident caused by a vehicle or other means of transport owned or operated by them or in case of violation of traffic regulations on this means of transport;
- Immunity from arrest or detention for acts carried out by them in their official capacity;
- Inviolability of all their official papers and documents.

6. ASECNA employees shall enjoy the following privileges and facilities, provided that they are not nationals of the host State or do not have permanent residence there:

- Exemption for themselves, their spouses and members of their families and their dependents, from any measure on immigration or emigration;
- Exemption for themselves, their spouses and members of their families and their dependents, from all national service obligations during their official visit;
- Same repatriation facilities for themselves, their spouses and members of their families and their dependents like those normally accorded to the staff of international organizations in time of an international crisis;
- Exemption for themselves, their spouses and members of their families and their dependents, from all direct taxes on salaries and emoluments paid to them by the Agency;

- The same treatment in currency or exchange regulations as that generally given to staff members of international organizations;
- The right to import their furniture and personal effects duty-free during their first transfer to a Member State and within six (6) months following it;
- Importing a vehicle free of customs duties. This right shall be limited to one vehicle per officer;
- Exemption from the social security scheme and contribution to the pension scheme in force in their place of employment. The Agency shall take necessary measures to affiliate them to the provident fund of their countries of origin.

7. Goods imported duty-free by ASECNA staff, may not be transferred without charge or consideration within the territory of that Member State except in accordance with the regulations in force.

8. For ASECNA employees having the nationality of the host State and subject to military service obligations or any other service required, the authorities of that State shall, in case of mobilization, and at the request of the Agency, take measures as may be necessary to avoid interruption of an essential service to the safety of air navigation.

9. The enjoyment of the privileges, immunities and facilities provided for in paragraphs 5 and 6 of this article shall be strictly limited to the territory of the host State.

10. The privileges and facilities provided for in paragraph 6 of this Article shall be granted by all Member States under the conditions laid down in the said paragraph unless a headquarters or institution's agreement signed between a Member State and the Agency, before the entry into force of the Convention, provides otherwise.

11. The Agency shall, within the required time, communicate to the competent authorities of Member States, the list of non-national employees working in their territory.

#### ***Article 14: Purpose of the privileges and immunities granted***

1. The immunities, privileges and facilities provided for in this Annex shall be granted for the smooth functioning of the Agency and not to provide the concerned with a personal advantage.

2. The Agency shall agree to lift immunity when it is likely to impede legal proceedings and when the lifting is not detrimental to the Agency's interests. The competent authorities capable of lifting immunity shall be:

- The Agency's Board of Directors for the Director General, the Financial Controller, the Accountant and secondary accountants;
- The Agency's Director General for his staff.

3. For the persons mentioned in paragraph 2 of Article 13 of these international statutes, the lifting of their immunity shall be decided by:

- The competent authorities of the State for persons authorized by it;
- The competent authorities of the organization or institution for persons authorized by it.

**Article 15: Specific Duty of Discretion**

The persons enjoying the privileges and immunities provided for in Article 13 above shall be bound by a specific duty of discretion.

As such, they shall, in all circumstances, shun behaviour that tarnishes the Agency's image and credibility, or is likely to hinder the Agency from carrying out its missions on behalf of the States.

**Article 16: Travel Documents**

ASECNA officials and employees, foreign agents assigned to its headquarters or representations, delegations, training institutions and regional control centres, experts and persons performing official duties with the Agency, must have an official travel document issued by their respective States, which is valid at the time of assumption of duty.

It must also be easy for them to obtain visas within the framework of their official visits.

**Article 17: Liability – Insurance**

1. The Agency shall be responsible for any damage suffered by third parties because of a blunder by it or its officials, experts and representatives. It shall be responsible for the damages of any plane crash caused by such a blunder. Responsibility may be waived only in cases of force majeure or when the injured party has contributed to the occurrence of the damage.

2. In the event of a blunder by Member States leading to the occurrence of damage, the Agency may resort to the dispute settlement mechanism provided for in Article 21 of the Convention for compensation for damage suffered by it due to the compensation of third parties.

3. The Agency shall be required to have guarantee with internationally recognized creditworthy insurance companies against risks of recourse to third parties especially in case of a plane crash.

**Article 18: Arbitration**

1. The Agency may insert in its contracts, excluding those signed with its staff, clauses allowing the submission of any contract dispute to arbitration.

2. The disputes referred to in Article 21 of the Convention shall, at the request of either party, be brought before an arbitral tribunal or a sole arbitrator in accordance with the procedure specified below.

Within fifteen days following a submission of a written request for arbitration by a party, the parties shall mutually agree to resort to an arbitral tribunal or a sole arbitrator in accordance with the procedures provided for in 2.1 and 2.2 below. After this period, in case of disagreement or silence from one or both parties, the recourse to an arbitration tribunal shall be imperative.

2.1. The arbitral tribunal shall comprise three members. Each Party shall designate an arbitrator within thirty days after the joint decision to resort to an arbitral tribunal or the notice of the disagreement or the silence from one or both parties on the choice of arbitration. The two arbitrators so designated shall, by common agreement and within sixty days of this decision or this realization, designate the third arbitrator who shall chair the tribunal.

If within the required time limit, none of the parties designates an arbitrator or if there is disagreement on the choice of the third arbitrator, such designations shall be by the Secretary General of the Permanent Court of arbitration.

In case of vacancy of an arbitrator, it shall be filled as provided for by initial appointment.

A quorum shall consist of a majority of the court members and all its decisions shall be taken by majority vote.

Court decisions, including those regarding its organization, procedure and jurisdiction, shall be binding on the parties.

2.2. The sole arbitrator shall be designated by the President of the Permanent Court of Arbitration, within thirty days after the joint decision to resort to a sole arbitrator.

The place of arbitration shall be decided by the sole arbitrator. The arbitration shall be conducted in French. The law applicable shall be the French law.

Regulation of the arbitration shall be determined by the parties or, failing that, by the sole arbitrator.

The arbitration decision shall be final and binding on the parties.

***Article 19: Effects of this Annex***

In case of inconsistency with or contradiction between the provisions of this Annex and the provisions of the headquarters and institution's agreements signed between the Agency and Member States, the provisions of this Annex shall prevail except in the case provided for in Paragraph 10 of Article 13 of this Annex.

# **ASECNA**

AGENCY FOR THE SAFETY OF AIR NAVIGATION  
IN AFRICA AND MADAGASCAR (ASECNA)



**ANNEX II**  
**LIST OF AIRPACES STIPULATED IN ARTICLE 1 OF THE CONVENTION**

## LIST OF AIRPACES STIPULATED IN ARTICLE 1 OF THE CONVENTION

The air spaces of the following States Parties:

- The Republic of Benin
- Burkina Faso
- The Republic of Cameroon
- The Central African Republic
- The Republic of Congo
- The Republic of Côte d'Ivoire
- The Republic of France
- The Republic of Gabon
- The Republic of Guinea Bissau
- The Republic of Equatorial Guinea
- The Islamic Republic of Mauritania
- The Republic of Madagascar
- The Republic of Mali
- The Republic of Niger
- The Republic of Senegal
- The Republic of Chad
- The Republic of Togo
- The Union of Comoros

The airspace demarcated by the six flight information regions (FIRs) according to the regional plan of the International Civil Aviation Organization:

- Brazzaville FIR
- Niamey FIR
- N'Djamena FIR
- Antananarivo FIR
- Dakar Oceanic FIR
- Dakar land FIR

# ASECNA

AGENCY FOR THE SAFETY OF AIR NAVIGATION  
IN AFRICA AND MADAGASCAR (ASECNA)



## LIST OF AIRPACES STIPULATED IN ARTICLE 1 OF THE CONVENTION

STATE	CITY	AIRPORT
Republic of Benin	Cotonou	Aéroport International Cardinal Bernadin Gantin de Cadjèhoun
Burkina Faso	Ouagadougou	Aéroport International de Ouagadougou
	Bobo-Dioulasso	Aéroport International de Bobo-Dioulasso
Republic of Cameroon	Yaounde	Yaounde-Nsimalen International Airport
	Douala	Douala International Airport
	Garoua	Garoua International Airport
Central African Republic	Bangui	Aéroport International de Bangui M'poko
Republic of Congo	Brazzaville	Aéroport International de Brazzaville Mayo-Maya
	Pointe Noire	Aéroport International de Pointe Noire Antonio Agostinho Neto
Republic of Cote d'Ivoire	Abidjan	Aéroport International Félix Houphouët Boigny
Republic of Gabon	Port Gentil	Aéroport de Port Gentil
	Libreville	Aéroport International Léon Mba
	Franceville	Aéroport International El Hadji Omar Bongo de M'vengue - Franceville
Republic of Guinea Bissau	Bissau	Aéroport International Osvaldo Vieira
Republic of Equitorial Guinea	Malabo	Aéroport de Malabo
	Bata	Aéroport International de Bata
Islamic Republic of Mauritania	Nouakchott	Aéroport International de Nouakchott
	Nouadhibou	Aéroport International de Nouadhibou
Republic of Madagascar	Mahajanga	Aéroport International Philibert Tsiranana
	Antananarivo	Aéroport International de d'Ivato
	Toamasina	Aéroport International d'Ambalamananasa
Republic of Mali	Bamako	
	Mopti	Aéroport International de Mopti - Ambodedjo
	Gao	Aéroport International de Gao - Korogousou
Republic of Niger	Niamey	Aéroport International Diori Hamani
Republic of Senegal	Dakar	Aéroport International Léopold Sédar Senghor
Republic of Chad	N'Djamena	Aéroport International de Hassan Djamous
	Sarh	Aéroport de Sarh
Republic of Togo	Lomé	Aéroport International Gnassingbé Eyadéma
	Niamtougou	Aéroport International de Niamtougou
Union of Comoros	Moroni	Aéroport International Prince Said Ibrahim



# ASECNA

AGENCY FOR THE SAFETY OF AIR NAVIGATION  
IN AFRICA AND MADAGASCAR (ASECNA)



ANNEX IV  
LIST OF FACILITIES CONTRIBUTING TO THE SAFETY OF AIR NAVIGATION  
REFERRED TO IN ARTICLE 2 OF THE STATUTES

## LIST OF FACILITIES CONTRIBUTING TO THE SAFETY OF AIR NAVIGATION REFERRED TO IN ARTICLE 2 OF THE STATUTES

### 1. Facilities in the field of air navigation and meteorology

#### 1.1 Weather watch centers

STATE	SITE	CONNECTING FIR
Republic of Congo	Brazzaville	Brazzaville
Republic of Madagascar	Antananarivo	Antananarivo
Republic of Niger	Niamey	Niamey
Republic of Senegal	Dakar	Dakar
Republic of Chad	N'Djamena	N'Djamena

#### 1.2 Radiosonde stations

STATE	SITE	CONNECTING FIR
Burkina Faso	Ouagadougou	Niamey
Republic of Cameroon	Douala	Brazzaville
	Ngaoundéré	Brazzaville
Central African Republic	Bangui	Brazzaville
Republic of Congo	Ouessou	Brazzaville
	Pointe-Noire	Brazzaville
Republic of Côte-d'Ivoire	Abidjan	Dakar
	Man	Dakar
Republic of Gabon	Libreville	Brazzaville
Republic of Madagascar	Ivato	Antananarivo
	Tolagnaro	Antananarivo
Republic of Mali	Bamako	Dakar
	Tombouctou	Niamey
	Tessalit	Niamey
Islamic Republic of Mauritania	Nouakchott	Dakar
	Nouadhibou	Dakar
Republic of Niger	Niamey	Niamey
	Agadez	Niamey
Republic of Senegal	Dakar	Dakar
	Tambacounda	Dakar
Republic of Chad	N'Djamena	N'Djamena
	Sarh	N'Djamena

## 1.3 Air navigation aids installed outside the airports entrusted to ASECNA

STATE	SITE	CONNECTING FIR
Republic of Cameroon	Manfé	VOR
	Bafoussam	VOR
Central African Republic	Berberati	VOR
Republic of Congo	Makoué	VOR
Republic of Côte-d'Ivoire	Bouaké	VOR
Republic of Mali	TESSALIT	VOR, NDB
Islamic Republic of Mauritania	Zouerate	VOR
	Nema	VOR
Republic of Niger	Agadez	VOR
	Dirkou	VOR
	Zinder	VOR
Republic of Senegal	Tambacounda	VOR
	Ziguinchor	VOR
Republic of Chad	Moundou	VOR
	Abéché	VOR
	Fava-Largeau	VOR
Union of Comoros	Vanambouani	NDB

## 1.4 Remote VSAT and VHF stations

STATE	SITE	CONNECTING FIR
Republic of Benin	Cotonou	Accra
Burkina Faso	Ouagadougou	Niamey
	Bobo-Dioulasso	Accra, Dakar
Republic of Cameroon	Douala	Brazzaville
	Garoua	Brazzaville
	Ngaoundéré	Brazzaville
Central African Republic	Bangui	Brazzaville
	Bouar	Brazzaville
	Bria	Brazzaville
Republic of Congo	Brazzaville	Brazzaville
	Pointe-Noire	Brazzaville
	Ouessou	Brazzaville
Republic of Côte-d'Ivoire	Abidjan	Dakar
	Bouaké	Dakar
	San pedro	Dakar
	Touba	Dakar
French Republic	Toulouse	

Republic of Gabon	Libreville	Brazzaville
	Makokou	Brazzaville
	Port-Gentil	Brazzaville
	Mvengué	Brazzaville
Republic of Guinea-Bissau	Bissau	Dakar
Republic of Equatorial Guinea	Malabo	Brazzaville
	Bara	Brazzaville
Republic of Madagascar	Antananarivo	Antananarivo
	Antsirananna	Antananarivo
	Mahajanga	Antananarivo
	Toannasina	Antananarivo
	Tolagnaro	Antananarivo
	Toliara	Antananarivo
Republic of Mali	Bamako	Dakar
	Gao	Niamey
	Mopti	Dakar
	Taoudenit	Dakar
	Tessalit	Niamey
	Tombouctou	Niamey
Islamic Republic of Mauritania	Atar	Dakar
	Bir-Morghrein	Dakar
	Nema	Dakar
	Nouadhibou	Dakar
	Nouakchott	Dakar
	Tidjikja	Dakar
Republic of Niger	Niamey	Niamey
	Agadez	Niamey
	Zinder	Niamey
	EAMAC	Niamey
	Dirkou	N'Djamena
Republic of Senegal	Dakar	Dakar
	Tambacounda	Dakar
Republic of Chad	N'Djamena	N'Djamena
	Abéché	N'Djamena
	Amti-Man	N'Djamena
	Bardaï	N'Djamena
	Dire	N'Djamena
	Faya-Largeau	N'Djamena
	Sarh	N'Djamena
Republic of Togo	Lomé	Accra
Union of Comoros	Moroni	Antananarivo
Sao Tome & Principe	Sao-Tome	Brazzaville

## 2. Facilities and services entrusted to the Agency under of the Convention

### 2.1 En route air navigation

- Flight information centers
- Area air traffic control centers
- Radio and cable telecommunications centers and facilities
- International NOTAM offices
- Weather information exchanges
- Weather radiosonde stations
- Radio and visual en route aids
- Area forecast centers
- Weather watch centers

### 2.2 Terminal aids on aerodromes under Article 2 of the Convention:

- Approach control;
- Aerodrome control;
- Aircraft ground traffic guidance
- Runway and taxiway marking systems;
- Radio and visual aids on approach and landing, transmissions for aerodromes referred to in Article 2 of the Convention;
- Weather observation, transmission and forecast facilities and services;
- Technical office and aeronautical information;
- Rescue and fire-fighting services.

### 3. Facilities and services likely to be entrusted to ASECNA under Article 10 of the Convention:

All services concerning air navigation, aeronautical meteorology and fire-fighting terminal aids on airports not under Article 2 of the Convention for States parties, and specifically designated airports for States non- parties to the Convention.



# **ASECNA**

AGENCY FOR THE SAFETY OF AIR NAVIGATION  
IN AFRICA AND MADAGASCAR (ASECNA)



**ANNEX V**  
**STATUTES OF ASECNA**

# STATUTES OF THE AGENCY FOR THE SAFETY OF AIR NAVIGATION IN AFRICA AND MADAGASCAR (ASECNA)

## PART 1 - HEADQUARTERS AND JURISDICTION OF THE AGENCY

### *Article 1 - Headquarters and territorial jurisdiction of the Agency*

The Agency's headquarters shall be in Dakar, Republic of Senegal. It may be transferred to any other Member State, by decision of the Committee of Ministers.

The Agency shall be empowered to accomplish the missions defined in Articles 2 and 10 of the Convention in the airspaces listed in the Annex, as entrusted by member States and non-member States.

### *Article 2 - Facilities and Services entrusted to the Agency*

The lists of facilities and services entrusted to the Agency or likely to be entrusted to it pursuant to Articles 2 and 10 of the Convention shall feature in Annex IV to the Convention.

When a State adheres to the Convention, it shall establish a list of property entrusted to the Agency.

The specifications contained in Annex VI to the Convention shall define the obligations of the Agency within the framework of the missions assigned to it.

### *Article 3 - Acquisition of movable and immovable property*

All movable and immovable property acquired or constructed by the Agency, funded by the resources provided for in Article 13 of the Convention, shall be the Agency's heritage.

For buildings and facilities financed by community resources and which fall within the public domain of States, the latter shall take legislative and regulatory measures to enable the Agency to retain ownership.

The acquisition or construction of movable and immovable property in accordance with Article 10 of the Convention shall be the heritage of each State and shall be subject to separate accounting.

### *Article 4 - Property allocated to the Agency by the States*

ASECNA shall use movable and immovable property allocated to it by each State in accordance with Article 2 of the Convention.

Each State shall retain ownership of its movable and immovable property allocated to ASECNA.

In the absence of applicable ad-hoc regulations, the movable or immovable property allocated to the Agency by the States, which are obsolescent or no longer needed by the Agency for the accomplishment of its missions, shall be subject to the following procedure:

- the decision of the Agency's Director General to hand it over to the State owner. The
- State concerned shall be notified thereof as soon as possible;
- the return of a State's property, which must take place within two months following
- notification of the Director General's decision, shall be recorded in a report
- mentioning all useful facts regarding the property concerned. If necessary, an expert
- report prepared by technicians jointly designated by ASECNA and the State concerned
- shall be attached to the said report.



## *Article 5 - Consequences of Withdrawal of a Member State on use and heritage*

### 1. Definitions

For the purposes of the Convention and its Annexes, the following shall mean:

- «Community service»: service provided by ASECNA with its own means, and where necessary with the property made available to the Agency by the States, on the territory and to the benefit of one, several or all Member States;
- «Regional community service»: service provided by ASECNA from the territory of a Member State and to the benefit of that State and one or several other Member States;
- «General community service»: service provided by ASECNA on the territory of a Member State and to the benefit of all member States.

2. When, from the territory of a Member State, ASECNA manages airspace including that of that State, the withdrawal of the latter from ASECNA shall result in the transfer of the management of that airspace, excluding that of the withdrawing State, to one or several member States.

3. In the event of withdrawal of a member State from ASECNA, the Agency shall automatically by law be authorized to continue providing services and managing the facilities and equipment on or from the territory of that State, pursuant to paragraph 3 of Article 22 of the Convention, for a period of not less than thirty six (36) months, unless both parties agree otherwise. This authorization shall be implemented under the following conditions:

- in the first two months of the notice period provided for in the first paragraph of
- of Article 22 (1) of the Convention, the Agency shall notify the State concerned of the implementation of the authorization to continue providing services and ensuring management. The notification must mention general and / or regional community services, buildings, facilities and equipment in support, covered by authorization, as well as the expected duration of the authorization. This expected duration shall be fixed according to the time necessary for the Agency to restore general and / or regional community services which were provided on or from the territory of the State withdrawing from the Agency, on the territory of one or several other Member States;
- if the State concerned objects to the expected duration of the authorization set by the Agency, the authorization shall, for its duration of implementation, be subject to the period of thirty-six (36) months provided for in this subsection;
- if necessary, the initial duration of the authorization may be extended by mutual agreement;
- the State concerned shall take all necessary regulatory and administrative measures to enable the Agency to continue providing the services and managing the facilities and equipment covered by the authorization;
- the Agency is committed to respecting the laws and regulations of the State concerned throughout the duration of the authorization.

4. Without prejudice to paragraph 3 of this Article, in the event of withdrawal of a member State from ASECNA, the fate of the property used by the Agency in that State shall be as follows:

- establishment of a joint inventory within two months following the filing of notice of termination of the agreement. The list, status and the location of the property allocated by the State to the Agency and property which is the Agency's heritage according to the criteria laid down in the first paragraph of Article 3 of these statutes must feature in this inventory;
- the property allocated by the State to the Agency shall be returned after the notice period

except in cases where such property is inseparable from services, facilities or equipment subject to authorization of further supply and management in the conditions laid down in paragraph 3 of this Article. In such an event, the property allocated by the State shall be used by the Agency during the duration of the authorization;

- when property allocated by the State to the Agency has been subject to improvement and/ or installations funded with community resources provided for in Article 13 of the agreement, it shall be returned as it was after the notice period or, for property left in the Agency's use during the duration of the authorization for continued provision and management provided for in paragraph 3 of this Article, at the expiry of the authorization. The Agency shall be compensated by the State on the basis of financial value, established by an expert opinion, on the date of the expertise, improvements and/ or installations funded with community resources;
- property which is the Agency's heritage can be given specific treatment:
  - transfer of movable property to the Agency's establishments in other Member States. The Agency shall reserve the right to request the State withdrawing to contribute to the cost of the transfer;
  - continued management under the conditions laid down in paragraph 3 of this section;
  - repurchase by the withdrawing State, at its request and after the express agreement of ASECNA. The repurchase shall be made on the basis of amortized value of the property concerned, established by an expert opinion;
  - decommissioning and sale;
  - property which does not fall in line with any of the cases mentioned above, particularly in the event of a lack of purchaser, must be taken back by the withdrawing State, on the basis of amortized value of the property concerned, established by an expert opinion, on the date of appraisal.

In all cases, repurchase, recovery or compensation by the State concerned should be established less a fixed amount corresponding to the share, estimated by an expert, on the date of appraisal, of that State in the financing of property or improvements and / or installations concerned. Facilities and equipment subject to authorization of continued management shall be handled, until the authorization expires, according to the different circumstances described above.

5. All measures resulting from the provisions contained in paragraphs 3 and 4 of this Article shall be specified in the protocol agreement provided for in paragraph 2 of Article 22 of the Convention.

## PART II - ORGANIZATION AND FUNCTIONING OF THE AGENCY

### *Article 6 - Administration of the Agency*

The Agency shall be administered by a Board of Directors assisted by a Director General

### CHAPTER 1 - ESTABLISHMENT OF THE BOARD

#### *Article 7 - Composition of the Board*

The Board shall comprise an administrator for each Member State.

Member States shall designate members of the Board to represent them, and their possible substitutes.

The Chairperson and the Director General shall be notified of these designations.

The substitute of the administrator of the State chairing the Board shall participate in debates. He shall not be entitled to vote, unless in the event of the unavoidable absence of the administrator.

The services of an administrator shall be free of charge.

**Article 8 - Appointment and term of office of the Chairperson**

The Chairperson shall be appointed, upon approval of the Committee of Ministers, from the members of the Board of Directors during a meeting chaired by the longest serving administrator.

The term of office of the Chairperson shall be three years, renewable once.

The Chairperson's duties shall expire with his term of office as member of the Board and in any event, after two terms of three years each.

**Article 9 - Conditions to be fulfilled by administrators**

Only nationals of member States enjoying their civil rights can be members of the Board of Directors. Administrators should be selected based on their competence in aviation.

**Article 10 - Incompatibility of interests**

Members of the Board cannot take or retain a direct or indirect interest in any company or its subsidiaries that has a contract with the Agency, whether it is a sole proprietorship or a civil or commercial company.

**Article 11 - Dissolution of the Board**

The Board may be dissolved on account of management that is contrary to public interest, by a decision of a majority of four fifths of the members of the Committee of Ministers.

It shall be replaced temporarily by a delegation set up by the same decision and charged with running the routine business. A new Board must be appointed within three months in the conditions laid down above.

**CHAPTER 2 – FUNCTIONING OF THE BOARD OF DIRECTORS****Article 12 - Meetings and proceedings of the Board**

1. The Board shall be convened by its Chairperson at least twice a year and more often if the needs of the Agency so require. The Chairperson shall also be required to immediately convene the Board if requested by at least half of its members.

The Board shall be assisted by a commission, the composition and operating procedures of which shall be determined by the Board in the preparation of the items on the agenda of the commission's sessions. The Financial Controller and the Accounting Officer must take part in the proceedings of this commission.

The Board shall meet at the headquarters of the Agency or on the territory of any Member State. The Board cannot validly deliberate unless two thirds of member States at least are represented at the meeting.

If this quorum is not reached, the proceedings shall be postponed to a subsequent meeting to be re-convened, which should not be held sooner than ten days after the previous one. The proceedings shall then be valid regardless of the number of members present.

No discussion can take place when it is of particular interest to a State, if the representative of that State is not present in the meeting. In this case, the matter shall be postponed until the next meeting wherein it can be validly deliberated upon even in the absence of the representative of the State concerned.

Decisions shall be taken by absolute majority of voters, except those subject to Article 18 of these statutes. In case of a tie, the Chairperson's vote shall prevail.

The minutes shall be signed by the Chairperson. Mention shall be made of attendees. An exemplification shall be notified to the Committee of Ministers.

2. A commission shall be established within the Agency to assist the Board of Directors in its work. Its composition, functions and modalities of operation shall be laid down by the Board of Directors.

**Article 13 – Confidentiality**

Members of the Board and, in general, any person present in meetings, shall be bound to the secrecy of deliberations.

**Article 14 - Functions of the Chairperson**

The Chairperson shall be responsible for monitoring the Agency's relations with Member States and non-member States.

He shall prepare, convene and chair Board meetings, ensure the implementation of its decisions and monitor the management of the Agency.

He shall present, to the Committee of Ministers, an annual report on the Agency and its various services, prepared by the general management and approved by the Board of Directors.

He shall diligently carry out the Agency's technical, economic and financial inspection missions. He shall hasten the action of the Audit Commission.

He shall oversee any investment of funds and the use of operating funds to be distributed.

In the event of an emergency and on the initiative of the Director-General, he may authorize changes in the budget pending submission for approval at the next Board meeting.

In case of absence or other impediment, the Chairperson shall be temporarily replaced in his functions by the longest serving administrator. In all cases, this replacement shall not exceed three (3) months. After this period, the Board must be convened to appoint a new Chairperson.

**Article 15 - Participation of the Agency's Director General in Board meetings**

The Director General shall attend Board meetings in an advisory capacity, except when his personal situation is being discussed

## CHAPTER 3 - POWERS OF THE BOARD

**Article 16 - General and special powers of the Board**

Within the framework of guidelines adopted by the Committee of Ministers, the Board shall take all measures necessary for the functioning of the Agency.

It may propose to the Committee of Ministers all measures that could contribute to the formulation of the Agency's general policy.

The Board may be seized under the conditions laid down in Article 21 of the Convention, for an amicable settlement of any dispute between two or several Member States, or between one or several Member States and the Agency.

**Article 17 – Proceedings**

Unless the Board decides otherwise, its proceedings shall take effect once they are adopted.

However, within thirty days after the entry into force of a deliberation, and except in case of extreme urgency, the government of a Member State may request for a second review of a

deliberation that would not have been approved by the administrator charged with representing the State.

This application for review shall suspend the execution of the decision in question. At the end of this second examination, the deliberation decided shall be final.

**Article 18 - Special Proceedings**

Deliberations regarding the following:

- a) regulations and agreements relating to the Agency staff and salary scales, salaries and allowances,
- b) modalities of setting and collecting fees,
- c) Agency multi-year business plan, revenue estimates and authorizations of expenditures and changes thereof, the Agency's financial account, allocation of results,
- d) establishment of a sample delegated management contract and approval of delegated management contracts signed pursuant to Article 10 of the Convention,
- e) Agency's loans, shall be subject to the following rules:
  - 1 - The deadline provided for in Article 17 shall be extended to sixty days;
  - 2 - The Board cannot validly deliberate unless at least three-quarters of the member States are represented in a meeting. If this quorum is not reached, the quorum required when convened for a second time shall be at least two-thirds of the member States;
  - 3 - A majority vote shall require two-thirds of the members present and voting.

**CHAPTER 4 - DIRECTOR GENERAL OF THE AGENCY**

**Article 19 - Appointment, profile and term of office of the Director General**

The Director General must have been trained in aviation and have wide professional experience and a sense of command. He shall be appointed by the Board of Directors upon nomination by the Committee of Ministers.

The term of office of the Director General shall be four years, renewable once.

When assuming duties, the Director General shall receive, from the Board, a multi-year engagement letter, previously prepared by mutual agreement, which assigns objectives to be attained and, where necessary, the priority actions to be undertaken within the framework of his duties. The level of achievement of these objectives and execution of these actions can be measured by indicators defined by the Board. The contents of the engagement letter can be changed if circumstances so warrant.

Six months to the expiry of the term of office of the Director General, the Board Chairperson shall, on the instructions of Chairperson of the Committee of Ministers, arrange for advertisement of vacancy. The new Director General shall be nominated at a meeting of Committee of Ministers at the earliest two months and no later than one month before the end of the term of office of the incumbent.

The Committee of Ministers may terminate the appointment of a Director General at any time, on the proposal of the Board of Directors where necessary. The Committee shall take its decision only after hearing the Director General.

**Article 20 – Deputizing for the Director General and Acting Director General**

In the event of the Director General's absence, he may choose one of the directors at the headquarters to deputize for him.

In case the post of Director General is vacant, the Board Chairperson shall, upon the approval of the Chairperson of the Committee of Ministers, take necessary measures for the appointment of a new Director General following the procedure laid down in Article 19 above.

Pending this appointment, he shall, in agreement with the Chairperson of the Committee of Ministers, designate one of the directors at the headquarters as the acting director general for a maximum period of five months. The interim shall automatically end when this period expires.

***Article 21 - Duties of the Director General***

The Director General shall be accountable to the Board for the execution of deliberations and, generally, for respect of the objectives and the accomplishment of the tasks assigned to him in the multi-year engagement letter provided for in the third paragraph of Article 19 of these statutes. He shall organize and manage all the Agency's structures placed under his authority.

He shall represent the Agency in court and in all acts of civil life.

He shall receive permanent delegation from the Board, under the conditions set by the Board pursuant to the first paragraph of Article 16 of these statutes, to approve contracts, building leases, purchase, sell and dispose of movables and deal in litigation.

He shall decide on the investment of funds after the express agreement of the Chairperson of the Board and the consent of the Financial Controller.

By general delegation from the Board and within the limit of the authorized staff, he shall appoint persons to all posts in the structures under his authority.

He shall appoint and dismiss directors, representatives, delegates and heads of the Agency's training institutions. They shall be appointed by the Director General from among the candidates who best meet the job profiles.

***Article 22 - Administration of the Agency's personnel***

The Director General shall have authority over all the Agency's personnel, including:

- employees on secondment from Member States;
- staff recruited directly by the Agency.

However, the accounting officer, the financial controller and secondary accountants shall, in the discharge of their duties, not be submitted to the hierarchical authority of the Director General, owing to the independence of these functions.

The staff employed by the Agency shall be administered and paid in accordance with the unique status and staff remuneration code, referred to in Article 16 of the Convention.

The unique status and remuneration code of the staff of the Agency may envisage special provisions for workers employed by the Agency in the delegations defined in the third paragraph of Article 23 hereof.

Administrative operations concerning employees on secondment shall be carried out within the following framework:

- their rating shall be by the Director General;
- advancement within the Agency's executive shall be carried out independently of the advancement in the corps of origin decided by the State in view of the Agency's ratings;
- pay conditions shall be those established by the Agency;
- disciplinary measures shall be the concern of the Agency;
- the initiative of secondment and renewal shall be incumbent on the Director General;

- the handover, through a formal deed, of an employee to his administration of origin, which is compulsory only in case of retirement for age limit, shall be decided by the Director general. In all other cases, the Agency shall inform the State of the new administrative situation of the employee.

### ***Article 23 – Agency’s Establishments in the States***

In each Member State where the Agency carries out the mission of providing air navigation service, it shall set up a structure called the branch of ASECNA.

It shall be placed under the authority of a representative, an employee with training in aviation, experience and a sense of organization and command.

The ASECNA Representative in a member State may not be a national of that State.

In Member States where the Agency does not provide air navigation services, in non-member States where the representation of its interests are justified, it may set up a structure called the Delegation of ASECNA. This structure shall be placed under the authority of a delegate, with training in aviation, experience and a sense of organization and command.

In order to provide its training, the Agency shall have training institutions. A training institution shall be headed by a head of institution, with training in aviation, experience and a sense of organization and command.

The Director General and the ASECNA Representative in each Member State shall readily provide the Minister and Director General in charge of Civil Aviation with all information on the Agency.

## **PART III – THE AGENCY’S FINANCIAL SYSTEM**

### **CHAPTER 1 - FINANCIAL PRINCIPLES**

#### ***Article 24 - Budgetary and accounting principles***

The Agency shall be governed by the budgetary principles of annuality, unity, universality, speciality of credits, balance and fairness. In addition, its accounting regime shall be based on the principles of separation of the authorizing officer from accounting officer, sincerity and fairness of accounts and the consistency of accounting methods.

The fiscal and accounting year shall run from January 1 to December 31.

### **CHAPTER 2 – AUTHORIZING OFFICERS AND ACCOUNTING OFFICERS**

#### ***Article 25 – Authorizing Officers***

The Director General shall be the chief authorizing officer of the Agency’s budget.

The Director General shall, in his capacity as chief authorizing officer, establish revenue orders, commitment, liquidation and authorize expenditure.

He may, to that effect and under his responsibility, delegate his signature to one or several collaborators following the modalities approved by the Board.

He shall keep the account of expenditures and of issuance of securities and payment orders which he shall transmit to the accountant.

The Agency’s representatives, delegates and heads of training institutions shall be secondary authorizing officers.

**Article 26 - Appointment of the accounting officer**

The accounting officer must have an advanced training in accounting and proven professional experience showing a great mastery of the rules of public accounting.

The accounting officer shall be appointed for a six-year non-renewable period, by the Board upon approval of the Committee of Ministers.

Four months to the expiry of the term of office of the accounting officer, the Chairperson of the Board of Directors shall arrange for an advertisement of the vacancy.

In case of vacancy, the Chairperson of the Board of Directors shall appoint an acting accounting officer, pending the appointment a new accounting officer or his effective assumption of duties.

**Article 27 - Role and responsibility of the accounting officer**

The accounting officer shall keep the Agency's financial accounting and, possibly, cost accounting. He shall communicate the situations thereof to the Director General.

Under his personal and financial responsibility, he shall be responsible for revenue collection and debt collection, payment of expenses, keeping funds and securities as provided below.

The accounting officer may, under his responsibility, delegate his signature to one or several of his collaborators by means of a regular power of attorney.

He shall be responsible for the fairness of entries.

**Article 28 - The Agency's secondary accounting officers**

Secondary accounting officers, appointed by the Director General on the proposal and consent of the accounting officer, shall be placed alongside secondary authorizing officers.

Secondary accounting officers shall, as concerns the Agency's representations, delegations and training institutions, play the same role as the accounting officer does for all services of the Agency.

Secondary accounting officers shall act on behalf of the accounting officer and be answerable to him for their operations. They shall take all his instructions.

Secondary accounting officers shall be evaluated and graded by the accounting officer who gets the remarks of secondary authorizing officer and the financial controller for this purpose.

**Article 29 - Responsibilities of the accounting officer and secondary accounting officers**

Except when acting at the behest of the chief authorizing officer, the accounting officer shall be personally and financially responsible for the collection of the Agency's revenue, the payment of its expenses, keeping funds and securities belonging to the Agency or entrusted to it, the handling of funds and accounts transactions, keeping operation supporting documents and accounting records, as well as bookkeeping.

The responsibility of the accounting officer may be questioned by the Board based on the report of the Audit Commission in accordance with the conditions laid down in Article 48 below.

The responsibility of secondary accounting officers, managers or any officer authorized to handle funds may be challenged in the first place by the Board on the proposal of the accounting officer.

When the responsibility of a secondary accounting officer, a manager or any officer authorized to handle funds is challenged in the first place, the accounting officer may be declared liable to a lesser extent if, on account of the means he has, he is noticed to have weaknesses in controlling their management which is incumbent on him.

The accounting officer, secondary accounting officer, manager or officer authorized to handle funds, who is held responsible, shall reimburse from his own pockets, the funds or securities where there is a deficit, the total expenditure irregularly paid by him or the revenue he has not collected, or the sum which, by his fault, was paid by the Agency to a third party. A payment



order shall be issued by the authorizing officer against the indebted secondary accounting officer.

The secondary accounting officer may however apply to the Board for a discharge of the liability. The Board may grant the application if it deems that the circumstances that led to the deficit in the funds or securities were a case of force majeure.

If the case of force majeure cannot be recognized, the Board may, at the request of the accounting officer, the secondary accounting officer, the manager or the officer authorized to handle the funds, decide to ask him to graciously remit all or part of the amounts he has been declared to owe the Agency.

The questioning of the financial responsibility of secondary accounting officers, managers or any officer authorized to handle the funds shall be without prejudice to the disciplinary sanctions or legal proceedings that may be instituted by the Agency.

***Article 30 – Deposit for Accounting Officers and Managers***

The accounting officer, his attorneys and secondary accounting officers shall be compelled to provide a deposit.

The deposit amount shall be fixed by the Board of Directors on the proposal of the Director General.

The Board may also decide that a manager of revenue or expenditure be required to give a deposit when the importance of the operations assigned to him so warrants.

**CHAPTER 3 - REVENUE AND EXPENDITURE PROJECTION**

***Article 31 – Revenue projections and expenditure authorizations***

In the implementation of the multi-year business plan mentioned here below, a statement of revenue projections and expenditure authorizations, dubbed budget, shall be prepared by the Director General for a period of twelve (12) months beginning January 1 and for every delegated management contract.

This statement shall bring out, in two separate sections, operating expenditures and capital expenditures.

The Director General shall prepare a multi-year business plan that is not a budgetary one. This business plan shall comprise the following:

- a projected programme of investment and activities that shall cover, for each year of the period considered, the investments to be carried out, and for each activity undertaken by Agency, the qualitative and quantitative objectives of the year assigned for a period of five years;
- a financial plan showing projected income and expenditure and the modalities of financing investments and activities;
- a projected table of workforce management.

The Agency's business plan and the annual statements of projected revenue and expenditure authorizations, prepared by the Director General, shall be presented to the Board which shall discuss and adopt them no later than December 31st of the year preceding that for which they are established.

They shall be approved in accordance with Articles 17 and 18 of these statutes.

If the projected statements or budgets are not approved at the beginning of the year, the Director General may, temporarily, open operating appropriations within the limits of one-twelfth of the previous budget and commit expenditure.

Amendments may be made in the course of the year and approved in the same form just like initial estimates.

## CHAPTER 4 – ACCOUNTING

### *Article 32 – Accounting system*

The Agency's general accounting, and possibly cost accounting, shall be done following conditions laid down by the Board.

The accounting system shall be approved under the same conditions.

The accounting officer shall, on a monthly basis, submit a trial balance to the Director General and the Financial Controller.

### *Article 33 – Inventories*

Inventories shall be drawn up at the end of each accounting period, under the control of the accounting officer.

### *Article 34 - Keeping of supporting documents*

Revenue and expenditure supporting documents shall be kept by the accounting officer for ten years from the closing date of the year in which they were established.

## CHAPTER 5 - RECOVERY OF PROCEEDS

### *Article 35 – Modalities*

The Agency's proceeds shall be recovered by the accounting officer, either spontaneously or through the execution of the instructions of the authorizing officers.

The accounting officer shall ensure that the services concerned submit their invoices or other payment documents within the required time limit, and receive the corresponding payments.

The acceptable modes of payment shall be: payment card, cash payments to the cashier of accounting officer, the remittance of a check or bank or postal bill with an amount equal to the debt, the inclusion of this debt in one of the external accounts of the accounting officer, or the remittance of bills of exchange when this method was accepted by the Director General.

Any acceptance of bills of exchange as payment of an Agency's debt shall be valid only with the joint signature of the chief authorizing officer and the accounting officer.

### *Article 36 – Prosecution*

The accounting officer shall provide the Director General with information about recoveries.

He shall have a maximum time limit of three months to lead an amicable recovery attempt.

At the expiry of this period, he shall be required to undertake legal proceedings after notifying the Director General.

Legal proceedings shall be taken in accordance with the national laws in force, including applicable aviation regulations. In addition, Member States shall, in the interest of the Agency, implement their procedures for forceful recovery of public debts.

Measures to be taken may include denial of service, withholding or forced sale of aircraft, if the law of the Member State in whose territory the aircraft has landed so allows, as well as any other conservatory or enforcement measures in consonance with the legislation in force.

The Chief Authorizing Officer may at any time decide to suspend the proceedings:

- a) if the claim is subject to litigation;
- b) if he deems, with the consent of the accounting officer, that the claim is a bad debt;
- c) if he thinks that it is in the interest of the Agency to give a time limit.

The Financial Controller shall be informed of all decisions of the Chief Authorizing Officer concerning the recoveries. He may, at his discretion, table the decisions to the Board of Directors or deliberations.

#### ***Article 37 – Admissions of bad debts and remission of penalties***

Admissions of bad debts proposed by the accounting officer shall be pronounced, upon consultation of the Financial Controller, by the chief authorizing officer or by the Board if the chief authorizing officer or the Financial Controller deems necessary. Admissions of bad debts shall not refrain the Agency from collecting the debts concerned.

The Chief Authorizing Officer, on the proposal of the accounting officer and in accordance with the Financial Controller shall rule on the requests made by the debtors for partial or total remission of penalties.

#### ***Article 38 - Management of the Agency's funds and securities***

The safekeeping and handling of the Agency's funds and securities shall be incumbent on the accounting officer who manages cash and the portfolio under the authority of the Board.

Agency's funds shall be deposited in one or several banks. However, the funds needed in each State to run services and operations provided for in Article 10 of the Convention, shall be deposited in one or several banks in this State, in accounts opened in the Agency's name.

The cash accounts shall be used for routine bank transactions in representations, delegations and training institutions, under the double signature of the authorizing officer and the secondary accounting officer, and at headquarters, under the joint signature of the Chief Authorizing Officer and accounting officer for all bank transactions whose amount is determined by the Board.

The Agency cash accounts shall not be confiscable pursuant to the provisions laid down in the Annex to the Agency's international statutes.

## **CHAPTER 6 - PAYMENT OF CHARGES**

#### ***Article 39 - General Provisions***

The Agency's expenses shall be borne and paid by the accounting officer under the instructions of the authorizing officer. Payment orders shall contain the necessary supporting documents notably invoices, memo entries, contracts, leases or agreements, with necessary certifications.

#### ***Article 40 - Payment Requisitions***

The accounting officer may take the responsibility to defer payment of an expense and shall immediately notify the Chief Authorizing Officer and financial controller thereof.

In his capacity as authorizing officer, the Director General may, on his own responsibility and after having informed the Financial Controller and the Board Chairperson of his intention, order the accounting officer to do payment, unless there is opposition from the financial controller.

In the event of opposition from the Financial Controller, payment may be made if authorized:

- concerning the activities stipulated in Article 2 of the Convention, by the Board or in the event of an emergency by the Board Chairperson. In the latter case, the Board Chairperson must apprise the Board;
- concerning the activities stipulated in Article 10 of the Convention, by the member of the Committee of Ministers of the State concerned. In the latter case, the financial controller's rejection note shall be submitted to the Minister.

Requisition can occur only in the event of a suspension of payment presented by the accounting officer and if following such suspension of payment, the authorizing officer does not carry out the necessary adjustments and maintains his request for payment in its initial form or in a modified form, but still contain one or several reasons for suspension.

The power to requisition shall be vested only in the Chief Authorizing Officer. However, this power may be delegated to secondary authorizing officers within a threshold decided by the Board of Directors on the proposal of the accounting officer.

Requisition order must be in writing and clearly demonstrate the intention of the authorizing officer to overrule the suspension of payment.

Requisition for payment may not be permanent since the accounting officer shall be required each time.

The accounting officer who receives a requisition order from the authorizing officer shall ascertain the regularity of its form. He must then comply with such requisition order by proceeding to payment. A copy of the declaration of suspension of payment and the original of the requisition order shall be attached to the request for payment and its supporting documents.

The accounting officer must give a report of the requisition to the Board Chairperson.

#### ***Article 41 – The Agency's Imprest Accounts and Revenue***

Imprest accounts shall be instituted for the cash settlement of minor expenses.

Revenue accounts may be instituted in each airport for the recovery of the fees provided for in Article 13 of the Convention.

Managers of the accounts shall be appointed by the Chief Authorizing Officer, upon the approval of the accounting officer and shall be personally and financially accountable.

The managers shall be under the control of accounting officer on whose behalf they carry out their operations and under the authorizing officer where they are placed.

#### ***Article 42 - Methods of payment***

Payments made by the accounting officer shall be considered as payments in full discharge from debts if they are made by credit card, cash deposit, check remittance or payment orders payable on presentation to the person qualified to give effectual discharge or when a bank or post office account opened in the name of the person qualified to give a bill has been credited by the Accounting Officer with the amount of debt.

The Director General may, after consultation with the financial controller and accounting officer, authorize the latter to settle certain expenses through bills of exchange at a differed date subject to the trade regulatory instruments of the State where the bill of exchange has been accepted.

**Article 43 – Orders attaching a debt and oppositions**

All orders attaching a debt, oppositions, assignments, all transfers or notifications of suspension of payment for amounts owed by the Agency must be made by the accounting officer.

**Article 44 - Responsibility of the Accounting Officer**

The personal and financial responsibility of the accounting officer in the execution of expenses he is obliged to pay, shall be called into question if, after having received a regular payment order, it cannot be established that the Agency has paid up its debt.

**Article 45 - Expenses without prior authorization or without authorization**

The Director General may, within the limits set by the Board, authorize the accounting officer to pay, without his prior instruction, certain expenses without prior authorization and even without authorization.

The accounting officer must provide a monthly justification of expenses incurred.

Considering the supporting documents produced, the authorizing officer shall issue a payment order to the accounting officer.

**Article 46 – Advances**

Advances may be granted under the conditions laid down by the Board of Directors, with the agreement of the financial controller, to persons performing missions on behalf of the Agency, as well as contractors, suppliers or service providers within the framework of the regulations governing the Agency's contracts.

**CHAPTER 7 - ANNUAL FINANCIAL STATEMENT AND BUDGET EXECUTION****Article 47 - Establishment of the financial account and the administrative account**

The Agency's financial account shall be presented by the accounting officer to the Board. This document shall contain the financial statements and annexes for the financial year considered.

The administrative account, which tracks the implementation of appropriations authorized by the budget, shall be presented to the Board by the Chief Authorizing Officer concurrently with the presentation of the annual financial account.

**Article 48 - Monitoring and verification of the financial account**

Latest on April 30 of each year, the financial account of the previous year shall be submitted to control of an Audit Commission, composed of three persons selected by the Board from a list of candidates proposed by member States. Nominees must be working officers of the State, with a training and significant experience in the audit of public accounts.

Commission members shall be appointed for three years, renewable once.

The Audit Commission shall designate one its members as president.

The Board shall, each year, during the voting of the Agency's budget, determine the budget to be allocated to the Audit Commission for the following year based on a provisional programme adopted by the Board.

The Audit Commission shall submit its mission reports to the Board of Directors. It shall control the regularity of accounts and the mismanagement by authorizing officers and managers of credit as well as improve management.

**1 - Control of the regularity of accounts:**

Through its controls, the Audit Commission shall ensure that the accounting officer has rightly performed the tasks assigned to him within the limits set by the statutes, resolutions of the Committee of Ministers, decisions of the Board and in strict compliance with the rules of public accounting.

These tasks shall include:

- bookkeeping;
- ensuring the controls provided for in the regulations on the regularity of revenue and expenditure;
- preparation of annual financial statements within the prescribed time limit;
- keeping and handling of funds and securities.

The Commission shall audit all accounting papers or documents.

The Audit Commission shall have all powers to investigate on documents and on the spot and may ask for any document on the Agency's management to be submitted to it.

On the basis of checks carried out, the Audit Commission shall decide to propose to the Board of Directors to approve or make the accounting officer to render an account and possible credit managers.

## 2 - Control of mismanagement of authorizing officers and credit managers and improving management:

During its investigations, the Audit Commission may equally point out irregularities in the administrative management of budgets by authorizing officers, credit managers and the financial controller and report to the Board.

The following irregularities must be pointed out:

- non-compliance with rules applicable in financial control regarding the commitment of expenditures or personnel management;
- irregular charge of an expenditure;
- committing an expenditure without being delegated signature to do so;
- non-compliance with rules on the implementation of revenue and expenditure or approval of irregular decisions concerning these rules;
- grant or attempt to grant to others or oneself an undue advantage in cash or in kind;
- Total or partial non execution or belated execution of a final court decision that has no basis for exception to immunity from execution.

The Audit Commission shall equally make any comments on the management of the Agency in order to improve or correct its dysfunctions. It shall express views on the good use of credits, funds, and assets managed by the Agency.

## 3 - The reports of the Audit Commission:

The Audit Commission shall prepare a report on the certification of accounts, addressed to the Board of Directors no later than 30 June of the year when it was contacted.

Latest on December 31 of each year, the Audit Commission shall equally draw up a progress report on the management of the year ended. This report, addressed to the Board, shall highlight the major irregularities noticed, the responses of the authorizing officers and the decisions taken by them to address the situations.

The Board and the Director General may seek an independent opinion of an external audit firm, selected in accordance with the rules on the Agency's contracts. These external auditors shall verify the fairness, accuracy and relevance of the account financial account and assess internal audit.

The external auditors shall be fully empowered to investigate all documents on the spot in the Agency's services. The audit report shall be forwarded to the Audit Commission and the Board of Directors.

## PART IV - CONTROL OF THE AGENCY

### CHAPTER 1 - FINANCIAL CONTROL

#### ***Article 49 - Appointment of financial controller***

The financial controller must have advanced training in public finance and a wide experience in budgeting and public accounting.

The financial controller shall be appointed for duration of six years, non-renewable, by the Board upon the approval of the Committee of Ministers.

Four months to the expiry of the controller's term of office, the Chairperson of the Board of Directors shall order an advertisement of the vacancy.

In case of vacancy, the President of the Board shall designate an acting financial controller, pending the appointment of or effective assumption of duties by a new financial controller.

#### ***Article 50 - Duties of the Financial Controller***

The financial controller shall carry out an independent control over the deeds of the Agency's authorizing officers.

The financial controller shall have a general mission to oversee the management of the establishment and to monitor all operations that may directly or indirectly have financial impact. In this wise, he shall control the provision, delegation and consumption of credits and the use of budgets. He shall follow up the budgetary and financial execution.

In order to carry out his mission, the financial controller shall have a specific budget and all powers to investigate documents on the spot.

#### ***Article 51 - Conditions for exercising financial control***

The financial controller shall, from a financial point of view, give his reasoned opinion on all deeds likely to directly or indirectly have financial or budgetary implications. He shall exercise his control through a prior approval on all draft budgetary acts and draft financial commitments whose unit value exceeds a threshold set by the Board. He shall equally visa payment orders whose unit value is greater than an amount determined by the Board.

The financial controller shall examine the acts and commitments submitted for his visa from the point of view of their immediate and future consequences on the Agency's finances, the allocation of expenditure, the availability of credits or use, the accuracy of evaluations and their compliance with the decisions and deliberations of the Board or the Committee of Ministers and the Agency's regulations.

The following, accompanied by any supporting documents, shall be submitted for the prior approval of the financial controller:

Decisions affecting the number or distribution of budget heads;

- Decisions regarding recruitment, transfer and promotion of the Agency's staff or other personnel management acts affecting the payroll;
- Allocation of credits and draft expenditure acts, irrespective of supporting document, with amounts exceeding a limit set by the Board;
- Sale of the Agency's heritage assets for a unit value greater than the amount fixed by the Board, since the financial controller is automatically a member of the Reform Commissions.

The financial controller must tell the Board Chairperson and the Director General the reasons for refusing to approve a document.

The financial controller's refusal of a visa can be waived only in a written and justifiable authorization:

- if it concerns the activities referred to in Article 2 of the Convention, of the Board of Directors or, in case of emergency, the Chairperson of the Board. In the latter case, the Chairperson must report to the Board;
- if it concerns the activities referred to in Article 10 of the Convention, of the Chairperson of the Committee charged with the management of national aviation activities of the State concerned. In the latter case, the financial controller's visa refusal note shall be forwarded to the Minister in charge of Civil Aviation.

Decisions on gratuitous remittance and investment of Agency's funds and the admissions of bad debts shall be submitted to the financial controller for his prior opinion.

The financial controller may, in agreement with the authorizing officer, carry out or participate in audits, budget processes and procedures and expenditure chain.

#### ***Article 52 - Budget and Financial Monitoring***

The financial controller shall keep accounts of budgetary appropriations and expenditure.

The financial controller shall produce, to the Board, an annual report on the Agency's financial situation and the difficulties encountered in accomplishing his mission.

In order for the financial controller to carry out his mission, the following shall be transmitted to him:

- Notes or financial reports sent by financial donors and financial reports prepared by the Audit Commission, external auditors and internal auditors of the Agency;
- All information necessary for monthly follow-up of budget execution, both in resources and utilization;
- The monthly balance in accounts of the general ledger;

Basically, all financial studies carried out by the Agency shall be addressed to the financial controller.

#### ***Article 53 - Modulation of thresholds for prior approval***

On the proposal of the Chief Authorizing Officer, the financial controller or on the initiative of the Chairperson of the Board of Directors, the Board may adjust the thresholds for prior approval, depending on the nature of expenditure and the structure managing the credits.



Proposals for modulation of thresholds made to the Board shall be based on the findings of a preliminary study of the internal control processes and procedures.

***Article 54 - Delegation of management***

The financial controller shall first target delegated management contracts provided for in Article 10 of the Convention. He shall ensure good execution of these delegated management contracts. Unless the Board decides otherwise, the terms of control defined above shall apply to management deeds generated by the execution of these contracts.

***Article 55 - Delegation of signature***

The financial controller may delegate his signature to the Agency's employees who are specifically committed. They shall take all instructions from the financial controller to whom they shall be answerable for their decisions.

***Article 56 – Financial Controller's participation in meetings of the Board or the Committee of Ministers and the various emanations of these Committees***

The financial controller shall attend, in an advisory capacity, meetings of the Board and Committees, Commissions or working groups established within these organs. For this purpose, invitations accompanied by agendas and documents to be examined, shall be sent to him well in advance to enable him to express his view before the Board of Directors meeting.

## **CHAPTER 2 – CONTROL OF CONTRACTS**

***Article 57 - Supervision of Contracts***

A Commission shall be set up within the Agency to express its opinion on:

- the general rules of preparation and awarding the Agency's contracts. These rules shall be approved by the Board;
- proposed contracts or contract amendments.

Its composition shall be determined by the Board. The Financial Controller must be a member.

The Commission must be consulted for contracts pertaining to Article 2 of the Convention with amounts exceeding the threshold set by the Board.

## **CHAPTER 3 – OTHER CONTROLS**

***Article 58 - Control of delegated management contracts***

States, which have signed delegated management contracts with the Agency pursuant to Article 10 of the Convention, may ask for an inspection of the services managed by the Agency under these contracts.



# **ASECNA**

AGENCY FOR THE SAFETY OF AIR NAVIGATION  
IN AFRICA AND MADAGASCAR (ASECNA)



ANNEX VI  
SPECIFICATIONS RELATING TO THE MANAGEMENT  
OF ASECNA FACILITIES AND SERVICES

# SPECIFICATIONS ON THE MANAGEMENT OF THE FACILITIES AND SERVICES OF THE AGENCY FOR THE SAFETY OF AIR NAVIGATION IN AFRICA AND MADAGASCAR

## PART 1 - GENERAL PROVISIONS

### *Article 1 - Purpose of the specifications*

These specifications are intended to define the rights and obligations of the Agency for the Safety of Air Navigation in Africa and Madagascar (ASECNA) in the accomplishment of the missions entrusted to it as a service provider and to establish consistency of the property entrusted to it and the procedure for the transfer thereof.

### *Article 2 - Structures, buildings, facilities and equipment allocated to the Agency*

The following shall be allocated to the Agency:

1 - Lands, structures and real estate facilities necessary for the accomplishment and management of the missions and services entrusted to it, in accordance with Article 2 of the Convention.

Lists of lands, structures and installations and their locations shall be established by the States concerned prior to submitting them to the Agency.

Before any occupation of the buildings, an inventory shall be drawn up, after hearing both parties, by qualified representatives of the States concerned and the Agency. This inventory shall have the estimate of the property assigned.

A handover record shall be established at the behest of either party.

2 - The equipment and furniture necessary for the Agency to provide the same services.

They shall be handed over to the Agency in the state in which they are, with the lists thereof established by the States concerned.

A contradictory submission record shall be established by the qualified representatives of the States concerned and the Agency.

This record shall carry all useful findings regarding the value and condition of these materials and furniture.

If necessary, an expert report prepared by qualified technicians consensually designated by the parties shall be attached to the record.

When specific missions are assigned to the Agency by delegated management contracts in accordance with Article 10 of the Convention, lists, maps, status reports and inventories established and quantified under the conditions laid down in this Article shall be attached to these contracts, if the missions to be accomplished warrant a hand over of immovable or movable property.

### *Article 3 - Establishment of additional equipment programmes*

Additional equipment necessary to enable the Agency to accomplish the missions provided for in Articles 2 and 10 of the Convention, shall be subject to programmes prepared, either within the purview of general plans of equipment established pursuant to the provisions adopted by international conferences relevant to the Africa-Indian Ocean region, or to meet special needs.

These programmes must specify the technical characteristics of works and installations to be realized and provide all relevant information on the cost of their construction and exploitation.

a) Community Programmes

The Agency shall establish community programmes.

These programmes shall be funded by the Agency's investment budget and possibly by any foreign contribution.

In case of insufficiency of resources owned by the Agency, States shall provide the means needed to realize equipment programmes.

b) Specific programmes

The Agency may also be delegated to establish specific equipment programmes for one single State and concerning all missions that may be assigned to it in accordance with Articles 8 and 10 of the Convention.

Such programmes shall be examined and approved from a technical standpoint in line with the conditions laid down in this Article.

## PART II – USE AND MAINTENANCE OF FACILITIES AND SERVICES

### ***Article 4 - Implementation of laws and regulations***

The Agency shall be subject to general supervisory laws and regulations in force in the territories of States in which its jurisdiction extends.

The Agency must meet the requirements of certification and inspection, by the competent authority, of services entrusted to it in line with Articles 2 and 10 of the Convention.

In the event of non-compliance by third parties with laws and regulations specifically enacted in the interest of air navigation and, in particular, those relating to aviation, radio-electric and meteorological constraints, the Agency shall draw the attention of the State concerned.

### ***Article 5 - Information to be given to users of non-aeronautical meteorology***

The Agency shall provide, to the competent services designated by the Ministers in charge of aviation in the States, the information necessary to meet the needs of meteorology users.

### ***Article 6 - Contravention of air traffic regulations***

Violations of air traffic regulations by users in the airspaces allocated to ASECNA shall be reported by the latter to the competent authorities of the Member State concerned, without prejudice to the right in national legislations vested with some agents to detect such violations.

The offenses identified shall be handled following the conditions and modalities laid down in the law applicable in such a State.

### ***Article 7 - Initiation of search and rescue operations***

When an aircraft is considered to be in difficulty pursuant to air traffic regulations, the Agency's services responsible for airport control or approach control shall, in accordance with these regulations, immediately alert the flight information centre or the area control centre, which shall, in turn, alert the local rescue organizations likely to provide immediate assistance and take necessary measures to start their intervention.

If the urgency of the situation so requires, the services in charge of airport control and approach control shall first alert the emergency services.

**Article 8 – Obstruction Marking**

The Agency shall be required to mark, day and night, structures, facilities and equipment which it uses, to meet regulatory requirements for the safety of air navigation.

**Article 9 – Equal treatment of users**

Cognizant of the provisions of Article 15 of the Chicago Convention of 7 December 1944, the Agency shall not, directly or indirectly, or in any form whatsoever, give any user advantages that would not be given to other users who use, under the same conditions, structures and facilities placed under its management.

**Article 10 – Statistical Information**

The Agency shall provide to the Ministers for civil aviation in the States, in the forms and at indicated periods, situations involving all statistical information regarding the use of its services in application of these specifications.

**Article 11 – Repairs or maintenance works**

Agency lands, structures, facilities and equipment shall be kept in a good operational state that is always suitable for their intended use.

The Agency may request for help, in return for payment, of services of Member States for some maintenance work requiring the intervention of specialists.

**Article 12 – Liability for Damage to Third Parties**

Unless recourse is sought against the author of the damage, the Agency shall be responsible for all compensations to third parties as a result of lack of maintenance of structures and facilities placed under its responsibility.

**Article 13 – Claims for the functioning of air traffic services managed by the Agency**

A register numbered and signed for users' complaints and comments against the Agency or its officials shall be kept at the airports where the Agency's services are installed.

Once a complaint is registered, the register shall be transmitted to the State agent in charge of control, who may require a full explanation from the Agency on the response to the complaint.

The results of the investigation shall be transcribed therein.

The Agency shall also submit, as soon as possible to the competent authorities, the reports of air traffic incidents and complaints, comments and suggestions made on the functioning of these services to which a positive response could not be given.

**Article 14 – Managing the consequences of termination of the agreement by a Member State**

In the event of termination of the agreement by a Member State in accordance with Article 22 of the Convention, the Agency shall, in consultation or in agreement with the State concerned, on matters within its competence, take the necessary measures to manage the consequences of the termination.

The measures to be taken should be capable of addressing the following issues:

- the fate of the nationals of the State concerned working with ASECNA;
- the plight of ASECNA expatriate staff working in the State concerned;
- the fate of movable and immovable assets used by the Agency in that State in accordance with paragraphs 3 and 4 of Article 5 of the Statutes of the Agency;
- the financial consequences of the termination;
- the consequences of the termination on the management of the airspace entrusted to ASECNA by the Convention, notably in the implementation of the provisions of paragraph 2 of Article 5 of the Statutes of the Agency.

The provisions concerning ASECNA and the State concerned shall be included in the protocol agreement provided for in paragraph 2 of Article 22 of the Convention. If necessary, the Agency shall, from the outset of the notice period, implement the measures provided for in the contingency plans.

### **PART III - FINANCIAL PROVISIONS**

#### ***Article 15 – Revenue***

In return for expenditure incurred to accomplish the missions assigned to it, and in payment for its services, the Agency shall be authorized to collect fees.

To determine the fees provided for in Article 13 of the Convention, the total cost of services rendered by the Agency shall be considered, with the exception of costs of studies and services. The overall cost shall include personnel expenses, pensions and expenses for training and further training, study costs, capital and depreciation costs of fixed assets and operating costs, including safety management system, as well as general administrative expenses on personnel, financial management and communication.

#### ***Article 16 - Disclosure of amounts of fees***

The amounts of fees applicable shall be made known to users by any appropriate means.

#### ***Article 17 - Use of the Agency's facilities and services by State aircraft***

When State aircraft use the facilities and services managed by the Agency, the services rendered shall be paid through a collection of fees as provided for in Article 15 above. However, State aircraft or other aircraft chartered exclusively for an official flight with a Head of State on board shall be exempt from fees.

This exemption shall also apply to State aircraft or any other aircraft chartered exclusively for an official flight having on board the leader of a country outside ASECNA, subject to an equivalent treatment from such a State.





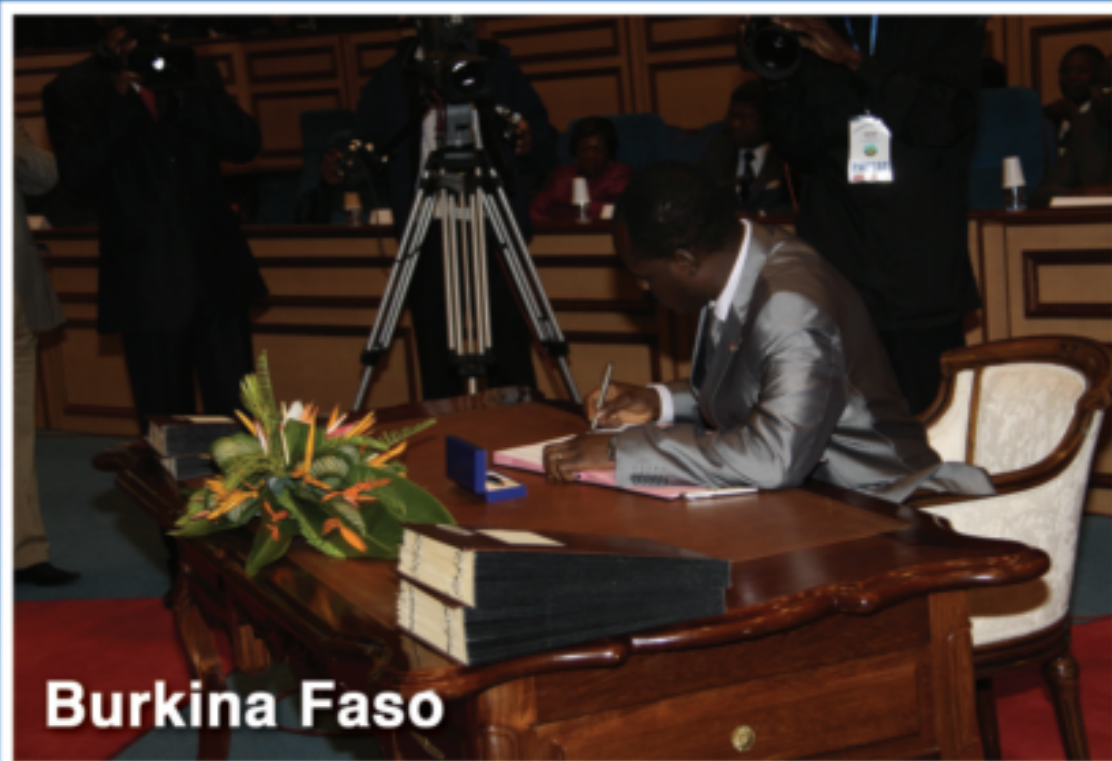


**ASECNA**

LA SIGNATURE DE LA NOUVELLE  
CONVENTION DE DAKAR REVISÉE PAR  
LES PLÉNIPOTENTIAIRES DES ETATS  
MEMBRES DE L'ASECNA



**Bénin**



**Burkina Faso**



**Cameroun**



**Centrafrique**











**Mali**



**Mauritanie**





**Niger**



**Sénégal**



Tchad



Togo