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**PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 April 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 17 final
Subject:	ANNEX Draft Common Aviation Area Agreement between the European Union and its Member States and Ukraine to the Proposal for a Council Decision on the conclusion of a Common Aviation Area Agreement between the European Union and Ukraine

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Delegations will find attached document COM(2014) 17 final - ANNEX 1.

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Encl.: COM(2014) 17 final - ANNEX 1



Strasbourg, 15.4.2014  
COM(2014) 17 final

ANNEX 1

**ANNEX**

**Draft Common Aviation Area Agreement between the European Union and its Member States and Ukraine**

**to the**

**Proposal for a Council Decision**

**on the conclusion of a Common Aviation Area Agreement between the European Union and Ukraine**

**ANNEX**

**Draft Common Aviation Area Agreement between the European Union and its Member States and Ukraine**

**to the**

**Proposal for a Council Decision**

**on the conclusion of a Common Aviation Area Agreement between the European Union and Ukraine**

**Draft**

**COMMON AVIATION AREA AGREEMENT**

**BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES**

**AND UKRAINE**

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE REPUBLIC OF CROATIA,

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,  
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 "EU Member States"), and

THE EUROPEAN UNION, hereinafter referred to as "the Union" or "the European Union", or "the EU" of the one part,

And

UKRAINE of the other part,

all the above mentioned hereinafter referred to together as "the Parties".

DESIRING to create a Common Aviation Area (CAA) based on mutual market access to the air transport 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 harmonisation and the environment.

RECOGNISING the integrated character of international civil aviation and the rights and obligations of Ukraine and the EU Member States stemming from their membership of international aviation organisations, in particular the International Civil Aviation Organisation and the European Organization for Safety of Air Navigation, as well as under international agreements with third parties and international organisations;

DESIRING to deepen relations between the Parties in the field of air transport, including in the area of industrial cooperation, and to build upon the framework of the existing system of air services agreements to promote economic, cultural and transport links between the Parties;

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;

BEARING IN MIND that the Partnership and Co-operation Agreement between the European Communities and their Member States and Ukraine provides that, with a view to assuring a coordinated development of transport between the Parties, adapted to their commercial needs, the conditions of mutual market access and provision of services in air transport may be dealt with by specific agreements;

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;

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

AGREEING that it is appropriate to base the CAA rules on the relevant legislation within the European Union, as laid down in Annex I to this Agreement, without prejudice to those provisions contained in the Treaty on European Union and the Treaty on the Functioning of the European Union (the EU Treaties) and the Constitution of Ukraine;

NOTING the intention of Ukraine to incorporate into its aviation legislation the corresponding requirements and standards of the European Union, including with regard to future legislative developments within the EU;

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;

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 of both Parties ;

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

RECOGNISING the importance of adequate assistance in this perspective;

EMPHASISING that air carriers should be treated in a transparent and non-discriminatory manner regarding their access to air transport infrastructures especially where these infrastructures are limited, including but not limited to access to airports;

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

RECOGNISING that government 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;

WELCOMING the on-going dialogue between the Parties to deepen their relations in other areas notably to facilitate the movement of people,

HAVE AGREED AS FOLLOWS:

## TITLE I

### GENERAL PROVISIONS

#### ARTICLE 1

##### OBJECTIVES AND SCOPE

The aim of this Agreement is the gradual creation of a Common Aviation Area between the European Union, its Member States and Ukraine, which is founded in particular on identical rules in the areas of safety, security, air traffic management, environment, consumer protection, computer reservation systems, as well as with regard to social aspects. For this purpose this Agreement sets out the rules, technical requirements, administrative procedures, basic operational standards, implementing rules applicable between the Parties under the conditions set out also hereafter.

This Common Aviation Area shall be based on free access to the air transportation market and equal conditions of competition.

#### ARTICLE 2 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 16 (Grant of Rights) and Annex II to this Agreement;
2. "Agreement" means this Agreement, its Annexes and any amendments thereto;
3. "Air transport" means the public carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, for remuneration or hire, which, for the avoidance of doubt, shall include scheduled and non-scheduled (charter) services and full cargo services;
4. "Air carrier" means a company or undertaking with a valid operating licence or equivalent;
5. "Competent authorities" means the government agencies or public bodies responsible for the administrative functions under this Agreement;
6. "Companies or undertakings" means entities constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making;
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 Ukraine and an EU Member State or the EU Member States;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 Ukraine and an EU Member State or the EU Member States as is relevant to the issue in question;
8. "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;

9. "EASA" means the European Aviation Safety Agency, established according to 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;
10. "Effective control" means a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:
  - (a) the right to use all or part of the assets of an undertaking;
  - (b) rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking;
11. "Effective regulatory control" means that the competent licensing authority of a Party, which issued an operating licence or permit to an air carrier, continuously verifies that the applicable criteria for the operation of international air services, on the basis of which an operating licence or permit is issued, are met by this air carrier, in accordance with relevant national laws and regulations, while as regards safety and security the competent authority maintains appropriate oversight in compliance with at least ICAO standards;
12. "EU Treaties" means the Treaty on European Union and the Treaty on the Functioning of the European Union;
13. "EU Member State" means a Member State of the European Union;

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<sup>1</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

14. "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;
15. "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;
16. "Full cost" means the cost of providing air service plus reasonable charge for administrative overhead and where relevant any applicable charges aimed at reflecting environmental costs and applied without distinction as to nationality;"
17. "ICAO" means the International Civil Aviation Organization established according to the Convention;
18. "International air transport" means air transport between points in at least two States;
19. "Intermodal transportation" means the public carriage by aircraft and by one or more surface modes of transport of passengers, baggage, cargo and mail, separately or in combination, for remuneration or hire;
20. "Measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;
21. "National" means:
  - (a) any person having Ukrainian nationality in the case of Ukraine, or the nationality of an EU Member State in the case of the European Union and its Member States; or
  - (b) any legal entity (i) which is owned directly or through majority ownership and at all times is effectively controlled by persons or entities having Ukrainian nationality in the case of Ukraine, or persons or entities having the nationality of an EU Member State or

one of the other states listed in Annex V in the case of the European Union and its Member States, and (ii) the principal place of business of which is in the case of Ukraine in Ukraine or in a Member State in the case of the European Union and its Member States;

22. "Nationality", when referred to an air carrier, means whether an air carrier satisfies requirements regarding such issues as its ownership, effective control, and principal place of business;

23. "Operating Licence" means:

(a) in the case of the European Union and its Member States an authorisation granted by the competent licensing authority to a company or undertaking, permitting it to provide air services under the relevant EU legislation and

(b) in the case of Ukraine means a licence for carriage by air of passengers and/or cargo, given under the relevant legislation of Ukraine;

24. "Price" means:

(a) "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

(b) "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;

25. "Partnership and Cooperation Agreement" means Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine, done at Luxemburg on 14 June 1994, and any successor instrument;

26. "Principal place of business" means the head office or registered office of an air carrier, within which the principal financial functions and

operational control, including continued airworthiness management of this air carrier are exercised;

27. "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;
28. "SESAR" means the Single European Sky ATM Research Programme that is 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;
29. "Subsidy" means any financial contribution granted by a public body or a regional public organisation or another public organisation, i.e. when:
  - (a) a practice of a government or regional public 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.

30. "The 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, and, on the other hand, Ukraine;
31. "Territory" in relation to Ukraine means the land areas and territorial waters adjacent thereto under the sovereignty of Ukraine, and for the European Union, the land areas (mainland and islands), internal waters and territorial sea, in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applied and under the conditions laid down in those Treaties and any successor instrument. The 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 their dispute over sovereignty over the territory in which the airport is situated. Such application is determined by the application of Union legislation to Gibraltar airport. Ukraine shall be informed of the scope of that application;
32. "Transit Agreement" means the International Air Services Transit Agreement, done at Chicago on 7 December 1944; and
33. "User charge" means a charge imposed on air carriers by the competent authority or permitted by that authority for the use by aircrafts, their crews, passengers, cargo and mail of facilities and services related to air navigation (including in case of overflights), air traffic control, airport and aviation security.

### **ARTICLE 3**

#### **IMPLEMENTATION OF THE AGREEMENT**

1. The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement and shall abstain from any measure which could jeopardise the attainment of the objectives of this Agreement.
2. The implementation of above-mentioned measures shall be without prejudice to the rights and obligations of any Party stemming from its participation in international organisations and/or international agreements, in particular the Convention and Transit Agreement.

3. In applying the principles of paragraph 1 of this Article the Parties shall:
  - (a) within the scope of this Agreement, abolish all unilateral administrative, technical or other measures, which could constitute an indirect restriction and have discriminatory effects on the provision of air services under this Agreement; and
  - (b) within the scope of this Agreement, restrain from implementing administrative, technical or legislative measures which could have the effect of discriminating against nationals or companies or undertakings of the other Party in the provision of services under this Agreement.

## **ARTICLE 4**

### **NON-DISCRIMINATION**

Within the scope of this Agreement, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

## **TITLE II**

### **REGULATORY COOPERATION**

## **ARTICLE 5**

### **GENERAL PRINCIPLES OF REGULATORY COOPERATION**

1. The Parties shall cooperate through all possible means to ensure the progressive incorporation in Ukraine's legislation of the requirements and standards of the European Union acts referred to in Annex I to this Agreement, as well as the implementation by Ukraine of these provisions via:
  - (a) periodic consultations, within the framework of the Joint Committee referred to in Article 29 (Joint Committee) of this Agreement on the interpretation of the EU legislation referred to in paragraph 1 of this Article related to aviation safety and security, air traffic management, environmental protection, market access and ancillary issues, social matters, consumer protection and other areas covered by the Agreement;

- (b) provision of adequate assistance in specific areas identified by the Parties;
  - (c) consultations and exchange of information on new legislation according to Article 15 (New Legislation) of this Agreement.
2. Ukraine shall adopt the necessary measures to incorporate into the Ukrainian legal system and implement the requirements and standards of the European Union acts listed in Annex I to this Agreement according to the transitional arrangements specified in Article 33 (Transitional Arrangements) and related Annex III to this Agreement.
  3. The Parties shall inform each other on their respective authorities responsible in the area of safety oversight, airworthiness, air carriers licensing, airport matters, aviation security, air traffic management, accident and incident investigation, establishment of air navigation and airport charges without delay through the Joint Committee referred to in Article 29 (Joint Committee) of this Agreement.

## **ARTICLE 6**

### **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 7

### AVIATION SAFETY

1. Subject to the transitional provisions set out in Annex III to this Agreement, the Parties shall act in conformity with their respective legislation concerning the requirements and standards relating to aviation safety specified in Part C of Annex I to this Agreement, under the conditions set out hereafter.
2. While maintaining to carry out functions and tasks of the State of design, manufacture, registration and operator, as provided by the Convention, Ukraine shall incorporate in its legislation and effectively implement the requirements and standards referred to in paragraph 1 of this Article, in accordance with the transitional provisions stipulated in Annex III to this Agreement.
3. The Parties shall cooperate to ensure the effective implementation by Ukraine of its legislation adopted with the aim to incorporate the requirements and standards referred to in paragraph 1 of this Article. To this purpose, Ukraine shall be involved in the work of the EASA as an observer from the date of entry into force of this Agreement, as provided for in Annex VI to this Agreement
4. To ensure operating of agreed services under sub-paragraphs 1(a), (b), (c) and (d) of Article 16 (Grant of Rights) of this Agreement, each Party shall recognize as valid certificates of airworthiness, certificates of competency and licences issued or validated by the other Party and still in force, provided that the requirements for such certificates or licences at least equal to the minimum standards that may be established pursuant to the Convention.
5. The recognition by the EU Member States of certificates issued by Ukraine referred to in Annex IV, section I to this Agreement shall be decided in accordance with the provisions stipulated in Annex III to this Agreement.
6. The Parties shall cooperate towards the convergence of certification systems in the areas of initial and continuing airworthiness.
7. The Parties shall ensure that aircraft registered in one Party suspected of non-compliance with international aviation safety standards established pursuant to the Convention and 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.

8. The Parties shall exchange information, including on any findings, identified during ramp inspections carried out in accordance with paragraph 7 of this Article through the relevant means.
9. The competent authorities of a Party may request consultations with the competent authorities of the other Party at any time concerning the safety standards maintained by the other Party, including in areas other than those covered by the acts referred to in Annex I to this Agreement, or on findings, identified during the ramp inspections. Such consultations shall take place within thirty (30) days of that request.
10. Nothing in this Agreement shall be construed so as to limit the authority of a Party to take all appropriate and immediate measures whenever it ascertains that an aircraft, a product or an operation may:
  - (a) fail to satisfy the minimum standards established pursuant to the Convention or the requirements and standards specified in Part C of Annex I to this Agreement, whichever is applicable;
  - (b) give rise to serious concerns – established through an inspection referred to in paragraph 7 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 requirements and standards specified in Part C of Annex I 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 requirements and standards specified in Part C of Annex I to this Agreement, whichever is applicable.
11. Where a Party takes action under paragraph 10 of this Article, it shall promptly inform the competent authorities of the other Party of taking such action, providing reasons for its action.
12. Where measures taken in application of paragraph 10 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.

13. Any amendments to national law with respect to the status of the competent authorities of Ukraine or any competent authority of the EU Member States shall be notified, without delay, by the Party concerned to the other Parties.

## ARTICLE 8

### AVIATION SECURITY

1. Ukraine shall incorporate in its legislation and effectively implement the provisions contained in ECAC (European Civil Aviation Conference) Document 30, Part II in accordance with the transitional provisions stipulated in Annex III to this Agreement. In the context of the assessments provided for in Article 33 (Transitional Arrangements), paragraph 2 of this Agreement, European Commission inspectors may participate as observers in the inspections carried out by the Ukrainian competent Authorities in airports located in the territory of Ukraine, according to a mechanism agreed by the two Parties. This Agreement shall be without prejudice of the rights and obligations of Ukraine and the EU Member States under the provisions of Annex 17 to the Convention.
2. 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.
3. 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.

4. 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 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.
5. 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, as well as security controls for in-flight supplies and airport supplies and access control and screening of persons other than passengers upon entering to security restricted areas. Those measures shall be adjusted as necessary, to address vulnerabilities and threats in civil aviation. Each Party agrees that their air carriers may be required to observe the aviation security provisions referred to in paragraph 4 of this Article required by the other Party, for entry into, departure from or while within the territory of that other Party.
6. 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 29 (Joint Committee) of this Agreement.
7. 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.
8. 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.

9. 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.
10. Without prejudice to Article 19 (Refusal, Revocation, Suspension, Limitation of Authorisation or Technical Permission) 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.
11. When required by an immediate and extraordinary threat, a Party may take interim action prior to the expiry of fifteen (15) days.
12. Any action taken in accordance with the paragraphs 10 or 11 of this Article shall be discontinued upon compliance by the other Party with the full provisions of this Article.

## **ARTICLE 9**

### **AIR TRAFFIC MANAGEMENT**

1. Subject to the transitional provisions set out in Annex III to this Agreement, the Parties shall act in conformity with their respective legislation concerning the requirements and standards relating to air traffic management specified in Part B of Annex I to this Agreement, under the conditions set out hereafter.
2. Ukraine shall incorporate in its legislation and effectively implement the requirements and standards referred to in paragraph 1 of this Article in accordance with the transitional provisions stipulated in Annex III to this Agreement.
3. The Parties shall cooperate in the field of air traffic management to ensure the effective implementation by Ukraine of its legislation adopted with the aim to incorporate the requirements and standards referred to in paragraph 1 of this Article, as well as with a view to extending the Single European Sky to Ukraine 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.

4. To this purpose, Ukraine shall be involved as an observer in the Single Sky Committee from the date of entry into force of the Agreement and Ukrainian competent entities and/or authorities shall be associated on a non-discriminatory basis, through appropriate coordination regarding SESAR in accordance with the relevant legislation.
5. The Joint Committee shall be responsible for monitoring and facilitating cooperation in the field of air traffic management.
6. With a view to facilitating the application of the Single European Sky legislation:
  - (a) Ukraine shall take the necessary measures to adjust its air traffic management institutional structures to the Single European Sky; and
  - (b) the European Union shall facilitate the participation of Ukraine in operational activities in the fields of air navigation services, airspace use and interoperability that stem from the Single European Sky.
7. This Agreement shall be without prejudice to the rights and obligations of Ukraine under the Convention, as well as regional air navigation agreements in force and approved by the Council of ICAO. After the entry into force of this Agreement, any subsequent regional agreement should comply with its provisions.
8. With a view to maintaining a high level of safety to maximize the capacity of airspace and efficiency of air traffic management and subject to the transitional provisions set out in Annex III to this Agreement, Ukraine shall organise the airspace under its responsibility in line with the EU requirements concerning the establishment of functional airspace blocks (FABs), as referred to in Part B of Annex I to this Agreement.

The Parties shall cooperate to consider the possible integration of the airspace under Ukraine's responsibility into a FAB, in line with EU legislation and taking into consideration the operational benefits of such integration.
9. The recognition by the EU Member States of the relevant certificates issued by Ukraine referred to in Annex IV, section 2 to this Agreement shall be decided in accordance with the provisions stipulated in Annex III to this Agreement.

## **ARTICLE 10**

## **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 III to this Agreement, the Parties shall act in conformity with their respective legislation concerning the requirements and standards relating to the environment specified in Part D of Annex I to this Agreement, under the conditions set out hereafter.
3. Ukraine shall incorporate in its legislation and effectively implement the requirements and standards referred to in paragraph 2 of this Article, in accordance with the transitional provisions stipulated in Annex III to this Agreement.
4. The Parties shall cooperate to ensure the effective implementation by Ukraine of its legislation adopted with the aim to incorporate the requirements and standards referred to in paragraph 2 of this Article, while 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.
5. 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 applied without distinction as to nationality and do not contradict rights and obligations of the Parties under international law.

## **ARTICLE 11**

### **CONSUMER PROTECTION**

1. Subject to the transitional provisions set out in Annex III to this Agreement, the Parties shall act in conformity with their respective legislation concerning the requirements and standards relating to consumer protection specified in Part F of Annex I to this Agreement.
2. Ukraine shall incorporate in its legislation and effectively implement the requirements and standards referred to in paragraph 1 of this Article, in

accordance with the transitional provisions stipulated in Annex III to this Agreement.

3. The Parties shall cooperate to ensure the effective implementation by Ukraine of its legislation adopted with the aim to incorporate the requirements and standards referred to in paragraph 1 of this Article.
4. The Parties shall also cooperate to ensure the protection of consumers' rights ensuing from this Agreement.

## **ARTICLE 12**

### **INDUSTRIAL COOPERATION**

1. The Parties shall aim at enhancing industrial cooperation, and in particular by means of:
  - (i) development of business links between aviation manufacturers of both sides;
  - (ii) promotion and development of joint projects aiming at the sustainable development of the air transport sector, including its infrastructure;
  - (iii) technical cooperation for the implementation of EU standards;
  - (iv) promotion of opportunities for aviation manufacturers and designers; and
  - (v) promotion of investment within the scope of this Agreement.
2. This Agreement shall be without prejudice to existing technical and industrial standards in Ukraine for the manufacturing of aircraft and their components that are not covered by Annex I to this Agreement.
3. The Joint Committee shall monitor and facilitate industrial cooperation.

## **ARTICLE 13**

### **COMPUTER RESERVATION SYSTEMS**



1. Subject to the transitional provisions set out in Annex III to this Agreement, the Parties shall act in conformity with their respective legislation concerning the requirements and standards relating to computer reservation systems specified in Part G of Annex I to this Agreement. The Parties shall guarantee free access by one Party's computer reservation systems to the other Party's market.
2. Ukraine shall incorporate in its legislation and effectively implement the requirements and standards referred to in paragraph 1 of this Article, in accordance with transitional provisions stipulated in Annex III to this Agreement.
3. The Parties shall cooperate to ensure the implementation by Ukraine of its legislation adopted with the aim to incorporate the requirements and standards referred to in paragraph 1 of this Article.

## **ARTICLE 14**

### **SOCIAL ASPECTS**

1. Subject to the transitional provisions set out in Annex III to this Agreement, the Parties shall act in conformity with their respective legislation concerning the requirements and standards relating to social aspects specified in Part E of Annex I to this Agreement.
2. Ukraine shall adopt the necessary measures to incorporate in its legislation and effectively implement the requirements and standards referred to in paragraph 1 of this Article, in accordance with transitional provisions stipulated in Annex III to this Agreement.
3. The Parties shall cooperate to ensure the implementation by Ukraine of its legislation adopted with the aim to incorporate the requirements and standards referred to in paragraph 1 of this Article.

## **ARTICLE 15**

### **NEW LEGISLATION**

1. 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 Article and of Article 4 (Non-discrimination) 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 I to this Agreement.

2. When one Party considers adopting new legislation within the scope of this Agreement or an amendment to its legislation it shall inform the other Party. Upon the request of either Party, the Joint Committee shall within two months thereafter hold an exchange of views on the implications of such new legislation or amendment for the proper functioning of this Agreement.
3. The Joint Committee shall:
  - (a) adopt a decision revising Annex I to this Agreement so as to integrate therein, if necessary on a basis of reciprocity, the new legislation or amendment in question; or
  - (b) adopt a decision to the effect that the new legislation or amendment in question is to be regarded as in accordance with this Agreement; or
  - (c) recommend any other measures for adoption within a reasonable period of time to ensure the proper functioning of this Agreement.

### TITLE III

## ECONOMIC PROVISIONS

### ARTICLE 16

#### GRANT OF RIGHTS

1. Each Party shall grant to the other Party in accordance with Annex II and Annex III to this Agreement the following rights for the conduct of international air transport by the air carriers of the other Party:
  - (a) the right to fly over 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 Ukraine the right to take on board, in the territory of any EU Member State, passengers, baggage, cargo and/or mail carried for compensation and destined for another point in the territory of that Member State.

## **ARTICLE 17**

### **AUTHORISATION AND TECHNICAL PERMISSION**

On receipt of applications for operating authorisation or technical permission from an air carrier of one Party, which should be submitted in the form and manner prescribed for operating authorisations or technical permissions, the competent authorities of the other Party shall grant appropriate authorisations with minimum procedural delay, provided that:

(a) for an air carrier of Ukraine:

- the air carrier has its principal place of business in Ukraine and holds a valid operating licence in accordance with the applicable law of Ukraine; and
- effective regulatory control of the air carrier is exercised and maintained by Ukraine and the relevant competent authority is clearly identified; and
- unless otherwise determined under Article 20 (Investment in Air Carriers) of this Agreement, the air carrier is owned directly or through majority ownership and effectively controlled by Ukraine 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 an EU Member State under the EU Treaties and holds a valid operating licence in accordance with the applicable European Union law; 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 20 (Investment in Air Carriers) of this Agreement, the air carrier is owned directly or through majority ownership and effectively controlled by EU Member States and/or by their nationals or by other States listed in Annex V and/or by their nationals.
- (c) the air carrier meets the conditions prescribed under the laws and regulations referred to in Article 6 (Compliance with Laws and Regulations) of the Agreement; and
- (d) the provisions set forth in Article 7 (Aviation Safety) and Article 8 (Aviation Security) of this Agreement are being maintained and administered.

## **ARTICLE 18**

### **RECIPROCAL RECOGNITION OF REGULATORY DETERMINATIONS**

#### **WITH REGARD TO AIR CARRIER FINANCIAL FITNESS AND NATIONALITY**

1. Upon receipt of an application for operating authorisation or technical permission from an air carrier of one Party, the competent authorities of the other Party shall recognise any financial fitness and/or nationality 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 here below.
2. If, after receipt of an application for operating authorisation or technical permission from an air carrier, or after the grant of such operating authorisation or technical permission, 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 the conditions prescribed in Article 17 (Authorisation and Technical Permission) of this Agreement for the grant of appropriate operating authorisations or technical 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 29 (Joint Committee) of this Agreement.

## **ARTICLE 19**

### **REFUSAL, REVOCATION, SUSPENSION, LIMITATION OF AUTHORISATION OR TECHNICAL PERMISSION**

1. The competent authorities of either Party may refuse, revoke, suspend or limit the operating authorisations or technical permissions or otherwise suspend or limit the operations of an air carrier of another Party where:

(a) for an air carrier of Ukraine:

- the air carrier does not have its principal place of business in Ukraine or does not have a valid operating licence in accordance with the applicable law of Ukraine; or
- effective regulatory control of the air carrier is not exercised or maintained by Ukraine or the relevant competent authority is not clearly identified; or
- unless otherwise determined under Article 20 (Investment in Air Carriers) of this Agreement, the air carrier is not owned directly or through majority ownership or effectively controlled by Ukraine and/or its nationals.

(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 in accordance with the applicable European Union law; or
- effective regulatory control of the air carrier is not exercised or maintained by the EU Member State responsible for issuing its Air Operators Certificate or the competent authority is not clearly identified; or

- unless otherwise determined under Article 20 (Investment in Air Carriers) of this Agreement, the air carrier is not owned, directly or through majority ownership or effectively controlled by EU Member States and/or their nationals or by the other States listed in Annex V and/or their nationals.
- (c) the air carrier has failed to comply with the laws and regulations referred to in Article 6 (Compliance with Laws and Regulations) of this Agreement; or
- (d) the provisions set forth in Article 7 (Aviation Safety) and Article 8 (Aviation Security) of this Agreement are not being maintained or administered; or
- (e) a Party has made the determination in accordance with Article 26 (Competitive Environment), paragraph 5 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 technical 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 apply the terms and conditions of the ECAA Agreement.

## **ARTICLE 20**

### **INVESTMENT IN AIR CARRIERS**

1. Notwithstanding Articles 17 (Authorisation and Technical Permission) and 19 (Refusal, Revocation, Suspension, Limitation of Authorisation or Technical Permission) of this Agreement, the majority ownership or the effective control of an air carrier of Ukraine by the EU Member States and/or their nationals, or of an air carrier of the European Union by Ukraine 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 29 (Joint Committee) of this Agreement.

2. 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 29 (Joint Committee), paragraph 8 of this Agreement shall not apply to this type of decision.

## **ARTICLE 21**

### **ABOLITION OF QUANTITATIVE RESTRICTIONS**

1. Without prejudice to more favourable provisions in existing agreements and within the scope of this Agreement, the Parties shall abolish quantitative restrictions and measures having an equivalent effect on the transfer of equipment, supplies, spare parts, and other devices when they are necessary for an air carrier to continue to provide air transport services under the conditions foreseen by this Agreement.
2. The obligation referred to in paragraph 1 of this Article shall not preclude the Parties from prohibiting or imposing restrictions on such transfers justified on the grounds of public policy or public security, of the protection of health and life of humans, animals or plants, or of the protection of intellectual, industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

## **ARTICLE 22**

### **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 29 (Joint Committee) of this Agreement 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 29 (Joint Committee) of this Agreement 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 air waybill, both its own tickets and/or air waybills 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, which 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.

### **Groundhandling**

5. Subject to the transitional provisions set out in Annex III to this Agreement:
  - (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.
- (c) Any groundhandling provider of each Party, 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 air carriers of the Parties operating at the same airport, where authorised and consistent with applicable laws and regulations.

### **Allocation of slots at airports**

- 6. The allocation of available slots at the airports in the territories of the Parties shall be carried out in an independent, transparent, non-discriminatory and timely manner.

### **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 related services, and any person shall be free to purchase such transportation and services, 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 local revenues from the territory of the other Party to its home territory or to the country or countries of its choice according to the applicable legislation. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the official

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 national 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 authority and (ii) the marketing carriers hold the appropriate route rights within the relevant bilateral provisions 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 at check-in, or on boarding where no check-in is required for a connecting flight, which transportation providers will operate each sector of the service.

### **Intermodal transportation**

11. 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.

12. a) Without prejudice to applicable laws and regulations requirements 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 international air transport under the same air waybill any surface transport for cargo to or from any points in the territories of Ukraine 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. 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.
- b) For the purposes of subparagraph (a) of this paragraph, surface transportation shall include both land and maritime transportation.

### **Leasing**

13. (a) The air carriers of each Party shall be entitled to provide the agreed services using aircraft with or without 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.
- (b) Neither Party shall require the air carriers leasing out their equipment to hold traffic rights under this agreement.
- (c) The leasing with crew (wet-leasing) by an air carrier of Ukraine 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 V to this Agreement, in order to exploit the rights set out in this Agreement, shall remain exceptional or meet temporary needs. It shall be submitted for prior approval to the licensing authority of the air carrier, which is the lessee of the wet-leased aircraft and to the competent authority of the other Party.

## **Franchising/Branding/Commercial concession**

14. The air carriers of each Party shall be entitled to enter into franchising or branding or commercial concession 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.

## **Night-stops**

15. The air carriers of each Party shall have the right to make night-stops at airports of the other Party that are open to international traffic.

## **ARTICLE 23**

### **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 Ukraine for the avoidance of double taxation on income and on capital that may be in force at the relevant time.

## **ARTICLE 24**

### **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 9 (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. User charges shall be established by the competent charging authorities or bodies of the Parties in national or foreign currency.
2. Each Party shall encourage or require consultations in accordance with the existing applicable legislation, 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 paragraph 1 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.

## **ARTICLE 25**

### **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. If the competent authorities of either Party believe that any price is inconsistent with the considerations set out in this Article, they shall send appropriate notice to competent authorities of the other Party concerned and may request consultations with these authorities. Consultations between the competent authorities may be held on matters such as, but not limited to prices, which may be unjust, unreasonable, discriminatory or subsidised. Such consultations shall be held not later than thirty (30) days after the date of receipt of the request.

## **ARTICLE 26**

### **COMPETITIVE ENVIRONMENT**

1. Within the scope of this Agreement, the provisions of Title VI ("Competition, intellectual, industrial and commercial property protection and legislative co-operation") of the Partnership and Co-operation Agreement or any successor agreement between the European Union, its Member States and Ukraine shall apply, except where more specific rules on competition and state aid for the aviation sector are included in this Agreement.
2. 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.

3. State aid, which distorts or threatens to distort competition by favouring certain companies or 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. As regards State aid, 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 and in particular the ones specified in Annex VII to this Agreement.
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 29 (Joint Committee) of this Agreement. From the receipt of such a request consultations shall start within thirty (30) days. Failure to reach a satisfactory agreement within thirty (30) days from the start of consultations shall constitute grounds for the Party that requested the consultations to take action to refuse, revoke, suspend or limit the authorisations of the air carrier(s) concerned, consistent with Article 19 (Refusal, Revocation, Suspension or Limitation of Authorisation or Technical Permission) 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 31 (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. Nothing in this Agreement shall limit or jeopardise the power of the competition authorities of the Parties in that all matters relating to the enforcement of competition law fall under their exclusive competence. Any action taken pursuant to this Article shall be without prejudice to



actions taken by these authorities, which shall be fully independent from actions taken pursuant to this Article.

9. 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.
10. The Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business confidentiality.

## **ARTICLE 27**

### **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 29 (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 IV**

### **INSTITUTIONAL PROVISIONS**

## **ARTICLE 28**

### **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. Ukraine shall be responsible as well for the implementation of its legislation adopted with the aim to incorporate into its legal system the requirements and standards of the European Union acts relating to civil aviation, referred to in Annex I 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 companies 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 I 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 of the European Union, hereinafter referred to as "the Court of Justice" and the European Commission respectively.

## **ARTICLE 29**

### **JOINT COMMITTEE**

1. A Joint Committee composed of representatives of the Parties (hereinafter referred to as the Joint Committee) is hereby established and 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 be binding upon the Parties. They shall be put into effect by the Parties, in

accordance with their internal procedures. The Parties will inform each other of the finalisation of such procedures and the date of entry into force of the decisions. Whenever a decision taken by the Joint Committee contains a requirement for action to be taken by a Party, this Party shall take the necessary measures and inform the Joint Committee thereof.

3. The Joint Committee shall adopt, by a decision, its rules of procedure.
4. The Joint Committee shall meet as and when necessary at the request of a Party.
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 take place 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 Party 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 31 (Safeguard Measures) of this Agreement.
8. Without prejudice to paragraph 2 of this Article, 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 31 (Safeguard Measures) of this Agreement.
9. In accordance with Article 20 (Investment in Air Carriers) 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. The Joint Committee shall also develop cooperation between the Parties 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 agreed 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, as well as the adoption of new instruments of international public and private aviation law, in particular in the fields of security, safety, the environment, aviation infrastructure (including slots), airports, industrial cooperation, air traffic management, 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 and endeavour to establish coordinated positions.

## **ARTICLE 30**

### **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 29 (Joint Committee) of this Agreement. In cases where the Joint Committee takes decisions under this procedure concerning the interpretation or application of requirements and

standards referred to in Annex I to this Agreement, these shall respect the rulings of the Court of Justice relating to the interpretation of the pertinent requirements and standards, as well as the decisions of the European Commission, which are taken under the terms of the corresponding requirements and standards.

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. If the President of the Council is of the same nationality as one of the Parties, the most senior Vice President who is not disqualified on that ground shall make the appointment;
  - (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 decision.
4. Any provisional decision or final decision of the arbitration panel shall be binding upon the Parties. The arbitration panel shall seek to adopt any provisional decision or final decision by consensus. Where consensus is not possible, it shall adopt its decisions by majority voting.
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 date of receipt of 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 31**

### **SAFEGUARD MEASURES**

1. Without prejudice to Articles 7 (Aviation Safety) and 8 (Aviation Security) and the safety and security assessments mentioned in the Annex III to this Agreement, a Party may take appropriate safeguard measures if it considers that the other Party has failed to fulfil an obligation under this Agreement. 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 that will least disturb the functioning of this Agreement.
2. 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.
3. The Parties shall immediately enter into consultations in the Joint Committee with a view to finding a commonly acceptable solution.
4. Without prejudice to Articles 7 (Aviation Safety) and 8 (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 2 of this Article, unless the consultation procedure under paragraph 3 of this Article has been concluded before the expiry of the stated time limit.
5. The Party concerned shall, without delay, notify the measures taken to the Joint Committee and shall provide all relevant information.
6. 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 32**

### **DISCLOSURE OF INFORMATION**

The representatives, delegates and experts of the Parties, as well as other officials acting under this Agreement, shall be required, even after their duties have ceased, not to disclose to third parties information covered by the obligation of professional confidentiality, in particular security relevant information and information about companies or undertakings, their business relations or their cost components.

## **ARTICLE 33**

### **TRANSITIONAL ARRANGEMENTS**

1. Annex III to this Agreement establishes the transitional arrangements and corresponding periods applying between the Parties.
2. The gradual transition of Ukraine to the effective implementation of the requirements and standards of the European Union acts relating to civil aviation referred to in the Annex I to this Agreement and the fulfilment of conditions under Annex III shall be subject to assessments, which shall be carried out by the European Commission in cooperation with Ukraine and as regards aviation safety standardisation inspections carried out by the EASA in accordance with the requirements and standards specified in Part C of Annex I to this Agreement.

When Ukraine is satisfied that the relevant legislative requirements and standards are incorporated in the Ukrainian legislation and implemented, it shall inform the European Commission that an assessment should be carried out.

3. If the European Commission determines that Ukraine fulfils the relevant requirements and standards, it shall submit the matter to the Joint Committee established under Article 29 (Joint Committee) of this Agreement for it to take a decision that Ukraine qualifies for passing to the next transitional period or complies with all these requirements.
4. If the European Commission determines that Ukraine does not fulfil the relevant requirements and standards, it shall so report to the Joint Committee. The European Commission shall thereafter recommend to Ukraine specific improvements and determine, in consultation with Ukraine, an implementing period within which the relevant deficiencies can reasonably be addressed. Before the end of the implementing period a second and, if necessary, further assessments shall be made whether the recommended improvements have effectively and satisfactorily been implemented.

5. If the European Commission determines that the relevant deficiencies have been addressed, it shall submit the matter to the Joint Committee to decide accordingly and as stipulated in paragraph 3 of this Article.

## **ARTICLE 34**

### **RELATIONSHIP TO OTHER AGREEMENTS AND/OR ARRANGEMENTS**

1. The provisions of this Agreement shall prevail over the relevant provisions of the bilateral air transport agreements and/or arrangements between the Parties.
2. Notwithstanding paragraph 1 of this Article, the provisions concerning ownership, traffic rights, capacity, frequencies, type or change of aircraft, code-sharing and pricing of a bilateral agreement or arrangement between Ukraine and the European Union or an EU Member State, shall apply between the Parties thereto if such bilateral agreement and/or arrangement is more favourable, in terms of freedom for the air carriers concerned, or otherwise more favourable and provided that there is no discrimination between EU Member States and their nationals. The same applies for provisions that are not covered by this Agreement.
3. If the Parties become parties to a multilateral agreement or endorse a decision adopted by the 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 35**

### **FINANCIAL PROVISIONS**

Without prejudice to Article 5 (1) (b) (General Principles of Regulatory Cooperation) of this Agreement, the Parties shall allocate necessary financial resources, including related to the Joint Committee, for the implementation of this Agreement in their respective territories.

## **TITLE V**

### **ENTRY INTO FORCE, REVIEW, TERMINATION AND OTHER PROVISIONS**



## **ARTICLE 36**

### **AMENDMENTS**

1. 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 and as provided for in Article 15 sub-paragraph 3(a) (New Legislation).
2. Amendments to the Annexes to this Agreement shall enter into force after completion by the Parties of the necessary internal procedures.
3. At the request of any Party and in accordance with the relevant procedures, taking into account possible recommendations by the Joint Committee, this Agreement shall be reviewed in the light of the application of its provisions, in order to consider any necessary future development. Any resulting amendment of the provisions of this Agreement shall enter into force as provided for in Article 38 (Entry into Force and Provisional Application) of this Agreement.

## **ARTICLE 37**

### **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 the ICAO. This Agreement shall terminate at midnight GMT at the end of the International Air Transport Association 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 38**

### **ENTRY INTO FORCE AND PROVISIONAL APPLICATION**

1. This Agreement shall be subject to ratification or approval by the signatories in accordance with their own procedures.
2. This Agreement shall enter into force one month after the date of the last 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 the purpose of this exchange, Ukraine 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 Ukraine 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.

3. Notwithstanding paragraph 2 of this Article, the Parties agree to provisionally apply this Agreement, in accordance with their internal procedures and/or national legislation as applicable, from the first day of the month following the date of the latest note by which the Parties have notified each other of the completion of the relevant national procedures to provisionally apply or as the case may be to conclude this Agreement.

### **ARTICLE 39**

#### **REGISTRATION WITH THE ICAO AND THE UNITED NATIONS SECRETARIAT**

This Agreement and all amendments thereto shall be registered by Ukraine 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.

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

Done at .... on the ... day of ... in the year ..., in duplicate, in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish and Ukrainian languages, each text being equally authentic.

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## ANNEX I

### LIST OF APPLICABLE REQUIREMENTS AND STANDARDS ADOPTED BY THE EUROPEAN UNION IN THE FIELD OF CIVIL AVIATION TO BE INCORPORATED IN THE LEGISLATION OF UKRAINE

The "Applicable requirements and standards" of the following European Union acts shall be incorporated into Ukrainian legislation and deemed to be part of the Agreement and shall be applicable in accordance with this Agreement and Annex III to this Agreement, unless otherwise specified thereafter. Where necessary, specific adaptations for each individual act are set out hereafter.

The applicable requirements and standards of Acts referred to in this Annex shall be binding upon the Parties and be, or be made, part of their internal legal order as follows:

- (a) European Union Regulations and Directives shall be binding upon the European Union and its Member States in accordance with the EU Treaties;
- (b) A national act of Ukraine adopted with the aim to implement the provisions of the corresponding European Union Regulations and Directives shall be legally binding upon Ukraine, while the form and method of implementation is on disposal of Ukraine.

#### A. MARKET ACCESS AND ANCILLARY ISSUES

##### **No 1008/2008**

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 (Recast),

Applicable requirements and standards: Chapter IV.

##### **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.

Applicable requirements and standards: Articles 1 to 12, 14 and 14a (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 requirements and standards: Articles 1 to 25 and Annex.

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

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,

as amended by:

Commission Regulation (EU) No 285/2010 of 6 April 2010 amending Regulation 785/2004 of the European Parliament and of the Council on insurance requirements for air carriers and aircraft operators.

Applicable requirements and standards: Articles 1 to 8, and 10(2).

**No 2009/12**

Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges.

Applicable requirements and standards: all except Articles 12 (1), 13 and 14

## 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),

as amended by:

Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 to improve the performance and sustainability of the European aviation system.

Applicable requirements and standards: 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),

as amended by:

Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 to improve the performance and sustainability of the European aviation system.

Applicable requirements and standards: 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),

as amended by:

Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 to improve the performance and sustainability of the European aviation system.

Applicable requirements and standards: 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),

as amended by:

Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 to improve the performance and sustainability of the European aviation system.

Applicable requirements and standards: Articles 1 to 12, Annexes I to V.

## **Implementing Legislation**

### **No 691/2010**

Commission Regulation (EU) No 691/2010 of 29 July 2010 laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services,

as amended by:

Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010,

Commission Regulation (EU) N° 1216/2011 of 24 November 2011 amending Commission Regulation (EU) N° 691/2010 laying down a performance scheme for air navigation services and network functions,

Commission Regulation (EU) N° 390/2013 of 03 May 2013 laying down a performance scheme for air navigation services and network functions.

Applicable requirements and standards: Articles 1 to 25, Annexes I to IV.

### **No 1794/2006**



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

as amended by:

Commission Regulation (EU) No 1191/2010 of 16 December 2010 amending Regulation (EC) No 1794/2006 laying down a common charging scheme for air navigation services

Commission Regulation (EU) N° 391/2013 of 03 May 2013 laying down a common charging scheme for air navigation services.

Applicable requirements and standards: Articles 1 to 17, Annexes I to VI.

### **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,

as amended by:

Commission Regulation (EU) No 1035/2011 of 17 October 2011 laying down common requirements for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010.

Applicable requirements and standards: Articles 1 to 6, Annexes I to II.

### **No 1034/2011**

Commission Regulation (EU) No 1034/2011 of 17 October 2011 on safety oversight in air traffic management and air navigation services and amending Regulation (EU) No 691/2010.

Applicable requirements and standards: Articles 1 to 19.

### **No 1035/2011**

Commission Implementing Regulation (EU) No 1035/2011 of 17 October 2011 laying down common requirements for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010,

as amended by:

Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010.

Applicable requirements and standards: Articles 1 to 14, Annexes I to V.

### **No 409/2013**

Commission Regulation (EU) N° 409/2013 of 03 May 2013 on the definition of Common projects, the establishment of governance and identification of incentives supporting the implementation of the European ATM Master Plan.

Applicable requirements and standards: Articles 1 to 15.

### **No 2150/2005**

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

Applicable requirements and standards: Articles 1 to 9, Annex.

### **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.

Applicable requirements and standards: Articles 1 to 4.

### **No 255/2010**

Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management.

Applicable requirements and standards: Articles 1 to 15.

### **No 176/2011**

Commission Regulation (EU) No 176/2011 of 24 February 2011 on the information to be provided before the establishment and modification of a functional airspace block.

### **No 923/2012**

Commission Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010.

Applicable requirements and standards: Articles 1 to 10, Annex.

### **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,

as amended by:

Commission Regulation (EC) No 30/2009 of 16 January 2009 amending Regulation (EC) No 1032/2006 as far as the requirements for automatic systems for the exchange of flight data supporting data link services are concerned.

Applicable requirements and standards: Articles 1 to 10, Annexes I to V.

### **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,

as amended by:

Commission Regulation (EU) N° 428/2013 of 08 May 2013 amending Regulation (EC) No 1033/2006 as regards the ICAO provisions referred to in Article 3(1).

Applicable requirements and standards: Articles 1 to 5, 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,

as amended by:

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.

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

### **No 29/2009**

Commission Regulation (EC) No 29/2009 of 16 January 2009 laying down requirements on data link services for the single European sky.

Applicable requirements and standards: Articles 1 to 14, Annexes I to VII.

### **No 262/2009**

Commission Regulation (EC) No 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 requirements and standards: Articles 1 to 12, Annexes I to VI.

### **No 73/2010**

Commission Regulation (EU) No 73/2010 of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the single European sky.

Applicable requirements and standards: Articles 1 to 13, Annexes I to X.

### **No 1206/2011**

Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky.

Applicable requirements and standards: Articles 1 to 11, Annexes I to VII.

### **No 1207/2011**

Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky.

Applicable requirements and standards: Articles 1 to 14, Annexes I to IX.

### **No 1079/2012**

Commission Regulation (EU) N° 1079/2012 of 16 November 2012 laying down requirements for voice channels spacing for the single European sky and repealing Regulation (EC) N° 1265/2007.

Applicable requirements and standards: Articles 1 to 15, Annexes I to V.

### **SESAR Regulation**

#### **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),

as amended by:

Commission Regulation (EC) No 1361/2008 of 16 December 2008 amending Regulation 219/2007 on the establishment of a joint undertaking to develop the new generation European air traffic management system (SESAR).

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

### **Air traffic controllers' licences**

#### **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.

Applicable requirements and standards: Articles 1 to 32, Annexes I to IV.

### **Commission Decisions**

#### **No 2011/121**

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).

Applicable requirements and standards: Articles 1 to 4.

#### **No 2011/2611 final**

Commission Decision of 20 May 2011 on exemptions under Article 14 of Commission Regulation (EC) No 29/2009 C(2011) 2611 final.

Applicable requirements and standards: Articles 1 to 3, Annexes I and II.

#### **No 2011/9074 final**

Commission Implementing Decision of 9 December 2011 on exemptions under Article 14 of Commission Regulation (EC) N° 29/2009 - C(2011) 9074 final.

Applicable requirements and standards: Articles 1 to 3, Annexes I and II.

#### **No 2012/9604 final**

Commission Implementing Decision on the approval of the Network Strategy Plan for the air traffic management network functions of the single European sky for the period 2012-2019 - C (2012) 9604 final.

Applicable requirements and standards: Articles 1 to 3.

## C. AVIATION SAFETY

### **No 216/2008 (Basic Regulation)**

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,

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) No 1108/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC.

Commission Regulation (EU) No 6/2013 of 8 January 2013 amending Regulation (EC) No 216/2008 of the European Parliament and of 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.

Applicable requirements and standards: Articles 1 to 11, 13 to 16, 20 to 25, 54, 55, 68 and Annexes I to VI.

Regulation (EC) No 216/2008 and its implementing rules shall be applied to Ukraine according to the following provisions:

1. Ukraine does not delegate to the EASA any of its safety related functions as envisaged under the Convention and its Annexes;
2. Ukraine shall be subject to standardisation inspections conducted by the EASA under Article 54 of Regulation (EC) No 216/2008;
3. The application of Article 11 of Regulation (EC) No 216/2008 to certificates issued by Ukraine will be decided by the Joint Committee, according to the provisions of Annex III to this Agreement;
4. Article 11, paragraph 1 of Regulation (EC) No 216/2008 shall not apply to certificates of Ukraine issued in the areas of flight operations and initial and continuing airworthiness (Implementing Regulations No(s): (EU) 965/2012, 748/2012 and (EC) 2042/2003);
5. The European Commission shall enjoy in Ukraine the powers granted to it for decisions pursuant to Article 11, paragraph 2, Article 14, paragraph 5 and 7, Article 24, paragraph 5 and Article 25, paragraph 1 of Regulation (EC) No 216/2008 in the areas where Article 11, paragraph 1 is declared applicable by the Joint Committee;
6. In the field of airworthiness, where no tasks are carried out by the EASA, Ukraine may issue certificates, licences or approvals in application of an agreement or arrangement concluded by Ukraine with a third country.

#### **No 748/2012**

Commission Regulation (EU) No 748/2012 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 (EU) No 7/2013 amending Regulation (EU) No 748/2012 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.

Applicable requirements and standards: Articles 1-2, 8-10 and Annex.



## **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 (EU) No 127/2010 of 5 February 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;

Commission Regulation (EU) No 962/2010 of 26 October 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;

Commission Regulation (EU) No 1149/2011 of 21 October 2011 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 (EU) No 593/2012 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 requirements and standards: Articles 1 to 6, Annexes I to IV.

### **No 996/2010**

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

Applicable requirements and standards: Articles 1 to 26, with the exception of Articles 7(4) and 24.

### **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 requirements and standards: 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 requirements and standards: 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 requirements and standards: Articles 1 to 10, Annexes I to II.

### **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 requirements and standards: Articles 1 to 7 and Annex.

### **No 628/2013**

Commission Implementing Regulation (EU) No 628/2013 of 28 June 2013 on working methods of the European Aviation Safety Agency for conducting standardisation inspections and for monitoring the application of the rules of Regulation (EC) No 216/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 736/2006.

Applicable requirements and standards: Articles 1 to 27.

### **No 2111/2005**

Regulation (EC) No 2111/2005 of the European Parliament and of 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/EC.

Applicable requirements and standards provisions: Articles 1 to 13, Annex.

### **No 473/2006**

Commission Regulation (EC) No 473/2006 of 22 March 2006 laying down implementing rules for 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.

Applicable requirements and standards provisions: Articles 1 to 6, Annexes A to C.

### **No 474/2006**

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,

as last amended by:

Commission Implementing Regulation (EU) No 659/2013 of 10 July 2013 amending Regulation (EC) No 474/2006 establishing the Community list of air carriers which are subject to an operating ban within the Community.

Applicable requirements and standards: Articles 1 to 3, Annexes A to B (please see here below latest amendments):

### **No 1178/2011**

Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council,

as amended by:

Commission Regulation (EU) No 290/2012 of 30 March 2012 amending Regulation (EU) No 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

Applicable requirements and standards: Articles 1 to 11, Annexes I to VII.

### **No 965/2012**

Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council,

as amended by:

Commission Regulation (EU) No 800/2013 of 14 August 2013 amending Regulation (EU) No 965/2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

Applicable requirements and standards): Articles 1 to 9, Annexes I to VII.

### **No 1332/2011**

Commission Regulation (EU) No 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance.

Applicable requirements and standards: Articles 1 to 4, Annex.

#### D. ENVIRONMENT

##### No 2003/96

Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.

Applicable requirements and standards: Article 14(1)(b) and (2).

##### 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 (1988).

Applicable requirements and standards: Articles 1 to 5.

##### 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 requirements and standards: Articles 1 to 16, Annexes I to VI.

##### 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,

Applicable requirements and standards: Articles 1 to 15, Annexes I and II.

#### E. SOCIAL ASPECTS

##### No 1989/391

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work,

as amended by:

Directive 2007/30/EC of the European Parliament and of the Council of 20 June 2007 amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation.

Applicable requirements and standards: Articles 1 to 16, and 18 to 19.

### **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: Articles 1 to 19, 21 to 24 and 26 to 29.

### **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 requirements and standards: Articles 2 to 3, Annex.

## **F. 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 93/13**

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

Applicable provisions: Articles 1 to 10 and Annex.

As regards the application of Article 10, the term "the Commission" shall read "all other ECAA Contracting Parties".

### **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 requirements and standards: 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 requirements and standards: 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 requirements and standards: 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 requirements and standards: Articles 1 to 16, Annexes I and II.



## G. COMPUTER RESERVATION SYSTEMS

### 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 requirements and standards): Articles 1 to 19 and Annexes.

## H. OTHER LEGISLATION

### No 437/2003

Regulation (EC) No 437/2003 of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air,

as amended by:

Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing and amending Regulation (EC) No 437/2003 of the European Parliament and of the Council.

Commission Regulation (EC) No 546/2005 of 8 April 2005 adapting Regulation (EC) No 437/2003 of the European Parliament and of the Council as regards the allocation of reporting-country codes and amending Commission Regulation (EC) No 1358/2003 as regards the updating of the list of Community airports.

Applicable requirements and standards: Articles 1 to 11, Annexes I and II.

### No 1358/2003

Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto,

as amended by:

Commission Regulation (EC) No 158/2007 of 16 February 2007 amending Commission Regulation (EC) No 1358/2003 as regards the list of Community airports.

Applicable requirements and standards: Articles 1 to 4, Annexes I to III.

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## ANNEX II

### 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 V – Any point in Ukraine – points beyond;
  - (b) for air carriers of Ukraine: Any point in Ukraine – intermediate points in the territories of European Neighbourhood Policy partners, ECAA countries or countries listed in Annex V – Any point in the European Union.

Existing and new rights, including rights to serve beyond points under bilateral agreements or other arrangements between Ukraine and EU Member States, which are not covered under this Agreement, can be exercised and agreed, provided that there is no discrimination between air carriers on the basis of nationality;

- (c) Air carriers of the European Union shall also be entitled to perform air transport services between points in Ukraine, whether or not such air transport services originate or terminate within the EU.
2. The services operated according to paragraph 1(a) and (b) of this Annex shall originate or terminate in the territory of Ukraine, for air carriers of Ukraine, 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;

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

<sup>3</sup> "ECAA countries" are the Parties to the Multilateral Agreement establishing a European Common Aviation Area, which are: The Member States of the European Union, the Republic of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, the Republic of Serbia and Kosovo (This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence).

- (b) combine different flight numbers within one aircraft operation;
  - (c) serve intermediate and beyond points, as specified in paragraph 1(a) and (b) 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 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 26 (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 arrangements contained in Annex III to this Agreement and the extension of rights foreseen therein.

## **TRANSITIONAL ARRANGEMENTS**

### **Section 1**

#### **Transitional periods**

1. The transition of Ukraine towards the effective implementation of all provisions and conditions stemming from this Agreement shall be carried out through two transitional periods.
2. Such transition shall be subject to assessments and standardisation inspections, which shall be conducted by the European Commission and the EASA respectively, as well as a decision of the Joint Committee, as provided for in Article 33 (Transitional Arrangements) of this Agreement.

### **Section 2**

#### **Specifications applicable during the first transitional period**

1. During the first transitional period:
  - (a) air carriers of the European Union and air carriers licensed by Ukraine shall be permitted to exercise unlimited traffic rights between any point in the European Union and any point in Ukraine;
  - (b) subject to an assessment regarding the implementation by Ukraine of the relevant European Union requirements and standards and following the information of the Joint Committee, Ukraine shall be involved as observer in the work of the Committee established under the terms of Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports; and
  - (c) the provisions of Article 22 (Commercial Opportunities), subparagraph 5(c) (groundhandling to air carriers of other Parties) shall not apply.
2. The conditions for the transition towards the second transitional period shall involve for Ukraine the following:

- (a) incorporation in the national legislation and implementation of the applicable requirements and standards of:
- Regulation (EC) 216/2008 (on common rules in the field of civil aviation and establishing a European Aviation Safety Agency);
  - Regulation (EU) 748/2012 (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);
  - 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) as amended;
  - Regulation (EU) No 965/2012 (laying down technical requirements and administrative procedures related to air operations);
  - Regulation (EU) No 1178/2011 (laying down technical requirements and administrative procedures related to civil aviation aircrew);
  - Regulation (EU) No 996/2010 (on investigation and prevention of accidents and incidents);
  - Directive 2009/12/EC (on airport charges);
  - Directive 96/67/EC (on access to the groundhandling market at Community airports);
  - Regulation (EEC) No 95/93 (on common rules for the allocation of slots);
  - Directive 2000/79/EC (concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation);
  - Chapter IV of the Regulation (EC) No 1008/2008 (on operation of air services);
  - Regulation (EC) No 785/2004 (on insurance requirements for air carriers and aircraft operators);
  - Regulation (EEC) No 80/2009 (on computer reservation systems);

- Regulation (EC) No 2027/97 (on air carrier liability in the event of accidents);
- Regulation (EC) 261/2004 (common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights);
- 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);
- 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);
- 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);
- 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);
- Regulation (EU) No 691/2010 of the European Commission of 29 July 2010 laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services;
- Regulation (EC) No 1794/2006 of the European Commission of 6 December 2006 laying down a common charging scheme for air navigation services;
- Regulation (EU) No 1034/2011 of the European Commission of 17 October 2011 on safety oversight in air traffic management and air navigation services and amending Regulation (EU) No 691/2010;
- Regulation (EC) No 2150/2005 of the European Commission of 23 December 2005 laying down common rules for the flexible use of airspace; and

- Regulation (EU) No 255/2010 of the European Commission of 25 March 2010 laying down common rules on air traffic flow management,

as these are stipulated, including their amendments in Annex I to this Agreement;

- (b) application of 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 European Union; and
- (c) as regards aviation security, implementation of ECAC Document 30, Part II in its latest applicable amendment.

### **Section 3**

#### **Specifications applicable during the second transitional period**

1. Following the decision of the Joint Committee, as provided for Article 33 (Transitional Arrangements) of this Agreement, confirming that Ukraine fulfils all the conditions stipulated under section 2 (2):
  - (a) the relevant certificates issued by Ukraine, as listed in Annex IV, section 1, shall be recognised by the Member States in accordance with the conditions stipulated in the decision of the Joint Committee and pursuant to Article 11 of Regulation (EC) 216/2008;
  - (b) the provisions of Article 22 (Commercial Opportunities), subparagraph 5(c) (groundhandling to air carriers of other Parties) of this Agreement shall apply; and
  - (c) subject to an assessment regarding the implementation by Ukraine of the relevant European Union requirements and standards and following the information of the Joint Committee, Ukraine shall be involved as observer in the work of the Committee established under the terms of Regulation (EC) (No) 2111/2005 on the establishment of a Community list of carriers subject to an operating ban within the Community.
2. The conditions for the transition towards the full implementation of this Agreement shall involve for Ukraine the following:



- (a) incorporation in the national legislation and implementation of all applicable requirements and standards of the European Union acts set out in Annex I to this Agreement; and
- (b) the airspace under its responsibility shall be organised in line with the EU requirements applicable for the establishment of FABs.

## **Section 4**

### **Full implementation of this Agreement**

Following the decision of the Joint Committee, as provided for in Article 33 (Transitional Arrangements) of this Agreement, confirming that Ukraine fulfils all conditions stipulated under section 3 (2) of this Annex, the following shall apply:

1. In addition to the traffic rights set out in section 2 (1) to this Annex:
  - (a) air carriers of the European Union shall be permitted to exercise unlimited traffic rights between points in Ukraine, intermediate points in the European Neighbourhood Policy and ECAA countries, as well as points in countries listed in the Annex V and points beyond, provided that the flight is a part of a service that serves a point in a Member State.  
  
Air carriers of the European Union shall also be permitted to exercise unlimited traffic rights between points in Ukraine, whether or not such air services originate or terminate within the EU; and
  - (b) air carriers of Ukraine shall be permitted to exercise unlimited traffic rights between any point in the European Union, intermediate points in the European Neighbourhood Policy and ECAA countries, as well as in countries listed in the Annex V, provided that the flight is a part of a service that serves a point in Ukraine.
2. All the relevant certificates comprised in Annex IV, section 2 to this Agreement issued by Ukraine shall be recognised by the Member States in accordance with the conditions foreseen by these provisions.

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**LIST OF CERTIFICATES REFERRED TO IN ANNEX III  
TO THIS AGREEMENT****1. Air Crew**

Pilots' licences (issuing, maintaining, amending, limiting, suspending or revoking licences) (Regulations (EC) No 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

Certification of persons responsible for providing flight training or flight simulation training and for assessing pilots' skills (Regulations (EC) No 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

Cabin crew attestations (issuing, maintaining, amending, limiting, suspending or revoking cabin crew attestations) (Regulations (EC) 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

Medical certificates for pilots (issuing, maintaining, amending, limiting, suspending or revoking) (Regulations (EC) No 216/2008, (EU) No 1178/2011), (EU) No 290/2012 amending (EU) No 1178/2011.

Certification of aero-medical examiners, as well as the conditions under which general medical practitioners may act as aero-medical examiners (Regulations (EC) 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

Periodical aero-medical assessment of cabin crew members - the qualification of persons responsible for this assessment (Regulations (EC) 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

Conditions for issuing, maintaining, amending, limiting, suspending or revoking certificates of pilot training organisations Regulations (EC) 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

Conditions for issuing, maintaining, amending, limiting, suspending or revoking certificates of aero-medical centres involved in the qualification and aero-

medical assessment of civil aviation aircrew (Regulations (EC) 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

Certification of flight simulation training devices and the requirements for organisations operating and using those devices (Regulations (EC) 216/2008, (EU) No 1178/2011, (EU) No 290/2012 amending (EU) No 1178/2011).

## **2. Air Traffic Management/Air Navigation Services**

Certificates of air traffic services providers (Regulations (EC) 216/2008, (EU) No 1034/2011, (EU) No 1035/2011 Annex II Specific requirements for the provision of air traffic services).

Certificates of meteorological services providers (Regulations (EC) 216/2008, (EU) No 1034/2011, (EU) No 1035/2011 Annex III Specific requirements for the provision of meteorological services).

Certificates of aeronautical information services providers (Regulations (EC) 216/2008, (EU) No 1034/2011, (EU) No 1035/2011 Annex IV Specific requirements for the provision of aeronautical information services).

Certificates of communication, navigation or surveillance services providers (Regulations (EC) 216/2008, (EU) No 1034/2011, (EU) No 1035/2011 Annex V Specific requirements for the provision of communication, navigation or surveillance service).

Licences of air traffic controllers (ATCO) and student air traffic controllers (issue, suspension and revocation) and associated ratings, endorsements (Regulations (EC) 216/2008, (EU) No 805/2011).

Medical certificates of air traffic controllers (Regulations (EC) 216/2008, (EU) No 805/2011).

Certificates of training organisations for air traffic controllers (ATCO) (validity, renewal, revalidation and use) (Regulations (EU) No 216/2008 and (EU) No 805/2011).

**LIST OF OTHER STATES REFERRED TO IN ARTICLES 17, 19, 22  
OF THIS AGREEMENT AND  
ANNEXES II AND III TO THIS AGREEMENT**

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); and
4. The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport).

**PROCEDURAL RULES**

This Agreement shall be applicable in accordance with the procedural rules set out here under:

**1. INVOLVEMENT OF UKRAINE IN COMMITTEES**

When according to this Agreement Ukraine is involved in a Committee established by the relevant European Union acts, it shall acquire an observer status and will be exposed to all relevant discussions and be encouraged to engage in debate, in accordance with their rules of procedure, while it shall be excluded from sessions involving voting.

As regards the field of Air Traffic Management, in order to implement the relevant Single European Sky legislation, Ukraine shall also be involved in all bodies established by the European Commission, such as the Industry Consultation Body (ICB) and the Network Manager (NM).

**2. ACQUIREMENT OF OBSERVER STATUS IN THE EASA**

The observer status in the EASA entitles Ukraine to participate in technical groups and bodies of the EASA open for the EU Member States and other Partner countries in the European neighbourhood, subject to the established conditions for such participation. Observer status does not cover the right to vote. This status will not be acquired as regards the EASA Management Board.

**3. COOPERATION AND EXCHANGE OF INFORMATION**

To facilitate the exercise of the relevant powers of the competent authorities of the Parties, such authorities shall upon request mutually exchange all information necessary for the proper functioning of this Agreement.

**4. REFERENCE TO LANGUAGES**

The Parties shall be entitled to use, in the procedures established in the ambit of this Agreement, any official language of the institutions of the European Union or the Ukrainian language. The Parties are aware, however, that the utilisation of English facilitates those procedures. If a language, which is not an official language of the institutions of European Union is used in an official document, a translation into an official language of the institutions of the European Union

shall be simultaneously submitted, taking into account the provision of the preceding sentence. If a Party intends to use, in an oral procedure, a language that is not an official language of the institutions of the European Union, that Party shall ensure simultaneous interpretation into English.

**CRITERIA REFERRED TO IN ARTICLE 26, PARAGRAPH 4  
OF THIS AGREEMENT**

1. The following shall be compatible with the proper functioning of this Agreement:
    - (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the services concerned; and
    - (b) aid to make good the damage caused by natural disasters or exceptional occurrences.
  
  2. Moreover, the following may be considered to be compatible with the proper functioning of this Agreement:
    - (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
    - (b) aid to facilitate the development of certain economic activities or of certain economic areas where such aid does not adversely affect commercial operations of air carriers to the interests of the Parties; and
    - (c) aid to achieve objectives, allowed under the EU horizontal block exemption regulations and horizontal and sectorial state aid rules granted in line with the conditions set out therein.
-