

**ANNEX 1****Section 1**

As provided in Article 22 of this Agreement, the following bilateral agreements between the United States and Member States shall be suspended or superseded by this Agreement:

- a. The Republic of Austria: Air services agreement, signed at Vienna March 16, 1989; amended June 14, 1995.
- b. The Kingdom of Belgium: Air transport agreement, effected by exchange of notes at Washington October 23, 1980; amended September 22 and November 12, 1986; amended November 5, 1993 and January 12, 1994.

(amendment concluded on September 5, 1995 (provisionally applied).)

- c. The Republic of Bulgaria: Civil aviation security Agreement, signed at Sofia April 24, 1991.
- d. The Czech Republic: Air transport agreement, signed at Prague September 10, 1996; amended June 4, 2001 and February 14, 2002.

- e. The Kingdom of Denmark: Agreement relating to air transport services, effected by exchange of notes at Washington December 16, 1944; amended August 6, 1954; amended June 16, 1995.
  
- f. The Republic of Finland: Air transport agreement, signed at Helsinki March 29, 1949; related protocol signed May 12, 1980; agreement amending 1949 agreement and 1980 protocol concluded June 9, 1995.
  
- g. The French Republic: Air transport agreement, signed at Washington June 18, 1998; amended October 10, 2000; amended January 22, 2002.
  
- h. The Federal Republic of Germany: Air transport agreement and exchanges of notes, signed at Washington July 7, 1955; amended April 25, 1989.  
  
(related protocol concluded November 1, 1978; related agreement concluded May 24, 1994; protocol amending the 1955 agreement concluded on May 23, 1996; agreement amending the 1996 protocol concluded on October 10, 2000 (all provisionally applied).)
  
- i. The Hellenic Republic: Air transport agreement, signed at Athens July 31, 1991; extended until July 31, 2007 by exchange of notes of June 22 and 28, 2006.

- j. The Republic of Hungary: Air transport agreement and memorandum of understanding, signed at Budapest July 12, 1989; extended until July 12, 2007 by exchange of notes of July 11 and 20, 2006.
  
- k. Ireland: Agreement relating to air transport services, effected by exchange of notes at Washington February 3, 1945; amended January 25, 1988 and September 29, 1989; amended July 25 and September 6, 1990.

(Memorandum of consultations, signed at Washington October 28, 1993 (provisionally applied).)

- l. The Italian Republic: Air transport agreement, with memorandum and exchange of notes, signed at Rome June 22, 1970; amended October 25, 1988; related memorandum of understanding signed September 27, 1990; amendment of 1970 agreement and 1990 MOU concluded November 22 and December 23, 1991; amendment of 1970 agreement and 1990 MOU concluded May 30 and October 21, 1997; agreement supplementing the 1970 agreement concluded December 30, 1998 and February 2, 1999.

(Protocol amending the 1970 agreement concluded December 6, 1999 (provisionally applied).)

- m. The Grand Duchy of Luxembourg: Air transport agreement, signed at Luxembourg August 19, 1986; amended June 6, 1995; amended July 13 and 21, 1998.
- n. Malta: Air transport agreement, signed at Washington October 12, 2000.
- o. The Kingdom of the Netherlands: Air transport agreement, signed at Washington April 3, 1957; protocol amending the 1957 agreement concluded on March 31, 1978; amendment of 1978 protocol concluded June 11, 1986; amendment of 1957 agreement concluded October 13 and December 22, 1987; amendment of 1957 agreement concluded January 29 and March 13, 1992; amendment of 1957 agreement and 1978 protocol concluded October 14, 1992.
- p. The Republic of Poland: Air transport agreement, signed at Warsaw June 16, 2001.
- q. The Portuguese Republic: Air transport agreement, signed at Lisbon May 30, 2000.
- r. Romania: Air transport agreement, signed at Washington July 15, 1998.
- s. The Slovak Republic: Air transport agreement, signed at Bratislava January 22, 2001.

- t. The Kingdom of Spain: Air transport agreement signed at Madrid February 20, 1973; related agreement of February 20, March 31 and April 7, 1987; amendment of 1973 agreement concluded May 31, 1989; amendment of 1973 agreement concluded November 27, 1991.
- u. The Kingdom of Sweden: Agreement relating to air transport services, effected by exchange of notes at Washington December 16, 1944; amended August 6, 1954; amended June 16, 1995.
- v. The United Kingdom of Great Britain and Northern Ireland: Agreement concerning air services, and exchange of letters, signed at Bermuda July 23, 1977; agreement relating to North Atlantic air fares, concluded March 17, 1978; agreement amending the 1977 agreement, concluded April 25, 1978; agreement modifying and extending the 1978 agreement relating to North Atlantic air fares, concluded November 2 and 9, 1978; agreement amending the 1977 agreement, concluded December 4, 1980; agreement amending the 1977 agreement, concluded February 20, 1985; agreement amending Article 7, Annex 2, and Annex 5 of the 1977 agreement, concluded May 25, 1989; agreement concerning amendments of the 1977 agreement, termination of the US/UK Arbitration Concerning Heathrow Airport User Charges and the request for arbitration made by the United Kingdom in its embassy's note no. 87 of 13 October 1993 and settlement of the matters which gave rise to those proceedings, concluded March 11, 1994; agreement amending the 1977 agreement, concluded March 27, 1997.

(Arrangements, being provisionally applied, contained in the memorandum of consultations dated September 11, 1986; arrangements contained in the exchange of letters dated July 27, 1990; arrangements contained in the memorandum of consultations of March 11, 1991; arrangements contained in the exchange of letters dated October 6, 1994; arrangements contained in the memorandum of consultations of June 5, 1995; arrangements contained in the exchange of letters dated March 31 and April 3, 2000 (all provisionally applied).)

## **Section 2**

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

## **Section 3**

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

## Section 4

Notwithstanding any other provisions of this Agreement, this section shall apply to scheduled and charter combination air transportation between Ireland and the United States with effect from the beginning of IATA Winter season 2006/2007 until the end of the IATA Winter season 2007/2008.

- a. (i) Each U.S. and Community airline may operate 3 non-stop flights between the United States and Dublin for each non-stop flight that the airline operates between the United States and Shannon. This entitlement for non-stop Dublin flights shall be based on an average of operations over the entire three-season transitional period. A flight shall be deemed to be a non-stop Dublin, or a non-stop Shannon, flight, according to the first point of entry into, or the last point of departure from, Ireland.
- (ii) The requirement to serve Shannon in subparagraph (a)(i) of this Section shall terminate if any airline inaugurates scheduled or charter combination service between Dublin and the United States, in either direction, without operating at least one non-stop flight to Shannon for every three non-stop flights to Dublin, averaged over the transition period.

- b. For services between the United States and Ireland, Community airlines may serve only Boston, New York, Chicago, Los Angeles, and 3 additional points in the United States, to be notified to the United States upon selection or change. These services may operate via intermediate points in other Member States or in third countries.
  
  - c. Code sharing shall be authorized between Ireland and the United States only via other points in the European Community. Other code-share arrangements will be considered on the basis of comity and reciprocity.
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**ANNEX 2**

Concerning  
Cooperation With Respect to Competition Issues in the Air Transportation Industry

Article 1

The cooperation as set forth in this Annex shall be implemented by the Department of Transportation of the United States of America and the Commission of the European Communities (hereinafter referred to as "the Participants"), consistent with their respective functions in addressing competition issues in the air transportation industry involving the United States and the European Community.

Article 2

Purpose

The purpose of this cooperation is:

1. To enhance mutual understanding of the application by the Participants of the laws, procedures and practices under their respective competition regimes to encourage competition in the air transportation industry;
2. To facilitate understanding between the Participants of the impact of air transportation industry developments on competition in the international aviation market;

3. To reduce the potential for conflicts in the Participants' application of their respective competition regimes to agreements and other cooperative arrangements which have an impact on the transatlantic market; and
4. To promote compatible regulatory approaches to agreements and other cooperative arrangements through a better understanding of the methodologies, analytical techniques including the definition of the relevant market(s) and analysis of competitive effects, and remedies that the Participants use in their respective independent competition reviews.

### Article 3 Definitions

For the purpose of this Annex, the term "competition regime" means the laws, procedures and practices that govern the Participants' exercise of their respective functions in reviewing agreements and other cooperative arrangements among airlines in the international market. For the European Community, this includes, but is not limited to, Articles 81, 82, and 85 of the Treaty Establishing the European Community and their implementing Regulations pursuant to the said Treaty, as well as any amendments thereto. For the Department of Transportation, this includes, but is not limited to, sections 41308, 41309, and 41720 of Title 49 of the United States Code, and its implementing Regulations and legal precedents pursuant thereto.

## Article 4 Areas of Cooperation

Subject to the qualifications in subparagraphs 1(a) and 1(b) of Article 5, the types of cooperation between the Participants shall include the following:

- (1) Meetings between representatives of the Participants, to include competition experts, in principle on a semi-annual basis, for the purpose of discussing developments in the air transportation industry, competition policy matters of mutual interest, and analytical approaches to the application of competition law to international aviation, particularly in the transatlantic market. The above discussions may lead to the development of a better understanding of the Participants' respective approaches to competition issues, including existing commonalities, and to more compatibility in those approaches, in particular with respect to inter-carrier agreements.
- (2) Consultations at any time between the Participants, by mutual agreement or at the request of either Participant, to discuss any matter related to this Annex, including specific cases.
- (3) Each Participant may, at its discretion, invite representatives of other governmental authorities to participate as appropriate in any meetings or consultations held pursuant to paragraphs 1 or 2 above.

- (4) Timely notifications of the following proceedings or matters, which in the judgment of the notifying Participant may have significant implications for the competition interests of the other Participant:
- a. With respect to the Department of Transportation, (i) proceedings for review of applications for approval of agreements and other cooperative arrangements among airlines involving international air transportation, in particular for antitrust immunity involving airlines organized under the laws of the United States and the European Community, and (ii) receipt by the Department of Transportation of a joint venture agreement pursuant to section 41720 of Title 49 of the United States Code; and
  - b. With respect to the Commission of the European Communities, (i) proceedings for review of agreements and other cooperative arrangements among airlines involving international air transportation, in particular for alliance and other cooperative agreements involving airlines organized under the laws of the United States and the European Community, and (ii) consideration of individual or block exemptions from European Union competition law;
- (5) Notifications of the availability, and any conditions governing that availability, of information and data filed with a Participant, in electronic form or otherwise, that, in the judgment of that Participant, may have significant implications for the competition interests of the other Participant; and

- (6) Notifications of such other activities relating to air transportation competition policy as may seem appropriate to the notifying Participant.

## Article 5

### Use and Disclosure of Information

- (1) Notwithstanding any other provision of this Annex, neither Participant is expected to provide information to the other Participant if disclosure of the information to the requesting Participant:
- a. is prohibited by the laws, regulations or practices of the Participant possessing the information; or
  - b. would be incompatible with important interests of the Participant possessing the information.
- (2) Each Participant shall to the extent possible maintain the confidentiality of any information provided to it in confidence by the other Participant under this Annex and to oppose any application for disclosure of such information to a third party that is not authorized by the supplying Participant to receive the information. Each Participant intends to notify the other Participant whenever any information proposed to be exchanged in discussions or in any other manner may be required to be disclosed in a public proceeding.

- (3) Where pursuant to this Annex a Participant provides information on a confidential basis to the other Participant for the purposes specified in Article 2, that information should be used by the receiving Participant only for that purpose.

Article 6  
Implementation

- (1) Each Participant is designating a representative to be responsible for coordination of activities established under this Annex.
- (2) This Annex, and all activities undertaken by a Participant pursuant to it, are
- a. intended to be implemented only to the extent consistent with all laws, regulations, and practices applicable to that Participant; and
  - b. intended to be implemented without prejudice to the Agreement between the European Communities and the Government of the United States of America Regarding the Application of their Competition Laws.

**ANNEX 3**

Concerning  
U.S. Government Procured Transportation

Community airlines shall have the right to transport passengers and cargo on scheduled and charter flights for which a U.S. Government civilian department, agency, or instrumentality (1) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government, or (2) provides the transportation to or for a foreign country or international or other organization without reimbursement, and that transportation is (a) between any point in the United States and any point in a Member State, except - with respect to passengers only – between points for which there is a city-pair contract fare in effect, or (b) between any two points outside the United States. This paragraph shall not apply to transportation obtained or funded by the Secretary of Defense or the Secretary of a military department.

**ANNEX 4**

Concerning  
Additional Matters Related to Ownership, Investment and Control

Article 1  
Ownership of Airlines of a Party

1. Ownership by nationals of a Member State or States of the equity of a U.S. airline shall be permitted, subject to two limitations. First, ownership by all foreign nationals of more than 25 percent of a corporation's voting equity is prohibited. Second, actual control of a U.S. airline by foreign nationals is also prohibited. Subject to the overall 25 percent limitation on foreign ownership of voting equity:

a. ownership by nationals of a Member State or States of:

- (1) as much as 25 percent of the voting equity; and/or
- (2) as much as 49.9 percent of the total equity

of a U.S. airline shall not be deemed, of itself, to constitute control of that airline;

and

b. ownership by nationals of a Member State or States of 50 percent or more of the total equity of a U.S. airline shall not be presumed to constitute control of that airline. Such ownership shall be considered on a case-by-case basis.



2. Ownership by U.S. nationals of a Community airline shall be permitted subject to two limitations. First, the airline must be majority owned by Member States and/or by nationals of Member States. Second, the airline must be effectively controlled by such states and/or such nationals.
3. For the purposes of paragraph (b) of Article 4 and subparagraph 1(b) of Article 5 of this Agreement, a member of the ECAA as of the date of signature of this Agreement and citizens of such a member shall be treated as a Member State and its nationals, respectively. The Joint Committee may decide that this provision shall apply to new members of the ECAA and their citizens.
4. Notwithstanding paragraph 2, the European Community and its Member States reserves the right to limit investments by U.S. nationals in the voting equity of a Community airline made after the signature of this Agreement to a level equivalent to that allowed by the United States for foreign nationals in U.S. airlines, provided that the exercise of that right is consistent with international law.

## Article 2

### Ownership and Control of Third-Country Airlines

1. Neither Party shall exercise any available rights under air services arrangements with a third country to refuse, revoke, suspend or limit authorizations or permissions for any airlines of that third country on the grounds that substantial ownership of that airline is vested in the other Party, its nationals, or both.
2. The United States shall not exercise any available rights under air services arrangements to refuse, revoke, suspend or limit authorizations or permissions for any airline of the Principality of Liechtenstein, the Swiss Confederation, a member of the ECAA as of the date of signature of this Agreement, or any country in Africa that is implementing an Open-Skies air services agreement with the United States as of the date of signature of this Agreement, on the grounds that effective control of that airline is vested in a Member State or States, nationals of such a state or states, or both.
3. The Joint Committee may decide that neither Party shall exercise the rights referred to in paragraph 2 of this Article with respect to airlines of a specific country or countries.

### Article 3

#### Control of Airlines

1. The rules applicable in the European Community on ownership and control of Community air carriers are currently laid down in Article 4 of Council Regulation (EEC) No. 2407/92 of 23 July 1992 on licensing of air carriers. Under this Regulation, responsibility for granting an Operating Licence to a Community air carrier lies with the Member States. Member States apply Regulation 2407/92 in accordance with their national regulations and procedures.
2. The rules applicable in the United States are currently laid down in Sections 40102(a)(2), 41102 and 41103 of Title 49 of the United States Code (U.S.C.), which require that licenses for a U.S. "air carrier" issued by the Department of Transportation, whether a certificate, an exemption, or commuter license, to engage in "air transportation" as a common carrier, be held only by citizens of the United States as defined in 49 U.S.C §40102(a)(15). That section requires that the president and two-thirds of the board of directors and other managing officers of a corporation be U.S. citizens, that at least 75 percent of the voting stock be owned by U.S. citizens, and that the corporation be under the actual control of U.S. citizens. The requirement must be met initially by an applicant, and continue to be met by a U.S. airline holding a license.
3. The practice followed by each Party in applying its laws and regulations is set out in the Appendix to this Annex.

Appendix to Annex 4

1. In the United States, citizenship determinations are necessary for all U.S. air carrier applicants for a certificate, exemption, or commuter license. An initial application for a license is filed in a formal public docket, and processed "on the record" with filings by the applicant and any other interested parties. The Department of Transportation renders a final decision by an Order based on the formal public record of the case, including documents for which confidential treatment has been granted. A "continuing fitness" case may be handled informally by the Department, or may be set for docketed procedures similar to those used for initial applications.
  
2. The Department's determinations evolve through a variety of precedents, which reflect, among other things, the changing nature of financial markets and investment structures and DOT's willingness to consider new approaches to foreign investment that are consistent with U.S. law. DOT works with applicants to consider proposed forms of investment and to assist them in fashioning transactions that fully comply with U.S. citizenship law, and applicants regularly consult with DOT staff before finalising their applications. At any time before a formal proceeding has begun, DOT staff may discuss questions concerning citizenship issues or other aspects of the proposed transaction and offer suggestions, where appropriate, as to alternatives that would allow a proposed transaction to meet U.S. citizenship requirements.

3. In making both its initial and continuing citizenship and fitness determinations, DOT considers the totality of circumstances affecting the U.S. airline, and Department precedents have permitted consideration of the nature of the aviation relationship between the United States and the homeland(s) of any foreign investors. In the context of this Agreement, DOT would treat investments from EU nationals at least as favorably as it would treat investments from nationals of bilateral or multilateral Open-Skies partners.
4. In the European Union, paragraph 5 of Article 4 of Regulation 2407/92 provides that the European Commission, acting at the request of a Member State, shall examine compliance with the requirements of Article 4 and take a decision if necessary. In taking such decisions the Commission must ensure compliance with the procedural rights recognized as general principles of Community law by the European Court of Justice, including the right of interested parties to be heard in a timely manner.
5. When applying its laws and regulations, each Party shall ensure that any transaction involving investment in one of its airlines by nationals of the other Party is afforded fair and expeditious consideration.

**ANNEX 5**

Concerning  
Franchising and Branding

1. The airlines of each Party shall not be precluded from entering into franchise or branding arrangements, including conditions relating to brand protection and operational matters, provided that: they comply, in particular, with the applicable laws and regulations concerning control; the ability of the airline to exist outside of the franchise is not jeopardized; the arrangement does not result in a foreign airline engaging in cabotage operations; and applicable regulations, such as consumer protection provisions, including those regarding the disclosure of the identity of the airline operating the service, are complied with. So long as those requirements are met, close business relationships and cooperative arrangements between the airlines of each Party and foreign businesses are permissible, and each of the following individual aspects, among others, of a franchise or branding arrangement would not, other than in exceptional circumstances, of itself raise control issues:
  - a) using and displaying a specific brand or trademark of a franchisor, including stipulations on the geographic area in which the brand or trademark may be used;
  - b) displaying on the franchisee's aircraft the colors and logo of the franchisor's brand, including the display of such a brand, trademark, logo or similar identification prominently on its aircraft and the uniforms of its personnel;

- c) using and displaying the brand, trademark or logo on, or in conjunction with, the franchisee's airport facilities and equipment;
  - d) maintaining customer service standards designed for marketing purposes;
  - e) maintaining customer service standards designed to protect the integrity of the franchise brand;
  - f) providing for license fees on standard commercial terms;
  - g) providing for participation in frequent flyer programs, including the accrual of benefits; and
  - h) providing in the franchise or branding agreement for the right of the franchisor or franchisee to terminate the arrangement and withdraw the brand, provided that nationals of the United States or the Member States remain in control of the U.S. or Community airline, respectively.
2. Franchising and branding arrangements are independent of, but may coexist with, a code-sharing arrangement that requires that both airlines have the appropriate authority from the Parties, as provided for in paragraph 7 of Article 10 of this Agreement.
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## Joint Declaration

Representatives of the United States and of the European Community and its Member States confirmed that the Air Transport Agreement initialled in Brussels on 2 March 2007 and envisioned for signature on 30 April 2007 is to be authenticated in other languages, as provided either by exchange of letters, before signature of the Agreement, or by decision of the Joint Committee, after signature of the Agreement.

This Joint Declaration is an integral part of the Air Transport Agreement.

For the United States:

For the European Community  
and its Member States; *ad referendum*

[signed. John Byerly]

[signed. Daniel Calleja]

Date: 18 April 2007

Date: 18 April 2007