



**Agenda Item 3: Matters concerning the Headquarters of the Regional Multinational
 Organisation (RMO)**

HEADQUARTERS AGREEMENT

(Presented by the Secretariat)

SUMMARY

This working paper contains information on the results of the consultations held by the Regional Office regarding the comments made by civil aviation administrations on the material prepared by the Secretariat concerning the minimum conditions for the establishment of the RMO Headquarters.

References:

- Report of the EANAI/1 meeting.

1. Introduction

1.1 Article 6 of the draft Constituent Agreement states that the RMO will be located in a city of a participating State to be determined on the basis of the advantages offered for its establishment, and, to that end, the respective Headquarters Agreement will be signed with said State. In this regard, the EANAI/1 meeting analysed this matter and agreed to define the minimum conditions based on which the States concerned would make their bids. It was also agreed that these minimum conditions should be prepared by the Secretariat. In this sense, the meeting formulated Conclusion EANAI 1/4 as follows:

**Conclusion EANAI 1/4 - Minimum conditions required for the establishment of the
 RMO Headquarters**

That:

- a) the States interested in hosting the future RMO submit proposals to ICAO based on the minimum conditions required for its establishment, which will be drawn up taking into account the Headquarters Agreements of United Nations agencies;
- b) these minimum conditions be defined by ICAO; and
- c) once the aforementioned minimum conditions are available, ICAO submit them to the consideration of the States.

1.2 Based on that expressed in this conclusion, and using as a reference a text analysed at the EANAI/1 meeting, the Secretariat prepared the document contained in **Appendix A** to this working paper. Through letter LT 2/3A.3 SA 756 dated 19 September 2008, the Secretariat circulated to the States of the Region the cited document containing the minimum conditions for the establishment of the RMO Headquarters.

2. **Analysis**

2.1 On two occasions, the Secretariat did the follow up on this topic based on the comments made by States regarding the minimum conditions for the establishment of the RMO Headquarters. Comments were received from three States (Brazil, Chile, and Colombia). In this regard, Chile expressed its agreement with that stated in Appendix A. Colombia said that it had no comments and iterated that it would not participate in this regional RMO initiative. Brazil amended paragraph 2 of Appendix A – *Matters subject to assessment in terms of percentages*, and **Appendix B** to this working paper presents the texts proposed by Brazil.

2.2 It is important to note that the text developed by the Secretariat and shown in Appendix A considers that the multinational systems to be consolidated/managed/implemented should be implemented with resources shared by all the participating States in order to gradually create a homogeneous ATM structure in the SAM Region. In this sense, emphasis has been placed on those aspects that will permit a suitable institutional operation of the RMO, based on the advantages offered by the host State for properly addressing technical/operational matters.

2.3 The Meeting should note that it is extremely important to define the conditions to be met by the Headquarters site in order to further the work and coordination required for the implementation of the SAM RMO. In this sense, it would be advisable, based on the discussions held by the Meeting, to present a final text to the consideration of the RAAC/11 meeting.

3. **Suggested Action**

3.1 The Meeting is invited to examine the documentation contained in this working paper in order to finalise the texts defining the minimum conditions for the establishment of RMO Headquarters. In doing so, the Meeting should review Appendices A and B to this working paper, in order to draft a document that could be submitted to the approval of the RAAC/11 meeting.

APPENDIX A

MINIMUM CONDITIONS TO BE OFFERED FOR THE ESTABLISHMENT OF THE REGIONAL MULTINATIONAL ORGANISATION (RMO)

These conditions are based on the corresponding articles of the Draft Agreement for the Establishment of the Regional Multinational Organisation (RMO), as approved by the first meeting of the High-Level Panel on Institutional Aspects (EANAI/1), held in Lima – Peru, on 2-5 June 2008, and extended as necessary for better understanding of the States interested in submitting proposals to host the RMO.

The main purpose of the Hosting Agreement is to define:

- a) The legal capacity of the RMO
- b) The privileges and immunities of the RMO
- c) The privileges and immunities that RMO personnel will have

1. ESSENTIAL REQUIREMENTS NOT SUBJECT TO ASSESSMENT

1.1 LEGAL REQUIREMENTS

1. Recognition of the necessary legal capacity to perform the functions of the Regional Multinational Organisation (OMR), according to the following characteristics:

Regional/sub-regional international organisation created by agreement of the States interested in operating a multinational facility, with legal capacity, managerial and financial autonomy, capable of hiring, acquiring, litigating and disposing of the goods and services of the Organisation.

2. Facilities, privileges, immunities, franchises, and tax exemptions in order to fulfil the purpose of the Organisation and to safeguard the independent performance of functions, in relation to its goods, representatives, officials, personnel, their spouses and relatives under their responsibility. The benefits to be granted to the representatives, officials and personnel of the Organisation may be in no case less than those granted to those from any other international organisation based in the offering State.

3. Administrative, legal, executive, or legislative immunity from attachment, inspection, seizure, requisition, confiscation, expropriation and any other form of intervention of the real estate and goods of the Organisation.

4. Inviolability of the headquarters, offices, units, goods, documents, and files of the Organisation.

5. Immunity of jurisdiction or against legal and administrative procedures with regard to the Organisation, its real estate, goods, documents and assets, in all types of proceedings instituted by reason of acts stemming from the exercise and fulfilment of its functions and objectives, unless an express waiver of that immunity exists.

6. Police or security measures to protect the real estate and goods of the Organisation and the surrounding area against trespassing and damage.

1.2 FINANCIAL AND ECONOMIC REQUIREMENTS

1. Financial, tax, tariff, fiscal, customs, and consular exemptions of all kinds for the Organisation, its equity, goods, income, communications, acts, and contracts it may enter into, including the real estate owned by the Organisation or provided by the host State. In this connection, equal treatment must be demanded to that given to diplomatic missions or other equivalent intergovernmental or international organisations.

In this connection, all priorities, liens, taxes, rates, contributions, fees, and tariffs in effect in the host State at the time the agreement is signed (*e.g.*, income tax, capital earnings tax, correspondence, etc.) must be taken into account and, if applicable, equal treatment must be demanded to that given to diplomatic missions or other equivalent intergovernmental or international organisations.

2. The right to import or export or the possibility of importing and exporting the equipment, supplies, and publications required by the Organisation for the provision of its services, without any limitation or restriction whatsoever.

3. Non subjection to monetary or exchange restrictions, including the management of bank accounts.

1.3 PERSONNEL POLICY

1. Recognise and respect the regulations for the staff, which will have their own labour system based on that of the United Nations Organization.

1.4 SERVICES

1. Provision and assurance of public services, such as drinking water, electricity, sewerage for the facilities (household gas if applicable).

1.5 OTHERS

Aspects that the offering State adds on its own initiative.

2. ITEMS SUBJECT TO PERCENT EVALUATION

ITEM	PERCENTAGE
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2.1 FACILITIES	40%
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1. Executive offices outfitted and adapted to the hierarchy of the Organisation, with drawings showing the units and free space for:

The office of the Executive Director, department chiefs, technical, administrative, support personnel, meeting room, IT offices, free space for circulation and coffee breaks, storerooms, print shop, kitchen.

Initial area: 500 m² with possibility of expansion to 1000 m² within the three years of operation and to 2000 m² in the following five years.

Parking space with ultimate capacity for 50 vehicles.

2. Open areas for entertainment (terrace, garden)
3. Located in a safe area and with easy access to public transportation.
4. Type of assignment

Permanent ownership

In use

- Free of charge
- At a cost

5. Need to make any permanent or temporary change in location/size of the premises in order to carry out the activities of the Organisation.
6. Furniture, hardware, software, photocopying machines, facsimile.

2.2 SERVICES – ACCESS TO AND GUARANTEED PROVISION OF PUBLIC SERVICES 27%

1. Access to and guaranteed provision of security services: electrical security system, robbery and fire alarms.
2. Communication services: mail, fixed and mobile telephony, data networks, access to internet providers, satellite communications.

Provided by the State
Provided by the RMO

3. Air conditioning and heating systems, elevators (if applicable).
4. Facility maintenance services.

Provided by the State
Provided by the RMO

5. Housekeeping services
Provided by the State
Provided by the RMO

6. Garbage collection services

Provided by the State
Provided by the RMO

2.3 PERIOD OF EFFECTIVENESS OF THE AGREEMENT 15%

As of the signing by the Parties.

As of the ratification of the Agreement by another Authority, if so required by the constitutional law of the State.

2.4 TERM OF THE AGREEMENT 15%

Indefinite period of time

Definite period of time, automatically renewable.

- Limited 0-10 year
- Limited 11 to 20 years
- Limited 21 to 30 years or more

2.4 OTHER 3%

Aspects that the offering State adds on its own initiative.

NOTE: The offering State must indicate the corresponding limitations and/or exceptions for each item.

APPENDIX B

MINIMUM CONDITIONS TO BE OFFERED FOR THE ESTABLISHMENT OF THE REGIONAL MULTINATIONAL ORGANISATION (RMO)

1. ESSENTIAL REQUIREMENTS NOT SUBJECT TO ASSESSMENT

1.1 LEGAL REQUIREMENTS

1. Recognition of the necessary legal capacity to perform the functions of the Regional Multinational Organisation (RMO), according to the following characteristics:

Regional/sub-regional international organisation created by agreement of the States interested in operating a multinational facility, with legal capacity, managerial and financial autonomy, capable of hiring, acquiring, litigating and disposing of the goods and services of the Organisation.

2. Facilities, privileges, immunities, franchises, and tax exemptions in order to fulfil the purpose of the Organisation and to safeguard the independent performance of functions, in relation to its goods, representatives, officials, personnel, their spouses and relatives under their responsibility. The benefits to be granted to the representatives, officials and personnel of the Organisation may be in no case less than those granted to those from any other international organisation based in the offering State.

3. Administrative, legal, executive, or legislative immunity from attachment, inspection, seizure, requisition, confiscation, expropriation and any other form of intervention of the real estate and goods of the Organisation.

4. Inviolability of the headquarters, offices, units, goods, documents, and files of the Organisation.

5. Immunity of jurisdiction or against legal and administrative procedures with regard to the Organisation, its real estate, goods, documents and assets, in all types of proceedings instituted by reason of acts stemming from the exercise and fulfilment of its functions and objectives, unless an express waiver of that immunity exists.

6. Police or security measures to protect the real estate and goods of the Organisation and the surrounding area against trespassing and damage.

1.2 FINANCIAL AND ECONOMIC REQUIREMENTS

1. Financial, tax, tariff, fiscal, customs, and consular exemptions of all kinds for the Organisation, its equity, goods, income, communications, acts, and contracts it may enter into, including the real estate owned by the Organisation or provided by the host State. In this connection, equal treatment must be demanded to that given to diplomatic missions or other equivalent intergovernmental or international organisations.

In this connection, all priorities, liens, taxes, rates, contributions, fees, and tariffs in effect in the host State at the time the agreement is signed (*e.g.*, income tax, capital earnings tax, correspondence, etc.) must be taken into account and, if applicable, equal treatment must be

demanded to that given to diplomatic missions or other equivalent intergovernmental or international organisations.

2. The right to import or export or the possibility of importing and exporting the equipment, supplies, and publications required by the Organisation for the provision of its services, without any limitation or restriction whatsoever.

3. Non subjection to monetary or exchange restrictions, including the management of bank accounts.

1.3 PERSONNEL POLICY

1. Recognise and respect the regulations for the staff, which will have their own labour system based on that of the United Nations Organization.

1.4 SERVICES

1. Provision and assurance of public services, such as drinking water, electricity, sewerage for the facilities (household gas if applicable).

1.5 OTHERS

Aspects that the offering State adds on its own initiative.

2. ITEMS SUBJECT TO PERCENT EVALUATION

ITEM	PERCENTAGE
2.1 FACILITIES	40%
1. Executive offices outfitted and adapted to the hierarchy of the Organisation, with drawings showing the units and free space for: The office of the Executive Director, department chiefs, technical, administrative, support personnel, meeting room, IT offices, free space for circulation and coffee breaks, storerooms, print shop, kitchen. Initial area: 500 m ² with possibility of expansion to 1000 m ² within the three years of operation and to 2000 m ² in the following five years. Parking space with ultimate capacity for 50 vehicles.	
2. Open areas for entertainment (terrace, garden)	
3. Located in a safe area and with easy access to public transportation.	
4. Type of assignment Permanent ownership In use	

- B3 -

- Free of charge
- At a cost

5. Need to make any permanent or temporary change in location/size of the premises in order to carry out the activities of the Organisation.
6. Furniture, hardware, software, photocopying machines, facsimile.

2.2 SERVICES – ACCESS TO AND GUARANTEED PROVISION OF PUBLIC SERVICES 35%

1. Access to and guaranteed provision of security services: electrical security system, robbery and fire alarms.
2. Communication services
 - 2.1 Fixed and mobile telephone communications services
 - 2.2 Data transmission networks with optical wire connection to other continents and access to data suppliers
 - 2.3 Satellite communications services infrastructure with scientific and technological local development associated to experience in satellite data transmission networks.

Provided by the State
Provided by the RMO

3. Air conditioning and heating systems, elevators (if applicable).
4. Facility maintenance services.

Provided by the State
Provided by the RMO

5. Housekeeping services

Provided by the State
Provided by the RMO

6. Garbage collection services

Provided by the State
Provided by the RMO

2.3 POSITION AND TECHNICAL CAPACITY OF CANDIDATE COUNTRY 12%

- 2.3.1 Automation and Air Traffic Flow Control Management Level

- 2.3.2 Regional integration initiative and projects existing in the Country
- 2.3.3 Geographical Position of the Country in relation with the principal Air Traffic Flows of the Region
- 2.3.4 Experience of the Country regarding multinational initiatives and projects.

2.4 PERIOD OF EFFECTIVENESS OF THE AGREEMENT 5%

As of the signing by the Parties.

As of the ratification of the Agreement by another Authority, if so required by the constitutional law of the State.

2.5 TERM OF THE AGREEMENT 5%

Indefinite period of time

Definite period of time, automatically renewable.

- Limited 0-10 year
- Limited 11 to 20 years
- Limited 21 to 30 years or more

2.6 OTHER 3%

Aspects that the offering State adds on its own initiative.

NOTE: The offering State must indicate the corresponding limitations and/or exceptions for each item.
