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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	6 September 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	ANNEX to the Amended proposal for a Council decision on the signature and provisional application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part; and on the signature and provisional application of the Ancillary Agreement between the European Union and its member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part
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Delegations will find attached document COM(2016) 552 final ANNEX 1

Encl.: COM(2016) 552 final ANNEX 1



Brussels, 6.9.2016
COM(2016) 552 final

ANNEX 1

ANNEX

to the Amended proposal

for a Council decision

on the signature and provisional application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part; and

on the signature and provisional application of the Ancillary Agreement between the European Union and its member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part

ANNEX

to the Amended proposal

for a Council decision

on the signature and provisional application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part; and

on the signature and provisional application of the Ancillary Agreement between the European Union and its member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part

ATTACHMENT 1

AIR TRANSPORT AGREEMENT

THE UNITED STATES OF AMERICA (hereinafter, the "United States"),
of the first part;

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,

THE REPUBLIC OF 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,

being parties to the Treaty on European Union and the Treaty on the Functioning of the European Union and being Member States of the European Union (hereinafter, the "Member States"),

and

THE EUROPEAN UNION,

of the second part;

ICELAND,

of the third part; and

THE KINGDOM OF NORWAY (hereinafter, "Norway"),

of the fourth part;

DESIRING to promote an international aviation system based on competition among airlines in the marketplace with minimum government interference and regulation;

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

DESIRING to make it possible for airlines 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 airline workers, benefit in a liberalized agreement;

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

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

RECOGNIZING that government subsidies may adversely affect airline competition and may jeopardize the basic objectives of this Agreement;

AFFIRMING the importance of protecting the environment in developing and implementing international aviation policy;

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 May 28, 1999;

INTENDING to build upon the framework of existing agreements with the goal of opening access to markets and maximizing benefits for consumers, airlines, labor, and communities on both sides of the Atlantic;

RECOGNIZING the importance of enhancing the access of their airlines to global capital markets in order to strengthen competition and promote the objectives of this Agreement;

INTENDING to establish a precedent of global significance to promote the benefits of liberalization in this crucial economic sector;

RECOGNIZING that the European Union replaced and succeeded the European Community as a consequence of the entry into force on December 1, 2009 of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, and that as of that date, all the rights and obligations of, and all the references to the European Community in the Air Transport Agreement signed by the European Community and its Member States and the United States of America on April 25 and 30, 2007, apply to the European Union;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Definition

"Party" means the United States, the European Union and its Member States, Iceland, or Norway.

ARTICLE 2

Application of the Air Transport Agreement as amended by the Protocol

and the Annex to this Agreement

The provisions of the Air Transport Agreement signed by the European Community and its Member States and the United States of America on April 25 and 30, 2007 (hereinafter, "the Air Transport Agreement"), as amended by the Protocol to Amend the Air Transport Agreement signed by the United States of America and the European Union and its Member States on June 24, 2010 (hereinafter, "the Protocol"), which are hereby incorporated by reference, shall apply to all Parties to this Agreement, subject to the Annex to this Agreement. The provisions of the Air Transport

Agreement, as amended by the Protocol, shall apply to Iceland and Norway as though they were Member States of the European Union, so that Iceland and Norway shall have all of the rights and obligations of Member States under that agreement. The provisions of the Annex to this Agreement form an integral part of this Agreement.

ARTICLE 3

Termination

1. Either the United States or the European Union and its Member States may, at any time, give notice in writing through diplomatic channels to the other three Parties of its decision to terminate this Agreement or to end this Agreement's provisional application under Article 5.

A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization (ICAO). This Agreement shall terminate, or provisional application of this Agreement shall end, at midnight GMT at the end of the International Air Transport Association (IATA) traffic season in effect one year following the date of the written notification, unless the notice is withdrawn by agreement of all of the Parties before the end of this period.

2. Either Iceland or Norway may, at any time, give notice in writing through diplomatic channels to the other Parties of its decision to withdraw from this Agreement or to end its provisional application of this Agreement under Article 5. A copy of the notice shall be sent simultaneously to ICAO. Such withdrawal or cessation of provisional application shall be effective at midnight GMT at the end of the IATA traffic season in effect one year following the date of written notification, unless the notice is withdrawn by agreement of the Party giving written notice, the United States, and the European Union and its Member States before the end of this period.

3. Either the United States or the European Union and its Member States may, at any time, give notice in writing through diplomatic channels to Iceland or Norway of its decision to terminate this Agreement or to end this Agreement's provisional application, with respect to Iceland or Norway. Copies of the notice shall be sent simultaneously to the other two Parties to this Agreement and to ICAO. Termination or cessation of provisional application with respect to Iceland or Norway shall be effective at midnight GMT at the end of the IATA traffic season in effect one year following the date of written notification, unless the notice is withdrawn by agreement of the United States, the European Union and its Member States, and the Party receiving the notice, before the end of this period.

4. For purposes of the diplomatic notes contemplated by this Article, diplomatic notes to or from the European Union and its Member States shall be delivered to or from, as the case may be, the European Union.

5. Notwithstanding any other provision of this Article, if the Air Transport Agreement, as amended by the Protocol, is terminated, this Agreement shall terminate simultaneously.

ARTICLE 4

Registration with ICAO

This Agreement and all amendments thereto shall be registered with ICAO by the General Secretariat of the Council of the European Union.

ARTICLE 5

Provisional Application

Pending its entry into force, the Parties agree to provisionally apply this Agreement, to the extent permitted under applicable domestic law, from the date of signature. If the Air Transport Agreement, as amended by the Protocol, is terminated in accordance with Article 23 thereof, or its provisional application ceases in accordance with Article 25 of that agreement, or provisional application of the Protocol ceases in accordance with Article 9 of the Protocol, provisional application of this Agreement shall cease simultaneously.

ARTICLE 6

Entry into force

This Agreement shall enter into force on the later of:

1. the date of entry into force of the Air Transport Agreement,
2. the date of entry into force of the Protocol, and
3. one month after the date of the last note of the exchanges of diplomatic notes among the Parties confirming that all necessary procedures for entry into force of this Agreement have been completed.

For the purposes of this exchange of diplomatic notes, diplomatic notes to or from the European Union and its Member States shall be delivered to or from, as the case may be, the European Union. The diplomatic note or notes 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.

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

DONE at....., in quadruplicate, this day of

FOR THE UNITED STATES OF AMERICA FOR THE KINGDOM OF BELGIUM

FOR THE REPUBLIC OF BULGARIA

FOR THE CZECH REPUBLIC

FOR THE KINGDOM OF DENMARK

FOR THE FEDERAL REPUBLIC OF GERMANY

FOR THE REPUBLIC OF ESTONIA

FOR IRELAND

FOR THE HELLENIC REPUBLIC

FOR THE KINGDOM OF SPAIN

FOR THE FRENCH REPUBLIC

FOR THE ITALIAN REPUBLIC

FOR THE REPUBLIC OF CYPRUS

FOR THE REPUBLIC OF LATVIA

FOR THE REPUBLIC OF LITHUANIA

FOR THE GRAND DUCHY OF LUXEMBOURG

FOR THE REPUBLIC OF HUNGARY

FOR THE REPUBLIC OF MALTA

FOR THE KINGDOM OF THE NETHERLANDS

FOR THE REPUBLIC OF AUSTRIA

FOR THE REPUBLIC OF POLAND

FOR THE PORTUGUESE REPUBLIC

FOR ROMANIA

FOR THE REPUBLIC OF SLOVENIA

FOR THE SLOVAK REPUBLIC

FOR THE REPUBLIC OF FINLAND

FOR THE KINGDOM OF SWEDEN

FOR THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

FOR THE EUROPEAN UNION

FOR ICELAND

FOR THE KINGDOM OF NORWAY

Specific Provisions with Respect to Iceland and Norway

The provisions of the Air Transport Agreement, as amended by the Protocol, modified as follows, shall apply to all Parties to this Agreement. The provisions of the Air Transport Agreement, as amended by the Protocol, shall apply to Iceland and Norway as though they were Member States of the European Union, so that Iceland and Norway shall have all of the rights and obligations of Member States under that agreement:

1. Paragraph 9 of Article 1 of the Air Transport Agreement, as amended by the Protocol, shall read as follows:

"Territory" means, for the United States, the land areas (mainland and islands), internal waters and territorial sea under its sovereignty or jurisdiction, and, for the European Union and its Member States, the land areas (mainland and islands), internal waters and territorial sea in which the Agreement on the European Economic Area is applied and under the conditions laid down in that agreement and any successor instrument, with the exception of the land areas and internal waters under the sovereignty or jurisdiction of the Principality of Liechtenstein; application of this Agreement to Gibraltar airport 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 European Union aviation measures existing as at 18 September 2006 as between Member States, in accordance with the Ministerial statement on Gibraltar Airport agreed in Córdoba on 18 September 2006; and

2. Articles 23 to 26 of the Air Transport Agreement, as amended by the Protocol, shall not apply to Iceland and Norway.

3. Articles 9 and 10 of the Protocol shall not apply to Iceland and Norway.

4. The following shall be added to Section 1 of Annex 1 of the Air Transport Agreement, as amended by the Protocol:

w. Iceland: Air Transport Agreement, signed at Washington June 14, 1995; amended March 1, 2002 by exchange of notes; amended August 14, 2006 and March 9, 2007 by exchange of notes.

x. The Kingdom of Norway: Agreement relating to Air Transport Services effected by exchange of notes at Washington, October 6, 1945; amended August 6, 1954 by exchange of notes; amended June 16, 1995 by exchange of notes.

5. The text of Section 2 of Annex 1 of the Air Transport Agreement, as amended by the Protocol, shall read as follows:

Notwithstanding section 1 of this Annex, for areas that are not encompassed within the definition of "territory" in Article 1 of this Agreement, the agreements in paragraphs (e) (Denmark-United States), (g) (France-United States), (v) (United Kingdom-United States), and (x) (Norway-United States) of that section shall continue to apply, according to their terms.

6. The text of Section 3 of Annex 1 of the Air Transport Agreement, as amended by the Protocol, shall read as follows:

Notwithstanding Article 3 of this Agreement, U.S. airlines shall not have the right to provide all-cargo services, that are not part of a service that serves the United States, to or from points in the Member States, except to or from points in the Czech Republic, the French Republic, the Federal Republic of Germany, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Poland, the Portuguese Republic, the Slovak Republic, Iceland, and the Kingdom of Norway.

7. The following sentence shall be added at the end of Article 3 of Annex 2 of the Air Transport Agreement, as amended by the Protocol:

For Iceland and Norway, this includes, but is not limited to, Articles 53, 54, and 55 of the Agreement on the European Economic Area and the EU Regulations implementing Articles 101, 102 and 105 of the Treaty on the Functioning of the European Union as incorporated into the Agreement on the European Economic Area, as well as any amendments thereto.

8. Article 21 paragraph 4 of the Air Transport Agreement as amended by the Protocol shall apply to Iceland and Norway to the extent that the relevant laws and regulations of the European Union are incorporated into the Agreement on the European Economic Area, in accordance with any adaptations thereby stipulated.

Joint Declaration

Representatives of the United States of America, the European Union and its Member States, Iceland, and the Kingdom of Norway confirmed that the text of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part (the "Agreement"), is to be authenticated in other languages, as provided either, before signature of the Agreement, by Exchanges of Letters among the United States of America, the European Commission on behalf of the European Union and its Member States, Iceland, and the Kingdom of Norway or, after signature of the Agreement, by decision of the Joint Committee.

This Joint Declaration is an integral part of the Agreement.

For the United States of America:

For the European Union and its Member States:

XXX

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For Iceland:

For the Kingdom of Norway:

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