COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.5.2009
COM(2009) 229 final

2009/0066 (CNS)

Proposal for a

Decision of the Council and the representatives of the Governments of the Member States of the European Union, meeting within the Council

On the conclusion of the of the Air Transport Agreement between the United States of America, for the one part, the European Community and its Member States, for the second part, Iceland, for the third part, and the Kingdom of Norway, for the fourth part; and

On the conclusion of the Ancillary Agreement between the European Community and its Member States, of the first part, Iceland, on the second part, and the Kingdom of Norway, of the third part, regarding the application of the Air Transport Agreement between the United States of America, of the first part; the European Community and its Member States, of the second part; Iceland, of the third part; and the Kingdom of Norway, of the fourth part

EXPLANATORY MEMORANDUM

1. Context of the proposal

- **Grounds for and objectives of the proposal**

The Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America (US), on the other hand, signed on 25 and 30 April 2007 ("the EU-US Air Transport Agreement"), entered into effect on 30 March 2008. Article 18 (5) of the EU-US Air Transport Agreement confirms both Parties' goal of "maximising the benefits for consumers, airlines, labour and communities on both sides of the Atlantic by extending this Agreement to include third countries". Article 18 (5) of the EU-US Air Transport Agreement further asks the Joint Committee established under Article 18 (1) of the EU-US Air Transport Agreement "to develop a proposal regarding the conditions and procedures that would be required for third countries to accede to this Agreement". Norway and Iceland formally requested the accession to the EU-US Air Transport Agreement in 2007. In accordance with Article 18 (5) of the EU-US Air Transport Agreement, the Joint Committee developed in its meeting on 26 February 2009 a proposal for the accession of Iceland and Norway to the EU-US Air Transport Agreement, consisting of a four-party "Cover Letter Agreement" and an Ancillary Agreement for the internal arrangements between the Community, Norway and Iceland. Norway and Iceland being an integral part of the European Common Aviation Area, these Agreements will ensure a consistent regulatory framework for flights between the US and the single aviation market in the EU – including Iceland and Norway. It will create commercial benefits for airlines and consumers in the EU and it will particularly ensure the consistency of the EU-US Air Transport Agreement with the common Scandinavian air transport policy. At the same time, the proposal ensures that the bilateral character of the EU-US Air Transport Agreement is maintained. Iceland and Norway will be committed to the negotiations of a second-stage air transport agreement with the US.

- **General context**

The EU-US Air Transport Agreement has removed all commercial barriers for flights between any point in the EU and any point in the US. In addition, the US has granted so-called 7th freedom rights to EU air carriers to operate between the US and non-EU countries of the European Common Aviation Area (ECAA), such as Norway and Iceland. However, the ECAA has no external dimension. Therefore, EU air carriers do currently not have the right to operate flights between Norway and Iceland and third countries. In the same way, Norwegian and Icelandic air carriers do currently not have the right to operate between the EU and the US.

The EU-US Air Transport Agreement has created uniform conditions for market access for all Community air carriers, and has established new arrangements for regulatory co-operation between the European Community and the US in fields essential for the safe, secure, and efficient operation of transatlantic air services. Norway and Iceland have adopted the complete *acquis communautaire* in aviation policy. Therefore, including both countries in the scope of the EU-US Air Transport Agreement will ensure that all European air carriers applying the *acquis communautaire* will operate transatlantic air services in a harmonised framework.

The accession of Iceland and Norway to the EU-US Air Transport Agreement could be a precedent for the accession of Iceland and Norway to other aviation agreements of the Community (e.g. Euro-Mediterranean Aviation Agreement with Morocco).

- **Existing provisions in the area of the proposal**

The provisions of the Cover Letter Agreement extend the scope of the EU-US Air Transport Agreement *mutatis mutandis* to Norway and Iceland. The provisions of the Ancillary Agreement are based on the Council Decision of 25 April 2007 on the signature and provisional application of the EU-US Air Transport Agreement (2007/339/EC).

- **Consistency with the other policies and objectives of the Union**

The objective of extending the EU-US Air Transport Agreement to third countries is explicitly foreseen in the EU-US Air Transport Agreement. The Cover Letter Agreement will establish the necessary link between the EU-US Air Transport Agreement and the European Common Aviation Area Agreement. It will not establish an external dimension to the European Economic Area Agreement. It is consistent with the EU's overall policy towards Iceland and Norway.

2. Consultation of interested parties and impact assessment

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The accession of Iceland and Norway to the EU-US Air Transport Agreement has been discussed in various meetings of the Joint Committee established under the EU-US Air Transport Agreement and in informal technical meetings with Member States. All these meetings have been prepared in meetings of the Industry Consultative Forum with representatives of air carriers, airports, and labour organisations.

Summary of responses and how they have been taken into account

The issue of accession of Iceland and Norway to the EU-US Air Transport Agreement has been discussed in four meetings of the Industry Consultative Forum, during which all elements of the approach were discussed in detail. All comments from Member States and stakeholders were duly taken into consideration in the preparation of the Community's position for the Joint Committee held on 26 February 2009.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The Agreement extends the scope of the EU-US Air Transport Agreement to Iceland and Norway. This will give EU air carriers the opportunity to take up the rights granted by the US since 30 March 2008 to operate passenger flights between the US and

Iceland or Norway.

3. Legal elements of the proposal

- **Summary of the proposed action**

The proposal consists of two elements:

- The four-party "Cover Letter Agreement" extends the scope of the EU-US Air Transport Agreement *mutatis mutandis* to all four parties.

- The Ancillary Agreement ensures that the bilateral nature of the EU-US Air Transport Agreement is maintained. Norway and Iceland will be represented in the Joint Committee by the Commission for all areas that are not in the exclusive competence of Member States. Rules are established for the exchange of information, the participation in second-stage negotiations, and the representation in arbitration procedures.

- **Legal basis**

Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason:

The EU-US Air Transport Agreement has established new arrangements at Community level governing the provision of transatlantic air services that replaced the previous arrangements made by individual Member States. The accession of third countries to the EU-US Air Transport Agreement can only be achieved at Community level.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The proposal will not affect the regulatory framework within the European Common Aviation Area. The proposal will not modify the EU-US Air Transport Agreement. The proposal is limited on ensuring consistency between the common aviation market in Europe and the regulatory framework for transatlantic flights established by the EU-US Air Transport Agreement.

The proposal does not create any new obligations for EU aviation authorities or for EU industry. It creates new rights for EU air carriers and ensures full consistency of the EU-US Air Transport Agreement with the common Scandinavian air transport policy.

- **Choice of instruments**

Other means would not be adequate for the following reasons:

The four-party Cover Letter Agreement and an Ancillary Agreement are the most effective instruments to ensure both full extension of the EU-US Air Transport Agreement to Iceland and Norway and the bilateral character of the EU-US Air Transport Agreement. A multilateral agreement replacing the EU-US Air Transport Agreement would reduce the EU to one player in a four-party Agreement while the proposed Agreements maintain the bilateral relationship between the US, on the one hand, and Europe, on the other hand. Parallel bilateral agreements between (1) Iceland-US, (2) Norway-US, (3) Iceland-European Community, and (4) Norway-European Community would add unnecessary complexity and would not guarantee the full consistency of the regulatory framework for transatlantic flights.

4. Budgetary implication

The proposal has no implication for the Community budget.

2009/0066 (CNS)

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Decision of the Council and the representatives of the Governments of the Member States of the European Union, meeting within the Council

On the conclusion of the of the Air Transport Agreement between the United States of America, for the one part, the European Community and its Member States, for the second part, Iceland, for the third part, and the Kingdom of Norway, for the fourth part; and

On the conclusion of the Ancillary Agreement between the European Community and its Member States, of the first part, Iceland, on the second part, and the Kingdom of Norway, of the third part, regarding the application of the Air Transport Agreement between the United States of America, of the first part; the European Community and its Member States, of the second part; Iceland, of the third part; and the Kingdom of Norway, of the fourth part

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL

Having regard to the Treaty establishing the European Community and in particular Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof

Having regard to the opinion of the European Parliament

Whereas:

(1) The Commission has negotiated on behalf of the Community and of the Member States an Air Transport Agreement with the United States of America, Iceland, and the Kingdom of Norway (hereinafter, the “Agreement”) and an Ancillary Agreement with Iceland and the Kingdom of Norway regarding the application of that Agreement (hereinafter, the "Ancillary Agreement");

(2) The Agreement was signed on ….;

(3) The Ancillary Agreement was signed on …;

(3) The Agreement and the Ancillary Agreement should be approved by the Community and the Member States;

HAVE DECIDED AS FOLLOWS:

Article 1 (Approval)

1. The Air Transport Agreement between the United States of America, for the one part, the European Community and its Member States, for the second part, Iceland, for the third part, and the Kingdom of Norway, for the fourth part (hereinafter "the Agreement"), is hereby approved on behalf of the Community. The text of the Agreement is attached to this decision.

2. The Ancillary Agreement between the European Community and its Member States, of the first part, Iceland, on the second part, and the Kingdom of Norway, of the third part, regarding the application of the Air Transport Agreement between the United States of America, of the first part; the European Community and its Member States, of the second part; Iceland, of the third part; and the Kingdom of Norway, for the fourth part (hereinafter, "the Ancillary Agreement"), is hereby approved on behalf of the Community. The text of the Agreement is attached to this decision

3. Upon completion of its internal procedures for entry into force of the Agreement, each Member State shall transmit to the Secretariat of the Council the diplomatic notes provided for in Article 6 of the Agreement and in Article 9 of the Ancillary Agreement.

4. The President of the Council is hereby authorised to designate the person empowered to deliver to the United States of America, Iceland and the Kingdom of Norway the diplomatic notes provided in Article 6 of the Agreement.

5. The President of the Council is hereby authorised to designate the person empowered to deliver to Iceland and the Kingdom of Norway the diplomatic notes provided in Article 6 of the Agreement and in Article 9 of the Ancillary Agreement on behalf of the Community and of the Member States.

Article 2 (Termination)

1. A decision to terminate the Agreement and give notice thereof to the United States of America, Iceland and the Kingdom of Norway in accordance with Article 3 of the Agreement, and a decision to withdraw such notice, shall be taken by the Council, on behalf of the Community and of the Member States, acting unanimously on the basis of a Commission proposal.

2. A decision to terminate the Ancillary Agreement and give notice thereof to Iceland and the Kingdom of Norway in accordance with Article 7 of the Ancillary Agreement, and a decision to withdraw such notice, shall be taken by the Council, on behalf of the Community and of the Member States, acting unanimously on the basis of a Commission proposal.

Done at Brussels, […]

For the Council

The President

[…]

Attachment 1

AIR TRANSPORT AGREEMENT

The United States of America (hereinafter the "United States"), of the first part; and

The European Community and its Member States, of the second part;

Iceland, of the third part; and

The Kingdom of Norway (hereinafter “Norway”), of the fourth part;

Desiring to promote an international aviation system based on competition among airlines in the marketplace with minimum government interference and regulation;

Desiring to facilitate the expansion of international air transport opportunities, including through the development of air transportation networks to meet the needs of passengers and shippers for convenient air transportation services;

Desiring to make it possible for airlines to offer the travelling and shipping public competitive prices and services in open markets;

Desiring to have all sectors of the air transport industry, including airline workers, benefit in a liberalized agreement;

Desiring to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air transportation, and undermine public confidence in the safety of civil aviation;

Noting the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944;

Recognizing that government subsidies may adversely affect airline competition and may jeopardize the basic objectives of this Agreement;

Affirming the importance of protecting the environment in developing and implementing international aviation policy;

Noting the importance of protecting consumers, including the protections afforded by the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal May 28, 1999;

Intending to build upon the framework of existing agreements with the goal of opening access to markets and maximizing benefits for consumers, airlines, labor, and communities on both sides of the Atlantic;

Recognizing the importance of enhancing the access of their airlines to global capital markets in order to strengthen competition and promote the objectives of this Agreement;

Intending to establish a precedent of global significance to promote the benefits of liberalization in this crucial economic sector;

Have agreed as follows:

Article 1

Definition

"Party" means the United States, the European Community and its Member States, Iceland, or Norway.

Article 2

Application of Annex I and II

The provisions of the Air Transport Agreement signed by the European Community and its Member States and the United States of America on April 25 and 30, 2007 (hereinafter referred to as "the Air Transport Agreement"), attached in Annex I, shall apply to all Parties to this Agreement, subject to Annex II. The provisions of the Air Transport Agreement shall apply to Iceland and Norway as though they were Member States of the European Community, so that Iceland and Norway shall have all of the rights and obligations of Member States under that agreement. Annexes I and II form integral parts of this Agreement.

Article 3

Termination

1. Either the United States or the European Community and its Member States may, at any time, give notice in writing through diplomatic channels to the other three Parties of its decision to terminate this Agreement or to end this Agreement's provisional application under Article 5. A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate, or provisional application of this Agreement shall end, at midnight GMT at the end of the International Air Transport Association (IATA) traffic season in effect one year following the date of the written notification, unless the notice is withdrawn by agreement of all of the Parties before the end of this period.

2. Either Iceland or Norway may, at any time, give notice in writing through diplomatic channels to the other Parties of its decision to withdraw from this Agreement, or to end its provisional application of this Agreement under Article 5. A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization. Such withdrawal or cessation of provisional application shall be effective at midnight GMT at the end of the IATA traffic season in effect one year following the date of written notification, unless the notice is withdrawn by agreement of the Party giving written notice, the United States, and the European Community and its Member States before the end of this period.

3. Either the United States or the European Community and its Member States may, at any time, give notice in writing through diplomatic channels to Iceland or Norway of its decision to terminate this Agreement or to end this Agreement's provisional application, with respect to Iceland or Norway. Copies of the notice shall be sent simultaneously to the other two Parties to this Agreement and to the International Civil Aviation Organization. Termination or cessation of provisional application with respect to Iceland or Norway shall be effective at midnight GMT at the end of the IATA traffic season in effect one year following the date of written notification, unless the notice is withdrawn by agreement of the United States, the

European Community and its Member States, and the Party receiving the notice, before the end of this period.

4. For purposes of the diplomatic notes contemplated by this Article, diplomatic notes to or from the European Community and its Member States shall be delivered to or from, as the case may be, the European Community.

5. Notwithstanding any other provision of this Article, if the Air Transport Agreement is terminated, this Agreement shall terminate simultaneously.

Article 4

Registration with ICAO

This Agreement and all amendments thereto shall be registered with the International Civil Aviation Organization.

Article 5

Provisional Application

Pending entry into force pursuant to Article 6, this Agreement shall be applied provisionally from the first day of the month following the date of the last note by which each Party notifies the other Parties of its completion of any procedures necessary to apply this Agreement provisionally. If the Air Transport Agreement is terminated pursuant to Article 23 thereof or its provisional application ceases pursuant to Article 25 of that Agreement, provisional application of this Agreement shall cease simultaneously.

Article 6

Entry into force

This Agreement shall enter into force on the date of the later of: (1) the entry into force of the Air Transport Agreement and (2) one month after the date of the last note of the exchanges of diplomatic notes among the Parties confirming that all necessary procedures for entry into force of this Agreement have been completed. For purposes of this exchange of diplomatic notes, diplomatic notes to or from the European Community and its Member States shall be delivered to or from, as the case may be, the European Community. The diplomatic note or notes from the European Community and its Member States shall contain communications from each Member State confirming that its necessary procedures for entry into force of this Agreement have been completed.

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

DONE at …….this ……. day of ……., in quadruplicate.

For the United States of America:

[For each of the EU Member States:]

For the European Community:

For Iceland:

For the Kingdom of Norway:

Annex I

AIR TRANSPORT AGREEMENT

[*OJ L134/4 of 25.5.2007*]

Annex II

Specific Provisions with Respect to Iceland and Norway

The provisions of the Air Transport Agreement, modified as follows, shall apply to all Parties to this Agreement. The provisions of the Air Transport Agreement shall apply to Iceland and Norway as though they were Member States of the European Community, so that Iceland and Norway shall have all of the rights and obligations of Member States under that Agreement:

1. Paragraph 9 of Article 1 of the Air Transport Agreement shall read as follows:

”Territory” means, for the United States, the land areas (mainland and islands), internal waters and territorial sea under its sovereignty or jurisdiction, and, for the European Community and its Member States, the land areas (mainland and islands), internal waters and territorial sea in which the Agreement on the European Economic Area is applied and under the conditions laid down in that agreement and any successor instrument, with the exception of the land areas and internal waters under the sovereignty or jurisdiction of the Principality of Liechtenstein; 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, and to the continuing suspension of Gibraltar Airport from European Community aviation measures existing as at 18 September 2006 as between Member States, in accordance with the Ministerial statement on Gibraltar Airport agreed in Córdoba on 18 September 2006; and

2. Articles 23 to 26 shall not apply to Iceland and Norway.

3. The following shall be added to Section 1 of Annex 1:

w. Iceland: Air Transport Agreement, signed at Washington June 14, 1995; amended March 1, 2002 by exchange of notes; amended August 14, 2006 and March 9, 2007 by exchange of notes.

x. The Kingdom of Norway: Agreement relating to Air Transport Services effected by exchange of notes at Washington, October 6, 1945; amended August 6, 1954 by exchange of notes; amended June 16, 1995 by exchange of notes.

4. The text of Section 2 of Annex 1 shall read as follows:

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

5. The text of Section 3 of Annex 1 shall be read as follows:

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

the Republic of Poland, the Portuguese Republic, the Slovak Republic, Iceland, and the Kingdom of Norway.

6. The following shall be added at the end of Article 3 of Annex 2:

For Iceland and Norway, this includes, but is not limited to, Articles 53, 54, and 57 of the Agreement on the European Economic Area and their implementing Regulations pursuant to the said agreement, as well as any amendments thereto.

Attachment 2

ANCILLARY AGREEMENT

between

The Kingdom of Norway, of the first part,

Iceland, of the second part,

and

The European Community and its Member States, of the third part,

regarding

the application of the Air Transport Agreement between

the United States of America, of the first part,

the European Community and its Member States, of the second part, the Kingdom of Norway, of the third part,

and Iceland, of the fourth part

Whereas:

(1) The European Commission has negotiated, on behalf of the Community and of the Member States, an Agreement on Air Transport with the United States of America in accordance with the Council Decision authorising the Commission to open negotiations.

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

(3) Iceland and the Kingdom of Norway (hereafter “Norway”), being fully integrated members of the single European Aviation Market through the Agreement on the European Economic Area, have adhered to the Air Transport Agreement through an Agreement of even date, (hereinafter the "Agreement”), which incorporates the Air Transport Agreement as Annex I.

(4) It is necessary to lay down procedural arrangements for deciding, if appropriate, how to suspend rights pursuant to Article 21(3) of the Air Transport Agreement.

(5) It is furthermore necessary to lay down procedural arrangements for the participation of Norway and Iceland in the Joint Committee set up under Article 18 of the Air Transport Agreement and in the arbitration procedures provided for in Article 19 of the Air Transport

Agreement, ensuring the necessary cooperation, flow of information and consultation before Joint Committee meetings, as well as for implementing certain provisions of the Agreement, including those concerning security, safety, the granting and revocation of traffic rights and government support.

IT IS AGREED AS FOLLOWS:

Article 1

Notification

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

Article 2

Second Stage Negotiations and Suspension of Traffic Rights

1. The Commission shall conduct the second stage negotiations referred to in Article 21(1) of the Air Transport Agreement on behalf of the European Community and its Member States. With a view to a continued association of Norway and Iceland to the revised Air Transport Agreement also after the second stage negotiations, Norway and Iceland shall participate in the negotiations as observers, and shall for that purpose be included in the preparatory work of the European Community, like any Member State of the Community.

2. If no second stage agreement has been reached within 12 months of the start of the review provided in Article 21(3) of the Air Transport Agreement, Norway and Iceland may, like any Member State of the Community and within the following 15 days, notify to the Commission which traffic rights in relation to their territory, if any, they wish to suspend. Such traffic rights may not include any rights specified in the agreements mentioned in Annex I of the Air Transport Agreement.

3. On the basis of the notifications received from the Member States, Norway and/or Iceland, the Commission shall establish a list of the traffic rights to be suspended and transmit it to the Council. The President of the Council, acting on behalf of the Community and its Member States, Norway and Iceland shall then give notice to the United States of America of the suspension of the traffic rights included in the list in accordance with Article 21(3) of the Air Transport Agreement. The Member States concerned, Norway and/or Iceland shall take the necessary measures in order to suspend such rights from the first day of the International Air Transport Association (IATA) traffic season that commences no less than 12 months after the date on which the notice of suspension is given.

4. Notwithstanding paragraph 3 of this Article, the Council, acting by unanimity on a proposal from the Commission, may decide not to give notice of suspension or subsequently to withdraw it.

Article 3

Joint Committee

1. The Community, its Member States and Norway and Iceland shall be represented in the Joint Committee established under Article 18 of the Air Transport Agreement by representatives of the Commission, the Member States and Norway and Iceland.

2. The position of the Community, the Member States and Norway and Iceland within the Joint Committee shall be presented by the Commission, except in areas that within the EU fall exclusively within Member States' competence, in which case it shall be presented by the Member States, Iceland and/or Norway as appropriate.

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

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

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

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

Article 4

Arbitration

1. The Commission shall represent the Community, its Member States and Norway and Iceland in arbitration proceedings under Article 19 of the Air Transport Agreement.

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

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

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

Article 5

Exchange of Information

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

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

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

Article 6

Government subsidies and support

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

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

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

Article 7

Termination

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

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

Article 8

Provisional Application

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

Article 9

Entry into force

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

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

DONE, in triplicate in ……., this ……. day of ……., in the English language.

For the Kingdom of Norway:

For Iceland:

For the European Community: