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European Union

Brussels, 6 September 2016  
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## PROPOSAL

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| From:            | Secretary-General of the European Commission,<br>signed by Mr Jordi AYET PUIGARNAU, Director  |
| date of receipt: | 6 September 2016  |
| To:              | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of<br>the European Union  |
| No. Cion doc.:   | COM(2016) 552 final ANNEX 2   |
| Subject:         | ANNEX to the Amended proposal for a Council decision on the signature<br>and provisional application of the Air Transport Agreement between the<br>United States of America, of the first part, the European Union and its<br>Member States, of the second part, Iceland, of the third part, and the<br>Kingdom of Norway, of the fourth part; and on the signature and provisional<br>application of the Ancillary Agreement between the European Union and its<br>Member States, of the first part, Iceland, of the second part, and the<br>Kingdom of Norway, of the third part, on the application of the Air Transport<br>Agreement between the United States of America, of the first part, the<br>European Union and its Member States, of the second part, Iceland, of the<br>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 2.

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Encl.: COM(2016) 552 final ANNEX 2



Brussels, 6.9.2016  
COM(2016) 552 final

ANNEX 2

## 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 2

### 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**

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 to 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 first part;

ICELAND,

of the second part;

and

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

of the third part;

NOTING that the European Commission has negotiated, on behalf of the European Union and of the Member States, an Agreement on Air Transport with the United States of America in accordance with the Council Decision authorising the Commission to open negotiations,

NOTING that the Air Transport Agreement between the United States of America and the European Community and its Member States (hereinafter, "the Air Transport Agreement") was initialled on 2 March 2007, signed at Brussels on 25 April 2007 and at Washington, D.C. on 30 April 2007 and provisionally applied from 30 March 2008,

NOTING that the Air Transport Agreement was amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Union and its Member States (hereinafter, "the Protocol"), initialled on 2 March 2010, and signed at Luxembourg on 24 June 2010,

NOTING that Iceland and Norway, being fully integrated members of the single European Aviation Market through the Agreement on the European Economic Area, have adhered to the Air Transport Agreement as amended by the Protocol through an 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, of even date, (hereinafter, "the Agreement"), which incorporates the Air Transport Agreement as amended by the Protocol.

RECOGNISING that it is necessary to lay down procedural arrangements for deciding, if appropriate, how to take measures pursuant to Article 21 paragraph 5 of the Air Transport Agreement as amended by the Protocol.

RECOGNISING that it is furthermore necessary to lay down procedural arrangements for the participation of Iceland and Norway in the Joint Committee set up under Article 18 of the Air Transport Agreement as amended by the Protocol and in the arbitration procedures provided for in Article 19 of the Air Transport Agreement as amended by the Protocol. These procedural arrangements should ensure the necessary cooperation, flow of information and consultation before Joint Committee meetings, as well as the implementation of certain provisions of the Air Transport Agreement as amended by the Protocol, including those concerning security, safety, the granting and revocation of traffic rights and government support,

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

### Notification

Should the European Union and its Member States decide to terminate the Agreement in accordance with Article 3 of the Agreement or to discontinue its provisional application, or to withdraw notices to that effect, the Commission shall, before giving notice through diplomatic channels to the United States of America, immediately notify Iceland and Norway thereof. Iceland and/or Norway shall likewise immediately notify the Commission of any such decision(s).

## ARTICLE 2

### Suspension of Traffic Rights

A decision not to allow airlines of the other Party to operate additional frequencies or enter new markets under the Agreement and give notice thereof to the United States of America, or to agree to lift any such decision, taken in accordance with Article 21 paragraph 5 of the Air Transport Agreement as amended by the Protocol, shall be adopted by the Council, on behalf of the European Union and of the Member States, acting unanimously in accordance with the relevant Treaty provisions, and by Iceland and Norway. The president of the Council, acting on behalf of the European Union and of the Member States, Iceland and Norway shall then give notice to the United States of America of any such decision.

## ARTICLE 3

### Joint Committee

1. The European Union, the Member States, Iceland and Norway shall be represented in the Joint Committee established under Article 18 of the Air Transport Agreement as amended by the Protocol by representatives of the Commission, the Member States, Iceland and Norway.
2. The position of the European Union, the Member States, Iceland and Norway within the Joint Committee shall be presented by the Commission, except in areas that within the EU

fall exclusively within Member States' competence, in which case it shall be presented by the Presidency of the Council or by the Commission, Iceland and Norway as appropriate.

3. The position to be taken by Iceland and Norway within the Joint Committee as regards matters falling within Articles 14 or 20 of the Air Transport Agreement as amended by the Protocol or matters that do not require the adoption of a decision having legal effects shall be adopted by Iceland and Norway in agreement with the Commission.

4. For other Joint Committee decisions concerning matters that fall within regulations and directives that are incorporated in the Agreement on the European Economic Area, the position to be taken by the European Union, the Member States, Iceland and Norway, shall be adopted by the Commission in agreement with Iceland and Norway.

5. For other Joint Committee decisions concerning matters that fall outside regulations and directives that are incorporated in the Agreement on the European Economic Area, the position to be taken by Iceland and Norway, shall be adopted by Iceland and Norway in agreement with the Commission.

6. The Commission shall take adequate measures to ensure full participation of Iceland and Norway in any coordination, consultation or decision shaping meetings with the Member States and access to the relevant information in preparation to Joint Committee meetings to be held.

## ARTICLE 4

### Arbitration

1. The Commission shall represent the European Union, the Member States, Iceland and Norway in arbitration proceedings under Article 19 of the Air Transport Agreement as amended by the Protocol.

2. The Commission shall, as appropriate, take measures to ensure the involvement of Iceland and Norway in the preparation and coordination of arbitration proceedings.

3. If the Council decides to suspend benefits in accordance with Article 19 paragraph 7 of the Air Transport Agreement as amended by the Protocol that decision shall be notified to Iceland and Norway. Iceland and/or Norway shall likewise inform the Commission of any such decision(s) made.

4. Any other appropriate action to be taken under Article 19 of the Air Transport Agreement as amended by the Protocol on matters which within the EU fall within the Union competence shall be decided upon by the Commission, with assistance of a Special Committee of representatives of the Member States appointed by the Council, of Iceland and of Norway.

## ARTICLE 5

### Exchange of Information

1. Iceland and Norway shall promptly inform the Commission of any decision to refuse, revoke, suspend or limit the authorisations of an airline of the United States of America that they have adopted under Article 4 or 5 of the Air Transport Agreement as amended by the

Protocol. The Commission shall likewise promptly inform Iceland and Norway of any such decision taken by Member States.

2. Iceland and Norway shall inform the Commission immediately of any requests or notifications made or received by them under Article 8 of the Air Transport Agreement as amended by the Protocol. The Commission shall likewise immediately inform Iceland and Norway of any such requests or notifications made or received by Member States.

3. Iceland and Norway shall inform the Commission immediately of any requests or notifications made or received by them under Article 9 of the Air Transport Agreement as amended by the Protocol. The Commission shall likewise immediately inform Iceland and Norway of any such requests or notifications made or received by Member States.

## ARTICLE 6

### Government subsidies and support

1. Should Iceland or Norway believe that a subsidy or support being considered or provided by a governmental entity in the territory of the United States of America will have the adverse competitive effects referred to in Article 14 paragraph 2 of the Air Transport Agreement as amended by the Protocol, it shall bring the matter to the attention of the Commission. Should a Member State have brought a similar matter to the attention of the Commission, the Commission shall likewise bring the matter to the attention of Iceland and Norway.

2. The Commission, Iceland and Norway may approach such entity or request a meeting of the Joint Committee established under Article 18 of the Air Transport Agreement as amended by the Protocol.

3. The Commission, Iceland and Norway shall inform each other immediately when they are contacted by the United States of America under Article 14 paragraph 3 of the Air Transport Agreement as amended by the Protocol.

## ARTICLE 7

### Termination

1. A Party may, at any time, give notice in writing through diplomatic channels to the other Parties of its decision to terminate this Ancillary Agreement or to end its provisional application. This Ancillary Agreement shall terminate or shall cease to be provisionally applied at midnight GMT six months following the date of the written notification of termination or of cessation of provisional application, unless the notice is withdrawn by agreement of the Parties before the end of this period.

2. Notwithstanding any other provision of this Article, if the Agreement is terminated or its provisional application is ended, this Ancillary Agreement shall simultaneously terminate or cease to be provisionally applied.

## ARTICLE 8

### Provisional application



Pending entry into force pursuant to Article 9, the Parties agree to apply this Ancillary Agreement provisionally in accordance with the national laws of the Parties from the later of the date of the signature of this Ancillary Agreement or of the date of provisional application specified in Article 5 of the Agreement.

## ARTICLE 9

### Entry into force

This Ancillary Agreement shall enter into force either (a) one month after the date of the latest note in exchange of diplomatic notes between the Parties confirming that all necessary procedures for entry into force of this Ancillary Agreement have been completed, or (b) on the date of entry into force or provisional application of the Agreement, whichever is the later.

IN WITNESS WHEREOF, the undersigned, duly authorized to that effect, have signed this Ancillary Agreement.

DONE at ..... in triplicate, this ..... day of .....in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Icelandic, Irish, Italian, Latvian, Lithuanian, Maltese, Norwegian, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, all texts being authentic.

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

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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