



**COUNCIL OF  
THE EUROPEAN UNION**

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**PROPOSAL**

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from:	European Commission
dated:	30 January 2012
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Subject:	Proposal for a COUNCIL DECISION on the conclusion of the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and the Republic of Moldova, of the other part

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Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 20 final



EUROPEAN COMMISSION

Brussels, 27.1.2012  
COM(2012) 20 final

2012/0006 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the conclusion of the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and the Republic of Moldova, of the other part**

## **EXPLANATORY MEMORANDUM**

### **1. Context of the proposal**

- Grounds for and objectives of the proposal
- Common Aviation Area Agreement between the Republic of Moldova and the European Union and its Member States

The Common Aviation Area Agreement between the European Union and its Member States, of the one part, and the Republic of Moldova, of the other part has been negotiated by the Commission as authorised by the Council in June 2011. Air services between the EU and the Republic of Moldova presently operate on the basis of bilateral agreements between individual Member States and the Republic of Moldova. It is part of the EU's external aviation policy to negotiate comprehensive air services agreements with neighbouring countries where the added value and economic benefits of such agreements have been demonstrated. The Agreement aims at:

- gradual market opening in terms of access to routes and capacity on a reciprocal basis;
- promoting regulatory cooperation and harmonisation of regulations and approaches based on EU legislation in the field of aviation;
- promoting air services based on competition among air carriers with minimum government interference and regulation;
- non-discrimination and level playing field for economic operators.

- **General context**

The negotiating directives set out the general objective of negotiating a comprehensive air transport agreement with the aim of gradually and reciprocally opening market access and ensuring regulatory convergence and effective implementation of EU standards.

In accordance with the negotiating directives, a draft Agreement with the Republic of Moldova was initialled by the two sides on 26 October 2011.

- **Existing provisions in the area of the proposal**

The provisions of the Agreement shall prevail over the relevant provisions of the existing bilateral air services agreements between Member States and the Republic of Moldova. However, existing traffic rights which originate from these bilateral agreements and which are not covered under this Agreement can continue to be exercised, provided that there is no discrimination between the Member States and their nationals.

- **Consistency with the other policies and objectives of the Union**

The conclusion of a comprehensive air transport agreement with the Republic of Moldova is an important element in the development of the EU external aviation policy and in particular a wider European Common Aviation Area, as described in the

Commission Communication COM(2005) 79 final "Developing the agenda for the Community's external aviation policy".

## **2. Consultation of interested parties and impact assessment**

In line with Art. 218 (4) TFEU the Commission has conducted the negotiations in consultation with a special committee.

In addition, it consulted interested parties throughout the process.

- **Consultation of interested parties**

*Consultation methods, main sectors targeted and general profile of respondents*

The Commission has consulted with stakeholders, in particular via the Consultative Forum comprising representatives of air carriers, airports, and labour organisations.

*Summary of responses and how they have been taken into account*

All comments from stakeholders were duly taken into consideration in the preparation of the Union's negotiating position.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The Agreement ensures the gradual opening of the air transport market between the EU and the Republic of Moldova. A report prepared for the Commission in 2011 by consultants, estimated that the economic benefit of such an agreement is estimated at around € 17 Mio p.a. (mainly due to lower air fares, increased air travel and the associated economic activity). The analysis also showed that air fares on popular routes are likely to drop significantly as a result of increased competition. The Agreement would also help improve "doing business" issues for EU carriers.

The report has been made available to Member States and stakeholders via the CIRCA database.

The Agreement establishes a Joint Committee which will be responsible for reviewing the implementation of the Agreement and its effects.

## **3. Legal elements of the proposal**

- **Summary of the proposed action**

The Agreement consists of the main body including the main principles, and two annexes: Annex I on route schedule, traffic rights and operational flexibility, and Annex II on bilateral air services agreements.

- **Legal basis**

Article 100 (2), in conjunction with Article 218 (6)(a) and (8) of the Treaty on the

Functioning of the European Union.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

The provisions of the Agreement will prevail over the relevant provisions of the existing arrangements made by individual Member States. The Agreement creates simultaneously for all Union air carriers equal and uniform conditions for market access, and establishes new arrangements for regulatory co-operation and convergence between the European Union and the Republic of Moldova in fields essential for the safe, secure, and efficient operation of air services. These arrangements can only be achieved at Union level because they involve a number of areas of exclusive Union competence.

Union action will better achieve the objectives of the proposal for the following reason(s).

The Agreement allows for the simultaneous extension of its terms to the 27 Member States, applying the same rules without discrimination and benefiting all Union air carriers regardless of their nationality. These carriers will be able to operate freely from any point in the European Union to any point in the Republic of Moldova which is currently not the case.

Removal of all market access restrictions between the EU and the Republic of Moldova will not only attract new entrants to the market and create opportunities to operate to underserved airports, but will also facilitate consolidation between EU air carriers.

The Agreement secures for all EU air carriers access to commercial opportunities, such as the possibility to freely establish prices. One further objective of the mandate is to create a level playing field between all EU and Moldovan air carriers, and this requires strong regulatory co-operation which can only be delivered at Union level. Finally, a key objective of the mandate was to create a framework for addressing and resolving "doing business" obstacles faced by EU carriers in the Republic of Moldova. The Union will have more leverage in seeking to resolve these problems than is possible at national level.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

A Joint Committee will be established to discuss matters related to the implementation of the Agreement. The Joint Committee will monitor safety aspects related to the Agreement, foster expert-level exchanges on new legislative or regulatory initiatives or developments and consider potential areas for further development of the

Agreement. The Joint Committee will be composed of representatives of the Commission and the Member States.

Furthermore, Member States will continue to carry out the traditional administrative tasks they execute in the context of international air transport, but under common rules applied uniformly.

- **Choice of instruments**

Proposed instruments: international agreement

Other means would not be adequate for the following reason(s).

External aviation relations can only be given effect through international agreements.

**4. Budgetary implication**

The proposal has no implication for the Union budget.

Proposal for a

## **COUNCIL DECISION**

**on the conclusion of the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and the Republic of Moldova, of the other part**

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union and in particular Article 100 (2), in conjunction with Article 218 (6)(a) and 218 (8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament

Whereas:

- (1) the Commission has negotiated on behalf of the Union and of the Member States a Common Aviation Area Agreement with the Republic of Moldova (hereinafter, the “Agreement”)
- (2) In accordance with Council Decision 2011/xxx of (...) the Agreement was signed on (...);
- (3) It is necessary to lay down appropriate arrangements for the coordination between and representation of the Union and the Member States in the Joint Committee set up under Article 22 of the Agreement.
- (4) The Agreement should be approved on behalf of the European Union,

HAS ADOPTED THIS DECISION:

### *Article 1* *Conclusion*

1. The Common Aviation Area Agreement between the European Union and its Member States, on the one part, and the Republic of Moldova, of the other part, is hereby concluded on behalf of the Union.

The text of the Agreement is attached to this Decision.

2. The President of the Council shall designate the person empowered to proceed on behalf of the European Union, to make the notifications provided for in Article 29 of the Agreement in order to express the consent of the European Union to be bound by the Agreement.

*Article 2*  
*Entry into force*

This decision shall enter into force on the day of its adoption. It shall be published in the Official Journal of the European Union.

Done at Brussels, [...]

*For the Council*  
*The President*  
[...]



**ANNEX**

COMMON AVIATION AREA AGREEMENT  
BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES  
AND THE REPUBLIC OF MOLDOVA

THE KINGDOM OF BELGIUM,  
THE REPUBLIC OF BULGARIA,  
THE CZECH REPUBLIC,  
THE KINGDOM OF DENMARK,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF ESTONIA,  
IRELAND,  
THE HELLENIC REPUBLIC,  
THE KINGDOM OF SPAIN,  
THE FRENCH REPUBLIC,  
THE ITALIAN REPUBLIC,  
THE REPUBLIC OF CYPRUS,  
THE REPUBLIC OF LATVIA,  
THE REPUBLIC OF LITHUANIA,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE REPUBLIC OF HUNGARY,  
MALTA,  
THE KINGDOM OF THE NETHERLANDS,  
THE REPUBLIC OF AUSTRIA,  
THE REPUBLIC OF POLAND,  
THE PORTUGUESE REPUBLIC,  
ROMANIA,  
THE REPUBLIC OF SLOVENIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Parties to the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred together as "the EU Treaties"), and being Member States of the European Union (hereinafter referred to as the "Member States"), and

THE EUROPEAN UNION,

of the one part, and

THE REPUBLIC OF MOLDOVA,

of the other part,

NOTING the Agreement on Partnership and Cooperation between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, done at Brussels on 28 November 1994;

DESIRING to create a Common Aviation Area (CAA) based on the goal of opening access to markets of the Parties, with equal conditions of competition, and respect of the same rules – including in the areas of safety, security, air traffic management, social aspects and the environment;

DESIRING to facilitate the expansion of air transport opportunities, including through the development of air transport networks to meet the needs of passengers and shippers for convenient air transport services;

RECOGNISING the importance of air transport in promoting trade, tourism and investment;

NOTING the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944;

AGREEING that it is appropriate to base the CAA rules on the relevant legislation in force within the European Union, as laid down in Annex III to this Agreement;

RECOGNISING that full compliance with the CAA rules entitle the Parties to reap its full advantages including opening access to markets and maximising benefits for the consumers, and the industries and labour of both Parties;

RECOGNISING that the creation of the CAA and implementation of its rules cannot be achieved without transitional arrangements where necessary;

RECOGNISING the importance of adequate assistance in this regard;

DESIRING to make it possible for air carriers to offer the travelling and shipping public competitive prices and services in open markets;

DESIRING to have all sectors of the air transport industry, including air carrier workers, benefit from a liberalised agreement;

DESIRING to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern with regard to acts or threats against the security of aircraft, which jeopardise the safety of persons or property, adversely affect the operation of aircraft and undermine the confidence of the travelling public in the safety of civil aviation;

DESIRING to ensure a level playing field for air carriers, allowing fair and equal opportunity for their air carriers to provide the agreed services;

RECOGNISING that subsidies may adversely affect air carrier competition and may jeopardise the basic objectives of this Agreement;

AFFIRMING the importance of protecting the environment in developing and implementing international aviation policy and recognising the rights of sovereign States to take appropriate measures to this effect;

NOTING the importance of protecting consumers, including the protections afforded by the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal 28 May 1999;

INTENDING to build upon the framework of existing air transport agreements with the goal of opening access to markets and maximising benefits for the consumers, air carriers, labour, and communities of both Parties;

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

### Definitions

For the purposes of this Agreement, unless otherwise stated, the term:

- (1) "Agreed services" and "Specified routes" mean international air transport pursuant to Article 2 (Grant of Rights) of, and Annex I to, this Agreement;
- (2) "Agreement" means this Agreement, its Annexes, and any amendments thereto;
- (3) "Air transport" means the carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, held out to the public for remuneration or hire, which, for the avoidance of doubt, shall include scheduled and non-scheduled (charter) services, and full cargo services;
- (4) "Competent authorities" means the government agencies or entities responsible for the administrative functions under this Agreement;
- (5) "Fitness" means whether an air carrier is fit to operate international air services, that is to say, whether it has satisfactory financial capability and adequate managerial expertise and is disposed to comply with the laws, regulations, and requirements which govern the operation of such services;
- (6) "Citizenship" means whether an air carrier satisfies requirements regarding such issues as its ownership, effective control, and principal place of business.
- (7) "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes:
  - (a) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both the Republic of Moldova and the Member State or Member States of the European Union, and
  - (b) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both the Republic of Moldova and the Member State or Member States of the European Union as is relevant to the issue in question;
- (8) "Fifth freedom right" means the right or privilege granted by one state (the "Granting State") to the air carriers of another State ("the Recipient State"), to provide international air transport services between the territory of the Granting State and the territory of a third state, subject to the condition that such services originate or terminate in the territory of the Recipient State;
- (9) "Full cost" means the cost of providing service plus a reasonable charge for administrative overhead and where relevant any applicable charges aimed at reflecting environmental costs and applied without distinction as to nationality;

- (10) "International air transport" means air transport which passes through the air space over the territory of more than one State;
- (11) "ECAA Agreement" means the multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo<sup>1</sup> on the establishment of a European Common Aviation Area.
- (12) "European Neighbourhood Policy partners" mean Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, the Republic of Moldova, Morocco, Occupied Palestinian Territory, Syria, Tunisia and Ukraine.
- (13) "National" means any person having Moldovan nationality for the Moldovan Party, or the nationality of a Member State for the European Party, or entity, insofar as, in the case of a legal entity, it is at all times under the effective control, be it directly or by majority participation, of persons having Moldovan nationality for the Moldovan Party, or persons or entities having the nationality of a Member State or one of the third countries identified in Annex IV for the European Party;
- (14) "Operating Licences" means, (i) in the case of the European Union and its Member States operating licences and any other relevant documents or certificates given under the relevant EU legislation in force and, (ii) in the case of licences of the Republic of Moldova, certificates or permits given under the relevant legislation in force in the Republic of Moldova;
- (15) "Parties" shall mean, on the one hand, the European Union or its Member States, or the European Union and its Member States, in accordance with their respective powers (the European Party), and, on the other hand, the Republic of Moldova (the Moldovan Party);
- (16) "Price" means:
- (i) "air fares" to be paid to air carriers or their agents or other ticket sellers for the carriage of passengers and baggage on air services and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services; and
- (ii) "air rates" to be paid for the carriage of mail and cargo and the conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services.
- This definition covers, where applicable, the surface transport in connection with international air transport, and the conditions to which their application is subject.
- (17) "Principal place of business" means the head office or registered office of an air carrier in the Party within which the principal financial functions and operational control, including continued airworthiness management, of the air carrier are exercised;

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<sup>1</sup> pursuant to UN Security Council Resolution 1244 of 10 June 1999.

- (18) "Public service obligation" means any obligation imposed upon air carriers to ensure on a specified route the minimum provision of scheduled air services satisfying fixed standards of continuity, regularity, pricing and minimum capacity which air carriers would not assume if they were solely considering their commercial interest. Air carriers may be compensated by the Party concerned for fulfilling public service obligations;
- (19) "Subsidy" means any financial contribution granted by the authorities or a regional organisation or another public organisation, i.e. when:
- (a) a practice of a government or regional body or other public organisation involves a direct transfer of funds such as grants, loans or equity infusion, potential direct transfer of funds to the company, the assumption of liabilities of the company such as loan guarantees, capital injections, ownership, protection against bankruptcy or insurance;
  - (b) revenue of a government or regional body or other public organisation that is otherwise due is foregone, not collected, or unduly diminished;
  - (c) a government or regional body or other public organisation provides goods or services other than general infrastructure, or purchases goods or services; or
  - (d) a government or regional body or other public organisation makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions illustrated under (a), (b) and (c) which would normally be vested in the government and, in practice, in no real sense differs from practices normally followed by governments;

and where a benefit is thereby conferred.

- (20) "SESAR" means the technological element of the Single European Sky which aims by 2020 to give the EU a high-performance air traffic control infrastructure to enable the safe and environmentally friendly development of air transport;
- (21) "Territory" means, for the Republic of Moldova, the land areas and territorial waters adjacent thereto under its sovereignty, suzerainty, protection or mandate, and, for the European Union, the land areas (mainland and islands), internal waters and territorial sea in which the Treaty on the European Union and the Treaty on the Functioning of the European Union is applied and under the conditions laid down in those Treaties and any successor instrument. The application of this Agreement to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated and to the continuing suspension of Gibraltar Airport from EU aviation measures existing as at 18 September 2006 as between Member States in accordance with the Ministerial Statement on Gibraltar Airport agreed in Cordoba on 18 September 2006;
- (22) "User charge" means a charge imposed on air carriers for the provision of airport, airport environmental, air navigation, or aviation security facilities or services including related services and facilities;





TITLE I  
ECONOMIC PROVISIONS

ARTICLE 2

Grant of Rights

1. Each Party shall grant to the other Party in accordance with in Annex I and Annex II, the following rights for the conduct of international air transport by the air carriers of the other Party:
  - (a) the right to fly across its territory without landing;
  - (b) the right to make stops in its territory for any purpose other than taking on or discharging passengers, baggage, cargo and/or mail in air transport (non-traffic purposes);
  - (c) while operating an agreed service on a specified route, the right to make stops in its territory for the purpose of taking up and discharging international traffic in passengers, cargo and/or mail, separately or in combination; and
  - (d) the rights otherwise specified in this Agreement.
2. Nothing in this Agreement shall be deemed to confer on the air carriers of:
  - (a) The Republic of Moldova the right to take on board, in the territory of any Member State, passengers, baggage, cargo, and/or mail carried for compensation and destined for another point in the territory of that Member State;
  - (b) the European Union the right to take on board, in the territory of the Republic of Moldova, passengers, baggage, cargo, and/or mail carried for compensation and destined for another point in the territory of the Republic of Moldova

ARTICLE 3

Authorisation

1. On receipt of applications for operating authorisation from an air carrier of one Party the competent authorities of the other Party shall grant appropriate authorisations with minimum procedural delay, provided that:
  - (a) for an air carrier of the Republic of Moldova:
    - the air carrier has its principal place of business in the Republic of Moldova and holds a valid operating licence in accordance with the applicable law of the Republic of Moldova; and

- effective regulatory control of the air carrier is exercised and maintained by the Republic of Moldova; and
  - unless otherwise determined under Article 6 (Investment) of this Agreement, the air carrier is owned, directly or through majority ownership, and effectively controlled by the Republic of Moldova and/or its nationals.
- (b) for an air carrier of the European Union:
- the air carrier has its principal place of business in the territory of a Member State under the EU Treaties, and holds a valid operating licence; and
  - 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 Competent Authority is clearly identified; and
  - unless otherwise determined under Article 6 (Investment) of this Agreement, the air carrier is owned, directly or through majority ownership, by Member States and/or by nationals of the Member States, or by other States listed in Annex IV, and/or of the nationals of these other States;
- (c) the air carrier meets the conditions prescribed under the laws and regulations normally applied by the competent authority; and
- (d) the provisions set forth in Article 14 (Aviation Safety) and Article 15 (Aviation Security) of this Agreement are being maintained and administered.

## ARTICLE 4

### Reciprocal Recognition of Regulatory Determinations with regard to Airline Fitness, ownership and control

Upon receipt of an application for authorisation from an air carrier of one Party, the competent authorities of the other Party shall recognise any fitness and/or citizenship determination made by the competent authorities of the first Party with respect to that air carrier as if such determination had been made by its own competent authorities, and not inquire further into such matters, except as provided for at Sections a) and b) below:

- (a) If, after receipt of an application for authorisation from an air carrier, or after the grant of such authorisation, the competent authorities of the receiving Party have a specific reason for concern that, despite the determination made by the competent authorities of the other Party including where issues of dual citizenship were involved, the conditions prescribed in Article 3 (Authorisation) of this Agreement for the grant of appropriate authorisations or permissions have not been met, then they are to promptly advise those authorities, giving substantive reasons for their concern. In that event, either Party may seek consultations, which may include representatives of the relevant competent authorities, and/or additional information relevant to this concern, and such requests are to be met as soon as practicable. If the matter remains unresolved, either Party may bring the matter to the Joint Committee set up under Article 22 (Joint Committee) of this Agreement.
- (b) This Article does not cover recognition of determinations in relation to:
  - Safety certificates or licences;
  - Security arrangements; or
  - Insurance coverage.

## ARTICLE 5

### Refusal, Revocation, Suspension, Limitation of Authorisation

1. The competent authorities of either Party may refuse, revoke, suspend or limit the operating authorisations or otherwise suspend or limit the operations of an air carrier of another Party where:
  - (a) for an air carrier of the Republic of Moldova:
    - the air carrier does not have its principal place of business in the Republic of Moldova or does not have a valid operating licence in accordance with the applicable law of the Republic of Moldova; or
    - effective regulatory control of the air carrier is not exercised or maintained by the Republic of Moldova; or
    - unless otherwise determined under Article 6 (Investment) of this Agreement, the air carrier is not owned or effectively controlled, directly or through majority ownership, by the Republic of Moldova and/or nationals of the Republic of Moldova.
  - (b) for an air carrier of the European Union:
    - the air carrier does not have its principal place of business in the territory of a Member State under the EU Treaties, or does not have a valid operating licence; or
    - effective regulatory control of the air carrier is not exercised and maintained by the Member State responsible for issuing its Air Operators Certificate or the competent authority is not clearly identified; or
    - unless otherwise determined under Article 6 (Investment) of this Agreement, the air carrier is not owned and effectively controlled, directly or through majority ownership, by Member States and/or nationals of Member States, or by the other States listed in Annex IV, and/or nationals of these other States;
  - (c) the air carrier has failed to comply with the laws and regulations referred to in Article 7 (Compliance with Laws and Regulations) of this Agreement; or
  - (d) the provisions set forth in Article 14 (Aviation Safety) and Article 15 (Aviation Security) of this Agreement are not being maintained or administered; or
  - (e) a Party has made the determination in accordance with Article 8 (Competitive Environment) of this Agreement that the conditions for a competitive environment are not being fulfilled.
2. Unless immediate action is essential to prevent further non-compliance with points (c) or (d) of paragraph 1 of this Article, the rights established by this Article shall be exercised only after consultation with the competent authorities of the other Party.

3. Neither Party shall use its rights established by the present Article to refuse, revoke, suspend or limit authorisations or permissions of any air carriers of a Party on the grounds that majority ownership and/or effective control of that air carrier is vested in one or more Parties to the ECAA Agreement or their nationals, provided that such Party or Parties to the ECAA Agreement offer reciprocal treatment and provided that such Party or Parties apply the terms and conditions of the ECAA Agreement.

## ARTICLE 6

### Investment

1. Notwithstanding Articles 3 (Authorisation) and 5 (Refusal, Revocation, Suspension, Limitation of Authorisation) of this Agreement, the majority ownership or the effective control of an air carrier of the Republic of Moldova by Member States and/or their nationals shall be permitted.
2. Notwithstanding Articles 3 (Authorisation) and 5 (Refusal, Revocation, Suspension, Limitation of Authorisation) of this Agreement, the majority ownership or the effective control of an air carrier of the European Union by the Republic of Moldova and/or its nationals, shall be permitted by virtue of a prior decision of the Joint Committee established by this Agreement in accordance with Article 22 (2) (Joint Committee) of this Agreement. This decision shall specify the conditions associated with the operation of the agreed services under this Agreement and with the services between third countries and the Parties. The provisions of Article 22 (8) (Joint Committee) of this Agreement shall not apply to this type of decision.

## ARTICLE 7

### Compliance with laws and regulations

1. While entering, within, or leaving the territory of one Party, the laws and regulations applicable within that territory relating to the admission to or departure from its territory of aircraft engaged in air transport, or to the operation and navigation of aircraft shall be complied with by the other Party's air carriers.
2. While entering, within, or leaving the territory of one Party, the laws and regulations applicable within that territory relating to the admission to or departure from its territory of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the other Party's air carriers.

## ARTICLE 8

### Competitive environment

1. The Parties acknowledge that it is their joint objective to have a fair and competitive environment for the operation of air services. The Parties recognise that fair competitive practices by air carriers are most likely to occur where these air carriers operate on a fully commercial basis and are not subsidised.
2. Within the scope of this Agreement, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.
3. State aid which distorts or threatens to distort competition by favouring certain undertakings or certain aviation products or services is incompatible with the proper functioning of this Agreement, insofar as it may affect trade between the Parties in the aviation sector.
4. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the competition rules applicable in the European Union, in particular from Article 107 of the Treaty on the Functioning of the European Union and interpretative instruments adopted by the European Union institutions.
5. If one Party finds that conditions exist in the territory of the other Party, in particular due to a subsidy, which would adversely affect the fair and equal opportunity of its air carriers to compete, it may submit observations to the other Party. Furthermore, it may request a meeting of the Joint Committee, as provided for in Article 22 (Joint Committee) of this Agreement. From the receipt of such a request consultations shall start within 30 days. Failure to reach a satisfactory agreement within 30 days from the start of consultations shall constitute grounds for the Party that requested the consultations to take action to refuse, withhold, revoke, suspend or impose appropriate conditions on the authorisations of the air carrier(s) concerned, consistent with Article 5 (Refusal, Revocation, Suspension or Limitation of Authorisation) of this Agreement.
6. The actions, referred to in paragraph 5 of this Article, shall be appropriate, proportionate and restricted with regard to scope and duration to what is strictly necessary. They shall be exclusively directed towards the air carrier or air carriers benefiting from a subsidy or the conditions referred to in this Article, and shall be without prejudice to the right of either Party to take action under Article 24 (Safeguard measures) of this Agreement.
7. Each Party, upon notification to the other Party, may approach responsible government entities in the territory of the other Party including entities at the state, provincial or local level to discuss matters relating to this Article.
8. The provisions of this Article shall apply without prejudice to the Parties' laws and regulations regarding public service obligations in the territories of the Parties.

## ARTICLE 9

### Commercial opportunities

## **Doing business**

1. The Parties agree that obstacles to doing business of commercial operators would hamper the benefits to be achieved by this Agreement. The Parties therefore agree to engage in an effective and reciprocal process of removal of obstacles to doing business of commercial operators of both Parties where such obstacles may hamper commercial operations, create distortions to competition or hamper the development of a level playing field.
2. The Joint Committee set up in accordance with Article 22 shall develop a process of cooperation in relation to doing business and commercial opportunities; shall monitor progress in effectively addressing obstacles to doing business of commercial operators and shall regularly review developments, including, if necessary, towards legislative and regulatory changes. In accordance with Article 22 a Party may request a meeting of the Joint Committee to discuss any question related to the application of the present article.

## **Air Carrier Representatives**

3. The air carriers of each Party shall have the right to establish offices in the territory of the other Party for the promotion and sale of air transport and related activities, including the right to sell and to issue any ticket and/or airwaybill, both its own tickets and/or airwaybills of any other carrier.
4. The air carriers of each Party shall be entitled, in accordance with the laws and regulations of the other Party relating to entry, residence, and employment, to bring in and maintain in the territory of the other Party managerial, sales, technical, operational, and other specialist staff who are required to support the provision of air transport. These staff requirements may, at the option of the air carriers, be satisfied by its own personnel or by using the services of any other organisation, company or air carrier operating in the territory of the other Party, authorised to perform such services in the territory of that Party. Both Parties shall facilitate and expedite the granting of employment authorisations, where required, for personnel employed in the offices according to this paragraph, including those performing certain temporary duties not exceeding ninety (90) days, subject to the relevant laws and regulations in force.

## **Ground Handling**

5. (a) Without prejudice to point (b) below, each air carrier shall have in relation to groundhandling in the territory of the other Party:
  - (i) the right to perform its own groundhandling ("self-handling") or, at its option
  - (ii) the right to select among competing suppliers that provide groundhandling services in whole or in part where such suppliers are allowed market access on the basis of the laws and regulations of each Party, and where such suppliers are present in the market.
- (b) For the following categories of groundhandling services, i.e. baggage handling, ramp handling, fuel and oil handling, freight and mail handling as regards the physical handling of freight and mail between the air terminal and the aircraft, the rights under point (a) (i) and (ii) may be subject to constraints according to the laws and regulations applicable in

the territory of the other Party. Where such constraints preclude self-handling and where there is no effective competition between suppliers that provide groundhandling services, all such services shall be available on both an equal and non discriminatory basis to all air carriers.

### **Ground Handling for Third Parties**

6. Each groundhandling company, whether an air carrier or not, shall have in relation to groundhandling in the territory of the other Party the right to provide groundhandling services for airlines operating at the same airport, where authorised and consistent with applicable laws and regulations.

### **Sales, Local Expenses, and Transfer of Funds**

7. Any air carrier of each Party may engage in the sale of air transportation and related services in the territory of the other Party directly and/or, at the air carrier's discretion, through its sales agents, other intermediaries appointed by the air carrier, through another air carrier or through the internet. Each air carrier shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies in accordance with the local currency legislation.
8. Each air carrier shall have the right to convert into freely convertible currencies and remit from the territory of the other Party to its home territory and, except where inconsistent with generally applicable law or regulation, to the country or countries of its choice, on demand, local revenues. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance on the date the carrier makes the initial application for remittance.
9. The air carriers of each Party shall be permitted to pay for local expenses, including purchases of fuel, in the territory of the other Party in local currency. At their discretion, the air carriers of each Party may pay for such expenses in the territory of the other Party in freely convertible currencies in accordance with local currency legislation.

### **Cooperative Arrangements**

10. In operating or holding out services under this Agreement, any air carrier of a Party may enter into cooperative marketing arrangements, such as blocked-space agreements or code-sharing arrangements, with:
  - (a) any air carrier or carriers of the Parties; and
  - (b) any air carrier or carriers of a third country; and
  - (c) any surface (land or maritime) transport provider;

provided that



(i) the operating carrier holds the appropriate traffic rights and (ii) the marketing carriers hold the appropriate underlying route authority and (iii) the arrangements meet the requirements relating to safety and competition normally applied to such arrangements. In respect of passenger transport sold involving code-shares, the purchaser shall be informed at the point of sale, or in any case before boarding, which transport providers will operate each sector of the service.

11. (a) In relation to the transport of passengers, surface transport providers shall not be subject to laws and regulations governing air transport on the sole basis that such surface transport is held out by an air carrier under its own name. Surface transport providers have the discretion to decide whether to enter into cooperative arrangements. In deciding on any particular arrangement, surface transport providers may consider, among other things, consumer interests and technical, economic, space, and capacity constraints.

(b) Moreover, and notwithstanding any other provision of this Agreement, air carriers and indirect providers of cargo transport of the Parties shall be permitted, without restriction, to employ in connection with air transport any surface transport for cargo to or from any points in the territories of the Republic of Moldova and the European Union, or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Air carriers may elect to perform their own surface transport or to provide it through arrangements with other surface carriers, including surface transport operated by other air carriers and indirect providers of cargo air transport. Such intermodal cargo services may be offered at a single, through price for the air and surface transport combined, provided that shippers are not misled as to the facts concerning such transport.

### **Leasing**

12. The air carriers of each Party shall be entitled to provide the agreed services using aircraft and crew leased from any air carrier, including from third countries, provided that all participants in such arrangements meet the conditions prescribed under the laws and regulations normally applied by the Parties to such arrangements.

(a) Neither Party shall require the air carriers leasing out their equipment to hold traffic rights under this agreement.

(b) The leasing with crew (wet-leasing) by an air carrier of the Republic of Moldova of an aircraft of an air carrier of a third country, or, by an air carrier of the European Union, of an aircraft of an air carrier of a third country other than those mentioned in Annex IV to this Agreement, in order to exploit the rights envisaged in this Agreement, shall remain exceptional or meet temporary needs. It shall be submitted for prior approval of the licensing authority of the leasing air carrier and to the competent authority of the other Party.

### **Franchising/Branding**

13. The air carriers of each Party shall be entitled to enter into franchising or branding arrangements with companies, including air carriers, of either Party or third countries,

provided that the air carriers hold the appropriate authority and meet the conditions prescribed under the laws and regulations applied by the Parties to such arrangements, particularly those requiring the disclosure of the identity of the air carrier operating the service.

## ARTICLE 10

### Customs duties and taxation

1. On arriving in the territory of one Party, aircraft operated in international air transport by the air carriers of the other Party, their regular equipment, fuel, lubricants, consumable technical supplies, ground equipment, spare parts (including engines), aircraft stores (including but not limited to such items as food, beverages and liquor, tobacco and other products destined for sale to or use by passengers in limited quantities during flight), and other items intended for or used solely in connection with the operation or servicing of aircraft engaged in international air transport shall be exempt, on the basis of reciprocity, under its relevant applicable legislation, from all import restrictions, property taxes and capital levies, customs duties, excise duties, and similar fees and charges that are (a) imposed by the national or local authorities or the European Union, and (b) not based on the cost of services provided, provided that such equipment and supplies remain on board the aircraft.
2. There shall also be exempt, on the basis of reciprocity, under its relevant applicable legislation, from the taxes, levies, duties, fees and charges referred to in paragraph 1 of this Article, with the exception of charges based on the cost of the service provided:
  - (a) aircraft stores introduced into or supplied in the territory of a Party and taken on board, within reasonable limits, for use on outbound aircraft of an air carrier of the other Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the said territory;
  - (b) ground equipment and spare parts (including engines) introduced into the territory of a Party for the servicing, maintenance, or repair of aircraft of an air carrier of the other Party used in international air transport;
  - (c) fuel, lubricants and consumable technical supplies introduced into or supplied in the territory of a Party for use in or on an aircraft of an air carrier of the other Party engaged in international air transport, even when these supplies are to be used on a part of the journey performed over the said territory;
  - (d) printed matter, as provided for by the customs legislation of each Party, introduced into or supplied in the territory of one Party and taken on board for use on outbound aircraft of an air carrier of the other Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the said territory; and
  - (e) safety and security equipment for use at airports or cargo terminals.
3. Notwithstanding any other provision to the contrary, nothing in this Agreement shall prevent a Party from imposing taxes, levies, duties, fees or charges on fuel supplied in its territory on a non-discriminatory basis for use in an aircraft of an air carrier that operates between two points in its territory.

4. Equipment and supplies referred to in paragraphs 1 and 2 of this Article may be required to be kept under the supervision or control of the appropriate authorities and not to be transferred without payment of relevant customs duties and taxes.
5. The exemptions provided by this Article shall also be available where the air carriers of one Party have contracted with another air carrier, which similarly enjoys such exemptions from the other Party, for the loan or transfer in the territory of the other Party of the items specified in paragraphs 1 and 2 of this Article.
6. Nothing in this Agreement shall prevent either Party from imposing taxes, levies, duties, fees or charges on goods sold other than for consumption on board to passengers during a sector of an air service between two points within its territory at which embarkation or disembarkation is permitted.
7. Baggage and cargo in direct transit across the territory of a Party shall be exempt from taxes, customs duties, fees and other similar charges that are not based on the cost of the service provided.
8. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of an air carrier of either Party, may be unloaded in the territory of the other Party only with the approval of the customs authorities of that territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.
9. The stipulations of this Agreement shall not affect the field of VAT, with the exception of turnover tax on imports. The provisions of this Agreement shall not affect the provisions of any convention between a Member State and the Republic of Moldova for the avoidance of double taxation on income and on capital that may be in force at the relevant time.

## ARTICLE 11

### User Charges for Airports and Aviation Facilities and Services

1. Each Party shall ensure that user charges that may be imposed by its competent charging authorities or bodies on the air carriers of the other Party for the use of air navigation and air traffic control, airport, aviation security and related facilities and services shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. Without prejudice to Article 16(1) (Air traffic management), these charges may reflect, but shall not exceed, the full cost to the competent charging authorities or bodies of providing the appropriate airport and aviation security facilities and services at that airport or within that airport's system. These charges may include a reasonable return on assets, after depreciation. Facilities and services for which user charges are made shall be provided on an efficient and economic basis. In any event, these charges shall be assessed on the air carriers of the other Party on terms not less favourable than the most favourable terms available to any other air carrier at the time the charges are assessed.
2. Each Party shall require consultations between the competent charging authorities or bodies in its territory and the air carriers and/or their representative bodies using the services and facilities, and shall ensure that the competent charging authorities or bodies

and the air carriers or their representative bodies exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles of paragraphs 1 and 2 of this Article. Each Party shall ensure that the competent charging authorities or bodies provide users with reasonable notice of any proposal for changes in user charges to enable those authorities to consider the views expressed by the users before changes are made.

3. Neither Party shall be held, in dispute resolution procedures pursuant to Article 23 (Dispute Resolution and Arbitration) of this Agreement, to be in breach of a provision of this Article, unless
  - (a) it fails to undertake a review of the charge or practice that is the subject of complaint by the other Party within a reasonable amount of time; or
  - (b) following such a review it fails to take all steps within its power to remedy any charge or practice that is inconsistent with this Article.

## ARTICLE 12

### Pricing

1. The Parties shall permit prices to be freely established by the air carriers on the basis of free and fair competition.
2. The Parties shall not require prices to be filed or notified.
3. Discussions between competent authorities may be held on matters such as, but not limited to prices which may be unjust, unreasonable, discriminatory or subsidised.

## ARTICLE 13

### Statistics

1. Each Party shall provide to the other Party statistics that are required by domestic laws and regulations, and, upon request, other available statistical information as may be reasonably required for the purpose of reviewing the operation of the air services.
2. The Parties shall cooperate in the framework of the Joint Committee under Article 22 (Joint Committee) of this Agreement to facilitate the exchange of statistical information between them for the purpose of monitoring the development of air services under this Agreement.

TITLE II  
REGULATORY COOPERATION

ARTICLE 14

Aviation safety

1. Subject to the transitional provisions set out in Annex II to this Agreement, the Parties shall act in conformity with the provisions of the aviation safety legislation specified in Part C of Annex III to this Agreement, under the conditions set out hereafter.
2. The Parties shall cooperate to ensure the implementation by the Republic of Moldova of the legislation referred to in paragraph 1 of this Article. To this purpose, the Republic of Moldova shall be involved in the work of the European Aviation Safety Agency as an observer from the date of entry into force of this Agreement.
  - (a) The gradual transition of the Republic of Moldova to the full application of the legislation referred to in Part C of Annex III to this Agreement shall be subject to assessments. The assessments shall be carried out by the European Union in cooperation with the Republic of Moldova. When the Republic of Moldova is satisfied that the legislation referred to in Part C of Annex III to this Agreement is fully applied, it shall inform the European Union that an assessment should be carried out.
  - (b) When the Republic of Moldova has fully implemented the legislation referred to in Part C of Annex III to this Agreement, the Joint Committee established under Article 22 of this Agreement shall determine the precise status and conditions for the participation over and above the observer status referred to above of the Republic of Moldova in the European Aviation Safety Agency.
3. The Parties shall ensure that aircraft registered in one Party suspected of non-compliance with international aviation safety standards established pursuant to the Convention landing at airports open to international air traffic in the territory of the other Party shall be subject to ramp inspections by the competent authorities of that other Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment.
4. The competent authorities of a Party may request consultations at any time concerning the safety standards maintained by the other Party.
5. The competent authorities of a Party shall take all appropriate and immediate measures whenever they ascertain that an aircraft, a product or an operation may:
  - (a) fail to satisfy the minimum standards established pursuant to the Convention or the legislation specified in Part C of Annex III to this Agreement, whichever is applicable,
  - (b) give rise to serious concerns – established through an inspection referred to in paragraph 3 of this Article – that an aircraft or the operation of an aircraft does not comply

with the minimum standards established pursuant to the Convention or the legislation specified in Part C of Annex III to this Agreement, whichever is applicable, or

- (c) give rise to serious concerns that there is a lack of effective maintenance and administration of minimum standards established pursuant to the Convention or the legislation specified in Part C of Annex III to this Agreement, whichever is applicable.
- 6. Where the competent authorities of one Party take action under paragraph 5, they shall promptly inform the competent authorities of the other Party of taking such action, providing reasons for their action.
- 7. Where measures taken in application of paragraph 5 of this Article are not discontinued even though the basis for taking them has ceased to exist, either Party may refer the matter to the Joint Committee.

## ARTICLE 15

### Aviation Security

1. Subject to the transitional provisions set out in Annex II to this Agreement, the Parties shall act in conformity with the provisions of the European Union's aviation security legislation specified in Part D of Annex III to this Agreement, under the conditions set out hereafter.
2. The Republic of Moldova may be subjected to a European Commission inspection in accordance with the relevant European Union security legislation as referred to in Annex III to this Agreement. The Parties shall establish the necessary mechanism for the exchange of information on the results of such security inspections.
3. The assurance of safety for civil aircraft, their passengers and crew being a fundamental pre-condition for the operation of international air services, the Parties reaffirm their obligations to each other to provide for the security of civil aviation against acts of unlawful interference, and in particular their obligations under the Convention, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 and the Convention on the marking of plastic explosives for purpose of detection signed at Montreal on 1 March 1991, insofar as both Parties are parties to these conventions, as well as all other conventions and protocols relating to civil aviation security of which both Parties are parties.
4. The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.
5. The Parties shall, in their mutual relations, act in conformity with the aviation security Standards and, so far as they are applied by them, the Recommended Practices established by the International Civil Aviation Organisation (ICAO) and designated as Annexes to the Convention, to the extent that such security provisions are applicable to the Parties. Both Parties shall require that operators of aircraft of their registry, operators who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory, act in conformity with such aviation security provisions.
6. Each Party shall ensure that effective measures are taken within its territory to protect civil aviation against acts of unlawful interference, including, but not limited to, screening of passengers and their cabin baggage, screening of hold baggage and security controls for cargo and mail prior to boarding or loading of aircraft and security controls for in-flight supplies and airport supplies and access control to airside and security restricted areas. Those measures shall be adjusted to meet increases in the threat. Each Party agrees that



their air carriers may be required to observe the aviation security provisions referred to in paragraph 5 of this Article required by the other Party, for entrance into, departure from, or while within, the territory of that other Party.

7. Each Party shall also give positive consideration to any request from the other Party for reasonable special security measures to meet a particular threat. Except where not reasonably possible in case of emergency, each Party will inform the other Party in advance of any special security measures it intends to introduce which could have a significant financial or operational impact on the air transport services provided under this Agreement. Either Party may request a meeting of the Joint Committee to discuss such security measures, as provided for in Article 22 (Joint Committee) of this Agreement.
8. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.
9. Each Party shall take all measures it finds practicable to ensure that an aircraft subjected to an act of unlawful seizure or other acts of unlawful interference which is on the ground in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Wherever practicable, such measures shall be taken on the basis of mutual consultations.
10. When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of this Article, that Party shall request immediate consultations with the other Party.
11. Without prejudice to Article 5 (Refusal, Revocation, Suspension, Limitation of Authorisations) of this Agreement, failure to reach a satisfactory agreement within fifteen (15) days from the date of such request shall constitute grounds to withhold, revoke, limit or impose conditions on the operating authorisation of one or more air carriers of such other Party.
12. When required by an immediate and extraordinary threat, a Party may take interim action prior to the expiry of fifteen (15) days.
13. Any action taken in accordance with the paragraph 11 of this Article shall be discontinued upon compliance by the other Party with the full provisions of this Article.

## ARTICLE 16

### Air traffic management

1. Subject to the transitional provisions set out in Annex II to this Agreement, the Parties shall act in conformity with the provisions of the legislation specified in Part B of Annex III to this Agreement, under the conditions set out hereafter.
2. The Parties shall cooperate in the field of air traffic management with a view to extending the Single European Sky to the Republic of Moldova in order to enhance current safety standards and overall efficiency of general air traffic operations in Europe, to optimise air traffic control capacities, to minimise delays and to increase environmental efficiency. To this purpose, the Republic of Moldova shall be involved as observer in the Single Sky Committee from the date of entry into force of the Agreement. The Joint Committee shall be responsible for monitoring and facilitating cooperation in the field of air traffic management.
3. With a view to facilitating the application of the Single European Sky legislation in their territories:
  - (a) The Republic of Moldova shall take the necessary measures to adjust its air traffic management institutional structures to the Single European Sky, in particular by ensuring that pertinent national supervisory bodies are at least functionally independent of air navigation service providers; and
  - (b) The European Union shall associate the Republic of Moldova with relevant operational initiatives in the fields of air navigation services, airspace and interoperability that stem from the Single European Sky, in particular through the early involvement of the Republic of Moldova's efforts to establish functional airspace blocks, or through appropriate coordination on SESAR.

## ARTICLE 17

### Environment

1. The Parties recognise the importance of protecting the environment when developing and implementing aviation policy. The Parties acknowledge that effective global, regional, national and/or local action is needed to minimise civil aviation's impact on the environment.
2. Subject to the transitional provisions set out in Annex II to this Agreement, the Parties shall act in conformity with the legislation relating to air transport specified in Part E of Annex III to this Agreement.
3. The Parties recognise the importance of working together, and within the framework of multilateral discussions, to consider the effects of aviation on the environment, and to ensure that any mitigating measures are fully consistent with the objectives of this Agreement.

4. Nothing in this Agreement shall be construed to limit the authority of the competent authorities of a Party to take all appropriate measures to prevent or otherwise address the environmental impacts of air transport provided that such measures are fully consistent with their rights and obligations under international law and are applied without distinction as to nationality.

## ARTICLE 18

### Consumer protection

Subject to the transitional provisions set out in Annex II to this Agreement, the Parties shall act in accordance with the legislation relating to air transport specified in Part G of Annex III to this Agreement.

## ARTICLE 19

### Computer reservation systems

Subject to the transitional provisions set out in Annex II to this Agreement, the Parties shall act in accordance with the legislation relating to air transport specified in Part H of Annex III to this Agreement.

## ARTICLE 20

### Social aspects

Subject to the transitional provisions set out in Annex II to this Agreement, the Parties shall act in accordance with the legislation relating to air transport specified in Part F of Annex III to this Agreement.

TITLE III  
INSTITUTIONAL PROVISIONS

ARTICLE 21

Interpretation and enforcement

1. The Parties shall take all appropriate measures, whether general or specific, to ensure fulfilment of the obligations arising out of this Agreement and shall refrain from any measures which would jeopardise attainment of the objectives of this Agreement.
2. Each Party shall be responsible, in its own territory, for the proper enforcement of this Agreement and, in particular, the regulations and directives related to air transport listed in Annex III to this Agreement.
3. Each Party shall give the other Party all necessary information and assistance in the case of investigations on possible infringements of provisions of this Agreement which that other Party carries out under its respective competences as provided in this Agreement.
4. Whenever the Parties act under the powers granted to them by this Agreement on matters which are of substantial interest to the other Party and which concern the authorities or undertakings of the other Party, the competent authorities of the other Party shall be fully informed and given the opportunity to comment before a final decision is taken.
5. Insofar as the provisions of this Agreement and the provisions of the acts specified in Annex III to this Agreement are identical in substance to corresponding rules of the EU Treaties and to acts adopted pursuant to the EU Treaties, those provisions shall, in their implementation and application, be interpreted in conformity with the relevant rulings and decisions of the Court of Justice and the European Commission.

ARTICLE 22

The Joint Committee

1. A Joint Committee composed of representatives of the Parties (hereinafter referred to as the Joint Committee) is hereby established, which shall be responsible for the administration of this Agreement and shall ensure its proper implementation. For this purpose it shall make recommendations and take decisions where expressly provided by this Agreement.
2. The decisions of the Joint Committee shall be adopted by consensus and shall be binding upon the Parties. They shall be put into effect by the Parties in accordance with their own rules.
3. The Joint Committee shall adopt, by a decision, its rules of procedure.
4. The Joint Committee shall meet as and when necessary. Either Party may request the convening of a meeting.

5. A Party may also request a meeting of the Joint Committee to seek to resolve any question relating to the interpretation or application of this Agreement. Such a meeting shall begin at the earliest possible date, but not later than two months from the date of receipt of the request, unless otherwise agreed by the Parties.
6. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of either Party, shall hold consultations within the Joint Committee.
7. If, in the view of one of the Parties, a decision of the Joint Committee is not properly implemented by the other Party, the former may request that the issue be discussed by the Joint Committee. If the Joint Committee cannot solve the issue within two months of its referral, the requesting Party may take appropriate safeguard measures under Article 24 (Safeguard measures) of this Agreement.
8. Without prejudice to paragraph 2, if the Joint Committee does not take a decision on an issue which has been referred to it within six months of the date of referral, the Parties may take appropriate temporary safeguard measures under Article 24 (Safeguard Measures) of this Agreement.
9. In accordance with Article 6 (Investment) of this Agreement, the Joint Committee shall examine questions relating to bilateral investments of majority ownership, or changes in the effective control of air carriers of the Parties.
10. In accordance with Article 14 (Aviation safety) of this Agreement, the Joint Committee shall monitor the process of removal from the register of aircraft registered at the date of signature in the Republic of Moldova which do not comply with international aviation safety standards established pursuant to the Convention. The Joint Committee shall also monitor the process of phasing-out during the transition phase described in Annex II to this Agreement of aircraft registered at the date of signature of this Agreement in the Republic of Moldova and used by operators under the regulatory control of the Republic of Moldova, which do not have a type certificate issued in accordance with the relevant EU legislation specified in Part C of Annex III to this Agreement with a view to agreeing a progressive reduction in the numbers of aircraft referred to in paragraph 7 of Annex II to this Agreement.
11. The Joint Committee shall also develop cooperation by:
  - (a) reviewing market conditions affecting air services under this Agreement;
  - (b) addressing and as far as possible effectively resolve "doing business" issues that may, inter alia, hamper market access and smooth operation of services under this Agreement as a means to ensure a level playing field, regulatory convergence and minimising the regulatory burden of commercial operators;
  - (c) fostering expert-level exchanges on new legislative or regulatory initiatives and developments, including in the fields of security, safety, the environment, aviation infrastructure (including slots), competitive environment and consumer protection;

- (d) regularly examining the social effects of this Agreement as it is implemented, notably in the area of employment and developing appropriate responses to concerns found to be legitimate;
- (e) considering potential areas for the further development of this Agreement, including the recommendation of amendments to this Agreement;
- (f) agreeing, on the basis of consensus, on proposals, approaches or documents of a procedural nature directly related to the functioning of this Agreement;
- (g) considering and developing technical assistance in the areas covered by this Agreement; and
- (h) fostering cooperation in relevant international fora.

## ARTICLE 23

### Dispute Resolution and Arbitration

1. If any dispute arises between the Parties relating to the interpretation or application of this Agreement they shall in the first place endeavour to settle it through formal consultations within the Joint Committee in accordance with paragraph 5 of Article 22 (Joint Committee) of this Agreement.
2. Either Party may refer any dispute relating to the application or interpretation of this Agreement, which it has not been possible to resolve in accordance with paragraph 1 of this Article, to an arbitration panel of three arbitrators in accordance with the procedure laid down hereafter:
  - (a) each Party shall appoint an arbitrator within sixty (60) days from the date of reception of the notification for the request for arbitration by the arbitration panel addressed by the other Party through diplomatic channels; the third arbitrator should be appointed by the other two arbitrators within sixty (60) additional days. If one of the Parties has not appointed an arbitrator within the agreed period, or if the third arbitrator is not appointed within the agreed period, each Party may request the President of the Council of the ICAO to appoint an arbitrator or arbitrators, whichever is applicable;
  - (b) the third arbitrator appointed under the terms of paragraph a) above should be a national of a third State and shall act as a President of the arbitration panel;
  - (c) the arbitration panel shall agree its rules of procedure; and
  - (d) subject to the final decision of the arbitration panel, the initial expenses of the arbitration shall be shared equally by the Parties.
3. At the request of a Party the arbitration panel may order the other Party to implement interim relief measures pending the panel's final determination.

4. Any provisional decision or final decision of the arbitration panel shall be binding upon the Parties.
5. If one of the Parties does not act in conformity with a decision of the arbitration panel taken under the terms of this Article within thirty (30) days from the notification of the aforementioned decision, the other Party may, for as long as this failure endures, limit, suspend or revoke the rights or privileges which it had granted under the terms of this Agreement from the Party at fault.

## ARTICLE 24

### Safeguard measures

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall ensure that the objectives set out in this Agreement are attained.
2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate safeguard measures. Safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation or maintain the balance of this Agreement. Priority shall be given to such measures as will least disturb the functioning of this Agreement.
3. A Party which is considering taking safeguard measures shall without delay notify the other Party through the Joint Committee and shall provide all relevant information.
4. The Parties shall immediately enter into consultations in the Joint Committee with a view to finding a commonly acceptable solution.
5. Without prejudice to Articles 3(d) (Authorisation), Article 5(d) (Refusal, Revocation, Suspension, Limitation of Authorisation) and Articles 14 (Aviation Safety) and 15 (Aviation Security) of this Agreement, the Party concerned may not take safeguard measures until one month has elapsed after the date of notification under paragraph 3 of this Article, unless the consultation procedure under paragraph 4 of this Article has been concluded before the expiry of the stated time limit.
6. The Party concerned shall, without delay, notify the measures taken to the Joint Committee and shall provide all relevant information.
7. Any action taken under the terms of this Article shall be suspended, as soon as the Party at fault satisfies the provisions of this Agreement.

## ARTICLE 25

### Relationship to other Agreements

1. The provisions of this Agreement shall prevail over the relevant provisions of existing bilateral air services agreements between the Republic of Moldova and the Member States. However, existing traffic rights which originate from these bilateral agreements and which

are not covered under this Agreement can continue to be exercised, provided that there is no discrimination between the Member States and their nationals.

2. The Parties shall consult in the Joint Committee, upon request of either side, to recommend whether the Republic of Moldova should join the ECAA Agreement.
3. If the Parties become parties to a multilateral agreement, or endorse a decision adopted by ICAO or another international organisation, that addresses matters covered by this Agreement, they shall consult in the Joint Committee to determine whether this Agreement should be revised to take into account such developments.

## ARTICLE 26

### Amendments

1. If one of the Parties wishes to amend the provisions of this Agreement, it shall notify the Joint Committee accordingly of its decision.
2. The Joint Committee may, upon the proposal of one Party and in accordance with this Article, decide by consensus to modify the Annexes to this Agreement.
3. The amendment to this Agreement shall enter into force after completion of the respective internal procedures of each Party.
4. This Agreement shall be without prejudice to the right of each Party, subject to compliance with the principle of non-discrimination and the provisions of this Agreement to unilaterally adopt new legislation or amend its existing legislation in the field of air transport or an associated area mentioned in Annex III to this Agreement.
5. When new legislation or an amendment to its existing legislation in the field of air transport or an associated area mentioned in Annex III to this Agreement is being considered by one of the Parties, it shall inform the other Party as appropriate and possible. At the request of either Party, an exchange of views may take place in the Joint Committee.
6. Each Party shall regularly and as soon as appropriate inform the other Party of newly adopted legislation or amendment to its existing legislation in the field of air transport or an associated area mentioned in Annex III to this Agreement. Upon the request of any Party, the Joint Committee shall within sixty (60) days thereafter hold an exchange of views on the implications of such new legislation or amendment for the proper functioning of this Agreement.
7. Following the exchange of views referred to in paragraph 6 of this Article, the Joint Committee shall:
  - (a) adopt a decision revising Annex III to this Agreement so as to integrate therein, if necessary on a basis of reciprocity, the new legislation or amendment in question;
  - (b) adopt a decision to the effect that the new legislation or amendment in question shall be regarded as in accordance with this Agreement; or



- (c) recommend any other measures, to be adopted within a reasonable period of time, to safeguard the proper functioning of this Agreement.

## ARTICLE 27

### Termination

Either Party may, at any time, give notice in writing through diplomatic channels to the other Party of its decision to terminate this Agreement. Such notice shall be sent simultaneously to ICAO. This Agreement shall terminate at midnight GMT at the end of the International Air Transport Association (IATA) traffic season in effect one year following the date of written notification of termination, unless the notice is withdrawn by mutual agreement of the Parties before the expiry of this period.

## ARTICLE 28

### Registration with the International Civil Aviation Organisation and the United Nations Secretariat

This Agreement and all amendments thereto shall be registered with the ICAO and with the United Nations Secretariat, in accordance with Article 102 of the Charter of the United Nations, following its entry into force.

## ARTICLE 29

### Provisional application and entry into force

1. This Agreement shall enter into force one month after the date of the later note in an exchange of diplomatic notes between the Parties confirming that all necessary procedures for entry into force of this Agreement have been completed. For purposes of this exchange, the Republic of Moldova shall deliver to the General Secretariat of the Council of the European Union its diplomatic note to the European Union and its Member States, and the General Secretariat of the Council of the European Union shall deliver to the Republic of Moldova the diplomatic note from the European Union and its Member States. The diplomatic note from the European Union and its Member States shall contain communications from each Member State confirming that its necessary procedures for entry into force of this Agreement have been completed.
2. Notwithstanding paragraph 1 of this Article, the Parties agree to provisionally apply this Agreement, in accordance with their internal procedures and/or domestic legislation as applicable, from the date of signature of this Agreement.

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

Done at .... on the ... day of ... in the year ..., in duplicate, in each of the official languages of the Parties, each text being equally authentic.

**AGREED SERVICES AND SPECIFIED ROUTES**

1. Each Party grants to the air carriers of the other Party the rights to provide air transport services on the routes specified hereunder:
  - (a) for air carriers of the European Union: Any point in the European Union – intermediate points in the territories of European Neighbourhood Policy partners<sup>2</sup>, ECAA countries<sup>3</sup>, or countries listed in Annex IV – Any point in the Republic of Moldova - points beyond.
  - (b) for air carriers of the Republic of Moldova: Any point in the Republic of Moldova – intermediate points in the territories of European Neighbourhood Policy partners, ECAA countries or countries listed in Annex IV – Any point in the European Union
2. The services operated according to paragraph 1 of this Annex shall originate or terminate in the territory of the Republic of Moldova, for air carriers of the Republic of Moldova, and in the territory of the European Union for air carriers of the European Union.
3. Air carriers of both Parties may on any or all flights and at their option:
  - (a) operate flights in either or both directions;
  - (b) combine different flight numbers within one aircraft operation;
  - (c) serve intermediate and beyond points, as specified in paragraph 2 of this Annex, and points in the territories of the Parties in any combination and in any order;
  - (d) omit stops at any point or points;
  - (e) transfer traffic from any of its aircraft to any of its other aircraft at any point;
  - (f) make stopovers at any points whether within or outside the territory of either Party;
  - (g) carry transit traffic through the other Party's territory; and
  - (h) combine traffic on the same aircraft regardless of where such traffic originates.
4. Each Party shall allow each air carrier to determine the frequency and capacity of the international air transport it offers based upon commercial considerations in the marketplace. Consistent with this right, neither Party shall unilaterally limit the volume of

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2 "European Neighbourhood Policy partners" shall here be understood as Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Morocco, Occupied Palestinian Territory, Syria, Tunisia and Ukraine i.e. shall here not include the Republic of Moldova.

3 "ECAA countries" are the countries which are parties to the Multilateral Agreement establishing a European Common Aviation Area which at the date of signature of the agreement were: Member States of the European Union, the Republic of Albania, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, the Republic of Serbia and Kosovo under UN Security Council Resolution 1244.

traffic, frequency or regularity of service, or the aircraft type or types operated by the air carriers of the other Party, except for customs, technical, operational, environmental, protection of health reasons or in application of Article 8 (Competitive environment) of this Agreement.

5. The air carriers of each Party may serve, including within the framework of code share arrangements, any point located in a third country that is not included on the specified routes, provided that they do not exercise 5th freedom rights.
  6. This Annex is subject to the transitional provisions contained in paragraph 2 of Annex II to this Agreement and the extension of rights foreseen therein.
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**TRANSITIONAL PROVISIONS**

1. The implementation and application by the Republic of Moldova of all the provisions of the legislation of the European Union relating to air transport indicated in Annex III to this Agreement, with the exception of the security legislation under Part D of Annex III to this Agreement, shall be the subject of an evaluation under the responsibility of the European Union which shall be validated by a decision of the Joint Committee. Such an evaluation shall be conducted two years after the entry into force of the Agreement at the latest.
2. Notwithstanding the provisions of Annex I to this Agreement, the agreed services and specified routes of this Agreement, shall not include, until the moment of the adoption of the decision referred to in paragraph 1 of this Annex II to this Agreement, the right for the air carriers of both parties to exercise 5<sup>th</sup> freedom rights other than those already granted by bilateral agreements between the Republic of Moldova and the Member States of the European Union, including for the air carriers of the Republic of Moldova between points within the territory of the European Union.

Upon the adoption of the decision referred to in paragraph 1 of this Annex II, the air carriers of both parties shall be entitled to exercise 5<sup>th</sup> freedom rights, including for the air carriers of the Republic of Moldova between points within the territory of the European Union.

3. The implementation of the aviation security legislation by the Republic of Moldova shall be subject of an evaluation under the responsibility of the European Union which shall be validated by a decision of the Joint Committee. Such an evaluation shall be conducted at the latest three years after the entry into force of this Agreement. In the meantime, the Republic of Moldova shall implement ECAC Doc 30.
4. At the end of the transitional period, the confidential part of the security legislation as provided in Part D of Annex III to this Agreement shall be made available to the appropriate authority of the Republic of Moldova, subject to an agreement on the exchange of security sensitive information including EU classified information.
5. The gradual transition of the Republic of Moldova to the full application of the legislation of the European Union relating to air transport indicated in Annex III to this Agreement may be subject to regular assessments. The assessments shall be carried out by the European Commission in cooperation with the Republic of Moldova.
6. As of the date of decision referred to in paragraph 1 of this Annex, the Republic of Moldova will apply operating licensing rules substantially equivalent to those contained in Chapter II of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community. The provisions of Article 4 of this Agreement with regard to the reciprocal recognition of fitness and/or citizenship determinations made by the competent authorities of the Republic of Moldova shall be applied by the competent authorities of the European

Union upon the confirmation by the Joint Committee of the full application by the Republic of Moldova of such operating licensing rules.

7. Without prejudice to a decision within the Joint Committee or within Article 24 (Safeguard measures), aircraft registered at the date of signature in the register of the Republic of Moldova and used by operators under the regulatory control of the Republic of Moldova, which do not have a type certificate issued in accordance with the relevant EU legislation in Part C of Annex III to this Agreement, can be managed under the responsibility of the competent authorities of the Republic of Moldova in accordance with the applicable national safety requirements of the Republic of Moldova until no later than:

- (a) 1 January 2017 for certain aero-planes engaged in cargo-only operations;
- (b) 31 December 2022 for certain helicopters engaged in operations such as search and rescue, aerial work, training, emergency, agricultural and humanitarian flights in accordance with the operational certificates of the respective carriers;

provided that the aircraft comply with international aviation safety standards established pursuant to the Convention. Such aircraft shall not benefit from any rights granted under this Agreement and shall not operate on air routes to, from or within the European Union.

During the above transition phase, the number of aircraft in the register of the Republic of Moldova which do not have a type certificate issued in accordance with the relevant EU legislation shall not exceed 53 until 1 January 2017, shall thereafter not exceed 36 and shall no later than 31 December 2022 have been completely phased-out.

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(Subject to regular update)

**RULES APPLICABLE TO CIVIL AVIATION**

The "Applicable provisions" of the following acts shall be applicable in accordance with this Agreement unless otherwise specified in this Annex or in Annex II to this Agreement (Transitional Provisions). Where necessary, specific adaptations for each individual act are set out hereafter:

**A. Market access and ancillary issues**

**No 95/93**

Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports

as amended by:

- Regulation (EC) No 894/2002 of the European Parliament and of the Council of 27 May 2002 amending Council Regulation (EEC) No 95/93
- Regulation (EC) No 1554/2003 of the European Parliament and of the Council of 22 July 2003 amending Council Regulation (EEC) No 95/93
- Regulation (EC) No 793/2004 of the European Parliament and of the Council of 21 April 2004 amending Council Regulation (EEC) No 95/93
- Regulation (EC) No 545/2009 of the European Parliament and of the Council of 18 June 2009

Applicable provisions: Articles 1 to 12, 14 and 14 a (2)

As regards the application of Article 12(2), the term "the Commission" shall read "the Joint Committee".

**No 96/67**

Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports

Applicable provisions: Articles 1 to 25 and Annex

As regards the application of Article 10, the term "Member States" shall read "Member States of the European Union".

As regards the application of Article 20(2), the term "the Commission" shall read "the Joint Committee".

#### **No 785/2004**

Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators

Applicable provisions: Articles 1 to 8, and 10(2)

#### **No 2009/12**

Directive (EC) No 2009/12 of the European Parliament and of the Council of 11 March 2009 on airport charges

Applicable provisions: Articles 1 to 12

### **B. Air Traffic Management**

#### **No 549/2004**

Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation)

Applicable provisions: Articles 1 to 4, 6, and 9 to 14

#### **No 550/2004**

Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation)

Applicable provisions: Articles 1 to 19, Annexes I and II

#### **No 551/2004**

Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation)

Applicable provisions: Articles 1 to 11

#### **No 552/2004**

Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation)

Applicable provisions: Articles 1 to 12, Annexes I to V

#### **No 2096/2005**

Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services

as amended by:

- Commission Regulation (EC) No 1315/2007 of 8 November 2007 on safety oversight in air traffic management and amending Regulation (EC) 2096/2005
- Commission Regulation (EC) No 482/2008 of 30 May 2008 establishing a software safety assurance system to be implemented by air navigation service providers and amending Annex II to Regulation (EC) No 2096/2005
- Commission Regulation (EC) No 668/2008 of 15 July 2008 amending Annexes II to V of Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services, as regards working methods and operating procedures

Applicable provisions: Articles 1 to 9, Annexes I to V

#### **No 2150/2005**

Commission Regulation (EC) No 2150/2005 of 23 December 2005 laying down common rules for the flexible use of airspace

#### **No 730/2006**

Commission regulation (EC) No 730/2006 of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195

#### **No 1794/2006**

Commission regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services

#### **No 1033/2006**

Commission regulation (EC) No 1033/2006 of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the single European sky

#### **No 1032/2006**

Commission regulation (EC) No 1032/2006 of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units

#### **No 219/2007**

Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)

Applicable provisions: Article 1(1)-(2) and (5)-(7), Articles 2 to 3, Article 4(1), Annex

#### **No 633/2007**



Commission Regulation (EC) No 633/2007 of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units

Applicable provisions: Articles 1 to 7, the second and third sentences of Article 8, Annexes I to IV

#### **No 1265/2007**

Commission Regulation (EC) No 1265/2007 of 26 October 2007 laying down requirements on air-ground voice channel spacing for the single European sky

Applicable provisions: Articles 1 to 9, Annexes I to IV

#### **No 1315/2007**

Commission Regulation (EC) No 1315/2007 of 8 November 2007 on safety oversight in air traffic management and amending Regulation (EC) No 2096/2005

Applicable provisions: Articles 1 to 15

#### **No 482/2008**

Commission Regulation (EC) No 482/2008 of 30 May 2008 establishing a software safety assurance system to be implemented by air navigation service providers and amending Annex II to Regulation (EC) No 2096/2005

Applicable provisions: Articles 1 to 5, Annexes I to II

#### **No 668/2008**

Commission Regulation (EC) N° 668/2008 of 15 July 2008 amending Annexes II to V of Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services, as regards working methods and operating procedures.

Applicable provisions: Articles 1 to 2

#### **No 1361/2008**

Council Regulation (EC) N° 1361/2008 of 16 December 2008 amending Regulation (EC) N° 219/2007 on the establishment of a joint undertaking to develop the new generation European air traffic management system (SESAR).

Applicable provisions: Articles 1 to 5 (with the exception of Article 1.6), Annex (with the exception of points 11 and 12).

#### **No 29/2009**

Commission Regulation (EC) N° 29/2009 of 16 January 2009 laying down requirements on data link services for the single European sky.

Applicable provisions: Articles 1 to 15, Annexes I-VII

#### **No 30/2009**

Commission Regulation (EC) N° 30/2009 of 16 January 2009 amending Regulation (EC) N° 1032/2006 as far as the requirements for automatic systems for the exchange of flight data supporting data link services are concerned.

Applicable provisions: Articles 1 to 2, Annex

#### **No 262/2009**

Commission Regulation (EC) N° 262/2009 of 30 March 2009 laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the single European sky.

Applicable provisions: Articles 1 to 13, Annexes I-III

#### **No 1070/2009**

Regulation (EC) N° 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) N° 549/2004, (EC) N° 550/2004, (EC) N° 551/2004 and (EC) N° 552/2004 in order to improve the performance and sustainability of the European aviation system.

Applicable provisions: Articles 1 to 5, with the exception of Article 1.4

#### **No 1108/2009**

Regulation (EC) N° 1108/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulation (EC) N° 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC.

#### **No 73/2010**

Commission Regulation (EU) N° 73/2010 of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the single European sky.

#### **No 255/2010**

Commission Regulation (EU) N° 255/2010 of 25 March 2010 laying down common rules on air traffic flow management.

#### **No 691/2010**

Commission Regulation (EU) N° 691/2010 of 29 July 2010 laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) N° 2096/2005 laying down common requirements for the provision of air navigation services.

#### **No 929/2010**

Commission Regulation (EU) N° 929/2010 of 18 October 2010 amending Regulation (EC) N° 1033/2006 as regards the ICAO provisions referred to in Article 3(1).

#### **No 1191/2010**

Commission Regulation (EU) N° 1191/2010 of 16 December 2010 amending Regulation (EC) N° 1794/2006 laying down a common charging scheme for air navigation services.

Commission Decision of 21 February 2011 setting the European Union-wide performance targets and alert thresholds for the provision of air navigation services for the years 2012 to 2014 (2011/121/EU)

#### **No 176/2011**

Commission Regulation (EU) N° 176/2011 of 24 February 2011 on the information to be provided before the establishment and modification of a functional airspace block.

#### **No 283/2011**

Commission Regulation (EU) No 283/2011 of 22 March 2011 amending Regulation (EC) No 633/2007 as regards the transitional arrangements referred to in Article 7

Commission Decision of 20.05.2011 on exemptions under Article 14 of Commission Regulation (EC) N° 29/2009 on data link services for the single European sky.

#### **No 677/2011**

Commission Regulation (EU) N° 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) N° 691/2010.

Commission Decision C(2011) 4130 final of 7 July 2011 on the nomination of the Network Manager for the air traffic management (ATM) network functions of the single European sky.

#### **No 805/2011**

Commission Regulation (EU) No 805/2011 of 10 August 2011 laying down detailed rules for air traffic controllers' licences and certain certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

### **C. Aviation Safety**

#### **No 3922/91**

Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

as amended by:

- Commission Regulation (EC) No 2176/96 of 13 November 1996 amending to scientific and technical progress Council Regulation (EEC) No 3922/91
- Commission Regulation (EC) No 1069/1999 of 25 May 1999 adapting to scientific and technical progress Council Regulation (EEC) No 3922/91

- Commission Regulation (EC) No 2871/2000 of 28 December 2000 adapting to scientific and technical progress Council Regulation (EEC) 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation
- Regulation (EC) No 1899/2006 of 12 December 2006 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation
- Regulation (EC) No 1900/2006 of the European Parliament and of the Council of 20 December 2006 amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation
- Commission Regulation (EC) No 8/2008 of 11 December 2007 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane
- Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane

Applicable provisions: Articles 1 to 10, 12 to 13 with the exception of Article 4(1) and Article 8(2) (second sentence), Annexes I to III

As regards the application of Article 12, "Member States" shall read "Member States of the European Union".

#### **No 216/2008**

Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC

Applicable provisions: Articles 1 to 68 with the exception of Article 65, the second subparagraph of Article 69(1), Article 69(4), Annexes I to VI

as amended by:

Commission Regulation (EC) No 690/2009 of 30 July 2009 amending Regulation (EC) No 216/2008 of the European Parliament and the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC

Regulation (EC) N° 1108/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulation (EC) N° 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC

Applicable provisions: Articles 1 to 3, with the exception of paragraph 5 of Article 8a, paragraph 6 of Article 8b and paragraph 10 of Article 8c inserted by Article 1(7) of Regulation (EC) N° 1108/2009, Annex

#### **No 996/2010**

Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC

**No 2003/42**

Directive 2003/42/EC of the European Parliament and the Council of 13 June 2003 on occurrence reporting in civil aviation

Applicable provisions: Articles 1 to 11, Annexes I and II

**No 1321/2007**

Commission Regulation (EC) No 1321/2007 of 12 November 2007 laying down implementing rules for the integration into a central repository of information on civil aviation occurrences exchanged in accordance with Directive 2003/42/EC of the European Parliament and of the Council

Applicable provisions: Articles 1 to 4

**No 1330/2007**

Commission Regulation (EC) No 1330/2007 of 24 September 2007 laying down implementing rules for the dissemination to interested parties of information on civil aviation occurrences referred to in Article 7(2) of Directive 2003/42/EC of the European Parliament and of the Council

Applicable provisions: Articles 1 to 10, Annexes I to II

**No 1702/2003**

Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations

as amended by:

- Commission Regulation (EC) No 381/2005 of 7 March 2005 amending Regulation (EC) No 1702/2003
- Commission Regulation (EC) No 706/2006 of 8 May 2006 amending Regulation (EC) No 1702/2003 as regards the period during which Member States may issue approvals of a limited duration
- Commission Regulation (EC) No 335/2007 of 28 March 2007 amending Regulation (EC) No 1702/2003 as regards the implementing rules related to environmental certification of aircraft and related products, parts and appliances
- Commission Regulation (EC) No 375/2007 of 30 March 2007 amending Regulation (EC) No 1702/2003 laying down implementing rules for the airworthiness and environmental

certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations

- Commission Regulation (EC) No 287/2008 of 28 March 2008 on the extension of the period of validity of referred to in Article 2c(3) of Regulation (EC) No 1702/2003
- Commission Regulation (EC) No 1057/2008 of 27 October 2008 amending Appendix II of Annex to Regulation (EC) No 1702/2003 concerning the Airworthiness Review Certificate (EASA Form 15a)
- Commission Regulation (EC) No 1194/2009 of 30 November 2009 amending Regulation (EC) No 1702/2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances as well as for certification of design and production organisations

*Note:* Corrected by Corrigendum to Commission Regulation (EC) No 1194/2009 of 30 November 2009 amending Regulation (EC) No 1702/2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances as well as for certification of design and production organisations ( OJ L 321, 8.12.2009 )

Applicable provisions: Articles 1 to 4, Annex. The transitional periods referred to in this Regulation shall be determined by the Joint Committee.

#### **No 2042/2003**

Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

as amended by:

- Commission Regulation (EC) No 707/2006 of 8 May 2006 amending Regulation (EC) No 2042/2003 as regards approvals of a limited duration and Annexes I and III
- Commission Regulation (EC) No 376/2007 of 30 March 2007 amending Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks
- Commission Regulation (EC) No 1056/2008 of 27 October 2008 amending Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks
- Commission Regulation (EC) No 127/2010 amending Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

Applicable provisions: Articles 1 to 6, Annexes I to IV

#### **No 104/2004**

Commission Regulation (EC) No 104/2004 of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency

Applicable provisions: Articles 1 to 7 and Annex

#### **No 593/2007**

Commission Regulation (EC) No 593/2007 of 31 May 2007 on the fees and charges levied by the European Aviation Safety Agency

as amended by:

Commission Regulation (EC) No 1356/2008 of 23 December 2008 amending Regulation (EC) No 593/2007 on the fees and charges levied by the European Aviation Safety Agency

Applicable provisions: Articles 1 to 12, Article 14(2), Annex

#### **No 736/2006**

Commission Regulation (EC) No 736/2006 of 16 May 2006 on working methods of the European Aviation Safety Agency for conducting standardisation inspections

Applicable provisions: Articles 1 to 18

#### **No 768/2006**

Commission Regulation (EC) No 768/2006 of 19 May 2006 implementing Directive 2004/36/EC of the European Parliament and of the Council as regards the collection and exchange of information on the safety of aircraft using Community airports and the management of the information system

Applicable provisions: Articles 1 to 5

#### **No 2111/2005**

Regulation (EC) No 2111/2005 of the European Parliament and the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/CE

Applicable provisions: Articles 1-13, Annex

Commission Regulation (EC) N° 473/2006 of 22 March 2006 laying down the rules for the Community list of carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) NO 2111/2005 of the European Parliament and the Council

Applicable provisions: Articles 1 to 6 and Annexes A to C

Commission Regulation (EC) No 474/2006 of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in

Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council, and as subsequently amended.

Applicable provisions: Articles 1 to 3 and Annexes A and B

## **D. Aviation Security**

### **Framework Regulation**

#### **No 300/2008**

Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002

Applicable provisions: Articles 1 to 18, Article 21, Annex

### **Supplementing Regulation**

#### **No 272/2009**

Commission Regulation (EC) No 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council

as amended by:

- Commission Regulation (EU) No 720/2011 of 22 July 2011 amending Commission Regulation (EC) No 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security as regards the phasing-in of the screening of liquids, aerosols and gels at EU airports

#### **No 1254/2009**

Commission Regulation (EU) No 1254/2009 of 18 December 2009 setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures

#### **No 18/2010**

Commission Regulation (EU) No 18/2010 of 8 January 2010 amending Regulation (EC) No 300/2008 of the European Parliament and of the Council as far as specifications for national quality control programmes in the field of civil aviation security are concerned

### **Implementing Regulation**

#### **No 72/2010**



Commission Regulation (EU) No 72/2010 of 26 January 2010 laying down procedures for conducting Commission inspections in the field of aviation security

## **No 185/2010**

Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security

as amended by:

- Commission Regulation (EU) No 357/2010 of 23 April 2010 amending Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security
- Commission Regulation (EU) No 358/2010 of 23 April 2010 amending Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security
- Commission Regulation (EU) No 573/2010 of 30 June 2010 amending Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security
- Commission Regulation (EU) No 983/2010 of 3 November 2010 amending Regulation (EU) No 185/2010 laying down detailed measures for the implementation of the common basic standards on aviation security
- Commission Regulation (EU) No 334/2011 of 7 April 2011 amending Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security

Commission Decision 2010/774/EU of 13 April 2010 laying down detailed measures for the implementation of the common basic standards on aviation security containing information as referred to in Point (a) of Article 18 of Regulation (EC) No 300/2008 (*need to know aviation security measures*)

as amended by:

- Commission Decision 2010/2604/EU of 23 April 2010 amending Commission Decision 2010/774/EU of 13 April 2010 laying down detailed measures for the implementation of the common basic standards on aviation security containing information as referred to in Point (a) of Article 18 of Regulation (EC) No 300/2008 (*protection of supplies of LAGs and STEBs*)
- Commission Decision 2010/3572/EU of 30 June 2010 amending Commission Decision 2010/774/EU of 13 April 2010 laying down

detailed measures for the implementation of the common basic standards on aviation security containing information as referred to in Point (a) of Article 18 of Regulation (EC) No 300/2008 (*explosive detection dogs*)

- Commission Decision 2010/9139/EU of 20 December 2010 amending Commission Decision 2010/774/EU of 13 April 2010 laying down detailed measures for the implementation of the common basic standards on aviation security containing information as referred to in Point (a) of Article 18 of Regulation (EC) No 300/2008 (*metal detection for cargo*)

## **E. Environment**

### **No 2006/93**

Directive 2006/93/EC of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition

Applicable provisions: Articles 1 to 6 and Annexes I and II

### **No 2002/30**

Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports

As amended or adapted by the 2003 Act of Accession and the 2005 Act of Accession

Applicable provisions: Articles 1 to 15, Annexes I and II

### **No 2002/49**

Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise

Applicable provisions: Articles 1 to 16, Annexes I to VI

## **F. Social Aspects**

### **No 2000/79**

Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA)

Applicable provisions: Articles 2 to 3, Annex

## **No 2003/88**

Directive 2003/88 /EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time

Applicable provisions: Article 1 to 19, 21 to 24 and 26 to 29

## **G. Consumer protection**

### **No 90/314**

Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours

Applicable provisions: Articles 1 to 10

### **No 95/46**

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Applicable provisions: Articles 1 to 34

### **No 2027/97**

Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents as amended by:

- Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97

Applicable provisions: Articles 1 to 8

### **No 261/2004**

Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91

Applicable provisions: Articles 1 to 17

### **No 1107/2006**

Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air

Applicable provisions: Articles 1 to 17, Annexes I and II

## **H. Other legislation**

### **No 80/2009**

Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89

Applicable provisions: Articles 1 to 18 and Annexes I and II

List of other States referred to in Articles 3 and 4, and Annex I

1. The Republic of Iceland (under the Agreement on the European Economic Area);
  2. The Principality of Liechtenstein (under the Agreement on the European Economic Area);
  3. The Kingdom of Norway (under the Agreement on the European Economic Area);
  4. The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation).
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