AGREEMENT

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

THE EUROPEAN COMMUNITY,

of the one part,

and

THE ORIENTAL REPUBLIC OF URUGUAY (hereinafter referred to as Uruguay),

of the other part,

(hereinafter referred to as the Parties),

NOTING that bilateral air service agreements have been signed between several Member States of the European Community and Uruguay containing provisions contrary to European Community law,

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 States providing for the possibility for the nationals of such third States 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 Uruguay, 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 Uruguay and to preserve the continuity of such air services,

NOTING that under European Community law air carriers may not, in principle, conclude agreements which may affect trade between Member States of the European Community and which have as their object or effect the prevention, restriction or distortion of competition,

RECOGNISING that, in the light of the above, provisions in bilateral air service agreements concluded between Member States of the European Community and Uruguay which (i) require or favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition between air carriers on the relevant routes; or (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to air carriers or other private economic operators the responsibility for taking measures that prevent, distort or restrict competition between air carriers on the relevant routes may render ineffective the competition rules applicable to undertakings,

NOTING that it is not a purpose of the European Community to affect the balance between Community air carriers and air carriers of Uruguay, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights,
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. ‘LACAC Member States’ shall mean Member States of the Latin American Civil Aviation Commission.

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.

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 and limitation of authorisations**

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 Uruguay, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively. The provisions in paragraphs 4 and 5 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 Uruguay, its authorisations and permissions granted by the Member State, 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, Uruguay shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

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

   (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, directly or through majority ownership, and it is effectively controlled by Member States and/or nationals of Member States, or by other States listed in Annex III and/or nationals of such other States.

3. Uruguay 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; or

   (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, or by other States listed in Annex III and/or nationals of such other States; or

   (iv) Uruguay demonstrates that, by exercising traffic rights under this Agreement on a route that includes a point in another Member State, the airline would be circumventing restrictions on traffic rights imposed by a bilateral agreement between Uruguay and that other Member State; or

   (v) the airline holds an Air Operators Certificate issued by a Member State and there is no bilateral air services agreement between Uruguay and that Member State, and traffic rights to that Member State have been denied to the air carrier designated by Uruguay.

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

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

   (i) the air carrier is established in the territory of Uruguay; and
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 Uruguay under the safety provisions of the agreement between the Member State that has designated the air carrier and Uruguay 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 authorisations 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 on a non-discriminatory basis taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated air carrier of Uruguay 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.

3. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex II(d) shall prevent Uruguay from imposing on a non-discriminatory basis taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated air carrier of a Member State that operates between a point in the territory of Uruguay and another point in the territory of Uruguay or in the territory of another LACAC 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 Uruguay 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. European Community law is applied in a non-discriminatory manner.

Article 6

Compatibility with competition rules

1. The bilateral air services agreements concluded between Member States and Uruguay shall not (i) require or favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition between air carriers on the relevant routes; or (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to air carriers or other private economic operators the responsibility for taking measures that prevent, distort or restrict competition between air carriers on the relevant routes.

2. The provisions listed in Annex II(f) shall not be applied in a way that would be incompatible with paragraph 1 of this Article.
Annexes to the Agreement

The Annexes to this Agreement form an integral part thereof.

Revision or amendment

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

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 contracting 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.

3. Agreements between Member States and Uruguay 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.

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, sign this Agreement.

Done at Montevideo in duplicate, on this third day of November, 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, and Swedish languages. In case of divergence the Spanish text shall prevail over the other language texts.
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 Europea
Za Európske spolocenstvo
Za Evropsko skupnost
Euroopan yhteisön puolesta
Für Europeiska gemenskapen

Por la República Oriental del Uruguay
Za Uruguayskou východní republiku
For Den Østlige Republik Uruguay
Für die Republik Ostlich des Uruguay
Uruguay Idavabariigi nimel
Για την Ανταλλακτική Δημοκρατία της Ουρουγουάης
For the Oriental Republic of Uruguay
Pour la République Orientale de l'Uruguay
Per la Repubblica orientale dell'Uruguay
Urugvajas Austrumu Republikas vārdā
Urugvajas Rytų Respublikos vardu
Az Uruguayi Keleti Köztársaság részéről
Ghar-Repubblika Orjentali ta’ l-Uruguay
Voor de Republiek ten oosten van de Uruguay
W imieniu Wschodniej Republiki Urugwaju
Pela República Oriental do Uruguai
Za Urugvajški východnú republiku
Za Vzhodno republiko Urugvaj
Uruguayn itäisen tasavallan puolesta
För Östliga Republiken Uruguay
ANNEX I

LIST OF AGREEMENTS REFERRED TO IN ARTICLE 1 OF THIS AGREEMENT

(a) Air service agreements between Uruguay 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:

— Agreement between the Oriental Republic of Uruguay and the Federal Republic of Germany on air transport, signed at Montevideo on 31 August 1957, hereinafter referred to as ‘Uruguay-Germany Agreement’ in Annex II.

  Last modified by the Agreement done at Bonn on 9 July 1997,

— Agreement between the Government of the Oriental Republic of Uruguay and the Government of the Kingdom of Belgium concerning air services, signed at Montevideo on 5 October 1972, hereinafter referred to as ‘Uruguay-Belgium Agreement’ in Annex II,

— Agreement between the Government of the Oriental Republic of Uruguay and the Government of the Kingdom of Denmark on air services, signed at Montevideo on 18 December 1981, hereinafter referred to as ‘Uruguay-Denmark Agreement’ in Annex II,

— Agreement between the Kingdom of Spain and the Oriental Republic of Uruguay on commercial air transport, signed at Montevideo on 13 August 1979, hereinafter referred to as ‘Uruguay-Spain Agreement’ in Annex II.

  Last Modified by the Agreement signed at Madrid on 21 October 2005,

— Air Transport Agreement between the Governments of the Kingdom of the Netherlands and the Oriental Republic of Uruguay, signed at The Hague on 21 November 1979, hereinafter referred to as ‘Uruguay-Netherlands Agreement’ in Annex II,

— Agreement between the Oriental Republic of Uruguay and the Portuguese Republic on air transport, as provided for in Annex II to the Memorandum of Understanding signed in Lisbon on 9 September 1998, hereinafter referred to as ‘Uruguay-Portugal Agreement’ in Annex II,


— Agreement between the Government of the Oriental Republic of Uruguay and the Government of the Kingdom of Sweden on air services, signed at Montevideo on 18 December 1981, hereinafter referred to as ‘Uruguay-Sweden Agreement’ in Annex II.

(b) Air service agreements and other arrangements initialled or signed between Uruguay 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:


— Draft Air Transport Agreement between the Kingdom of Spain and the Oriental Republic of Uruguay, as provided for in Annex to the Agreement signed at Madrid on 21 October 2005, hereinafter referred to as ‘Draft Revised Uruguay-Spain Agreement’ in Annex II.
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:
   — Article 3 of the Uruguay-Germany Agreement,
   — Article 3 of the Draft Uruguay-Austria Agreement,
   — Article 3 of the Uruguay-Belgium Agreement,
   — Article 3 of the Uruguay-Denmark Agreement,
   — Article 3 of the Uruguay-Spain Agreement,
   — Article 3 of the Draft Revised Uruguay-Spain Agreement,
   — Article 3 of the Uruguay-Netherlands Agreement,
   — Article 3 of the Uruguay-Portugal Agreement,
   — Article 4 of the Uruguay-United Kingdom Agreement,
   — Article 3 of the Uruguay-Sweden Agreement;

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:
   — Article 4 of the Uruguay-Germany Agreement,
   — Article 4 of the Draft Uruguay-Austria Agreement,
   — Article 3 of the Uruguay-Belgium Agreement,
   — Article 4 of the Uruguay-Denmark Agreement,
   — Article 4 of the Uruguay-Spain Agreement,
   — Article 4 of the Draft Revised Uruguay-Spain Agreement,
   — Article 5 of the Uruguay-Netherlands Agreement,
   — Article 4 of the Uruguay-Portugal Agreement,
   — Article 5 of the Uruguay-United Kingdom Agreement,
   — Article 4 of the Uruguay-Sweden Agreement;

(c) Safety:
   — Annex 3 to the Agreed Record signed at Bonn on 9 July 1997 — as applied provisionally in the framework of the Uruguay-Germany Agreement,
   — Article 17 of the Uruguay-Portugal Agreement,
   — Article 14 of the Uruguay-United Kingdom Agreement;

(d) Taxation of aviation fuel:
   — Article 6 of the Uruguay-Germany Agreement,
   — Article 7 of the Draft Uruguay-Austria Agreement,
   — Article 4 of the Uruguay-Belgium Agreement,
   — Article 9 of the Uruguay-Denmark Agreement,
   — Article 6 of the Uruguay-Spain Agreement,
   — Article 5 of the Draft Revised Uruguay-Spain Agreement,
   — Article 7 of the Uruguay-Netherlands Agreement,
   — Article 6 of the Uruguay-Portugal Agreement,
   — Article 8 of the Uruguay-United Kingdom Agreement,
   — Article 9 of the Uruguay-Sweden Agreement;
(c) Tariffs for carriage within the European Community:
   — Article 9 of the Uruguay-Germany Agreement,
   — Article 11 of the Draft Uruguay-Austria Agreement,
   — Article 9 of the Uruguay-Belgium Agreement,
   — Article 6 of the Uruguay-Denmark Agreement,
   — Article 7 of the Uruguay-Spain Agreement,
   — Article 12 of the Uruguay-Netherlands Agreement,
   — Article 16 of the Uruguay-Portugal Agreement,
   — Article 7 of the Uruguay-United Kingdom Agreement,
   — Article 6 of the Uruguay-Sweden Agreement;

(f) Compatibility with competition rules:
   — Article 9 of the Uruguay-Germany Agreement,
   — Article 11 of the Draft Uruguay-Austria Agreement,
   — Article 9 of the Uruguay-Belgium Agreement,
   — Article 6 of the Uruguay-Denmark Agreement,
   — Article 7 of the Uruguay-Spain Agreement,
   — Article 12 of the Uruguay-Netherlands Agreement,
   — Article 16 of the Uruguay-Portugal Agreement,
   — Article 6 of the Uruguay-Sweden Agreement.
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).