AGREEMENT

between the European Community and the Republic of Croatia on certain aspects of air services

THE EUROPEAN COMMUNITY,

of the one part, and

THE REPUBLIC OF CROATIA, (hereinafter referred to as Croatia),

of the other part,

(hereinafter referred to as the Parties),

NOTING that bilateral air service agreements have been concluded between several Member States of the European Community and Croatia containing provisions contrary to Community law agreed by such Member States of the European Community,

NOTING that the European Community has exclusive competence with respect to several aspects that may be included in bilateral air service agreements between Member States of the European Community and third countries,

NOTING that under European Community law, Community air carriers established in a Member State have the right to non-discriminatory access to air routes between the Member States of the European Community and third countries,

HAVING REGARD to the agreements between the European Community and certain third countries providing for the possibility for the nationals of such third countries to acquire ownership in air carriers licensed in accordance with European Community law,

RECOGNISING that certain provisions of the bilateral air service agreements between Member States of the European Community and Croatia, which are contrary to European Community law, must be brought into conformity with it in order to establish a sound legal basis for air services between the European Community and Croatia and to preserve the continuity of such air services,

NOTING that it is not a purpose of the European Community, as part of these negotiations, to increase the total volume of air traffic between the European Community and Croatia, to affect the balance between Community air carriers and air carriers of Croatia, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights,

NOTING that, since a majority of the bilateral air service agreements between Member States of the European Community and Croatia provide for no restrictions on capacity, the volume of traffic on both sides has the potential to increase above its current level,

HAVE AGREED AS FOLLOWS:

Article 1

General provisions

1. For the purposes of this Agreement, 'Member States' shall mean Member States of the European Community.

2. References in each of the Agreements listed in Annex I to nationals of the Member State that is a party to that Agreement shall be understood as referring to nationals of the Member States of the European Community.

3. References in each of the Agreements listed in Annex I to air carriers or airlines of the Member State that is a party to that Agreement shall be understood as referring to air carriers or airlines designated by that Member State.

Article 2

Designation by a Member State

1. The provisions in paragraphs 2 and 3 of this Article shall supersede the corresponding provisions in the Articles listed in Annex II(a) and (b) respectively, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by Croatia, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.

2. On receipt of a designation by a Member State, Croatia shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

(i) the air carrier is established, under the Treaty establishing the European Community, in the territory of the designating Member State and has a valid Operating Licence in accordance with European Community law;

(ii) effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operators Certificate and the relevant aeronautical authority is clearly identified in the designation; and

(iii) the air carrier is owned and shall continue to be owned directly or through majority ownership by Member States and/or nationals of Member States, and/or by other States listed in Annex III and/or nationals of such other States, and shall at all times be effectively controlled by such States and/or such nationals.

3. Croatia may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

(i) the air carrier is not established, under the Treaty establishing the European Community, in the territory of the designating Member State or does not have a valid operating licence in accordance with European Community law;

(ii) effective regulatory control of the air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operators Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or

(iii) the air carrier is not owned and effectively controlled directly or through majority ownership by Member States and/or nationals of Member States, and/or by other States listed in Annex III and/or nationals of such other States.

In exercising its right under this paragraph, Croatia shall not discriminate between Community air carriers on the grounds of nationality.

4. The granting of traffic rights continues to be carried out through bilateral arrangements.

Article 3

Rights with regard to regulatory control

1. The provisions in paragraph 2 of this Article shall complement the Articles listed in Annex II(c).

2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of Croatia under the safety provisions of the Agreement between the Member State that has designated the air carrier and Croatia shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

Article 4

Taxation of aviation fuel

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions in the Articles listed in Annex II(d).

2. Notwithstanding any other provision to the contrary, nothing in each of the Agreements listed in Annex II(d) shall prevent a Member State from imposing taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated air carrier of Croatia that operates between a point in the territory of that Member State and another point in the territory of that Member State or in the territory of another Member State.

Article 5

Tariffs for carriage within the European Community

1. The provisions in paragraph 2 of this Article shall complement the Articles listed in Annex II(e).

2. The tariffs to be charged by the air carrier(s) designated by Croatia under an Agreement listed in Annex I containing a provision listed in Annex II(e) for carriage wholly within the European Community, shall be subject to European Community law.

Article 6

Annexes to the Agreement

The Annexes to this Agreement shall form an integral part thereof.

Article 7

Revision or amendment

The Parties may, at any time, revise or amend this Agreement by mutual consent.

Article 8

Entry into force and provisional application

1. This Agreement shall enter into force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed.

2. Notwithstanding paragraph 1, the Parties agree to provisionally apply this Agreement from the first day of the month following the date on which the Parties have notified each other of the completion of the procedures necessary for this purpose.

2. Agreements and other arrangements between Member States and Croatia which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally are listed in Annex I(b). This Agreement shall apply to all such Agreements and arrangements upon their entry into force or provisional application.

Article 9

Termination

1. In the event that an Agreement listed in Annex I is terminated, all provisions of this Agreement that relate to the Agreement listed in Annex I concerned shall terminate at the same time.

2. In the event that all Agreements listed in Annex I are terminated, this Agreement shall terminate at the same time.

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

Done at Salzburg in duplicate, on this fifth day of May in the year two thousand and six, in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovene, Spanish, Swedish and Croatian languages.

Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
Az Európai Közösség részéről
Ghall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
Za Evropsko skupnost
Euroopan yhteisön puolesta
För Europeiska gemenskapen
Za Europsku zajednicu

Por la República de Croacia
Za Chorvatskou republiku
For Republikken Kroatien
Für die Republik Kroatien
Horvaatia Vabariigi nimel
Για τη Δημοκρατία της Κροατίας
For the Republic of Croatia
Pour la République de Croatie
Per la Repubblica di Croazia
Horvātijas Republikas vārdā
Kroatijos Respublikos vardu
A Horvát Köztársaság részéről
Ghar-Repubblika tal-Kroazja
Voor de Republiek Kroatië
W imieniu Republiki Chorwacji
Pela República da Croácia
Za Chorvátsku republiku
Za Republiko Hrvaško
Kroatian tasavallan puolesta
För Republiken Kroatien
Za Republiku Hrvatsku

ANNEX I

List of Agreements referred to in Article 1 of this Agreement

(a) Air service agreements between Croatia and Member States of the European Community which, at the date of signature of this Agreement, have been concluded, signed and/or are being applied provisionally

— Air Transport Agreement between the Austrian Federal Government and the Government of the Republic of Croatia relating to Air Services, signed at Vienna on 23 June 1994 (hereinafter referred to as Croatia-Austria Agreement).

— Agreement between the Government of the Kingdom of Belgium and the Government of the Republic of Croatia on Air Transport, signed at Zagreb on 12 March 1996 (hereinafter referred to as Croatia-Belgium Agreement).

Last modified by the Exchange of Letters dated 28 April and 2 May 2003, respectively.

— Agreement between the Government of the Czech Republic and the Government of the Republic of Croatia on Air Services, signed at Prague on 22 January 1999 (hereinafter referred to as Croatia-Czech Republic Agreement).

— Agreement between the Government of the Kingdom of Denmark and the Government of the Republic of Croatia relating to Air Services, signed at Oslo on 6 March 1996 (hereinafter referred to as Croatia-Denmark Agreement).

— Air Services Agreement between the Government of the Republic of Estonia and the Government of the Republic of Croatia, signed at Zagreb on 31 March 2004 (hereinafter referred to as Croatia-Estonia Agreement).

— Agreement between the Government of the French Republic and the Government of the Republic of Croatia relating to Air Transport, signed at Zagreb on 27 January 1997 (hereinafter referred to as Croatia-France Agreement).

To be read together with the Memorandum of Understanding, done at Dubrovnik on 29 August 1996.

— Air Transport Agreement between the Federal Republic of Germany and the Republic of Croatia, initialled and attached as Annex 2 to the Memorandum of Understanding, done at Bonn on 23 July 1997 (hereinafter referred to as Croatia-Germany Agreement).

Last supplemented by the Memorandum of Understanding, done at Dubrovnik on 4 June 1998.

— Air Services Agreement between the Government of the Hellenic Republic and the Government of the Republic of Croatia, signed at Athens on 27 February 2001 (hereinafter referred to as Croatia-Greece Agreement).

— Air Transport Agreement between the Government of the Republic of Hungary and the Government of the Republic of Croatia, signed at Vienna on 7 June 1995 (hereinafter referred to as Croatia-Hungary Agreement).

— Agreement between the Government of the Republic of Croatia and the Government of Ireland on air transport, initialled at Dublin on 11 December 1995 (hereinafter referred to as Croatia-Ireland Agreement).

— Agreement between the Government of the Italian Republic and the Government of the Republic of Croatia concerning Air Services, signed at Rome on 8 July 1998 (hereinafter referred to as Croatia-Italy Agreement).

— Air Services Agreement between the Government of the Republic of Latvia and the Government of the Republic of Croatia, signed at Riga on 18 October 1999 (hereinafter referred to as Croatia-Latvia Agreement).

— Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Republic of Croatia on Air Services, signed at Dubrovnik on 24 July 1996 (hereinafter referred to as Croatia-Luxembourg Agreement).

— Agreement between the Government of Malta and the Government of the Republic of Croatia for Air Services between and beyond their respective territories, signed at Valletta on 13 October 1995 (hereinafter referred to as Croatia-Malta Agreement).

— Agreement between the Kingdom of the Netherlands and the Republic of Croatia for Air Services, signed at Zagreb on 30 April 1996 (hereinafter referred to as Croatia-Netherlands Agreement).

— Agreement between the Government of the Republic of Poland and the Government of the Republic of Croatia concerning civil air transport, signed at Warsaw on 19 June 1996 (hereinafter referred to as Croatia-Poland Agreement).

To be read together with the Agreed Minutes, done at Warsaw on 28 April 1995.

— Air Transport Agreement between the Republic of Croatia and the Portuguese Republic, initialled and attached as Appendix 2 to the Memorandum of Understanding, done at Zagreb on 27 June 2002 (hereinafter referred to as Croatia-Portugal Agreement).

— Air Transport Agreement between the Government of the Slovak Republic and the Government of the Republic of Croatia, signed at Zagreb on 12 February 1996 (hereinafter referred to as Croatia-Slovakia Agreement).

— Agreement between the Republic of Slovenia and the Republic of Croatia on Scheduled Air Services, signed at Brdo pri Kranju on 8 July 1994 (hereinafter referred to as Croatia-Slovenia Agreement).

Last modified by the Agreed Annex, dated 5 July 1999.

— Air Transport Agreement between the Kingdom of Spain and the Republic of Croatia, signed at Madrid on 21 July 1997 (hereinafter referred to as Croatia-Spain Agreement).

— Agreement between the Government of the Kingdom of Sweden and the Government of the Republic of Croatia relating to Air Services, signed at Oslo on 6 March 1996 (hereinafter referred to as Croatia-Sweden Agreement).

— Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Croatia concerning Air Services, signed at Zagreb on 21 February 1996 (hereinafter referred to as Croatia-UK Agreement).

(b) Air service agreements and other arrangements initialled or signed between Croatia and Member States of the European Community which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally

— Air Services Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Croatia, initialled at Zagreb on 4 December 2002 (hereinafter referred to as Croatia-Lithuania Agreement).

ANNEX II

List of Articles in the Agreements listed in Annex I and referred to in Articles 2 to 5 of this Agreement

(a) Designation by a Member State:

— Article 3 of the Croatia-Austria Agreement,
— Articles 3 and 4 of the Croatia-Belgium Agreement,
— Article 3 of the Croatia-Czech Republic Agreement,
— Article 3 of the Croatia-Denmark Agreement,
— Article 3 of the Croatia-Estonia Agreement,
— Article 4 of the Croatia-France Agreement,
— Article 3 of the Croatia-Greece Agreement,
— Article 3 of the Croatia-Hungary Agreement,
— Article 3 of the Croatia-Ireland Agreement,
— Article 4 of the Croatia-Italy Agreement,
— Article 3 of the Croatia-Latvia Agreement,
— Article 3 of the Croatia-Lithuania Agreement,
— Article 3 of the Croatia-Luxembourg Agreement,
— Article 3 of the Croatia-Malta Agreement,
— Article 3 of the Croatia-Netherlands Agreement,
— Article 3 of the Croatia-Poland Agreement,
— Article 3 of the Croatia-Portugal Agreement,
— Article 3 of the Croatia-Slovakia Agreement,
— Article 3 of the Croatia-Slovenia Agreement,
— Article 3 of the Croatia-Spain Agreement,
— Article 3 of the Croatia-Sweden Agreement,
— Article 4 of the Croatia-UK Agreement.

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:

— Article 4 of the Croatia-Austria Agreement,
— Article 5 of the Croatia-Belgium Agreement,
— Article 4 of the Croatia-Czech Republic Agreement,
— Article 4 of the Croatia-Denmark Agreement,
— Article 4 of the Croatia-Estonia Agreement,
— Article 5 of the Croatia-France Agreement,
— Article 4 of the Croatia-Greece Agreement,
— Article 4 of the Croatia-Hungary Agreement,
— Article 4 of the Croatia-Ireland Agreement,
— Article 5 of the Croatia-Italy Agreement,
— Article 4 of the Croatia-Latvia Agreement,
— Article 4 of the Croatia-Lithuania Agreement,
— Article 4 of the Croatia-Luxembourg Agreement,
— Article 4 of the Croatia-Malta Agreement,
— Article 4 of the Croatia-Netherlands Agreement,

— Article 4 of the Croatia-Poland Agreement,

— Article 4 of the Croatia-Portugal Agreement,

— Article 4 of the Croatia-Slovakia Agreement,

— Article 7 of the Croatia-Slovenia Agreement,

— Article 4 of the Croatia-Spain Agreement,

— Article 4 of the Croatia-Sweden Agreement,

— Article 5 of the Croatia-UK Agreement.

(c) Regulatory control:

— Article 6 of the Croatia-Czech Republic Agreement,

— Article 15 of the Croatia-Estonia Agreement,

— Article 12 of the Croatia-Germany Agreement,

— Article 7 of the Croatia-Greece Agreement,

— Article 16 of the Croatia-Latvia Agreement,

— Article 15 of the Croatia-Lithuania Agreement,

— Article 15 of the Croatia-Portugal Agreement.

(d) Taxation of Aviation Fuel:

— Article 7 of the Croatia-Austria Agreement,

— Article 10 of the Croatia-Belgium Agreement,

— Article 9 of the Croatia-Czech Republic Agreement,

— Article 6 of the Croatia-Denmark Agreement,

— Article 7 of the Croatia-Estonia Agreement,

— Article 11 of the Croatia-France Agreement,

— Article 6 of the Croatia-Germany Agreement,

— Article 8 of the Croatia-Greece Agreement,

— Article 7 of the Croatia-Hungary Agreement,

— Article 13 of the Croatia-Ireland Agreement,

— Article 6 of the Croatia-Italy Agreement,

— Article 7 of the Croatia-Latvia Agreement,

— Article 7 of the Croatia-Lithuania Agreement,

— Article 8 of the Croatia-Luxembourg Agreement,

— Article 5 of the Croatia-Malta Agreement,

— Article 9 of the Croatia-Netherlands Agreement,

— Article 7 of the Croatia-Poland Agreement,

— Article 6 of the Croatia-Portugal Agreement,

— Article 8 of the Croatia-Slovakia Agreement,

— Article 6 of the Croatia-Slovenia Agreement,

— Article 5 of the Croatia-Spain Agreement,

— Article 6 of the Croatia-Sweden Agreement,

— Article 8 of the Croatia-UK Agreement.

(e) Tariffs for Carriage within the European Community:

— Article 10 of the Croatia-Austria Agreement,
— Article 13 of the Croatia-Belgium Agreement,
— Article 13 of the Croatia-Czech Republic Agreement,
— Article 11 of the Croatia-Denmark Agreement,
— Article 13 of the Croatia-Estonia Agreement,
— Article 17 of the Croatia-France Agreement,
— Article 10 of the Croatia-Germany Agreement,
— Article 14 of the Croatia-Greece Agreement,
— Article 13 of the Croatia-Hungary Agreement,
— Article 7 of the Croatia-Ireland Agreement,
— Article 8 of the Croatia-Italy Agreement,
— Article 13 of the Croatia-Latvia Agreement,
— Article 13 of the Croatia-Lithuania Agreement,
— Article 11 of the Croatia-Luxembourg Agreement,
— Article 10 of the Croatia-Malta Agreement,
— Article 5 of the Croatia-Netherlands Agreement,
— Article 11 of the Croatia-Poland Agreement,
— Article 19 of the Croatia-Portugal Agreement,
— Article 12 of the Croatia-Slovakia Agreement,
— Article 9 of the Croatia-Slovenia Agreement,
— Article 7 of the Croatia-Spain Agreement,
— Article 11 of the Croatia-Sweden Agreement,
— Article 7 of the Croatia-UK Agreement.

ANNEX III

List of other states referred to in Article 2 of this Agreement

(a) The Republic of Iceland (under the Agreement on the European Economic Area);

(b) The Principality of Liechtenstein (under the Agreement on the European Economic Area);

(c) The Kingdom of Norway (under the Agreement on the European Economic Area);

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