

SADIS COST RECOVERY ADMINISTRATIVE GROUP

SEVENTEENTH MEETING

(Toulouse, 10 November 2016)

Agenda Item 8: Other business

PROPOSED AMENDMENTS TO THE SADIS AGREEMENT

(presented by the Secretariat)

REFERENCES

Extraordinary SCRAG Meeting – 14 June 2016

1. INTRODUCTION

- 1.1 As a result of the change in the operations group of the SADIS Agreement and the modification of the SADIS acronym following the withdrawal of the SADIS 2G system, formal amendments to the SADIS Agreement in accordance with Article XVII are deemed necessary.

2. DISBANDING OF THE SADISOPS and ESTABLISHMENT OF THE METP

- 2.1 Required amendments to Article VII, paragraph 4 of the SADIS Agreement:
- a) the reference to “SADISOPSG” to be removed and replaced with the Working Group on MET Operations Group “METP-WG/MOG”; and
 - b) the reference to “Chairman” to be removed and replaced with “Rapporteur”

3. SADIS ACRONYM

- 3.1 The Agreement defines the SADIS acronym as “Satellite distribution system for information relating to air navigation”. Due to a change in the nature of the service provided, the METP-WG/MOG agreed on a new acronym. “Secure Aviation Data

Information Service”. The change in the name of the system is substantive change that reflects the withdrawal of the SADIS 2G system and its replacement by the SADIS FTP. It is essential that the SADIS Agreement correctly define the system in Article I for the purpose of the Agreement and in regards to the obligations of the Parties to the Agreement.

3.2 Required amendments:

- a) title to the Agreement “Satellite distribution system for information relating to air navigation” to be removed and replaced with “Secure Aviation Data Information Service”;
- b) page 2 to the Agreement, “Satellite distribution system for information relating to air navigation” to be removed and replaced with “Secure Aviation Data Information Service” in the title, paragraph 1 and in the Definitions listing.

3.3 Appendix I contains the SADIS Agreement highlighting the aforementioned amendments.

4 ACTION

4.1 The Group is invited to review the proposed amendments to the SADIS Agreement.

APPENDIX I

AGREEMENT

on the Sharing of Costs of
the ~~Satellite Distribution System for~~
~~Information relating to Air Navigation Secure Aviation Data Information~~
Service



Approved by the Council of the International Civil Aviation Organization on 24 November 2000
(Annexes amended by SCRAG/1 to SCRAG/16, last amended on 6 November 2015)

AGREEMENT

**on the Sharing of Costs of
the ~~Satellite Distribution System for
Information relating to Air Navigation~~ Secure Aviation Data Information Service**

WHEREAS the Council of the International Civil Aviation Organization on 6 March 2000 decided that effective 1 January 2001 all States receiving the service provided by the ~~Satellite distribution system for information relating to air navigation~~ Secure Aviation Data Information Service (SADIS) shall participate in the SADIS Cost Allocation and Recovery (SCAR) arrangement, hereinafter referred to as the SCAR arrangement, thereby rendering null and void the *Agreement on the Voluntary Sharing of Costs of the Satellite Distribution System for Information relating to Air Navigation* as of that date;

The undersigned Civil Aviation Administrations or other such entities as may be designated by States, hereinafter referred to as the Parties,

HAVE AGREED AS FOLLOWS:

Article I

Definitions

For the purpose of this Agreement:

Council means the Council of the International Civil Aviation Organization

Group means SCRAG

Organization means the International Civil Aviation Organization

SADIS means the ~~Satellite distribution system for information relating to air navigation~~ Secure Aviation Data Information Service

SCAR arrangement means the SADIS Cost Allocation and Recovery (SCAR) arrangement

SCRAG means the SADIS Cost Recovery Administrative Group

Secretary General means the Secretary General of the International Civil Aviation Organization or the officer(s) designated by that person to act on his/her behalf with regard to this Agreement.

Article II

Objective

The objective of this Agreement is for the Parties to establish and administer a mechanism to share in an equitable and fair manner the costs of providing, operating and maintaining the SADIS as approved by the Council, the services of which are described in Annex I to this Agreement.

Article III

Obligations of the Parties

1. The United Kingdom, as the provider State, shall provide, operate and maintain the SADIS and do so in conformity with all relevant ICAO standards and recommended practices and in accordance with relevant recommendations and decisions approved by the ICAO Council or other authorized ICAO body.
2. Each Party receiving the SADIS service, including the United Kingdom, but excluding the Parties referred to under Article IV, shall pay its share of the costs of providing, operating and maintaining the SADIS as attributable to it in accordance with Article XI.

Article IV

Exemptions

Any Party receiving the SADIS service and which falls within the group of States defined by the United Nations as “least developed countries (LDCs)” shall, unless it chooses not to, be exempt from paying its share of the respective costs as far as it remains in that situation.

Article V

Facilities and personnel required

The facilities and personnel required by the United Kingdom fully or in part for the purpose of providing, operating and maintaining the SADIS are listed in Annex II to this Agreement.

Article VI

Liability

None of the Parties shall be liable for any damages or losses, physical or financial, inflicted as the consequence of failures and/or omissions in the provision, operation and maintenance of the SADIS.

Article VII

Administration

1. The SCAR arrangement shall be administered by a group, the *SADIS Cost Recovery Administrative Group* (SCRAG), which shall:
 - a) assess the annual cost-share attributable to each Party, including reassessments arising from new Parties adhering to this Agreement; and
 - b) audit the costs of the SADIS provision and any related financial activities, incurred by the provider State and subject to cost sharing.

2. The SCRAG shall be composed of one Party from the European Region nominated by the European Air Navigation Planning Group (EANPG), one Party from the AFI Region nominated by the AFI Planning and Implementation Regional Group (APIRG), one Party from the MID Region nominated by the MID Air Navigation Planning and Implementation Regional Group (MIDANPIRG) and one Party from the Asia Region nominated by the ASIA/PAC Air Navigation Planning and Implementation Regional Group (APANPIRG). An additional member shall be nominated by the planning and implementation regional group for the region wherein Parties are located which in the aggregate are responsible for more than 50 per cent of the total current assessments. The representative from the Party so nominated shall be chairman of the SCRAG. If none of the regions includes Parties which in the aggregate are responsible for more than 50 per cent of the total current assessments, SCRAG shall elect its chairman from among its members.
3. Only those Parties which participate in the SCAR arrangement are eligible to serve on the SCRAG.
4. The United Kingdom, in its capacity as the SADIS provider State, shall participate in the SCRAG as an observer. Furthermore, the International Air Transport Association (IATA), as a representative of user interests, shall be invited to participate as an observer. The ~~Chairman-Rapporteur~~ of the SADIS component of the Meteorological Panel Working Group on MET Operations Group ~~SADIS Operations Group (SADISOPSMETP WG-MOG)~~ shall be invited to participate as an observer as needed to provide information on the technical efficacy of the SADIS services provided and on the inventory of the facilities and services falling under the SCAR arrangement.
5. Each member Party of the SCRAG shall have one vote, and when voting is required, decisions by the Group shall be arrived at by simple majority; however, when the votes are equally divided, the Chairman's vote shall prevail.

Article VIII

Support services provided by the Secretary General

Support services for the SCRAG specifically attributable to administering the SCAR arrangement shall be performed by the Secretary General, the costs of which shall be included in the costs to be shared amongst the Parties participating in the arrangement.

Article IX

Determination of costs

1. The costs to be shared among the Parties shall be the full costs to the United Kingdom of employing fully or in part the facilities and personnel listed in Annex II to this Agreement for the purpose of providing, operating and maintaining the SADIS, including depreciation of assets and cost of capital and an appropriate amount for administration.
2. The United Kingdom shall furnish the SCRAG through the Secretary General, on or before 15 September of each year, estimates, expressed in pounds sterling or any successor currency that may become legal tender in the United Kingdom, of the costs of the SADIS for the following calendar year for approval by the Group. The estimates shall be drawn up in accordance with Annex III to this Agreement.

3. The United Kingdom shall furnish to the SCRAG on or before 30 June of each year, a statement of the actual costs of the SADIS, expressed in pounds sterling or any successor currency that may become legal tender in the United Kingdom, for the previous calendar year.
4. Pursuant to Article VII, paragraph 1 b), the SCRAG shall subject such statements of actual costs of the SADIS to such audit and other examination as the Group deems appropriate and shall furnish to the Parties a report of the audit or examination.

Article X

Limitations on cost increases

Increases in the costs to the United Kingdom of operating the SADIS in any one year over and above the rate of inflation in the United Kingdom as measured by the Retail Price Index (RPI) shall not be recoverable under this Agreement unless agreed upon in writing by Parties responsible for not less than ninety per cent of the assessments. These limitations do not apply if the increases over and above the rate of inflation are solely attributable to the approved costs of new services added in that year to the services provided under the SADIS.

Article XI

Determination of cost share of each Party

1. Each Party as encompassed by Article III, paragraph 2, shall be assessed a share of the total costs of the SADIS arrangement in proportion to the total number of available tonne-kilometres (ATKs) in scheduled services (international and domestic) performed by air carriers based in the territory of the State of that Party. The share of each Party shall be calculated from the total number of ATKs performed by all air carriers based in the territory of the State of that Party as a percentage of the total number of such ATKs performed by all air carriers of all the Parties participating in the arrangement. The total costs to be shared shall include the costs attributable to the Parties exempted from paying.
2. On or before 1 November of each year, the Secretary General shall with regard to each Party furnish the SCRAG with the total number of ATKs performed in scheduled services (international and domestic) in the preceding calendar year by air carriers based in the territory of the State of that Party.
3. The assessments for year n shall be calculated on the basis of the cost estimates for that year as approved by the SCRAG and ATKs as provided with regard to each Party by the Secretary General for year $n-2$. The cost basis for the assessments in year n shall, however, first be adjusted upwards or downwards as the case may be by the amount by which the total estimated costs for year $n-2$ were below or above the approved actual costs for that year. Likewise the assessment of each Party shall be adjusted to take into account any difference between the amounts paid by it under this Agreement as advances for year $n-2$ and its share as determined on the basis of actual ATKs and approved actual costs in year $n-2$.
4. Any under-recovery of costs for year n arising from the failure of a Party to pay the SADIS cost share attributable to it for that year shall be added to the total SADIS costs to be shared for year $n+2$. Any subsequent remittance by the Party concerned to offset the consequential debt shall be deducted from the total costs to be shared for the year following that in which the remittance was received.

5. Pursuant to Article VIII and Annex III to this Agreement, the costs of the support services provided by the Secretary General shall be added to the costs to be shared.

Article XII

Collection by SADIS provider

1. The SCRAG shall communicate to the United Kingdom as the SADIS provider State on or before 1 December each year the approved estimated assessments for each Party adjusted as provided for in Article XI and authorize their collection by the United Kingdom, which thereupon may proceed to issue the invoices to each Party for its respective assessment as adjusted.
2. The invoices and payments made shall be in pounds sterling or any successor currency that may become legal tender in the United Kingdom.
3. On 1 January each calendar year or within one month of the date of invoice, each Party, or the entity or agent it designates, shall pay to the United Kingdom the amount assessed on it as provided for in paragraph 1 of this Article.
4. The payments that are due to the Secretary General pursuant to Article VIII above shall be remitted by the United Kingdom as the SADIS provider State to the Secretary General on 1 May each year.
5. The United Kingdom shall maintain a separate bank account specifically for handling all payments received and payments made with regard to the services covered under this Agreement. Any interest accruing on that account shall be considered a collective property of the Parties and shall be applied for a purpose deemed appropriate by the SCRAG, with the approval of the Parties.
6. The United Kingdom shall keep proper accounts of the billings and collections under this Agreement.

Article XIII

Failure to pay

Failure by a Party receiving the SADIS service to pay its share of the costs of providing the service (other than a Party exempted in accordance with Article IV) shall lead to the service to that Party being withdrawn at the end of the calendar year in which payment was due. The service shall not be re-instated until the Party concerned has fully settled its debt.

Article XIV

Recovery of costs from users

It is the prerogative of each Party to decide whether or not to recover the assessment it has paid under this Agreement from users (aircraft operators). Such cost recovery by a Party shall, however, in so far as it applies to international civil aviation, be in conformity with the principles and practices set out in the *Convention on International Civil Aviation* (Doc 7300) and *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082).

Article XV

Reporting to Parties

On or before 30 September each year or more frequently if required, the SCRAG shall submit a report to the Parties on its activities in the preceding year and other relevant issues.

Article XVI

Settlement of disputes

Any dispute relating to the interpretation or application of this Agreement which is not settled by negotiation between the Parties involved shall, upon request of any of these Parties, be referred to the Council of the International Civil Aviation Organization for its recommendation.

Article XVII

Amendments

1. Any proposal for an amendment of this Agreement may be initiated by a Party, directly or through the planning and implementation regional group for the air navigation region within which the Party is located, or by the Council. The proposal shall be communicated in writing to the Secretary General who shall circulate it to all the Parties with the request that they advise the Secretary General formally whether or not they agree to it.
2. Adoption of an amendment shall require the agreement of two-thirds of all the Parties that have paid their share of the costs of providing the SADIS service.
3. An amendment so adopted shall enter into force for all Parties on 1 January of the year following the year in which formal written acceptances of the amendment have been received by the Secretary General from two-thirds of all the Parties that have paid their share of the costs of providing the SADIS service.
4. The Secretary General shall send certified copies of each amendment as adopted to all the Parties and shall notify them of any acceptances and of the date of entry into force of any amendment.
5. The SCRAG may amend the Annexes to this Agreement, subject always to the terms and conditions of the Agreement and the consent of the United Kingdom as the SADIS provider.

Article XVIII

Accessions and withdrawals

1. This Agreement shall be open to accession by the civil aviation administration or other such designated entity of any State being served by the SADIS. Accession shall be effected by notice in writing to that effect given to the Secretary General by the head of the civil aviation administration or other such designated entity in the State concerned.

2. Any Party may withdraw from participation in this Agreement on 31 December in any year by notice in writing to that effect given to the Secretary General not later than 1 January of that year by the Party concerned.

Article XIX

Termination

1. a) This Agreement may be terminated by the United Kingdom as the SADIS provider State on 31 December in any year by notice in writing given to the Secretary General not later than 1 January of that year.

b) If at any time it proves impossible for the United Kingdom to perform the services within the limit determined pursuant to the provisions of Article X, the United Kingdom shall immediately notify the Secretary General in writing of such fact and shall furnish to the SCRAG through the Secretary General a detailed estimate of the additional amount required. The SCRAG shall promptly examine such estimate and, after any necessary consultation with the United Kingdom, determine the amount needed in excess of the aforesaid limit. The SCRAG shall then approach the Parties with a view to obtaining their consent as required pursuant to the provisions of Article X. Unless, within three months after the SCRAG has determined the additional amount required, the Group notifies the United Kingdom that the Parties have given their consent, the United Kingdom may thereafter terminate this Agreement on three months' notice in writing given to the Secretary General.

c) This Agreement may be terminated on 31 December in any year by Parties other than the Civil Aviation Authority of the United Kingdom responsible for assessments in the aggregate of not less than two-thirds of the limit determined pursuant to the provisions of Article X by notice in writing given to the Secretary General not later than 1 January of that year.
2. Upon receipt of a notice or notices of desire to terminate this Agreement in accordance with paragraph 1 of this Article, the Secretary General shall notify the Parties.

Article XX

Entry into force

This Agreement, and its Annexes which form an integral part thereof, shall enter into force on 1 January 2001.

- END -