COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.8.2005
COM(2005) 368 final

2005/0155 (CNS)

Proposal for a

COUNCIL DECISION

on the signature and provisional application of the Agreement between the European Community and Ukraine on certain aspects of air services

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement between the European Community and Ukraine on certain aspects of air services

(presented by the Commission)

EXPLANATORY MEMORANDUM

International aviation relations between Member States and third countries have been traditionally governed by bilateral air services agreements between Member States and third countries, the Annexes to such agreements and other related bilateral or multilateral arrangements.

Following the judgements of the Court of Justice of the European Communities in the cases C-466/98, C-467/98, C-468/98, C-471/98, C-472/98, C-475/98 and C-476/98, the Community has exclusive competence with respect to various aspects of external aviation. The Court of Justice also clarified the right of Community air carriers to benefit from the right of establishment within the Community, including the right to non-discriminatory market access.

Traditional designation clauses in Member States' bilateral air services agreements infringe Community law. They allow a third country to reject, withdraw or suspend the permissions or authorisations of an air carrier that has been designated by a Member State but that is not substantially owned and effectively controlled by that Member State or its nationals. This has been found to constitute discrimination against Community carriers established in the territory of a Member State but owned and controlled by nationals of other Member States. This is contrary to Article 43 of the Treaty which guarantees nationals of Member States who have exercised their freedom of establishment the same treatment in the host Member State as that accorded to nationals of that Member State.

Following the Court of Justice judgements, the Council authorised the Commission in June 2003 to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement.[1]

In accordance with the mechanisms and directives in the Annex to the Council's decision authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement, the Commission has negotiated an agreement with Ukraine that replaces certain provisions in the existing bilateral air services agreements between Member States and Ukraine. Article 2 and 3 of the Agreement replace the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment. Articles 5 and 6 of the Agreement address two types of clauses concerning matters of Community competence. Article 5 deals with the taxation of aviation fuel, a matter which has been harmonised by Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity, and in particular Article 14 (2) thereof. Article 6 (Tariffs for carriage) resolves conflicts between the existing bilateral air services agreements and Council Regulation No. 2409/92 on fares and rates for air services which prohibits third country carriers from being price leaders on air services for carriage wholly within the Community.

The Council is asked to approve the decisions on the signature and provisional application and on the conclusion of the Agreement between the European Community and Ukraine on certain aspects of air services and to designate the persons authorized to sign the agreement on behalf of the Community.

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[1] Council Decision 11323/03 of 5 June 2003 (restricted document)

Proposal for a

COUNCIL DECISION

on the signature and provisional application of the Agreement between the European Community and Ukraine on certain aspects of air services

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80 (2), in conjunction with Article 300 (2), first sentence of the first subparagraph thereof,

Having regard to the proposal from the Commission[2],

Whereas:

(1) The Council has authorised the Commission on 5 June 2003 to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement;

(2) The Commission has negotiated on behalf of the Community an agreement with Ukraine on certain aspects of air services in accordance with the mechanisms and directives in the Annex to the Council's decision authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement;

(3) Subject to its possible conclusion at a later date, the agreement negotiated by the Commission should be signed and provisionally applied.

HAS DECIDED AS FOLLOWS:

Sole Article

1. The President of the Council is hereby authorised to designate the person(s) empowered to sign on behalf of the Community the Agreement between the European Community and Ukraine on certain aspects of air services, subject to its subsequent conclusion at a later date.

2. Pending its entry into force, the Community shall apply provisionally the Agreement from the day of the signature by the parties. The President of the Council is hereby authorised to make the notification provided for in Article 9.2 of the agreement.

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[2] OJ C , , p. .

3. The text of the agreement is annexed to this Decision.

Done at Brussels,

For the Council
The President

2005/0155 (CNS)

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement between the European Community and Ukraine on certain aspects of air services

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80, paragraph 2, in conjunction with Article 300, paragraph 2, first sentence of the first subparagraph thereof and Article 300, paragraph 3, first subparagraph,

Having regard to the proposal from the Commission[3],

Having regard to the opinion of the European Parliament[4],

Whereas:

(1) The Council has authorised the Commission on 5 June 2003 to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement;

(2) The Commission has negotiated on behalf of the Community an agreement with Ukraine on certain aspects of air services in accordance with the mechanisms and directives in the Annex to the Council's decision authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement;

(3) This agreement has been signed on behalf of the Community on subject to its possible conclusion at a later date, in conformity with Council Decision …/…/EC of [5]

(4) This agreement should be approved.

HAS DECIDED AS FOLLOWS:

Article 1

1. The Agreement between the European Community and Ukraine on certain aspects of air services is approved on behalf of the Community.

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[3] OJ C , , p. .
[4] OJ C , , p. .
[5] OJ C , , p. .

2. The text of the Agreement is annexed to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to make the notification provided for in Article 9.1 of the Agreement.

Done at Brussels,

For the Council
The President

ANNEX

AGREEMENT

between the European Community and Ukraine

on certain aspects of air services

THE EUROPEAN COMMUNITY

of the one part, and

UKRAINE

of the other part

(hereinafter referred to as 'the Parties')

NOTING that bilateral air service agreements have been concluded between all Member States of the European Community and Ukraine containing provisions contrary to Community law.

NOTING that the European Community has exclusive competence with respect to several aspects that may be included in bilateral air service agreements between Member States of the European Community and third countries,

NOTING that under European Community law Community air carriers established on the territory of a Member State have the right to non-discriminatory access to air routes between the Member States of the European Community and third countries,

HAVING REGARD to the agreements between the European Community and certain third countries providing for the possibility for the nationals of such third countries to acquire ownership in air carriers licensed in accordance with European Community law,

RECOGNISING that certain provisions of the bilateral air service agreements between the Member States of the European Community and Ukraine, which are contrary to European Community law, must be brought into conformity with it in order to establish a sound legal basis for air services between the Member States of the European Community and Ukraine and to preserve the continuity of such air services,

NOTING that it is not a purpose of the European Community, as part of these negotiations, to increase the total volume of air traffic between the Member States of the European Community and Ukraine, to affect the balance between Community air carriers and air carriers of Ukraine, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights.

HAVE AGREED AS FOLLOWS:

ARTICLE 1
General provisions

1. For the purposes of this Agreement, unless the context otherwise requires, definitions are listed in Annex 4 to this Agreement.

2. References in each of the agreements listed in Annex 1 to this Agreement to nationals of the Member State that is a party to that agreement shall be understood as referring to nationals of the Member States of the European Community.

3. References in each of the agreements listed in Annex 1 to this Agreement to air carriers of the Member State that is a party to that agreement shall be understood as referring to air carriers designated by that Member State.

ARTICLE 2
Designation by a Member State

1. The provisions in paragraph 2 of this Article shall supersede the corresponding provisions in the articles listed in Annex 2 (a) to this Agreement, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by Ukraine.

2. On receipt of a designation by a Member State, Ukraine shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

   i. the air carrier is established in the territory of the designating Member State under the Treaty establishing the European Community and has a valid Operating Licence in accordance with European Community law;

   ii. effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operators Certificate and the relevant aeronautical authority is clearly identified in the designation; and

   iii. the air carrier is owned, directly or through majority ownership, and it is effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 to this Agreement and/or nationals of such other states.

ARTICLE 3
Suspension and Revocation by Ukraine

1. The provisions in paragraphs 2 of this Article shall supersede the corresponding provisions in the articles listed in Annex 2 (b) to this Agreement, in relation the refusal, revocation, suspension or limitation of the authorisations or permissions of an air carrier designated by a Member State.

2. Ukraine may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

i. the air carrier is not established in the territory of the designating Member State under the Treaty establishing the European Community or does not have a valid Operating Licence in accordance with European Community law;

ii. effective regulatory control of the air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operators Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or

iii. the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 to this Agreement and/or nationals of such other states.

In exercising its right under this paragraph, Ukraine shall not discriminate between Community air carriers on the grounds of nationality.

ARTICLE 4
Safety

1. The provisions in paragraph 2 of this Article shall complement the articles listed in Annex 2 (c) to this Agreement.

2. Where a Member State has designated an air carrier whose effective regulatory control is exercised and maintained by another Member State, the rights of Ukraine under the safety provisions of the agreement between the Member State that has designated the air carrier and Ukraine shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

ARTICLE 5
Taxation of aviation fuel

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions in the articles listed in Annex 2 (d) to this Agreement.

2. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex 2 (d) to this Agreement shall prevent a Member State from imposing, on a non-discriminatory basis, taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated air carrier of Ukraine that operates between a point in the territory of that Member State and another point in the territory of that Member State or in the territory of another Member State.

ARTICLE 6
Tariffs for carriage

1. The provisions in paragraph 2 of this Article shall complement the articles listed in Annex 2 (e) to this Agreement.

2. The tariffs to be charged by the air carrier(s) designated by Ukraine under an agreement listed in Annex 1 to this Agreement containing a provision listed in Annex 2 (e) to this Agreement for carriage wholly within the European Community shall be subject to European Community law.

ARTICLE 7
Annexes to the Agreement

The Annexes to this Agreement shall form an integral part thereof.

ARTICLE 8
Revision or amendment

The Parties may, at any time, revise or amend this Agreement by mutual consent.

ARTICLE 9
Entry into force and provisional application

1. This Agreement shall enter in force on the date of the receipt of the latest written notification of the Parties on the completion of their internal procedures necessary for the entry into force of this Agreement.

2. This Agreement shall provisionally apply from the first day of the month following the date on which the European Community has notified the Ukrainian Party of the completion of its procedures necessary for this purpose.

3. This Agreement shall apply to all Agreements listed in Annex 1 (b) to this Agreement upon their entry into force.

ARTICLE 10
Termination

1. In the event that an agreement listed in Annex 1 to this Agreement is terminated, all provisions of this Agreement that relate to the agreement listed in Annex 1 concerned shall terminate at the same time.

2. In the event that all agreements listed in Annex 1 to this Agreement are terminated, this Agreement shall terminate at the same time.

ARTICLE 11
Registration

This Agreement and amendments thereto shall be registered with the International Civil Aviation Organisation.

IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed this Agreement.

Done at [….] in duplicate, on this […] day of […, …] in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovene, Spanish, Swedish and Ukrainian as well as Russian languages. In case of divergence the English text shall prevail.

FOR THE EUROPEAN COMMUNITY: FOR UKRAINE:

ANNEX 1

List of agreements referred to in Article 1 of this Agreement

(a) Air services agreements between Ukraine and Member States of the European Community which, at the date of signature of this Agreement, have entered into force or have been signed; and other arrangements between Ukraine and Member States that are being applied provisionally:

– Air Transport Agreement between **the Austrian Federal Government and the Government of Ukraine** done at Vienna on 15 June 1994, hereinafter referred to "Ukraine – Austria Agreement" in Annex 2;

– Last modified by Memorandum of Understanding done at Vienna on 22 April 2005;

– Agreement between **the Government of the Kingdom of Belgium and the Government of Ukraine** on Air Transport signed at Kyiv on 20 May 1996, hereinafter referred to "Ukraine – Belgium Agreement" in Annex 2;

– Last modified by Memorandum of Understanding done at Brussels on 6 February 2004;

– Air Transport Agreement between **the Government of the Czech Republic and the Government of Ukraine** signed at Kyiv on 1 July 1997, hereinafter referred to "Ukraine – Czech Republic Agreement" in Annex 2;

– Air Services Agreement between **the Government of the Republic of Cyprus and the Government of Ukraine** done at Kyiv on 21 February 2000, hereinafter referred to "Ukraine – Cyprus Agreement" in Annex 2;

– Air Services Agreement between **the Government of the Kingdom of Denmark and the Government of Ukraine** done at Kyiv on 27 March 2001, hereinafter referred to "Ukraine – Denmark Agreement" in Annex 2;

– Air Transport Agreement between **the Government of the Federal Republic of Germany and the Government of Ukraine** done at Kyiv on 10 June 1993, hereinafter referred to "Ukraine – Germany Agreement" in Annex 2;

– Air Services Agreement between the **Government of the Republic of Estonia and the Government of Ukraine** done at Tallinn on 6 July 1993, hereinafter referred to "Ukraine – Estonia Agreement" in Annex 2;

– Agreement between the **Government of the Republic of Finland and the Government of Ukraine** relating to Air Services signed at Helsinki on 5 June 1995, hereinafter referred to "Ukraine – Finland Agreement" in Annex 2;

– Agreement between the **Government of the Republic of France and the Government of Ukraine** relating to Air Services done at Kyiv on 3 May 1994, hereinafter referred to "Ukraine – France Agreement" in Annex 2;

– Air Transport Agreement between the **Government of the Hellenic Republic and the Government of Ukraine** done at Kyiv on 15 December 1997, hereinafter referred to "Ukraine – Greece Agreement" in Annex 2;

– Air Transport Agreement between the **Government of the Republic of Hungary and the Government of Ukraine** done at Kyiv on 19 May 1995, hereinafter referred to "Ukraine – Hungary Agreement" in Annex 2;

– Air Services Agreement between **the Government of the Republic of Italy and the Government of Ukraine** done at Rome on 2 May 1995, hereinafter referred to "Ukraine – Italy Agreement" in Annex 2;

– Air Transport Agreement between the **Government of the Republic of Latvia and the Government of Ukraine** done at Riga on 23 May 1995, hereinafter referred to "Ukraine – Latvia Agreement" in Annex 2;

– Air Services Agreement between the **Government of the Republic of Lithuania and the Government of Ukraine** done at Vilnius on 7 July 1993, hereinafter referred to "Ukraine – Lithuania Agreement" in Annex 2;

Last modified by Protocol signed at Vilnius on 26 May 2003;

– Agreement between the **Government of the Grand Duchy of Luxembourg and the Government of Ukraine** relating to Air Services done at Luxembourg on 14 June 1994, hereinafter referred to "Ukraine – Luxembourg Agreement" in Annex 2;

– Agreement between the **Kingdom of the Netherlands and Ukraine** for Air Services done at Kyiv on 7 September 1993, hereinafter referred to "Ukraine – Netherlands Agreement" in Annex 2;

– Agreement between the **Government of the Republic of Poland and the Government of Ukraine** relating to Air Services done at Warsaw on 20 January 1994, hereinafter referred to "Ukraine – Poland Agreement" in Annex 2;

– Air Services Agreement between the **Government of the Slovak Republic and the Government of Ukraine** done in Bratislava on 23 May 1994, hereinafter referred to "Ukraine – Slovak Republic Agreement" in Annex 2;

– Air Services Agreement between the **Government of the Republic of Slovenia and the Government of Ukraine** done in Ljubljana on 30 March 1999, hereinafter referred to "Ukraine – Slovenia Agreement" in Annex 2;

– Air Transport Agreement between the **Government of Spain and the Government of Ukraine** done at Madrid on 7 October 1996, hereinafter referred to "Ukraine – Spain Agreement" in Annex 2;

– Air Services Agreement between **the Government of the Kingdom of Sweden and the Government of Ukraine** done at Kyiv on 27 March 2001, hereinafter referred to "Ukraine – Sweden Agreement" in Annex 2;

– Agreement between the **Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ukraine** concerning Air Services signed in London on 10 February 1993, hereinafter referred to "Ukraine – United Kingdom Agreement" in Annex 2;

(b) Air service agreements between Ukraine and Member States of the European Community which, at the date of signature of this Agreement, have been initialled:

– Agreement between **the Government of the Republic of Ireland and the Government of Ukraine** on Air Transport initialled at Dublin on 10 December 1992, hereinafter referred to "Ukraine – Ireland Agreement" in Annex 2;

– Agreement between the **Government of the Republic of Malta and the Cabinet of Ministers of Ukraine** relating to Air Services initialled in Luqa on 17 June 1998, hereinafter referred to "Ukraine – Malta Agreement" in Annex 2;

– Air Transport Agreement between the **Government of the Portuguese Republic and the Cabinet of Ministers of Ukraine** initialled at Lisbon on 18 October 2000, hereinafter referred to "Ukraine – Portugal Agreement" in Annex 2;

ANNEX 2

List of articles in the agreements listed in Annex 1 and referred to in Articles 2 to 6 of this Agreement

(a) Designation by a Member State:

– Article 3, Paragraph 5 of the Ukraine – Austria Agreement;

– Article 3, Paragraph 4 of the Ukraine – Czech Republic Agreement;

– Article 3, Paragraph 4 of the Ukraine – Denmark Agreement;

– Article 3, Paragraph 4 of the Ukraine – Germany Agreement;

– Article 4, Paragraph 4 of the Ukraine – Estonia Agreement;

– Article 3, Paragraph 4 of the Ukraine – Finland Agreement;

– Article 4, Paragraph 3 of the Ukraine – France Agreement;

– Article 3, Paragraph 4 of the Ukraine – Greece Agreement;

– Article 3, Paragraph 4 of the Ukraine – Hungary Agreement;

– Article 3, Paragraph 3 of the Ukraine – Ireland Agreement;

– Article 4, Paragraph 4 of the Ukraine – Italy Agreement;

– Article 3, Paragraph 4 of the Ukraine – Latvia Agreement;

– Article 4, Paragraph 4 of the Ukraine – Lithuania Agreement;

– Article 3, Paragraph 4 of the Ukraine – Malta Agreement;

– Article 3, Paragraph 4 of the Ukraine – Netherlands Agreement;

– Article 4, Paragraph 4 of the Ukraine – Poland Agreement;

– Article 3, Paragraph 4 of the Ukraine – Portugal Agreement;

– Article 4, Paragraph 4 of the Ukraine – Slovak Republic Agreement;

– Article 3, Paragraph 4 of the Ukraine – Slovenia Agreement;

– Article III, Paragraph 4 of the Ukraine – Spain Agreement;

– Article 3, Paragraph 4 of the Ukraine – Sweden Agreement;

– Article 4, Paragraph 4 of the Ukraine – United Kingdom Agreement.

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:

– Article 4, Paragraph 1 (a) of the Ukraine – Austria Agreement;

– Article 5, Paragraph 1 (d) of the Ukraine – Belgium Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Czech Republic Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – Cyprus Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Denmark Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – Estonia Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Finland Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – France Agreement;

– Article 4, Paragraph 1 (b) of the Ukraine – Greece Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Hungary Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – Italy Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – Lithuania Agreement;

– Article 4, Paragraph 1 (c) of the Ukraine – Luxembourg Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Malta Agreement;

– Article 4, Paragraph 1 (c) of the Ukraine – Netherlands Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – Poland Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Portugal Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – Slovak Republic Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Slovenia Agreement;

– Article IV, Paragraph 1 (a) of the Ukraine – Spain Agreement;

– Article 4, Paragraph 1 (a) of the Ukraine – Sweden Agreement;

– Article 5, Paragraph 1 (a) of the Ukraine – United Kingdom Agreement.

(c) Safety:

– Article 9a of the Ukraine – Austria Agreement;

– Article 7 of the Ukraine – Belgium Agreement;

– Article 9 of the Ukraine – Czech Republic Agreement;

– Article 14 bis of the Ukraine – Denmark Agreement;

– Article 6 of the Ukraine – Estonia Agreement;

– Article 9 of the Ukraine – France Agreement;

– Article 8 of the Ukraine – Greece Agreement;

– Article 5 of the Ukraine – Hungary Agreement;

– Article 7 of the Ukraine – Ireland Agreement;

– Article 10 of the Ukraine – Italy Agreement;

– Article 16 a of the Ukraine – Lithuania Agreement;

– Article 6 of the Ukraine – Luxembourg Agreement;

– Article 8 of the Ukraine – Malta Agreement;

– Article 13 of the Ukraine – Netherlands Agreement;

– Article 6 of the Ukraine – Poland Agreement;

– Article 15 of the Ukraine – Portugal Agreement;

– Article 6 of the Ukraine – Slovak Republic Agreement;

– Article 6 of the Ukraine – Slovenia Agreement;

– Article XI of the Ukraine – Spain Agreement;

– Article 14 bis of the Ukraine – Sweden Agreement;

(d) Taxation of aviation fuel:

– Article 7 of the Ukraine – Austria Agreement;

– Article 10 of the Ukraine – Belgium Agreement;

– Article 10 of the Ukraine – Czech Republic Agreement;

– Article 7 of the Ukraine – Cyprus Agreement;

– Article 6 of the Ukraine – Denmark Agreement;

– Article 6 of the Ukraine – Germany Agreement;

– Article 12 of the Ukraine – Estonia Agreement;

– Article 11 of the Ukraine – Finland Agreement;

– Article 11 of the Ukraine – France Agreement;

– Article 11 of the Ukraine – Greece Agreement;

– Article 11 of the Ukraine – Hungary Agreement;

– Article 11 of the Ukraine – Ireland Agreement;

– Article 6 of the Ukraine – Italy Agreement;

– Article 6 of the Ukraine – Latvia Agreement;

– Article 12 of the Ukraine – Lithuania Agreement;

– Article 8 of the Ukraine – Luxembourg Agreement;

– Article 5 of the Ukraine – Malta Agreement;

– Article 9 of the Ukraine – Netherlands Agreement;

– Article 12 of the Ukraine – Poland Agreement;

– Article 6 of the Ukraine – Portugal Agreement;

– Article 12 of the Ukraine – Slovak Republic Agreement;

– Article 8 of the Ukraine – Slovenia Agreement;

– Article V of the Ukraine – Spain Agreement;

– Article 6 of the Ukraine – Sweden Agreement;

– Article 8 of the Ukraine – United Kingdom Agreement.

(e) Tariffs for carriage:

– Article 11 of the Ukraine – Austria Agreement;

– Article 12 of the Ukraine – Belgium Agreement;

– Article 14 of the Ukraine – Czech Republic Agreement;

– Article 14 of the Ukraine – Cyprus Agreement;

– Article 11 of the Ukraine – Denmark Agreement;

– Article 10 of the Ukraine – Germany Agreement;

– Article 11 of the Ukraine – Estonia Agreement;

– Article 10 the Ukraine – Finland Agreement;

– Article 17 of the Ukraine – France Agreement;

– Article 14 of the Ukraine – Greece Agreement;

– Article 10 of the Ukraine – Hungary Agreement;

– Article 6 of the Ukraine – Ireland Agreement;

– Article 8 of the Ukraine – Italy Agreement;

– Article 10 of the Ukraine – Latvia Agreement;

– Article 10 of the Ukraine – Lithuania Agreement;

– Article 10 of the Ukraine – Luxembourg Agreement;

– Article 11 of the Ukraine – Malta Agreement;

– Article 5 of the Ukraine – Netherlands Agreement;

– Article 11 of the Ukraine – Poland Agreement;

– Article 18 of the Ukraine – Portugal Agreement;

– Article 11 of the Ukraine – Slovak Republic Agreement;

– Article 12 of the Ukraine – Slovenia Agreement;

– Article VII of the Ukraine – Spain Agreement;

– Article 11 of the Ukraine – Sweden Agreement;

– Article 7 of the Ukraine – United Kingdom Agreement.

ANNEX 3

List of other states referred to in Article 2 of this Agreement

(a) The Republic of Iceland (under the Agreement on the European Economic Area)**;**

(b) The Principality of Liechtenstein (under the Agreement on the European Economic Area)**;**

(c) The Kingdom of Norway (under the Agreement on the European Economic Area)**;**

(d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport)

ANNEX 4

Definitions

The expression "Member State" means any Member State of the European Community.

The expression "Establishment of a Community air carrier (airline) on the territory of a Member State" implies the effective and real exercise of air transport activity through stable arrangements. The legal form of such an establishment, whether a branch or a subsidiary with legal personality, should not be the determining factor in this respect.

The expression "Operating licence" means an authorisation granted by the Member State responsible to an undertaking, permitting it to carry out carriage by air of passengers, mail and/or cargo, as stated in the operating licence, for remuneration and/or hire.

The expression "Air operator's certificate" means a document issued to an undertaking or a group of undertakings by the competent authorities which affirms that the operator in question has the professional ability and organisation to secure the safe operation of aircraft for the aviation activities specified in the certificate.

Evidence of **"effective regulatory control"** is predicated upon but is not limited to: the air carrier holds a valid Operating Licence issued by the competent authorities, and meets the criteria for the operation of international air services established by the competent authorities, such as proof of financial fitness, ability to meet, where relevant, public interest requirement, obligations for assurance of service etc., and the licensing Member State has and maintains aviation safety and security oversight programmes in compliance with standards of the International Civil Aviation Organisation at least.