



European Communities No. 5 (2009)

# Multilateral Agreement

Between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, The Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on the Establishment of a European Common Aviation Area

Luxembourg, 9 June 2006

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
December 2009*



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ISBN: 9780101778220

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID P002340562 12/09

Printed on paper containing 50% recycled fibre content minimum.

**MULTILATERAL AGREEMENT  
BETWEEN THE EUROPEAN COMMUNITY AND ITS MEMBER  
STATES, THE REPUBLIC OF ALBANIA, BOSNIA AND HERZEGOVINA,  
THE REPUBLIC OF BULGARIA, THE REPUBLIC OF CROATIA,  
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,  
THE REPUBLIC OF ICELAND, THE REPUBLIC OF MONTENEGRO,  
THE KINGDOM OF NORWAY, ROMANIA, 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**

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

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<sup>1</sup> Pursuant to UN Security Council Resolution 1244 of 10 June 1999.

THE REPUBLIC OF POLAND,  
THE PORTUGUESE REPUBLIC,  
THE REPUBLIC OF SLOVENIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF FINLAND,  
THE KINGDOM OF SWEDEN,  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,  
hereinafter referred to as "EC Member States", and

THE EUROPEAN COMMUNITY, hereinafter referred to as "the Community" or "the European Community", and

THE REPUBLIC OF ALBANIA,  
BOSNIA AND HERZEGOVINA,  
THE REPUBLIC OF BULGARIA,  
THE REPUBLIC OF CROATIA,  
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,  
THE REPUBLIC OF ICELAND,  
THE REPUBLIC OF MONTENEGRO,  
THE KINGDOM OF NORWAY,  
ROMANIA

THE REPUBLIC OF SERBIA, and

THE UNITED NATIONS INTERIM ADMINISTRATION IN KOSOVO,

all the abovementioned hereinafter referred to together as "the Contracting Parties".

RECOGNISING the integrated character of international civil aviation and desiring to create a European Common Aviation Area (ECAA) based on mutual market access to the air transport markets of the Contracting Parties and freedom of

establishment, with equal conditions of competition, and respect of the same rules – including in the areas of safety, security, air traffic management, social harmonisation and environment;

CONSIDERING that the rules concerning the ECAA are to apply on a multilateral basis within the ECAA and therefore specific rules need to be defined in this respect;

AGREEING that it is appropriate to base the ECAA rules on the relevant legislation in force within the European Community, as laid down in Annex I to this Agreement, without prejudice to those contained in the Treaty Establishing the European Community;

RECOGNISING that full compliance with the ECAA rules entitle the Contracting Parties to reap the benefits from the ECAA, including market access;

BEARING IN MIND that compliance with the ECAA rules, including full market access, cannot be achieved in one step, but rather by means of a transition facilitated by specific arrangements of limited duration;

EMPHASISING that, subject to transitional arrangements where necessary, the rules concerning market access of air carriers should exclude limitations on frequencies, capacity, air routes, type of aircraft or similar restrictions under bilateral air transport agreements or arrangements, and that air carriers should not be required to enter into commercial agreements or similar arrangements as a condition to market access;

EMPHASISING that air carriers should be treated in a non-discriminatory manner regarding their access to air transport infrastructures especially where these infrastructures are limited;

BEARING IN MIND that Association Agreements between the European Communities and their Member States and certain other Contracting Parties as a matter of principle provide that, with a view to ensuring a coordinated development and progressive liberalisation of transport between the Parties to those Agreements as adapted to reciprocal commercial needs, the conditions of mutual market access in air transport should be dealt with by special agreements;

BEARING IN MIND the desire of each of the Associated Parties to make its laws on air transport and associated matters compatible with those of the European Community, including with regard to future legislative developments within the Community;

RECOGNISING the importance of technical assistance in this perspective;

RECOGNISING that the relations between the Community and the EC Member States and Norway and Iceland must continue to be governed by the European

Economic Area Agreement<sup>1</sup>;

DESIRING to allow for subsequent enlargement of the European Common Aviation Area;

RECALLING the negotiations between the European Community and the Associated Parties with a view to concluding Agreements on Certain Aspects of Air Services which will bring bilateral air service agreements between the EC Member States and the Associated Parties in line with European Community law,

HAVE AGREED AS FOLLOWS:

## OBJECTIVES AND PRINCIPLES

### ARTICLE 1

1. The aim of this Agreement is the creation of a European Common Aviation Area, hereinafter referred to as the ECAA. The ECAA shall be based on free market access, freedom of establishment, equal conditions of competition, and common rules including in the areas of safety, security, air traffic management, social and environment. For this purpose this Agreement sets out the rules applicable between the Contracting Parties under the conditions set out hereafter. These rules include the provisions laid down by the legislation specified in Annex I.

2. The provisions of this Agreement shall apply to the extent that they concern air transport or an associated matter mentioned in Annex I.

3. This Agreement consists of Articles, setting out the general functioning of the ECAA, hereinafter referred to as "the Main Agreement", of Annexes, of which Annex I contains the European Community legislation applicable between the Contracting Parties in the framework of the Main Agreement, and of Protocols, of which at least one for each Associated Party establishes the transitional arrangements applicable to it.

### ARTICLE 2

1. For the purposes of this Agreement:

- (a) the term "Agreement" means the Main Agreement, its Annexes, the acts referred to in Annex I as well as its Protocols;
- (b) the term "Associated Party" means the Republic of Albania, Bosnia and

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<sup>1</sup> Treaty Series No 026 (1995) Cm 2847

Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia, or any other State or entity that shall have become a party to this Agreement pursuant to Article 32;

- (c) an "additional Associated Party" or "UNMIK" means the United Nations Interim Administration Mission in Kosovo pursuant to UN Security Council Resolution 1244 of 10 June 1999;
- (d) the term "Contracting Party" means, concerning the Community and the EC Member States, the Community and the EC Member States, or the Community, or the EC Member States. The meaning to be attributed to this expression in each case is to be deduced from the relevant provisions of this Agreement and from the respective competences of the Community and the EC Member States as they follow from the EC Treaty;
- (e) the term "ECAA Partner" means an Associated Party, Norway or Iceland;
- (f) the term "EC Treaty" means the Treaty Establishing the European Community;
- (g) the term "EEA Agreement" means the Agreement on the European Economic Area and its Protocols and Annexes signed on 2 May 1992 and to which the European Community, its Member States, Iceland, Liechtenstein and Norway are parties;
- (h) the term "Association Agreement" means each of such Agreements establishing an association between the European Community, or between the European Community and its Member States, on the one hand, and the respective Associated Party, on the other hand;
- (i) the term "ECAA air carrier" means an air carrier, which is licensed as provided for by this Agreement in accordance with the provisions of the relevant acts specified in Annex I;
- (j) the term "Competent Civil Aviation Authority" means a government agency or entity that exercises a legal right to assess conformity of, to certify and control the use or sale of products or services or licences within a Contracting Party's jurisdiction and may take enforcement action to ensure that products or services marketed within its jurisdiction comply with legal requirements;
- (k) the term "Convention" means the Convention on International Civil Aviation<sup>1</sup>, opened for signature at Chicago on 7 December 1944, and

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<sup>1</sup> Treaty Series 008 (1953) Cmd 8742

the amendments and Annexes thereto;

- (l) the term "SESAR" means the technical implementation of the Single European Sky which provides a coordinated and synchronised research, development and deployment of the new generations of ATM systems;
- (m) the term "ATM Master Plan" (Air Traffic Management Master Plan) means the starting point of SESAR;
- (n) the term "EC Member State" means a Member State of the European Community.

2. The use of the terms "country", "national", "nationals" or "territory" shall be without prejudice to the status of each Contracting Party under international law.

### ARTICLE 3

The applicable provisions of Acts referred to or contained either in Annex I, adapted in accordance with Annex II, or in decisions of the Joint Committee shall be binding upon the Contracting Parties and be, or be made, part of their internal legal order as follows:

- (a) an act corresponding to a European Community Regulation shall be made part of the internal legal order of the Contracting Parties;
- (b) an act corresponding to a European Community Directive shall leave to the authorities of the Contracting Parties the choice of form and method of implementation.

### ARTICLE 4

The Contracting 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.

### ARTICLE 5

The provisions of this Agreement shall not affect the relations between the Contracting Parties of the EEA Agreement.

## NON-DISCRIMINATION

### ARTICLE 6

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

## RIGHT OF ESTABLISHMENT

### ARTICLE 7

Within the scope and conditions of this Agreement and without prejudice to the provisions of the relevant acts specified in Annex I, there shall be no restrictions on the freedom of establishment of nationals of an EC Member State or an ECAA Partner in the territory of any of them. Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms under the conditions laid down for its own nationals by the law of the country where such establishment is effected. This shall also apply to the setting up of agencies, branches or subsidiaries by nationals of any EC Member State or ECAA Partner established in the territory of any of them.

### ARTICLE 8

1. Within the scope of this Agreement and without prejudice to the provisions of the relevant acts specified in Annex I, companies or firms constituted or organised in accordance with the law of an EC Member State or an ECAA Partner and having their principal place of business within the ECAA shall be treated in the same way as natural persons who are nationals of EC Member States or ECAA Partners.

2. The terms "companies or firms" mean companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, except those which are non-profit-making.

### ARTICLE 9

1. The provisions of Articles 7 and 8 shall not apply to activities which, in the territory of any Contracting Party, are connected, even occasionally, with the exercise of official authority.

2. The provisions of Articles 7 and 8 and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action of the Contracting Parties regarding entry, residence and

employment or providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

#### ARTICLE 10

1. Without prejudice to more favourable provisions in existing agreements and within the scope of this Agreement, the Contracting Parties shall abolish quantitative restrictions and measures having an equivalent effect on transfers of equipment, supplies, spare parts, and other devices when they are necessary for an ECAA air carrier to continue to provide air transport services under the conditions foreseen by this Agreement.

2. The obligation referred to in paragraph 1 shall not preclude the Contracting 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 Contracting Parties.

#### AVIATION SAFETY

#### ARTICLE 11

1. The Contracting Parties shall put in place the appropriate means to ensure that aircraft registered in one Contracting Party, when landing at airports in another Contracting Party, comply with international safety standards established pursuant to the Convention and shall be subject to ramp inspections by the authorised representatives of that other Contracting 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.

2. A Contracting Party may request consultations at any time concerning the safety standards maintained by another Contracting Party in areas other than those covered by the acts referred to in Annex I.

3. Nothing in this Agreement shall be construed so as to limit the authority of a Competent Civil Aviation Authority to take all appropriate and immediate measures whenever it ascertains that a product or a service may:

- (i) fail to satisfy the minimum standards which may be established pursuant to the Convention, or
- (ii) give rise to serious concerns – established through an inspection referred to in paragraph 1 – that an aircraft or the operation of an

aircraft does not comply with the minimum standards established pursuant to the Convention, or

- (iii) give rise to serious concerns that there is a lack of effective maintenance and administration of minimum standards established pursuant to the Convention.

4. Where a Competent Civil Aviation Authority takes action under paragraph 3, it shall promptly inform the Competent Civil Aviation Authorities of the other Contracting Parties of taking such action, providing reasons for its action.

5. Where measures taken pursuant to paragraph 3 are not discontinued even though the basis for taking them has ceased to exist, any Contracting Party may refer the matter to the Joint Committee.

6. Any amendments to national law with respect to the status of the Competent Civil Aviation Authority shall be notified by the Contracting Party concerned to the other Contracting Parties.

## AVIATION SECURITY

### ARTICLE 12

1. In order to safeguard civil aviation against acts of unlawful interference, the Contracting Parties shall ensure that the common basic standards and the compliance monitoring mechanisms on aviation security as contained in Annex I are applied to any airport located in their territories, in accordance with the relevant provisions referred to in that Annex.

2. The Contracting 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.

3. 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 Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

4. An Associated Party may be subjected to a European Commission inspection in accordance with the relevant European Community legislation as referred to in Annex I, and it may be required to participate in European Commission inspections in other Contracting Parties.

## AIR TRAFFIC MANAGEMENT

### ARTICLE 13

1. The Contracting parties shall cooperate in the field of air traffic management with a view to extending the Single European Sky to the ECAA in order to enhance current safety standards and overall efficiency of general air traffic standards in Europe, to optimise capacity and to minimise delays.
2. With a view to facilitating the application of the Single European Sky legislation in their territories,
  - the Associated Parties, within the limits of their respective competences, shall at the earliest opportunity take the necessary measures to adjust their air traffic management institutional structures to the Single European Sky, in particular by designating or establishing pertinent national supervisory bodies at least functionally independent of air navigation service providers,
  - the European Community shall associate the Associated Parties with any operational initiative in the fields of air navigation services, airspace and interoperability that stem from the Single European Sky, in particular through an early involvement of the relevant Contracting Parties' efforts to establish functional airspace blocks.
3. The European Community shall see to it that the Associated Parties are fully associated with the development of an ATM Master Plan within the SESAR programme of the Commission.

## COMPETITION

### ARTICLE 14

1. Within the scope of this Agreement the provisions of Annex III shall apply. Where rules on competition and state aid are included in other agreements between two or more Contracting Parties, such as Association Agreements, these rules shall apply between those Parties.
2. Articles 15, 16 and 17 shall not apply with respect to the provisions in Annex III.

## ENFORCEMENT

### ARTICLE 15

1. Without prejudice to paragraphs 2 and 3, each Contracting Party shall ensure that the rights which devolve from this Agreement, and in particular from the acts specified in Annex I, may be invoked before national courts.
2. In cases which may affect actual or potential air services to be authorised under this Agreement, the European Community institutions shall enjoy the powers specifically granted to them under the provisions of the acts referred to or contained in Annex.
3. All questions concerning the legality of decisions taken by European Community institutions under this Agreement, in particular under the acts specified in Annex I, shall be of the exclusive competence of the Court of Justice of the European Communities, hereinafter referred to as "the Court of Justice".

## INTERPRETATION

### ARTICLE 16

1. Insofar as the provisions of this Agreement and the provisions of the acts specified in Annex I are identical in substance to corresponding rules of the EC Treaty and to acts adopted pursuant to the EC Treaty, those provisions shall, in their implementation and application, be interpreted in conformity with the relevant rulings and decisions of the Court of Justice and the European Commission given before the date of signature of this Agreement. The rulings and decisions given after the date of signature of this Agreement shall be communicated to the other Contracting Parties. At the request of one of the Contracting Parties, the implications of such later rulings and decisions shall be determined by the Joint Committee in view of ensuring the proper functioning of this Agreement. Existing interpretations shall be communicated to the ECAA Partners prior to the date of signature of this Agreement. Decisions taken by the Joint Committee under this procedure shall be in conformity with the case law of the Court of Justice.
2. When a question of interpretation of this Agreement, of the provisions of the acts specified in Annex I or of acts adopted in pursuance thereof identical in substance to corresponding rules of the EC Treaty and to acts adopted pursuant to the EC Treaty, arises in a case pending before a court or tribunal of an ECAA Partner, the court or tribunal shall ask, if it considers this necessary to enable it to give a judgement and in accordance with Annex IV, the Court of Justice to decide on the question. An ECAA Partner may, by decision and in accordance with Annex IV, stipulate the extent to which, and according to what modalities, its courts and tribunals are to apply this provision. Such a decision shall be notified to the depositary and the Court of Justice. The depositary shall inform the other Contracting Parties.

3. Where, in accordance with paragraph 2, a court of a Contracting Party against whose decisions there is no judicial remedy under national law is not able to make a referral to the Court of Justice, any judgement of such court shall be transmitted by the Contracting Party concerned to the Joint Committee which shall act so as to preserve the homogeneous interpretation of this Agreement. If the Joint Committee, within two months after a difference between the case law of the Court of Justice and a judgement of a court of such a Contracting Party has been brought before it, has not succeeded in preserving the homogeneous interpretation of this Agreement, the procedures laid down in Article 20 may be applied.

## NEW LEGISLATION

### ARTICLE 17

1. This Agreement shall be without prejudice to the right of each Contracting Party, subject to compliance with the principle of non-discrimination and the provisions of this Article and of Article 18(4) to unilaterally adopt new legislation or amend its existing legislation in the field of air transport or an associated area mentioned in Annex I. The Associated Parties shall not adopt any such legislation unless it is in accordance with this Agreement.

2. As soon as a Contracting Party has adopted new legislation or an amendment to its legislation it shall inform the other Contracting Parties via the Joint Committee not later than one month after its adoption. Upon the request of any Contracting 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) either adopt a decision revising Annex I 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) decide on any other measures to safeguard the proper functioning of this Agreement.

4. As regards the legislation which has been adopted between the signing of this Agreement and its entry into force and of which the other Contracting Parties have been informed, the date of referral shall be taken as the date on which the information was received. The date on which the Joint Committee reaches a decision may not be earlier than sixty days after the entry into force of this Agreement

## JOINT COMMITTEE

### ARTICLE 18

1. A Joint Committee is hereby established which shall be responsible for the administration of this Agreement and shall ensure its proper implementation, without prejudice to Article 15(2) and (3) and Articles 21 and 22. For this purpose it shall make recommendations and take decisions in the cases provided for in this Agreement. The decisions of the Joint Committee shall be put into effect by the Contracting Parties in accordance with their own rules.
2. The Joint Committee shall consist of representatives of the Contracting Parties.
3. The Joint Committee shall act by unanimity. However, the Joint Committee may decide to lay down a majority voting procedure for certain specific issues.
4. For the purpose of the proper enforcement of this Agreement, the Contracting Parties shall exchange information, inter alia, on new legislation or decisions that are relevant for this Agreement, and, at the request of any Party, shall hold consultations within the Joint Committee, including on social issues.
5. The Joint Committee shall adopt its rules of procedure.
6. An ECAA Partner or the European Community and its Member States shall preside in turn over the Joint Committee in accordance with the arrangements to be laid down in its rules of procedure.
7. The chairman of the Joint Committee shall convene its meetings at least once a year in order to review the general functioning of this Agreement and, whenever special circumstances so require, at the request of a Contracting Party. The Joint Committee shall keep under constant review the development of the case law of the Court of Justice. To this end the European Community shall transmit to the ECAA Partners all judgements of the Court of Justice relevant for the functioning of this Agreement. The Joint Committee shall act within three months so as to preserve the homogeneous interpretation of this Agreement.
8. The Joint Committee may decide to set up any working party that can assist it in carrying out its duties.

### ARTICLE 19

1. A decision of the Joint Committee shall be binding upon the Contracting Parties. Whenever a decision taken by the Joint Committee contains a requirement for action to be taken by a Contracting Party, the said Party shall take the necessary measures and inform the Joint Committee thereof.

2. The decisions of the Joint Committee shall be published in the Official Journals of the European Union and of the ECAA Partners. Each decision shall state the date of its implementation by the Contracting Parties and any other information likely to concern economic operators.

## DISPUTE SETTLEMENT

### ARTICLE 20

1. The Community, acting together with the EC Member States, or an ECAA Partner may bring a matter under dispute which concerns the application or interpretation of this Agreement before the Joint Committee, except where specific procedures are set out in this Agreement.

2. When a dispute has been brought before the Joint Committee under paragraph 1, immediate consultations shall be held between the parties to the dispute. In cases where the European Community is not a party to the dispute, a Community representative may be invited to the consultations by one of the parties to the dispute. The parties to the dispute may draw up a proposal for a solution which shall immediately be submitted to the Joint Committee. Decisions taken by the Joint Committee under this procedure shall respect the case law of the Court of Justice.

3. If the Joint Committee after four months from the date when the matter was brought before it has not succeeded to take a decision resolving the dispute, the parties to the dispute may refer it to the Court of Justice whose decision shall be final and binding. The modalities according to which such referrals may be made to the Court of Justice are set out in Annex IV.

4. If the Joint Committee does not within four months take a decision on an issue which has been referred to it, the Contracting Parties may take appropriate safeguard measures in accordance with Articles 21 and 22 for a period not exceeding six months. After this period each Contracting Party may denounce this Agreement with immediate effect. A Contracting Party shall not take safeguard measures on a matter which has been referred to the Court of Justice in accordance with this Agreement, except in cases defined in Article 11(3) or in compliance with mechanisms provided for in individual acts specified in Annex I.

## SAFEGUARD MEASURES

### ARTICLE 21

Without prejudice to Article 11(3) and the safety and security assessments mentioned in the Protocols to 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. Priority shall be given to such measures as will least

disturb the functioning of this Agreement.

## ARTICLE 22

1. A Contracting Party which is considering taking safeguard measures shall notify the other Contracting Parties of its intention through the Joint Committee and shall provide all relevant information.
2. The Contracting Parties shall immediately enter into consultations in the Joint Committee with a view to finding a commonly acceptable solution.
3. Without prejudice to Article 11(3), the Contracting Party concerned may not take safeguard measures until one month has elapsed after the date of notification under paragraph 1, unless the consultation procedure under paragraph 2 has been concluded before the expiration of the said time limit.
4. The Contracting Party concerned shall without delay notify the Joint Committee of the measures taken and shall provide all relevant information.

## DISCLOSURE OF INFORMATION

### ARTICLE 23

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

## THIRD COUNTRIES AND INTERNATIONAL ORGANISATIONS

### ARTICLE 24

1. The Contracting Parties shall consult with each other in the framework of the Joint Committee at the request of any Contracting Party, in accordance with the procedures laid out in Articles 25 and 26,
  - (a) on air transport questions dealt with in international organisations; and
  - (b) on various aspects of possible developments in relations between Contracting Parties and third countries in air transport, and on the functioning of the significant elements of bilateral or multilateral agreements concluded in this field.
2. The consultations provided for in paragraph 1 shall be held within one month

of the request and in urgent cases as soon as possible.

#### ARTICLE 25

1. The main aims of the consultations provided for in Article 24(1)(a) shall be:
  - (a) to determine jointly whether the questions raise problems of common interest; and
  - (b) depending upon the nature of such problems:
    - to consider jointly whether the Contracting Parties' action within the international organisations concerned should be coordinated, or
    - to consider jointly any other approach which might be appropriate.
2. The Contracting Parties shall as soon as possible exchange any information of relevance to the aims provided for in paragraph 1.

#### ARTICLE 26

The main aims of the consultations provided for in Article 24(1)(b) shall be to examine the relevant issues and to consider any approach which might be appropriate.

### TRANSITIONAL ARRANGEMENTS

#### ARTICLE 27

1. Protocols I to IX establish the transitional arrangements and corresponding periods applying between the European Community and the EC Member States, on the one hand, and the Associated Party concerned, on the other hand. In the relationship between Norway or Iceland and an Associated Party the same conditions shall apply as between the European Community and the EC Member States, on the one hand, and the Associated Party concerned, on the other hand.
2. During the transitional periods referred to in paragraph 1 the relevant elements of the air transport regime between two Associated Parties shall be determined on the basis of the more restrictive of the two Protocols referring to the Associated Parties in question.
3. The gradual transition of each Associated Party to the full application of the ECAA shall be subject to assessments. The assessments shall be carried out by the European Community in cooperation with the Associated Party concerned. When

an Associated Party is satisfied that the conditions for completing a transitional period as set out in the relevant Protocol have been fulfilled, it shall inform the European Community that an assessment should be carried out.

4. If the European Community determines that the conditions are fulfilled it shall inform the Joint Committee and decide thereafter that the Associated Party concerned qualifies for passing to the next transitional period or for full inclusion in the European Common Aviation Area as the case may be.

5. If the European Community determines that the conditions are not fulfilled it shall so report to the Joint Committee. The Community shall recommend to the Associated Party concerned specific improvements and determine an implementing period within which these improvements can reasonably be implemented. 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.

## RELATIONSHIP WITH BILATERAL AIR TRANSPORT AGREEMENTS AND ARRANGEMENTS

### ARTICLE 28

1. The provisions of this Agreement shall prevail over the relevant provisions of bilateral air transport agreements and/or arrangements in force between the Associated Parties on the one hand and the European Community, an EC Member State, Norway or Iceland on the other hand, as well as between Associated Parties.

2. Notwithstanding paragraph 1, during the transitional periods referred to in Article 27, the provisions concerning ownership, traffic rights, capacity, frequencies, type or change of aircraft, code-sharing and pricing of a bilateral agreement or arrangement in force between an Associated Party and the European Community, an EC Member State, Norway or Iceland or between two Associated Parties shall apply between the Parties thereto if such bilateral agreement and/or arrangement is more flexible, in terms of freedom for the air carriers concerned, than the provisions of the applicable Protocol with respect to the Associated Party concerned.

3. A dispute between an Associated Party and another Contracting Party as to whether the provisions of the Protocol with respect to the Associated Party concerned or the bilateral agreements and/or arrangements are, in view of the full application of the ECAA, more flexible shall be settled in the framework of the dispute settlement mechanism provided for in Article 20. Disputes on how to determine the relationship between conflicting Protocols shall be settled in the same way.

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

### ARTICLE 29

#### **Entry into Force**

1. This Agreement shall be subject to ratification or approval by the signatories in accordance with their own procedures. Instruments of ratification or approval shall be deposited with the General Secretariat of the Council of the European Union (depository), which shall notify all other signatories as well as the International Civil Aviation Organisation thereof.

2. This Agreement shall enter into force on the first day of the second month following the date of deposit of the instruments of ratification or approval by the European Community and the EC Member States and at least one Associated Party. For each signatory which ratifies or approves this agreement after such date, it shall enter into force on the first day of the second month following the deposit by such signatory of its instrument of ratification or approval.

3. Notwithstanding paragraphs 1 and 2, the European Community and its Member States and at least one Associated Party, may decide to apply provisionally this Agreement among themselves from the date of signature, in accordance with the application of domestic law, by notifying the depository which shall notify the other Contracting Parties thereof.

### ARTICLE 30

#### **Review**

This Agreement shall be reviewed at the request of any Contracting Party and at any event five years after its entry into force.

### ARTICLE 31

#### **Termination**

1. Each Contracting Party may denounce this Agreement by notifying the depository, which shall notify this termination to the other Contracting Parties as well as the International Civil Aviation Organisation. If this Agreement is denounced by the European Community and the EC Member States it shall cease to be in force one year after the date of notification. If this Agreement is denounced by any other Contracting Party it shall cease to be in force only with respect to such Contracting Party one year after the date of notification. However, air services operated at the date of expiry of this Agreement may continue until the end of the International Air Transport Association (IATA) scheduling season into which that date of expiry falls.

2. Upon accession to the European Union of an Associated Party, that Party shall automatically cease to be an Associated Party under this Agreement and shall instead become an EC Member State.

3. This Agreement shall cease to be in force or be suspended with respect to an Associated Party if the corresponding Association Agreement ceases to be in force or is suspended.

#### ARTICLE 32

### **Enlargement of the ECAA**

The European Community may ask any State or entity which is prepared to make its laws on air transport and associated matters compatible with those of the Community, and with which the Community has established or is establishing a framework of close economic cooperation, such as an Association Agreement, to participate in the ECAA. To this end, the Contracting Parties shall amend this Agreement accordingly.

#### ARTICLE 33

### **Gibraltar Airport**

1. 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 the dispute over sovereignty over the territory in which the airport is situated.

2. The application of this Agreement to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation.

#### ARTICLE 34

### **Languages**

This Agreement is drawn up in a single original in the official languages of the institutions of the European Union and of the Contracting Parties other than the European Community and its Member States, each of these texts being equally authentic.

In WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto, have signed this Agreement:

RULES APPLICABLE TO CIVIL AVIATION

The "Applicable provisions" of the following European Community acts shall be applicable in accordance with the Main Agreement and Annex II on horizontal adaptations unless otherwise specified in this Annex or in Protocols I to IX thereafter. Where necessary, specific adaptations for each individual act are set out hereafter:

A. Market access and ancillary issues

No 2407/92

Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers  
Applicable provisions: Articles 1 to 18 and the Annex except for the reference in Article 13(3) to Article 226 (ex 169) of the EC Treaty

No 2408/92

Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes

as amended or adapted by

- Article 29 of the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden;
- the decision of the EEA Joint Committee No 7/94 of 21 March 1994 amending Protocol 47 and certain Annexes to the EEA Agreement;
- Article 20 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, hereinafter referred to as "the 2003 Act of Accession".

Applicable provisions: Articles 1 to 15 and Annexes I, II and III

No 2409/92

Council Regulation (EEC) No 2409/92 of 23 July 1992 on fares and rates for air services  
Applicable provisions: Articles 1 to 10

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 provisions: Articles 1 to 12, 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 provisions: Articles 1 to 25 and Annex

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

Applicable provisions: Articles 1 to 8, and 10(2)

## 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)

Applicable provisions: 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)

Applicable provisions: 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)

Applicable provisions: 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)

Applicable provisions: Articles 1 to 12, Annexes I to V

No 2096/2005

Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services

Applicable provisions: Articles 1 to 9, Annexes I to V

No 2150/2005

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

Applicable provisions: Articles 1 to 9, Annex

### C. Aviation Safety

No 3922/91

Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation as amended by:

- Commission Regulation (EC) No 2176/96 of 13 November 1996 amending to scientific and technical progress Council Regulation (EEC) No 3922/91
- Commission Regulation (EC) No 1069/1999 of 25 May 1999 adapting to scientific and technical progress Council Regulation (EEC) No 3922/91
- Commission Regulation (EC) No 2871/2000 of 28 December 2000 adapting to scientific and technical progress Council Regulation (EEC) 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation
- Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

Applicable provisions: Articles 1 to 10, 12 to 13 with the exception of Article 4(1) and Article 8(2) (second sentence), Annexes I to III

As regards the application of Article 12, "Member States" shall read "EC Member States".

No 94/56

Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigations of civil aviation accidents and incidents

Applicable provisions: Articles 1 to 12

As regards the applications of Articles 9 and 12, the term "the Commission" shall read "all other ECAA Contracting Parties".

No 1592/2002

Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency as amended by:

- Regulation (EC) No 1643/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1592/2002
- Commission Regulation (EC) No 1701/2003 of 24 September 2003 adapting Article 6 of Regulation (EC) No 1592/2002

Applicable provisions: Articles 1 to 57, Annexes I and II

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 provisions: Articles 1 to 11, Annexes I and II

No 1702/2003

Commission Regulation (EC) No 1702/2003 of 24 September 2003 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 (EC) No 381/2005 of 7 March 2005 amending Regulation (EC) No 1702/2003

Applicable provisions: Articles 1 to 4, Annex. The transitional periods referred to in this Regulation shall be determined by the Joint Committee.

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

Applicable provisions: Articles 1 to 6, Annexes I to IV

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 provisions: Articles 1 to 7 and Annex

No 488/2005

Commission Regulation (EC) No 488/2005 of 21 March 2005 on the fees and charges levied by the European Aviation Safety Agency

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 provisions: Articles 1 to 13, Annex

## D. Aviation Security

No 2320/2002

Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security

as amended by:

- Regulation (EC) No 849/2004 of the European Parliament and of the Council of 29 April 2004 amending Regulation (EC) No 2320/2002

Applicable provisions: Articles 1 to 12 and Annex

No 622/2003

Commission Regulation (EC) No 622/2003 of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security

as amended by:

- Commission Regulation (EC) No 68/2004 of 15 January 2004 amending Regulation (EC) No 622/2003
- Commission Regulation (EC) No 781/2005 of 24 May 2005 amending Regulation (EC) No 622/2003
- Commission Regulation (EC) No 857/2005 of 6 June 2005 amending Regulation (EC) No 622/2003

Applicable provisions: Articles 1 to 5 and Annex

No 1217/2003

Commission Regulation (EC) No 1217/2003 of 4 July 2003 laying down common specifications for national civil aviation security quality control programmes

Applicable provisions: Articles 1 to 11, Annexes I and II

No 1486/2003

Commission Regulation (EC) No 1486/2003 of 22 August 2003 laying down procedures for conducting Commission inspections in the field of civil aviation security

Applicable provisions: Articles 1 to 16

No 1138/2004

Commission Regulation (EC) No 1138/2004 of 21 June 2004 establishing a common definition of critical parts of security restricted areas at airports

Applicable provisions: Articles 1 to 8

#### E. Environment

No 89/629

Council Directive 89/629/EEC of 4 December 1989 on the limitation of noise emission from civil subsonic jet aeroplanes.

Applicable provisions: Articles 1 to 8

No 92/14

Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 of the Convention of International Civil Aviation, second edition (1988)

as amended by:

- Council Directive 98/20/EC of 30 March 1998 amending Directive 92/14/EEC
- Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council Directive 92/14/EEC
- Commission Regulation (EC) No 991/2001 of 21 May 2001 amending the Annex to Council Directive 92/14/EEC

Applicable provisions: Articles 1 to 11 and Annex

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

As amended or adapted by the 2003 Act of Accession

Applicable provisions: Articles 1 to 15, Annexes I and II

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 provisions: Articles 1 to 16, Annexes I to VI

#### F. 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

Applicable provisions: Articles 1 to 16, and 18-19

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 provisions: Articles 1 to 5

#### G. 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 92/59

Council Directive 92/59/EEC of 29 June 1992 on general product safety

Applicable provisions: Articles 1 to 19

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 provisions: 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 provisions: 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 provisions: Articles 1 to 17

## H. Other legislation

No 2299/1989

Council Regulation (EEC) No 2299/1989 of 24 July 1989 on a code of conduct for computer reservation systems as amended by:

- Council Regulation (EEC) No 3089/93 of 29 October 1993 amending Regulation (EEC) No 2299/89

- Council Regulation (EC) No 323/1999 of 8 February 1999 amending Regulation (EEC) No 2299/89

Applicable provisions: Articles 1 to 22 and Annex

No 91/670

Council Directive No 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

Applicable provisions: Articles 1 to 8 and Annex

No 3925/91

Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing

Applicable provisions: Articles 1 to 5

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

Applicable provisions: 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

Applicable provisions: Articles 1 to 4, Annexes I to III

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 provisions: Article 14(1)(b) and (2)

**Horizontal Adaptations and Certain Procedural Rules**

The provisions of the acts specified in Annex I shall be applicable in accordance with the Agreement and points 1 to 4 of this Annex, unless otherwise provided in Annex I. The specific adaptations necessary for individual acts are set out in Annex I.

This Agreement shall be applicable in accordance with the procedural rules set out in points 5 and 6 of this Annex.

**1. INTRODUCTORY PARTS OF THE ACTS**

The preambles of the acts specified are not adapted for the purposes of this Agreement. They are relevant to the extent necessary for the proper interpretation and application, within the framework of this Agreement, of the provisions contained in such acts.

**2. SPECIFIC TERMINOLOGY OF THE ACTS**

The following terms used by the acts specified in Annex I shall read as follows:

- (a) the term "Community" shall read "European Common Aviation Area";
- (b) the terms "Community law ", "Community legislation", "Community instruments" and "EC Treaty" shall read "ECAA Agreement";
- (c) the term "Community airport" shall read "airport located in the European Common Aviation Area";
- (d) the term "Official Journal of the European Communities" or "Official Journal of the European Union" shall read "Official Journals of the Contracting Parties";
- (e) the term "Community air carrier" shall read "ECAA air carrier".

**3. REFERENCES TO MEMBER STATES**

Without prejudice to point 4 of this Annex, whenever acts specified in Annex I contain references to "Member State(s)", the references shall be understood to include, apart from the EC Member States, also the ECAA Partners.

**4. PROVISIONS ON EUROPEAN COMMUNITY COMMITTEES AND CONSULTATION OF THE ASSOCIATED PARTIES**

Experts of the Associated Parties shall be consulted by the European Commission and given the opportunity to submit their advice each time the acts specified in

Annex I provide for the consultation by the European Commission of European Community Committees and for the opportunity to submit their advice or opinion.

Each consultation shall consist of one meeting chaired by the European Commission and shall take place within the Joint Committee at the invitation of the European Commission prior to the consultation of the relevant European Community Committee. The European Commission shall provide each Associated Party at least two weeks in advance of the meeting, unless specific circumstance require a shorter notice, with all necessary information.

The Associated Parties shall be invited to submit their views to the European Commission. The European Commission shall take due account of the advice delivered by the Associated Parties.

The above provisions shall not apply on the application of competition rules set out in this Agreement which shall be governed by the specific consultation procedures set out in Annex III.

## 5. COOPERATION AND EXCHANGE OF INFORMATION

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

## 6. REFERENCE TO LANGUAGES

The Contracting Parties shall be entitled to use, in the procedures established in the ambit of this Agreement and without prejudice to Annex IV, any official language of the institutions of the European Union or of another Contracting Party. The Contracting 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 Contracting Party intends to use, in an oral procedure, a language that is not an official language of the institutions of the European Union, that Contracting Party shall ensure simultaneous interpretation into English.

**Rules on Competition and State Aid  
referred to in Article 14 of the Main Agreement**

ARTICLE 1

**State Monopolies**

An Associated Party shall progressively adjust any State monopolies of a commercial character so as to ensure that, by the end of the second period referred to in the Protocol to this Agreement which contains the transitional measures with regard to the Associated Party concerned, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Contracting Parties. The Joint Committee shall be informed of the measures adopted to attain this objective.

ARTICLE 2

**Approximation of State Aid and Competition Legislation**

1. The Contracting Parties recognise the importance of the approximation of the existing legislation on State aid and competition of the Associated Parties to that of the European Community. The Associated Parties shall endeavour to ensure that their existing and future laws on state aid and competition are gradually made compatible with the European Community *acquis*.

2. This approximation shall start upon the entry into force of this Agreement, and shall gradually extend to all the elements of the European Community state aid and competition provisions referred to in this Annex by the end of the second period referred to in the Protocol to this Agreement which contains the transitional measures with regard to the Associated Party concerned. The Associated Party shall also define, in agreement with the European Commission, the modalities for the monitoring of the implementation of the approximation of legislation and law enforcement actions to be taken.

ARTICLE 3

**Competition Rules and other Economic Provisions**

1. The following practices are incompatible with the proper functioning of this Agreement, insofar as they may affect trade between two or more Contracting Parties:

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have

as their object or effect the prevention, restriction or distortion of competition;

- (ii) abuse by one or more undertakings of a dominant position in the territories of the Contracting Parties as a whole or in a substantial part thereof;
- (iii) any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

2. 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 Community, in particular from Articles 81, 82, 86 and 87 of the EC Treaty and interpretative instruments adopted by the European Community institutions.

3. Each Associated Party shall ensure that an operationally independent public body is entrusted with the powers necessary for the full application of paragraph 1 (i) and (ii), regarding private and public undertakings and undertakings to which special rights have been granted.

4. Each Associated Party shall designate or establish an operationally independent authority which is entrusted with the powers necessary for the full application of paragraph 1 (iii). This authority shall have, *inter alia*, the powers to authorise State aid schemes and individual aid grants in conformity with paragraph 2, as well as the powers to order the recovery of State aid that has been unlawfully granted.

5. Each Contracting Party shall ensure transparency in the area of State aid, *inter alia*, by providing the other Contracting Parties with a regular annual report or equivalent, following the methodology and the presentation of the European Community survey on State aid. Upon request by a Contracting Party, another Contracting Party shall provide information on particular individual cases of public aid.

6. Each Associated Party shall establish a comprehensive inventory of aid schemes instituted before the establishment of the authority referred to in paragraph 4 and shall align such aid schemes with the criteria referred to in paragraph 2.

7. (a) For the purposes of applying the provisions of paragraph 1(iii), the Contracting Parties recognise that during the periods referred to in the Protocol to this Agreement which contains the transitional measures with regard to an Associated Party, any public aid granted by this Associated Party shall be assessed taking into account that the Associated Party concerned is to be regarded as an area identical to those areas of the European Community described in Article 87(3)(a) of the Treaty establishing the European Community;

(b) By the end of the first period referred to in the Protocol to this

Agreement which contains the transitional measures with regard to an Associated Party, this Party shall submit to the European Commission its GDP per capita figures harmonised at NUTS II level. The authority referred to in paragraph 4 and the European Commission shall then jointly evaluate the eligibility of the regions of the Associated Party concerned as well as the maximum aid intensities in relation thereto in order to draw up the regional aid map on the basis of the relevant European Community guidelines.

8. If one of the Contracting Parties considers that a particular practice is incompatible with the terms of paragraph 1, it may take appropriate measures after consultation within the Joint Committee or after thirty working days following referral for such consultation.

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

**Referrals to the Court of Justice of the European Communities**

1. General principles relating to Article 16 of the Agreement

1. The procedures established by the Court of Justice of the European Communities, hereinafter referred to as "the Court of Justice", for referrals for preliminary rulings within the European Community shall apply, as far as appropriate. Further to the preliminary ruling, a court or tribunal of a Contracting Party shall apply the interpretation ruled by the Court of Justice.

2. Contracting Parties shall have, within the ambit of this Agreement, the same rights to submit observations to the Court of Justice as the EC Member States.

2. Extent and modalities of the procedure established in Article 16(2) of the Agreement

1. When, in accordance with the second sentence of Article 16(2), a Contracting Party adopts a decision on the extent and modalities of referrals to the Court of Justice, that decision shall specify that either:

- (a) any court or tribunal of the Contracting Party against whose decisions there is no judicial remedy under national law shall request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in Article 16(2) if that court or tribunal considers that a decision on the question is necessary to enable it to give a judgment, or
- (b) any court or tribunal of that Contracting Party may request the Court of Justice to give a preliminary ruling on a question raised before it and concerning the validity or interpretation of an act referred to in Article 16(2) if that court or tribunal considers that a decision on the question is necessary to enable it to give a judgment.

2. The modalities of application of Article 16(2) shall be based on the principles enshrined in the legal provisions governing the functioning of the Court of Justice, including the relevant provisions of the EC Treaty, the Statute and the Rules of Procedure of the Court of Justice, as well as the case law of the latter. In the event that it takes a decision on the modalities of application of this provision, the Contracting Party shall also take into consideration the practical guidance released by the Court of Justice in the Information Notice on references by national courts for preliminary rulings.

### 3. Referrals according to Article 20(3) of the Agreement

The Court of Justice shall treat disputes submitted to it in accordance with Article 20(3) in the same manner as those submitted to it in accordance with Article 239 of the EC Treaty.

### 4. Referrals to the Court of Justice and languages

The Contracting Parties shall be entitled to use, in the procedures before the Court of Justice established in the ambit of the Agreement, any official language of the institutions of the European Union or of another Contracting Party. If a language which is not an official language of the institutions of the European Union is used in an official document, a translation into French shall be simultaneously submitted. If a Contracting Party intends to use, in an oral procedure, a language that is not an official language of the institutions of the European Union, the Contracting Party shall ensure simultaneous interpretation into French.

PROTOCOL I

TRANSITIONAL ARRANGEMENTS BETWEEN  
THE EUROPEAN COMMUNITY AND  
THE EC MEMBER STATES, OF ONE PART,  
AND THE REPUBLIC OF ALBANIA, OF THE OTHER PART

ARTICLE 1

**Transitional Periods**

- (1) The first transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2(1) of this Protocol have been fulfilled by the Republic of Albania, hereinafter referred to as "Albania", as verified by an assessment carried out by the European Community.
- (2) The second transitional period shall extend from the end of the first transitional period until all conditions set out in Article 2(2) of this Protocol have been fulfilled by Albania as verified by an assessment carried out by the European Community.

ARTICLE 2

**Conditions Relating to Transition**

- (1) By the end of the first transitional period Albania shall
- (i) be a full member of the Joint Aviation Authorities and shall endeavour to implement all aviation safety legislation as provided in Annex I;
  - (ii) apply ECAC Document 30 and shall endeavour to implement all aviation security legislation as provided in Annex I;
  - (iii) apply Regulation (EEC) No 3925/91 (on elimination of controls applicable to cabin and hold baggage), Regulation (EEC) No 2409/92 (on fares and rates for air services), Directive 94/56/EC (on accident investigation), Regulation (EC) No 2027/97 (on air carrier liability in the event of accidents), Directive 2003/42/EC (on occurrence reporting), Regulation (EC) No 261/2004 (on denied boarding), Directive 2000/79/EC (on working time in civil aviation) and Directive 2003/88/EC (on working time) as provided in Annex I;
  - (iv) separate the air traffic service provider and the national regulatory body, establish a national supervisory body for air traffic services, start the reorganisation of its airspace into a functional block or blocks, and

apply flexible use of airspace;

- (v) ratify the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention)<sup>1</sup>;
- (vi) have made sufficient progress in implementing the rules on state aid and competition included in an agreement referred to in Article 14(1) of the Main Agreement or in Annex III, whichever is applicable.

(2) By the end of the second transitional period Albania shall apply this Agreement including all legislation set out in Annex I.

### ARTICLE 3

#### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
  - (a) During the first transitional period:
    - (i) Community air carriers and air carriers licensed by Albania shall be permitted to exercise unlimited traffic rights between any point in Albania and any point in an EC Member State;
    - (ii) Community air carriers shall not be majority owned or effectively controlled by Albania or its nationals and air carriers licensed by Albania shall not be majority owned or effectively controlled by EC Member States or their nationals.
  - (b) During the second transitional period:
    - (i) Community air carriers and air carriers licensed by Albania shall be permitted to exercise the traffic rights provided for in paragraph (1)(a)(i);
    - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in Albania and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;
    - (iii) air carriers licensed by Albania shall be permitted to exercise unlimited traffic rights between points in different EC Member States and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a

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<sup>1</sup> Treaty Series No. 044 (2004) Cm 6369

service that serves a point in Albania.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the second transitional period, without prejudice to the obligation of Albania and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by Albania or its nationals from the end of the first transitional period.

#### ARTICLE 4

##### **Aviation Safety**

(1) At the start of the first transitional period Albania shall be involved as observer in the work of the European Aviation Safety Agency.

(2) At the end of the second transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of Albania in the European Aviation Safety Agency.

(3) Until the end of the second transitional period, if safety deficiencies are identified, the European Community may require that the permission for an air carrier licensed by Albania to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

#### ARTICLE 5

##### **Aviation Security**

(1) At the start of the second transitional period the confidential part of the security legislation as provided in Annex I shall be made available to the appropriate authority of Albania.

(2) Until the end of the second transitional period, if security deficiencies are identified, the European Community may require that the permission for an air carrier licensed by Albania to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## PROTOCOL II

### TRANSITIONAL ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITY AND THE EC MEMBER STATES, OF ONE PART, AND BOSNIA AND HERZEGOVINA, OF THE OTHER PART

#### ARTICLE 1

##### **Transitional Periods**

- (1) The first transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2(1) of this Protocol have been fulfilled by Bosnia and Herzegovina as verified by an assessment carried out by the European Community.
- (2) The second transitional period shall extend from the end of the first transitional period until all conditions set out in Article 2(2) of this Protocol have been fulfilled by Bosnia and Herzegovina as verified by an assessment carried out by the European Community.

#### ARTICLE 2

##### **Conditions Relating to Transition**

- (1) By the end of the first transitional period Bosnia and Herzegovina shall
  - (i) be a full member of the Joint Aviation Authorities and shall endeavour to implement all aviation safety legislation as provided in Annex I;
  - (ii) apply ECAC Document 30 and shall endeavour to implement all aviation security legislation as provided in Annex I;
  - (iii) apply Regulation (EEC) No 3925/91 (on elimination of controls applicable to cabin and hold baggage), Regulation (EEC) No 2409/92 (on fares and rates for air services), Directive 94/56/EC (on accident investigation), Directive 96/67/EC (on ground handling), Regulation (EC) No 2027/97 (on air carrier liability in the event of accidents), Directive 2003/42/EC (on occurrence reporting), Regulation (EC) No 261/2004 (on denied boarding), Directive 2000/79/EC (on working time in civil aviation) and Directive 2003/88/EC (on working time) as provided in Annex I;
  - (iv) ratify the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
  - (v) have made sufficient progress in implementing the rules on state aid

and competition included in an agreement referred to in Article 14(1) of the Main Agreement or in Annex III of this Agreement, whichever is applicable.

- (2) By the end of the second transitional period Bosnia and Herzegovina shall
  - (i) separate the air traffic service provider and the national regulatory body, establish a national supervisory body for air traffic services, start the reorganisation of its airspace into a functional block or blocks, and apply flexible use of airspace;
  - (ii) apply this Agreement including all legislation set out in Annex I.

### ARTICLE 3

#### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
  - (a) During the first transitional period:
    - (i) Community air carriers and air carriers licensed by Bosnia and Herzegovina shall be permitted to exercise unlimited traffic rights between any point in Bosnia and Herzegovina and any point in an EC Member State;
    - (ii) Community air carriers shall not be majority owned or effectively controlled by Bosnia and Herzegovina or its nationals and air carriers licensed by Bosnia and Herzegovina shall not be majority owned or effectively controlled by EC Member States or their nationals.
  - (b) During the second transitional period:
    - (i) Community air carriers and air carriers licensed by Bosnia and Herzegovina shall be permitted to exercise the traffic rights provided for in paragraph (1)(a)(i);
    - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in Bosnia and Herzegovina and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;
    - (iii) air carriers licensed by Bosnia and Herzegovina shall be permitted to exercise unlimited traffic rights between points in different EC Member States and shall be permitted to change, at

any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in Bosnia and Herzegovina.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the second transitional period, without prejudice to the obligation of Bosnia and Herzegovina and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by Bosnia and Herzegovina or its nationals from the end of the first transitional period.

#### ARTICLE 4

##### **Aviation Safety**

(1) At the start of the first transitional period Bosnia and Herzegovina shall be involved as observer in the work of the European Aviation Safety Agency.

(2) At the end of the second transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of Bosnia and Herzegovina in the European Aviation Safety Agency.

(3) Until the end of the second transitional period, if safety deficiencies are identified the European Community may require that the permission for an air carrier licensed by Bosnia and Herzegovina to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

#### ARTICLE 5

##### **Aviation Security**

(1) At the start of the second transitional period the confidential part of the security legislation as provided in Annex I shall be made available to the appropriate authority of Bosnia and Herzegovina.

(2) Until the end of the second transitional period, if security deficiencies are identified the European Community may require that the permission for an air carrier licensed by Bosnia and Herzegovina to operate on air routes to, from or within the European Community be made subject to a specific security assessment.

Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## PROTOCOL III

### TRANSITIONAL ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITY AND THE EC MEMBER STATES, OF ONE PART, AND THE REPUBLIC OF BULGARIA, OF THE OTHER PART

#### ARTICLE 1

##### **Transitional Period**

- (1) The transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2 of this Protocol have been fulfilled by the Republic of Bulgaria, hereinafter referred to as "Bulgaria", as verified by an assessment carried out by the European Community, and not later than Bulgaria's accession to the European Union.
- (2) References to the "second transitional period" in this Agreement or in its Annexes shall mean in the case of Bulgaria the transitional period referred to in paragraph 1.

#### ARTICLE 2

##### **Conditions Relating to Transition**

By the end of the transitional period Bulgaria shall apply this Agreement including all legislation set out in Annex I as provided for in Article 3 of the Main Agreement.

#### ARTICLE 3

##### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
- during the transitional period:
- (i) Community air carriers and air carriers licensed by Bulgaria shall be permitted to exercise unlimited traffic rights between any point in Bulgaria and any point in an EC Member State;
  - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in Bulgaria and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;

- (iii) air carriers licensed by Bulgaria shall be permitted to exercise unlimited traffic rights between points in different EC Member States and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in Bulgaria.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the transitional period, without prejudice to the obligation of Bulgaria and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by Bulgaria or its nationals from the beginning of the transitional period.

#### ARTICLE 4

##### **Aviation Safety**

(1) At the end of the transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of Bulgaria in the European Aviation Safety Agency.

(2) Until the end of the transitional period, if safety deficiencies are identified the European Community may require that the permission for an air carrier licensed by Bulgaria to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

#### ARTICLE 5

##### **Aviation Security**

Until the end of the transitional period, if security deficiencies are identified the European Community may require that the permission for an air carrier licensed by Bulgaria to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## PROTOCOL IV

### TRANSITIONAL ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITY AND THE EC MEMBER STATES, OF ONE PART, AND THE REPUBLIC OF CROATIA, OF THE OTHER PART

#### ARTICLE 1

##### **Transitional Periods**

- (1) The first transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2(1) of this Protocol have been fulfilled by the Republic of Croatia, hereinafter referred to as "Croatia", as verified by an assessment carried out by the European Community.
- (2) The second transitional period shall extend from the end of the first transitional period until all conditions set out in Article 2(2) of this Protocol have been fulfilled by Croatia as verified by an assessment carried out by the European Community.

#### ARTICLE 2

##### **Conditions Relating to Transition**

- (1) By the end of the first transitional period Croatia shall
  - (i) be a full member of the Joint Aviation Authorities and shall endeavour to implement all aviation safety legislation as provided in Annex I;
  - (ii) apply ECAC Document 30 and shall endeavour to implement all the aviation security legislation as provided in Annex I;
  - (iii) apply Regulation (EEC) No 3925/91 (on the elimination of controls applicable to cabin and hold baggage), Regulation (EEC) No 2409/92 (on fares and rates for air services), Directive 94/56/EC (on accident investigation), Directive 96/67/EC (on ground handling), Regulation (EC) No 2027/97 (on air carrier liability in the event of accidents), Directive 2003/42/EC (on occurrence reporting), Regulation (EC) No 261/2004 (on denied boarding), Directive 2000/79/EC (on working time in civil aviation) and Directive 2003/88/EC (on working time) as provided in Annex I;
  - (iv) separate the air traffic service provider and the national regulatory body, establish a national supervisory body for air traffic services, start the reorganisation of its airspace into a functional block or blocks, and apply flexible use of airspace;

- (v) ratify the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
  - (vi) have made sufficient progress in implementing the rules on state aid and competition included in an agreement referred to in Article 14(1) of the Main Agreement or in Annex III of this Agreement, whichever is applicable.
- (2) By the end of the second transitional period Croatia shall apply this Agreement including all the legislation set out in Annex I.

### ARTICLE 3

#### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
- (a) During the first and the second transitional periods Community air carriers and air carriers licensed by Croatia shall be permitted to exercise unlimited traffic rights between any point in Croatia and any point in an EC Member State.
  - (b) During the second transitional period:
    - (i) Community air carriers and air carriers licensed by Croatia shall be permitted to exercise the traffic rights provided for in paragraph (1) (a);
    - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in Croatia and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;
    - (iii) air carriers licensed by Croatia shall be permitted to exercise unlimited traffic rights between points in different EC Member States and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in Croatia.
  - (c) Until the end of the second transitional period Community air carriers shall not be majority owned or effectively controlled by Croatia or its nationals and air carriers licensed by Croatia shall not be majority owned or effectively controlled by EC Member States or their nationals.
- (2) For the purpose of this Article, "Community air carrier" shall mean an air

carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the second transitional period, without prejudice to the obligation of Croatia and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by Croatia or its nationals from the end of the first transitional period.

#### ARTICLE 4

##### **Aviation Safety**

(1) At the start of the first transitional period Croatia shall be involved as observer in the work of the European Aviation Safety Agency.

(2) At the end of the second transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of Croatia in the European Aviation Safety Agency.

(3) Until the end of the second transitional period, if safety deficiencies are identified, the European Community may require that the permission for an air carrier licensed by Croatia to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

#### Article 5

##### **Aviation Security**

(1) At the start of the second transitional period the confidential part of the security legislation as provided in Annex I shall be made available to the appropriate authority of Croatia.

(2) Until the end of the second transitional period, if security deficiencies are identified, the European Community may require that the permission for an air carrier licensed by Croatia to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## PROTOCOL V

### TRANSITIONAL ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITY AND THE EC MEMBER STATES, OF ONE PART, AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA, ON THE OTHER PART

#### ARTICLE 1

##### **Transitional Periods**

- (1) The first transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2(1) of this Protocol have been fulfilled by the former Yugoslav Republic of Macedonia as verified by an assessment carried out by the European Community.
- (2) The second transitional period shall extend from the end of the first transitional period until all conditions set out in Article 2(2) of this Protocol have been fulfilled by the former Yugoslav Republic of Macedonia as verified by an assessment carried out by the European Community.

#### ARTICLE 2

##### **Conditions Relating to Transition**

- (1) By the end of the first transitional period the former Yugoslav Republic of Macedonia shall
  - (i) be a full member of the Joint Aviation Authorities and shall endeavour to implement all the aviation safety legislation as provided in Annex I;
  - (ii) apply ECAC Document 30 and shall endeavour to implement all the aviation security legislation as provided in Annex I;
  - (iii) apply Regulation (EEC) No 3925/91 (on elimination of controls applicable to cabin and hold baggage), Regulation (EEC) No 2409/92 (on fares and rates for air services), Directive 94/56/EC (on accident investigation), Directive 96/67/EC (on ground handling), Directive 2003/42/EC (on occurrence reporting), Directive 2000/79/EC (on working time in civil aviation) and Directive 2003/88/EC (on working time) as provided in Annex I;
  - (iv) separate the air traffic service provider and the national regulatory body, establish a national supervisory body for air traffic services, start the reorganisation of its airspace into a functional block or blocks, and apply flexible use of airspace;

- (v) ratify the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
  - (vi) have made sufficient progress in implementing the rules on state aid and competition included in an agreement referred to in Article 14(1) of the Main Agreement or in Annex III of this Agreement, whichever is applicable.
- (2) By the end of the second transitional period the former Yugoslav Republic of Macedonia shall apply this Agreement including all the legislation set out in Annex I.

### ARTICLE 3

#### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
- (a) During the first transitional period:
    - (i) Community air carriers and air carriers licensed by the former Yugoslav Republic of Macedonia shall be permitted to exercise unlimited traffic rights between any point in the former Yugoslav Republic of Macedonia and any point in an EC Member State;
    - (ii) Community air carriers shall not be majority owned or effectively controlled by the former Yugoslav Republic of Macedonia or its nationals and air carriers licensed by the former Yugoslav Republic of Macedonia shall not be majority owned or effectively controlled by EC Member States or their nationals.
  - (b) During the second transitional period:
    - (i) Community air carriers and air carriers licensed by the former Yugoslav Republic of Macedonia shall be permitted to exercise the traffic rights provided for in paragraph (1)(a)(i);
    - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in the former Yugoslav Republic of Macedonia and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;
    - (iii) air carriers licensed by the former Yugoslav Republic of Macedonia shall be permitted to exercise unlimited traffic rights

between points in different EC Member States and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in the former Yugoslav Republic of Macedonia.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the second transitional period, without prejudice to the obligation of the former Yugoslav Republic of Macedonia and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by the former Yugoslav Republic of Macedonia or its nationals from the end of the first transitional period.

#### ARTICLE 4

##### **Application of Certain Legislation by the Former Yugoslav Republic of Macedonia**

Notwithstanding Article 2 of this Protocol, upon entry into force of this Agreement the former Yugoslav Republic of Macedonia shall

- (i) apply in practice the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
- (ii) enforce that air carriers licensed by the former Yugoslav Republic of Macedonia comply in practice with Regulation (EC) No 261/2004;
- (iii) terminate or bring in line with Community law the contract between the Government of the former Yugoslav Republic of Macedonia and Macedonian Airlines (MAT).

#### ARTICLE 5

##### **Aviation Safety**

(1) At the start of the first transitional period the former Yugoslav Republic of Macedonia shall be involved as observer in the work of the European Aviation Safety Agency.

(2) At the end of the second transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of the former Yugoslav Republic of Macedonia in

the European Aviation Safety Agency.

(3) Until the end of the second transitional period, if safety deficiencies are identified the European Community may require that the permission for an air carrier licensed by the former Yugoslav Republic of Macedonia to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## ARTICLE 6

### **Aviation Security**

(1) At the start of the second transitional period the confidential part of the security legislation as provided in Annex I shall be made available to the appropriate authority of the former Yugoslav Republic of Macedonia.

(2) Until the end of the second transitional period, if security deficiencies are identified the European Community may require that the permission for an air carrier licensed by the former Yugoslav Republic of Macedonia to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## PROTOCOL VI

### TRANSITIONAL ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITY AND THE EC MEMBER STATES, OF ONE PART, AND THE REPUBLIC OF SERBIA, OF THE OTHER PART

#### ARTICLE 1

##### **Transitional Periods**

- (1) The first transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2(1) of this Protocol have been fulfilled by the Republic of Serbia as verified by an assessment carried out by the relevant authority of the European Community.
- (2) The second transitional period shall extend from the end of the first transitional period until all conditions set out in Article 2(2) of this Protocol have been fulfilled by the Republic of Serbia as verified by an assessment carried out by the relevant authority of the European Community.

#### ARTICLE 2

##### **Conditions Relating to Transition**

- (1) By the end of the first transitional period the Republic of Serbia shall
  - (i) be a full member of the Joint Aviation Authorities and shall endeavour to implement all the aviation safety legislation as provided in Annex I;
  - (ii) apply ECAC Document 30 and shall endeavour to implement all the aviation security legislation as provided in Annex I;
  - (iii) apply Regulation (EEC) No 3925/91 (on elimination of controls applicable to cabin and hold baggage), Regulation (EEC) No 2409/92 (on fares and rates for air services), Directive 94/56/EC (on accident investigation), Directive 96/67/EC (on ground handling), Regulation (EC) No 2027/97 (on air carrier liability in the event of accidents), Directive 2003/42/EC (on occurrence reporting), Regulation (EC) No 261/2004 (on denied boarding), Directive 2000/79/EC (on working time in civil aviation) and Directive 2003/88/EC (on working time) as provided in Annex I;
  - (iv) separate the air traffic service provider and the regulatory body for the Republic of Serbia, establish a supervisory body for the Republic of Serbia for air traffic services, start the reorganisation of the airspace of the Republic of Serbia into a functional block or blocks, and apply

flexible use of airspace;

- (v) ratify the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
- (vi) have made sufficient progress in implementing the rules on state aid and competition included in an agreement referred to in Article 14(1) of the Main Agreement or in Annex III of this Agreement, whichever is applicable.

(2) By the end of the second transitional period the Republic of Serbia shall apply this Agreement including all legislation set out in Annex I.

### ARTICLE 3

#### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
  - (a) During the first transitional period:
    - (i) Community air carriers and air carriers licensed by the Republic of Serbia shall be permitted to exercise unlimited traffic rights between any point in the Republic of Serbia and any point in an EC Member State;
    - (ii) Community air carriers shall not be majority owned or effectively controlled by the Republic of Serbia or its nationals and air carriers licensed by the Republic of Serbia shall not be majority owned or effectively controlled by EC Member States or their nationals.
  - (b) During the second transitional period:
    - (i) Community air carriers and air carriers licensed by the Republic of Serbia shall be permitted to exercise the traffic rights provided for in paragraph (1) (a) (i);
    - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in the Republic of Serbia and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;
    - (iii) air carriers licensed by the Republic of Serbia shall be permitted to exercise unlimited traffic rights between points in different EC Member States and shall be permitted to change, at any point,

from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in the Republic of Serbia.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the second transitional period, without prejudice to the obligation of the Republic of Serbia and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by the Republic of Serbia or its nationals from the end of the first transitional period.

#### ARTICLE 4

##### **Aviation Safety**

(1) At the start of the first transitional period the Republic of Serbia shall be involved as observer in the work of the European Aviation Safety Agency.

(2) At the end of the second transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of the Republic of Serbia in the European Aviation Safety Agency.

(3) Until the end of the second transitional period, if safety deficiencies are identified, the European Community may require that the permission for an air carrier licensed by the Republic of Serbia to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

#### ARTICLE 5

##### **Aviation Security**

(1) At the start of the second transitional period the confidential part of the security legislation as provided in Annex I shall be made available to the appropriate authority of the Republic of Serbia.

(2) Until the end of the second transitional period, if security deficiencies are identified, the European Community may require that the permission for an air carrier licensed by the Republic of Serbia to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order to

avoid any undue delay in the exercise of traffic rights.

PROTOCOL VII  
TRANSITIONAL ARRANGEMENTS BETWEEN  
THE EUROPEAN COMMUNITY  
AND THE EC MEMBER STATES, OF ONE PART,  
AND THE REPUBLIC OF MONTENEGRO, OF THE OTHER PART

ARTICLE 1

**Transitional Periods**

- (1) The first transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2(1) of this Protocol have been fulfilled by the Republic of Montenegro as verified by an assessment carried out by the relevant authority of the European Community.
- (2) The second transitional period shall extend from the end of the first transitional period until all conditions set out in Article 2(2) of this Protocol have been fulfilled by the Republic of Montenegro as verified by an assessment carried out by the relevant authority of the European Community.

ARTICLE 2

**Conditions Relating to Transition**

- (1) By the end of the first transitional period the Republic of Montenegro shall
- (i) be a full member of the Joint Aviation Authorities and shall endeavour to implement all the aviation safety legislation as provided in Annex I;
  - (ii) apply ECAC Document 30 and shall endeavour to implement all the aviation security legislation as provided in Annex I;
  - (iii) apply Regulation (EEC) No 3925/91 (on elimination of controls applicable to cabin and hold baggage), Regulation (EEC) No 2409/92 (on fares and rates for air services), Directive 94/56/EC (on accident investigation), Directive 96/67/EC (on ground handling), Regulation (EC) No 2027/97 (on air carrier liability in the event of accidents), Directive 2003/42/EC (on occurrence reporting), Regulation (EC) No 261/2004 (on denied boarding), Directive 2000/79/EC (on working time in civil aviation) and Directive 2003/88/EC (on working time) as provided in Annex I;
  - (iv) separate the air traffic service provider and the regulatory body for the Republic of Montenegro, establish a supervisory body for the Republic of Montenegro for air traffic services, start the reorganisation of the airspace of the Republic of Montenegro into a functional block or blocks, and apply flexible use of airspace;

- (v) ratify the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
  - (vi) have made sufficient progress in implementing the rules on state aid and competition included in an agreement referred to in Article 14(1) of the Main Agreement or in Annex III of this Agreement, whichever is applicable.
- (2) By the end of the second transitional period the Republic of Montenegro shall apply this Agreement including all legislation set out in Annex I.

### ARTICLE 3

#### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
- (a) During the first transitional period:
    - (i) Community air carriers and air carriers licensed by the Republic of Montenegro shall be permitted to exercise unlimited traffic rights between any point in the Republic of Montenegro and any point in an EC Member State;
    - (ii) Community air carriers shall not be majority owned or effectively controlled by the Republic of Montenegro or its nationals and air carriers licensed by the Republic of Montenegro shall not be majority owned or effectively controlled by EC Member States or their nationals.
  - (b) During the second transitional period:
    - (i) Community air carriers and air carriers licensed by the Republic of Montenegro be permitted to exercise the traffic rights provided for in paragraph (1) (a) (i);
    - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in the Republic of Montenegro and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;
    - (iii) air carriers licensed by the Republic of Montenegro shall be permitted to exercise unlimited traffic rights between points in different EC Member States and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the

flight is a part of a service that serves a point in the Republic of Montenegro.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the second transitional period, without prejudice to the obligation of the Republic of Montenegro and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by the Republic of Montenegro or its nationals from the end of the first transitional period.

#### ARTICLE 4

##### **Aviation Safety**

(1) At the start of the first transitional period the Republic of Montenegro shall be involved as observer in the work of the European Aviation Safety Agency.

(2) At the end of the second transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of the Republic of Montenegro in the European Aviation Safety Agency.

(3) Until the end of the second transitional period, if safety deficiencies are identified, the European Community may require that the permission for an air carrier licensed by the Republic of Montenegro to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

#### ARTICLE 5

##### **Aviation Security**

(1) At the start of the second transitional period the confidential part of the security legislation as provided in Annex I shall be made available to the appropriate authority of the Republic of Montenegro.

(2) Until the end of the second transitional period, if security deficiencies are identified, the European Community may require that the permission for an air carrier licensed by the Republic of Montenegro to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order

to avoid any undue delay in the exercise of traffic rights.

## PROTOCOL VIII

### TRANSITIONAL ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITY AND THE EC MEMBER STATES, OF ONE PART, AND ROMANIA, OF THE OTHER PART

#### ARTICLE 1

##### **Transitional Period**

- (1) The transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 2 of this Protocol have been fulfilled by Romania as verified by an assessment carried out by the European Community.
- (2) References to the "second transitional period" in this Agreement or in its Annexes shall mean in the case of Romania the transitional period referred to in paragraph 1.

#### ARTICLE 2

##### **Conditions Relating to Transition**

By the end of the transitional period Romania shall apply this Agreement including all legislation set out in Annex I.

#### ARTICLE 3

##### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,  
during the transitional period:
- (i) Community air carriers and air carriers licensed by Romania shall be permitted to exercise unlimited traffic rights between any point in Romania and any point in an EC Member State;
  - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in Romania and other Associated Parties and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;
  - (iii) air carriers licensed by Romania shall be permitted to exercise

unlimited traffic rights between points in different EC Member States and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in Romania.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the transitional period, without prejudice to the obligation of Romania and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by Romania or its nationals from the beginning of the transitional period.

#### ARTICLE 4

##### **Aviation Safety**

(1) At the end of the transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of Romania in the European Aviation Safety Agency.

(2) Until the end of the transitional period, if safety deficiencies are identified the European Community may require that the permission for an air carrier licensed by Romania to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

#### ARTICLE 5

##### **Aviation Security**

Until the end of the transitional period, if security deficiencies are identified the European Community may require that the permission for an air carrier licensed by Romania to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## PROTOCOL IX

### TRANSITIONAL ARRANGEMENTS BETWEEN THE EUROPEAN COMMUNITY AND THE EC MEMBER STATES, OF THE ONE PART, AND THE UNITED NATIONS INTERIM ADMINISTRATION IN KOSOVO, OF THE OTHER PART

#### ARTICLE 1

##### **UNMIK's Competences**

The provisions of this Protocol are without prejudice to the competences of the United Nations Interim Administration Mission in Kosovo, hereinafter referred to as "UNMIK", as derived from UN Security Council Resolution 1244 of 10 June 1999.

#### ARTICLE 2

##### **Transitional Periods**

- (1) The first transitional period shall extend from the entry into force of this Agreement until all conditions set out in Article 3(1) of this Protocol have been fulfilled by UNMIK as verified by an assessment carried out by the European Community.
- (2) The second transitional period shall extend from the end of the first transitional period until all conditions set out in Article 3(2) of this Protocol have been fulfilled by UNMIK as verified by an assessment carried out by the European Community.

#### ARTICLE 3

##### **Conditions Relating to Transition**

- (1) By the end of the first transitional period UNMIK shall
  - (i) implement, without prejudice to its special status under international law, the Joint Aviation Requirements (JARs) adopted by the Joint Aviation Authorities and shall endeavour to implement all aviation safety legislation as provided in Annex I;
  - (ii) apply ECAC Document 30 and shall endeavour to implement all aviation security legislation as provided in Annex I;
  - (iii) apply Regulation (EEC) No 3925/91 (on elimination of controls

applicable to cabin and hold baggage), Regulation (EEC) No 2409/92 (on fares and rates for air services), Directive 94/56/EC (on accident investigation), Regulation (EC) No 2027/97 (on air carrier liability in the event of accidents), Directive 2003/42/EC (on occurrence reporting), Regulation (EC) No 261/2004 (on denied boarding), Directive 2000/79/EC (on working time in civil aviation) and Directive 2003/88/EC (on working time) as provided in Annex I;

- (iv) separate the air traffic service provider and the regulatory body, establish or designate a supervisory body for air traffic services;
- (v) apply in practice the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
- (vi) have made sufficient progress in implementing the rules on state aid and competition included in an agreement referred to in Article 14(1) of the Main Agreement or in Annex III, whichever is applicable.

(2) By the end of the second transitional period UNMIK shall apply this Agreement including all the legislation set out in Annex I.

#### ARTICLE 4

##### **Transitional Arrangements**

- (1) Notwithstanding Article 1(1) of the Main Agreement,
  - (a) During the first transitional period:
    - (i) Community air carriers and air carriers licensed by UNMIK shall be permitted to exercise unlimited traffic rights between any point in Kosovo and any point in an EC Member State;
    - (ii) Community air carriers shall not be majority owned or effectively controlled by UNMIK or residents of Kosovo and air carriers licensed by UNMIK shall not be majority owned or effectively controlled by EC Member States or their nationals.
  - (b) During the second transitional period:
    - (i) Community air carriers and air carriers licensed by UNMIK shall be permitted to exercise the traffic rights provided for in paragraph (1) (a) (i);
    - (ii) Community air carriers shall be permitted to exercise unlimited traffic rights between points in Kosovo and other Associated Parties and shall be permitted to change, at any point, from one

aircraft to one other aircraft provided that the flight is a part of a service that serves a point in an EC Member State;

- (iii) air carriers licensed by UNMIK shall be permitted to exercise unlimited traffic rights between points in different EC Member States and shall be permitted to change, at any point, from one aircraft to one other aircraft provided that the flight is a part of a service that serves a point in Kosovo.

(2) For the purpose of this Article, "Community air carrier" shall mean an air carrier licensed by an EC Member State, Norway or Iceland.

(3) Articles 7 and 8 of the Main Agreement shall not apply until the end of the second transitional period, without prejudice to the obligation of UNMIK and of the Community to grant operating licences in accordance with the acts specified in Annex I, respectively, to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by UNMIK or residents of Kosovo from the end of the first transitional period.

## ARTICLE 5

### **International Conventions and Agreements**

Where the legislation set out in Annex I provides for the obligation to become party to international conventions or agreements, the special status of UNMIK under international law shall be taken into consideration.

## ARTICLE 6

### **Aviation Safety**

(1) At the start of the first transitional period UNMIK shall be involved as observer in the work of the European Aviation Safety Agency.

(2) At the end of the second transitional period the Joint Committee established under Article 18 of the Main Agreement shall determine the precise status and conditions for the participation of UNMIK in the European Aviation Safety Agency.

(3) Until the end of the second transitional period, if safety deficiencies are identified, the European Community may require that the permission for an air carrier licensed by UNMIK to operate on air routes to, from or within the European Community be made subject to a specific safety assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

## ARTICLE 7

### **Aviation Security**

(1) At the start of the second transitional period the confidential part of the security legislation as provided in Annex I shall be made available to the appropriate authority of UNMIK.

(2) Until the end of the second transitional period, if security deficiencies are identified, the European Community may require that the permission for an air carrier licensed by UNMIK to operate on air routes to, from or within the European Community be made subject to a specific security assessment. Such assessment shall be made by the European Community expeditiously in order to avoid any undue delay in the exercise of traffic rights.

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