

# **Memorandum of Understanding**

among

the Ministry of Defence of the Republic of Bulgaria

and

the Ministry of Defence of the Republic of Croatia

and

the Ministry of Defence of Hungary

and

the Ministry of Defence of the Republic of Slovenia

concerning the

**Creation of a Multinational Special Aviation Programme (MSAP)**

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## INTRODUCTION

The Ministry of Defence of the Republic of Bulgaria, the Ministry of Defence of the Republic of Croatia, the Ministry of Defence of Hungary, and the Ministry of Defence of the Republic of Slovenia (hereafter referred to as "the Participants");

Having regard to the North Atlantic Treaty signed in Washington on 4 April 1949;

Having regard to the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces done at London on 19 June 1951 (hereinafter referred to as "NATO-SOFA") and any supplementing agreements thereto;

Recognizing the Letter of Intent between the Defence Ministers of Bulgaria, Croatia, Hungary, and Slovenia concerning Multinational Cooperation for the Provision of Special Operations Air Task Unit-Rotary Wing/Tilt Wing, signed 24th of June 2015;

Recognizing within this framework the signing of the Letter of Intent between the Chiefs of Defence of Bulgaria, Croatia, Hungary, and Slovenia concerning the Creation of a Multinational Special Aviation Training Solution, signed 17th of September 2016;

Have reached the following understandings:

## 1. DEFINITIONS

### *Background Information*

Information, which is not generated in the performance of this Memorandum of Understanding (MOU).

### *Classified Information*

Official information that requires protection in the interests of national security and is so designated by the application of a security classification. This information may be in oral, visual, magnetic, electronic or documentary form or in the form of material, equipment or technology.

### *Director MSAP*

Multinational Unit Director of the MSAP.

### *Common Assets*

Any jointly funded equipment, resource, instrument, installation or supply available for the use of the MSAP.

### *Contracting Authority*

Host Nation, under the oversight of the Multinational Executive Board (MEB), authorized to enter into, administer or terminate contracts.

### *Contractor*

Any entity awarded a contract by a Contracting Authority.

### *Financial Contribution*

Participants' contribution to the Operating Budget.

### *Foreground Information*

Information, which is generated in the performance of this MOU.

### *Host Nation*

Participants providing MSAP locations.

### *Participant*

Any signatory to the MOU.

### *Operating Budget*

Total contribution of Participants to the creation and sustainment of the MSAP.

### *Third Party*

Any person or entity, which is not a Participant.

## 2. OBJECTIVES

- 2.1. The overall objective of this MOU is to establish a framework for creating and operating a MSAP amongst the Participants in line with Annex A.
- 2.2. The objectives of the MSAP are:
  - 2.2.1. To provide training capacities to the Participants, which will contribute them, in conjunction with other national and multinational training capacities, to cover all aspects of training capabilities required to create and sustain Special Aviation units in line with Participants' individual NATO Defence Planning Process (NDPP) targets.
  - 2.2.2. To deliver above mentioned training capacities in the most cost efficient way possible.
  - 2.2.3. To increase interoperability amongst the Participants, throughout the Alliance, and with NATO partners.
- 2.3. To further detail the cooperation under this MOU the Participants may, as necessary, conclude implementing arrangements, signed by authorized representatives. These implementing arrangements may not contradict the provisions of this MOU. In any case, the provisions of this MOU will prevail.

## 3. SCOPE

- 3.1. The MSAP will initially be created in a Baseline Configuration. This Baseline Configuration will be outlined in Annex B
- 3.2. The MEB will define in the course of the 12 months following the entering into force of this MOU a more robust Baseline Configuration Plus, reflective of a more thorough assessment of the individual Participants' training requirements. Within this definition the MEB will establish all necessary details for implementing the Baseline Configuration Plus, including:
  - a. Scope of specific training and NATO standards evaluation capabilities provided;
  - b. Corresponding manning and financial planning documents, including appropriate share of contributions amongst the Participants;
  - c. Decision on whether to solicit services from Third Parties.
- 3.3. The MEB will every 12 months assess the necessity for expansions or alterations of the MSAP beyond the Baseline Configuration Plus to address any potentially remaining gaps in Participants' training capacities required for creating and sustaining Special Aviation units in line with Participants' individual NATO Defence Planning Process targets. In line with point 3.2. the MEB will determine the necessary details of any future changes required in this context.
- 3.4. The operation of the MSAP is based on the following general principles:
  - a. Each Participant will have a right to use the MSAP in proportion to its financial contributions and contributions in kind as accepted by all Participants;
  - b. Each Participant will be able to select national personnel for participation in the activities of the MSAP, conditional on them meeting minimum requirements for individual activities.

4. ORGANISATION AND MANAGEMENT
  - 4.1. The Participants will jointly be responsible for the overall guidance and control of the MSAP.
  - 4.2. The Participants will provide personnel to the MSAP in line with commonly agreed job descriptions.
  - 4.3. A MEB will supervise the execution of this MOU and will perform functions including, but not limited to:
    - a. Exercise executive oversight of the cooperation under this MOU;
    - b. Define and make decisions on all details related to the creation of the Baseline Configuration Plus in line with point 3.2;
    - c. Define and make decisions on all details related to future expansions or alterations of the MSAP beyond the Baseline Configuration Plus in line with point 3.3;
    - d. Make recommendation for the admission of new participants;
    - e. Approve the inclusion of observers and selected advisors during meetings in line with legal restrictions of the Participants;
    - f. Approve the general principles governing the operation of the MSAP, including the balance of financial contributions;
    - g. Act as discussion forum for the settlement of disputes between the Participants;
    - h. Approve the distribution of usage rights for the MSAP amongst Participants, and if applicable, Third Parties;
    - i. Supervise and approve the sharing of documentation, as required;
    - j. Approve transfer or sale of Common Assets in line with legal restrictions of the Participants;
    - k. Appoint the MSAP Director and issue directives to him;
    - l. Take common decisions on policy issues, on plans and on all relevant regulations and procedures, and assuring the implementation of these decisions as soon as they have been taken and ensuring mutual information and coordination between the Participants;
    - m. Endorse the MSAP Operating Budget.
  - 4.3.1. The MEB will be composed of one representative of each Participant.
  - 4.3.2. Each representative on the MEB may be assisted by national experts, who may participate in discussions at MEB meetings.
  - 4.3.3. The MEB is led by a Chairman, who will be elected among its members. Upon election the Chairman's nation will appoint another representative to the MEB. The initial MEB meeting will be chaired and hosted by the Host Nation Republic of Croatia.
  - 4.3.4. The Chairman will derive his/her authority from the MEB. The Chairman must account to the MEB for all actions taken in accordance with all decisions taken by the MEB.
  - 4.3.5. The term of duty of the Chairman will be two years unless otherwise agreed by the MEB. No Chairman may be re-elected more than twice.
  - 4.3.6. The Chairman will not have a vote on MEB decisions.
  - 4.3.7. The MEB will establish its own internal rules, e.g. Terms of Reference (TOR), and organize itself accordingly.

4.3.8. The MEB will meet as required at the call of the Chairman at such regular intervals as necessary to carry out its responsibilities effectively, or as soon as possible in response to a specific request by any Participant, but usually not less than twice a year.

4.3.9. The MEB will arrange for administrative services and a record of the decisions taken.

Each representative will have one vote; all decisions will be taken unanimously.

## 5. MSAP TECHNICAL AGREEMENTS AND STANDARD OPERATING PROCEDURES

5.1. In order to implement the detailed provisions of this MOU, a set of MSAP Technical Agreements and Standard Operating Procedures, subordinate to this MOU, will be developed and approved by the MEB as required.

5.2. It will include all appropriate details of the MSAP as mandated in points 3.2 and 3.3.

## 6. GENERAL PROVISIONS FOR BASING

6.1. The primary MSAP location will be at the Military Facilities in Zadar, Croatia.

6.2. As such, the Republic of Croatia will act as Host Nation at Military Facilities in Zadar, Croatia.

6.3. Additional MSAP locations could be designated by the MEB in line with points 3.2. and 4.2. The same provisions as outlined in this MOU will apply.

## 7. NATO SOFA

7.1. Status and jurisdiction over Participants' personnel will be governed by the NATO SOFA and supplemental agreements thereto.

## 8. INFRASTRUCTURE AND FACILITIES

The Host Nation will provide existing infrastructure and facilities to accommodate the personnel and material needed to operate the MSAP free of charge.

8.1. The Participants will use the provided infrastructure and facilities in accordance with their function and will cooperate with the Host Nation to ensure that the infrastructure and facilities are kept in proper technical and safety condition.

8.2. MSAP Personnel and Dependents are eligible to use all mess facilities and become member of relevant service clubs and messes in accordance with the same rules and charges applicable to Host Nation personnel and their Dependents.

## 9. HOST NATION PROVIDED SERVICES AND GOODS

9.1. The Participants will pay for MSAP-related services and goods only. The MEB will provide the details of these services and goods within the documentation outlined in point 3.2.

## 10. DOMESTIC ACCOMODATION

10.1. All Participants are responsible for the provision of domestic accommodation for their own personnel posted or detailed to the MSAP.

## 11. CONTRACTUAL ARRANGEMENTS

11.1. The intention is to use the Host Nation to conclude the necessary contractual arrangements.

## 12. COST-SHARING

- 12.1. The Participants shall share the costs of the MSAP by means of Financial Contributions.
- 12.2. As a general principle it is agreed that each Participant has a right to use the MSAP in proportion to its financial contributions and contributions in kind as accepted by all Participants;
- 12.3. Except where stated elsewhere in this MOU, each Participant will bear the costs incurred in performing, managing and administering activities driven by national specific requirements.
- 12.4. The Participants retain responsibility for all pay, allowances, services, benefits, indemnities, reimbursements, and other particulars of their personnel in accordance with their national laws.

## 13. GENERAL FINANCIAL PRINCIPLES

### 13.1. OPERATING COSTS AND FINANCIAL MANAGEMENT

- 13.1.1. Operating costs for the MSAP shall be covered by Financial Contributions from respective Participants as endorsed by the MEB.
- 13.1.2. Each Participant will promptly notify the other Participants if funds are not available or insufficient to meet its commitments under this MOU. In such events the Participants will consult with a view to continuing participation on a modified basis.

### 13.2. BUDGET PROCESS

- a. The MSAP will be funded through an annual Operating Budget, administered by the Host Nation and approved by the MEB.
- b. The Host Nation will draw up the request for the Operating Budget of the MSAP in line with the work scope agreed by the MEB, thereafter it is authorized to execute the operating budget for day-to-day operation and administration.

## 14. CUSTOMS DUTIES, TAXES OR SIMILAR CHARGES

- 14.1. Insofar as existing laws and regulations of the Host Nation permit, the Host Nation will endeavour to ensure that readily identifiable taxes, customs duties and similar charges or quantitative and / or qualitative restrictions on imports and exports will not be imposed in connection with MSAP. The Participants will administer all taxes, duties and/or other government charges in the manner most favourable to the satisfactory execution of the arrangements described in this MOU.

## 15. SECURITY, USE AND DISCLOSURE OF INFORMATION

### 15.1. SECURITY OF INFORMATION.

All Classified Information exchanged or generated in connection with this MOU will be used, transmitted, stored, handled and safeguarded in accordance with that Participant's national security laws and regulations, to the extent that they provide a degree of protection no less stringent than provided for NATO classified information as detailed in the document Security Within the North Atlantic Treaty Organisation' C-M (2002) 49 Security dated 17 June 2002, including all supplements and amendments thereto as applicable.

### 15.2. USE and DISCLOSURE OF INFORMATION.

- a. All information created within MSAP will belong to the Participants.
- b. Before release, all Programme Information should be identified and marked, by the originating Participant or Contractor, as subject to restricted rights of further disclosure and use or free usage.



- c. Except as otherwise provided for in this MOU or authorised in writing by the originating Participant or Contractor, any Participant who is a recipient of Programme Information, will not make any use of it and will not take any action or make any disclosure known to be prejudicial to any rights in such Programme Information.
- d. All Programme Information which is properly identified will be appropriately marked and handled as specified in the "NATO Agreement on the Communication of Technical Information for Defence Purposes", signed in Brussels on 15 October 1997, and the "Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes" approved by the North Atlantic Council on 1 January 1971 and "NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defence and for Which Applications for Patents Have Been Made" signed in Paris on 21 September 1960 and the implementing procedures approved by the Council on 7 March 1962 and revised on 15 March 1967.
- e. Programme Information will not be disclosed to a Third Party without the prior written permission of the MEB.
- f. Nothing in this MOU will be considered as diminishing rights to disclose and use Information, which any of the Participants may otherwise have acquired.

## 16. OWNERSHIP AND DISPOSAL OF COMMON ASSETS

- 16.1. Any Common Assets required in support of MSAP will be acquired by the Host Nation on behalf of all the Participants.
- 16.2. Proceeds from disposal of Common Assets will be shared in proportion with the ratio of average financial contributions since the entering into force of the MOU.

## 17. VISITS AND ACCESS

- 17.1. The Participants will permit visits to the MSAP by personnel of the other Participants or by personnel of Contractors provided that the visit is authorised by the Participants involved in the visit and that the personnel have appropriate security clearances and a need-to-know.
- 17.2. All visiting personnel will comply with security regulations of the host Participant. Any information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel, and will be subject to the provisions of this MOU.

## 18. CLAIMS AND LIABILITY

- 18.1. Unless specified otherwise in this MOU, claims between the Participants arising out of or in connection with the present MOU will be handled in accordance with the Article VIII of the NATO SOFA, where applicable. Claims not covered by the NATO SOFA will be dealt with by the Participants involved, and will be settled on a case-by-case basis in accordance with other applicable agreements and/or applicable national and international law.
- 18.2. Third Party claims arising out of or in connection with the present MOU will be handled in accordance with applicable international law and national law and regulations, in particular in accordance with the NATO SOFA, as applicable, including any supplementary agreements thereto.
- 18.3. In the case of loss or damage caused by or to Common Assets, where the cost of making good such damage is not recoverable from a Third Party, such cost will be borne by the Participants in

accordance with the ratio of average financial contributions since the entering into force of the MOU.

- 18.4. Contractors will be indemnified against Third Party liability claims only if specifically decided by the Participants.

## 19. SETTLEMENT OF DISPUTES

Any dispute among the Participants regarding the interpretation or application of this MOU will be resolved only by consultation among them and will not be referred to any national or international tribunal or other Third Party for settlement.

## 20. AMENDMENT, WITHDRAWAL AND TERMINATION

- 20.1. This MOU may be amended at any time by mutual and unanimous written consent of the Participants.
- 20.2. If a Participant finds it necessary to withdraw from the MSAP, withdrawal will be subject to the provisions of this MOU.
- 20.3. In the event that a Participant wishes to withdraw the following procedure will apply:
- a. Before giving formal notice of withdrawal, detailed consultations will take place between the Participants on the consequences of withdrawal and possibility of avoiding it. A minimum period of time no shorter than 180 days should be provided for consultation;
  - b. If a Participant still wishes to withdraw, that Participant will give notice in writing to the other Participants. The period of notice following a Participant's written notice of intent to withdraw will not be less than one year;
  - c. Up to the effective date of withdrawal the Participant withdrawing will meet in full all its commitments;
  - d. At the request of the other Participants, the withdrawing Participant will take all necessary actions within his/her control to ensure that the MSAP can be continued by the remaining Participants;
  - e. All direct costs arising as a result of a withdrawal will be borne by the withdrawing Participant, unless otherwise determined by the MEB. The remaining Participants will determine, in consultation with the withdrawing Participant, the most economic arrangement in this respect. However, the cost to the withdrawing Participant will not exceed its total commitment for the MSAP, taking into account the amounts already contributed by the withdrawing Participant.
- 20.4. If the Participants unanimously decide to terminate the MSAP, they will share the cost of termination or benefits from liquidation in accordance with the ratio of average financial contributions since the entering into force of the MOU.

## 21. ADMISSION OF NEW PARTICIPANTS

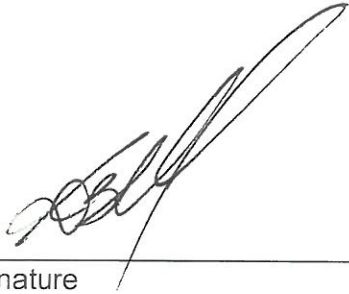
It is recognized that other NATO Allies and NATO partners may wish to participate in this MOU. Any NATO Ally or NATO partner willing to participate in this MOU will submit a formal request to the MEB. The MEB will consider such an application, having full regard to the provisions of this MOU and the commitments already been made by the Participants, and after consultation with applicable Organisations and Agencies make recommendations to the Participants. Equally, the MEB can develop recommendations for associating or linking the MSAP with other relevant entities and organizations.

The Participants will consider any such application and make a unanimous decision with regard to the applicant's participation. An amendment to this MOU will be required to admit a new Participant or institutionally linking it with other relevant entities and organizations.

22. DURATION, LANGUAGE, EFFECTIVE DATE AND SIGNATURE
- 22.1. This MOU will be signed in four original copies in the English language.
- 22.2. This MOU will enter into effect upon the completion of the national ratification processes of all four Participants.
- 22.3. This MOU will remain in effect initially for 30 years from the date of entering into effect unless otherwise modified by consent of the Participants through amendment according to Section 20 above. After this period it will be tacitly extended year by year unless the Participants decide unanimously not to extend it.
- 22.4. The official language, both written and oral, to be used in the execution of the MSAP MOU will be English.
- 22.5. This MOU is composed of the Introduction and 22 Sections and 2 annexes.

The foregoing represents the understandings reached between the Ministry of Defence of the Republic of Bulgaria, the Ministry of Defence of the Republic of Croatia, the Ministry of Defence of Hungary, and the Ministry of Defence of the Republic of Slovenia;

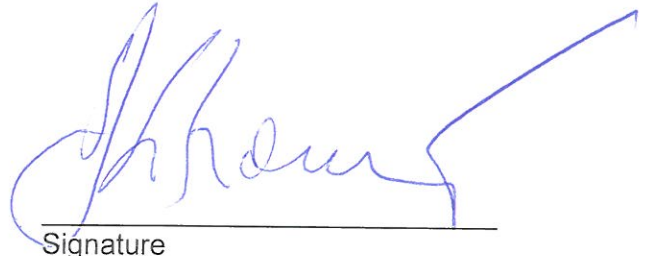
For the Minister of Defence of the Republic of Bulgaria



Signature

Atanas Zapryanov

The Deputy Prime Minister and Minister of Defence of the Republic of Croatia



Signature

Damir Krstičević

The Minister of Defence of Hungary



Signature

Tibor Benkő

The Deputy Prime Minister and Minister of Defence of the Republic of Slovenia



Signature

Karl Viktor Erjavec

## ANNEX A: MASTER PHASING PLAN

1. Starting point T: Entering into force of the MOU.
2. T+3 months: First MEB meeting to endorse first year MSAP Budget, make decisions for MSAP opening, start drafting MSAP Technical Agreements and Standing Operating Procedures as outlined under point 5.
3. T+4 months: Start training instructors at NSHQ, pre-coordination required.
4. T+9 months: Second MEB meeting to finalise MSAP opening preparations (including designation of national personnel to MSAP) and to define Baseline Configuration Plus in line with point 3.2.
5. T+12 months: Initial opening of MSAP.

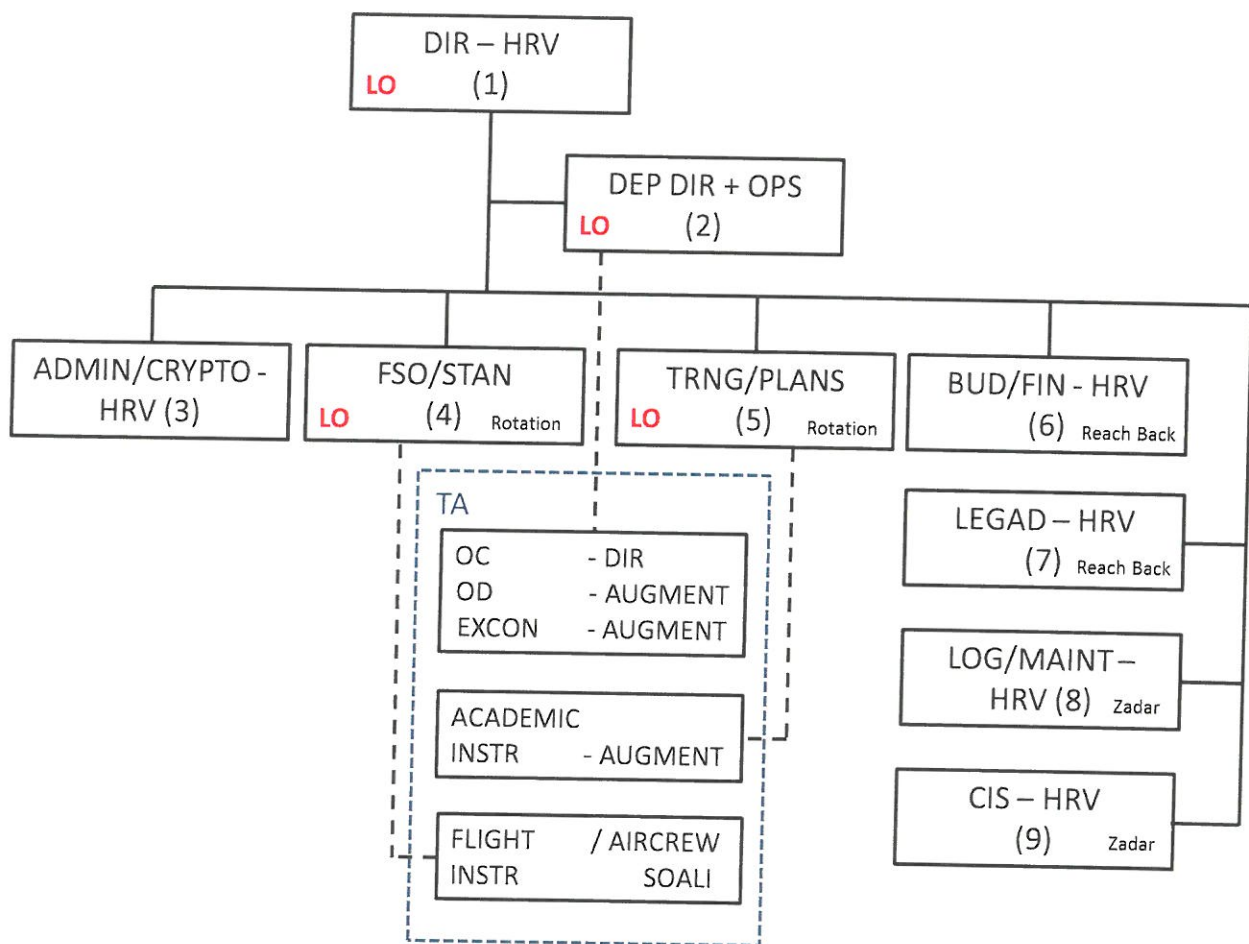
## ANNEX B: BASELINE CONFIGURATION

### SCOPE

The Baseline configuration will provide a starting point for training and exercise opportunities for academics and advanced/joint exercises. Additional training blocks will be identified by the Participants through the MEB as outlined in point 3.2. and reflected in the subsequent Baseline Configuration Plus.

### ORGANIZATION

The structure of MSAP will be as follows:



Positions in MSAP structure:

- (1) Director MSAP (DIR) – HRV and liaison officer (LO) for his nation.
- (2) Deputy Director MSAP (DEP DIR) and Operations Officer (OPS) – Rotation among BUL, HUN and SVN and liaison officer (LO) for his nation.
- (3) Administration Officer (ADMIN) and Crypto Officer (CRYPTO) – HRV
- (4) Flight Safety Officer (FSO) and Standardisation Officer (STAN) – Rotation among BUL, HUN and SVN and liaison officer (LO) for his nation.
- (5) Training Officer (TRNG) and Planning Officer (PLANS) – Rotation among BUL, HUN and SVN and liaison officer (LO) for his nation.

- (6) Budget (BUD) and Financial Controller (FIN) – HRV with Reach Back in every nation.
- (7) Legal Advisor (LEGAD) – HRV with Reach Back in every nation.
- (8) Logistics Officer (LOG) and Maintenance Officer (MAINT) – HRV positioned in Zadar.
- (9) Communications and Information Services Officer (CIS) – HRV positioned in Zadar.

Relevant contacts regarding provision of national contributions are assured through national liaison officers (LO):

- (1) DIR – HRV
- (2) DEP DIR – Rotation among BUL, HUN and SVN
- (4) FSO/STAN – Rotation among BUL, HUN and SVN
- (5) TRNG/PLANS – Rotation among BUL, HUN and SVN

These representatives simultaneously occupy designated position within the MSAP structure.

In accordance with Section 5 of this MOU, Augmentative positions (AUGMENT) will be implemented with Technical Agreement (TA). More definitions will be provided in the TA for the functions of these positions. They are:

- Officer Commanding (OC) – DIR
- Officer Directing (OD) – AUGMENT in accordance with TA
- Exercise Conducting Team (EXCON) – AUGMENT in accordance with TA
- Academic Instructor (ACADEMIC INSTR) – AUGMENT in accordance with TA
- Flight Instructor (FLIGHT INSTR) – AUGMENT in accordance with TA
- Aircrew – AUGMENT in accordance with TA
- Special Operations Air to Land Integration (SOALI) – AUGMENT in accordance with TA

## FINANCIAL IMPLICATIONS

The baseline configuration is estimated to create annual financial obligations of:

- For BGR, HUN and SVN the costs of permanently detaching one OF-3/OF-4 to MSAP;
- For HRV permanently detaching one OF-4/OF-5 and up to five additional personnel in line with the organizational chart;
- For HRV to cover the start-up cost for the baseline configuration;
- For all Participants combined annual operations and sustainment costs not to exceed EUR 20,000 (Twenty Thousand).