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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	5 June 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 256 final - ANNEX 1
Subject:	ANNEX to the Proposal for a Council Decision on the signing, on behalf of the European Union, and on the provisional application of an Agreement with Respect to Time Limitations on Arrangements for the Provision of Aircraft with Crew between the United States of America, the European Union, Iceland, and the Kingdom of Norway

Delegations will find attached document COM(2019) 256 final - ANNEX 1.

Encl.: COM(2019) 256 final - ANNEX 1



Brussels, 5.6.2019
COM(2019) 256 final

ANNEX 1

ANNEX

to the Proposal for a Council Decision

on the signing, on behalf of the European Union, and on the provisional application of an Agreement with Respect to Time Limitations on Arrangements for the Provision of Aircraft with Crew between the United States of America, the European Union, Iceland, and the Kingdom of Norway

Agreement with Respect to Time Limitations on Arrangements for the Provision of Aircraft with Crew

THE UNITED STATES OF AMERICA (hereinafter, “the United States”),
THE EUROPEAN UNION, ICELAND, and THE KINGDOM OF
NORWAY (hereinafter, “Norway”),

Recognizing the benefit of promoting flexibility and fair and equal opportunities with respect to operating arrangements entered into by airlines pursuant to Article 10(9) of the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on April 25 and 30, 2007, as amended by the Protocol to Amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on June 24, 2010 (hereinafter, the “U.S.-EU ATA”) and applied pursuant to the Air Transport Agreement among the United States of America, the European Union and its Member States, Iceland, and the Kingdom of Norway, signed on June 16 and 21, 2011 (hereinafter, the “Four Part ATA”);

Recognizing the comprehensive aviation relationship among the parties, established by the U.S.-EU ATA and the Four Part ATA and the close cooperation among the parties developed in the context of these Agreements;

Reaffirming the common objective of the Parties to ensure the highest degree of safety and security in international air transportation, as is reflected in their similar regulatory frameworks;

Acknowledging the existence of comparable social and economic conditions among the Parties with respect to international air transportation; and

Resolving to promote flexibility in operating arrangements between airlines to lease aircraft with crew as provided for by the U.S.-EU ATA, including as applied by the Four Part ATA, by reciprocally removing time limits on such arrangements, without otherwise affecting the application of those Agreements;

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For purposes of this Agreement, the term:

1. “European airlines” means airlines of the European Union and its Member States, Iceland, and Norway that are authorized to provide international air transportation pursuant to Article 4 of the U.S.-EU ATA, including as applied by the Four Part ATA.
2. “Party” means the United States, the European Union, Iceland, or Norway.
3. “U.S. airlines” means airlines of the United States authorized to provide international air transportation pursuant to Article 4 of the U.S.-EU ATA, including as applied by the Four Part ATA.
4. “Wet lease” means any arrangement between two airlines for the provision of aircraft with crew for international air transportation.

Article 2

Time Limitations

1. No Party shall impose, including by statute or regulation, time limitations on the operation of any wet lease pursuant to Article 10(9) of the U.S.-EU ATA, including as applied by the Four Part ATA, provided that such wet lease complies with all terms and conditions of said Article 10(9).
2. Nothing in paragraph 1 shall be understood to limit the right of a Party to otherwise apply its statutes and regulations with respect to wet leasing arrangements involving its airlines and those of countries that are not party to this Agreement.

Article 3

Consultations

Any Party may, at any time, request consultations with any other Party or Parties regarding any matter relating to this Agreement. Such consultations shall begin at the earliest possible date, but no later than 60 days from the date the other Party receives the request or, as appropriate, from the date all other Parties have received the request, unless otherwise agreed. Such consultations may be held in connection with a meeting of the Joint Committee referenced in Article 18 of the U.S.-EU ATA.

Article 4

Review

The Parties shall review, as appropriate, the implementation of this Agreement. Such review may be held in connection with a meeting of the Joint Committee referenced in Article 18 of the U.S.-EU ATA.

Article 5

Dispute Resolution

1. Any dispute arising under this Agreement that is not resolved by consultations under Article 3 may be referred to a person or body for decision by agreement of the parties to the dispute. If the parties to the dispute do not so agree, the dispute shall, at the request of one of the parties to the dispute, be submitted to arbitration using the procedures provided for in Article 19(2)-(8) of the U.S-EU ATA, except as provided herein.
2. In the case of a dispute involving:
 - (a) two Parties to this Agreement, the term “Party” or “Parties” in Article 19(2)-(8) of the U.S.-EU ATA shall, when applied

to such a dispute under this Agreement, mean a party or parties to a dispute under this Agreement.

(b) more than two Parties to this Agreement, one or both sides may include multiple Parties for purposes of participation in a proceeding described in this Article. In the case of such a dispute under this Agreement, all references to a “Party” in Articles 19(2)-(8) of the U.S.-EU ATA shall, when applied to that dispute, mean one side to the dispute under this Agreement, and all references to “Parties” shall, when applied to that dispute, mean the two sides to the dispute under this Agreement.

3. The term “this Agreement” in Article 19(3) and (7) of the U.S-EU ATA shall, when applied to a dispute under this Agreement, mean this Agreement with Respect to Time Limitations on Arrangements for the Provision of Aircraft with Crew among the United States of America, the European Union, Iceland, and the Kingdom of Norway.
4. The reference to “Member State” in Article 19(2) of the U.S.-EU ATA shall, when applied to a dispute under this Agreement, include Iceland and Norway.

Article 6

Registration with the International Civil Aviation Organization (ICAO)

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

Article 7

Entry into Force, Provisional Application, and Termination

1. This Agreement shall enter into force one month after the date of the last note of the exchanges of diplomatic notes among the Parties confirming that all necessary procedures for entry into force of this Agreement have been completed.

2. Pending its entry into force, the Parties agree that this Agreement shall be applied provisionally by the United States and the European Union commencing upon signature by the United States and the European Union, and by Norway and Iceland commencing upon the later of the date of provisional application by the United States and the European Union and that State's signature of this Agreement.
3. Either the United States or the European Union may, at any time, give notice in writing through diplomatic channels to the other Parties of its decision to terminate this Agreement or to end provisional application of this Agreement under paragraph 2 of this Article. A copy of the notice shall be sent simultaneously to ICAO. This Agreement shall terminate, or provisional application of this Agreement shall end, at midnight GMT 90 days following the date of the written notification, unless the notice is withdrawn by agreement of the United States and the European Union before the end of this period.
4. Either Iceland or Norway may, at any time, give notice in writing through diplomatic channels to the other Parties of its decision to withdraw from this Agreement or to end its provisional application of this Agreement under paragraph 2 of this Article. A copy of the notice shall be sent simultaneously to ICAO. Such withdrawal or cessation of provisional application shall be effective at midnight GMT 90 days following the date of written notification, unless the notice is withdrawn by agreement of the Party giving written notice, the United States, and the European Union before the end of this period.
5. Notwithstanding any other provision of this Article, if the U.S.-EU ATA is terminated or the parties to that agreement cease to provisionally apply it, this Agreement shall terminate simultaneously.
6. Notwithstanding any other provision of this Article, if the Four Part ATA is terminated pursuant to Article 3(1) of that agreement, or the parties to that agreement cease to provisionally apply it, or if that agreement is terminated with respect to Norway or Iceland pursuant to Article 3(3), this Agreement shall terminate with respect to Norway

and/or Iceland on the same date that cessation or termination becomes effective for that Party or Parties.

7. Notwithstanding any other provision of this Article, if Norway and/or Iceland withdraws from the Four Part ATA pursuant to Article 3(2) of that agreement, this Agreement shall terminate as to the Party or Parties withdrawing from the Four Part ATA on the same date withdrawal from the Four Part ATA becomes effective for that Party or Parties.

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

Done at _____ in quadruplicate, in the English language, on
_____ 2019.

For the United States of America:

For the European Union:

For Iceland:

For the Kingdom of Norway:

Joint Declaration

Representatives of the United States, the European Union, Iceland, and Norway confirmed that the Agreement with Respect to Time Limitations on Arrangements for the Provision of Aircraft with Crew, to be signed in English only, is to be authenticated in other languages, as provided by an exchange of letters among the Parties.

This Joint Declaration is an integral part of the Agreement.

For the United States of America:

For the European Union:

For Iceland:

For the Kingdom of Norway: