

**AGREEMENT****between the European Community and the Government of the Kyrgyz Republic on certain aspects of air services**

THE EUROPEAN COMMUNITY

of the one part, and

THE GOVERNMENT OF THE KYRGYZ REPUBLIC

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 the Kyrgyz Republic containing provisions contrary to 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 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 the Kyrgyz Republic, 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 the Kyrgyz Republic and to preserve the continuity of such air services,

RECOGNISING that provisions in bilateral air service agreements concluded between Member States of the European Community and the Kyrgyz Republic 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 in 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 in the relevant routes may render ineffective the competition rules applicable to undertakings,

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
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.
4. The granting of traffic rights continues to be carried out through already existing or future bilateral arrangements.

*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 the Kyrgyz Republic, 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, the Kyrgyz Republic 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 Operator's 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, and/or by other States listed in Annex III and/or nationals of such other States.

3. The Kyrgyz Republic 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 Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or

- (iii) the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled 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, the Kyrgyz Republic shall not discriminate between Community air carriers on the grounds of nationality.

*Article 3***Safety**

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions in 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 the Kyrgyz Republic under the safety provisions of the agreement between the Member State that has designated the air carrier and the Kyrgyz Republic 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, 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 the Kyrgyz Republic 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 corresponding provisions in the articles listed in Annex II(e).

2. The tariffs to be charged by the air carrier(s) designated by the Kyrgyz Republic 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*

##### **Compatibility with competition rules**

1. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex I shall (i) favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent or distort competition; (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to private economic operators the responsibility for taking measures that prevent, distort or restrict competition.

2. The provisions contained in the agreements listed in Annex I that are incompatible with paragraph 1 of this Article shall not be applied.

#### *Article 7*

##### **Annexes to the Agreement**

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

#### *Article 8*

##### **Revision or amendment**

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

#### *Article 9*

##### **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.

3. This Agreement shall apply to all Agreements and other arrangements between Member States and the Kyrgyz Republic listed in Annex I which, at the date of signature of this Agreement, have not yet entered into force, upon their entry into force or provisional application.

#### *Article 10*

##### **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 Brussels in duplicate, on this first day of June 2007 in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish, Russian and Kyrgyz languages.

За Европейската общност  
 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  
 Pentru Comunitatea Europeană  
 Za Európske spoločenstvo  
 Za Evropsko skupnost  
 Euroopan yhteisön puolesta  
 För Europeiska gemenskapen  
 Европа Шериктештиги үчүн  
 За Европейское Сообщество




За правителството на Република Киргизстан  
 Por el Gobierno de la República Kirguisa  
 Za vládu Kyrgyzské republiky  
 For Den Kirgisiske Republiks regering  
 Für die Regierung der Kirgisischen Republik  
 Kirgiisi Vabariigi valitsuse nimel  
 Για την Κυβέρνηση της Δημοκρατίας της Κιργιζίας  
 For the Government of the Kyrgyz Republic  
 Pour le gouvernement de la République kirghize  
 Per il governo della Repubblica del Kirghizistan  
 Kirgizstānas Republikas valdības vārdā  
 Kirgizijos Respublikos Vyriausybės vardu  
 A Kirgiz Köztársaság kormánya részéről  
 Ghall-Gvern Tar-Repubblica Kirgiža  
 Voor de Regering van de Republiek Kirgizië  
 W imieniu rządu Republiki Kirgiskiej  
 Pelo Governo da República do Quirguizistão  
 Pentru Guvernul Republicii Kârgâșstan  
 Za vládu Kirgizskej republiky  
 Za vlado Kirgiške republike  
 Kirgisian tasavallan hallituksen puolesta  
 För Republiken Kirgizistans regering  
 Кыргыз Республикасынын Өкмөтү үчүн  
 За Правительство Кыргызской Республики



## ANNEX I

**List of agreements referred to in Article 1 of this Agreement**

Air service agreements between the Kyrgyz Republic and Member States of the European Community which, at the date of signature of this Agreement, have been concluded, signed and/or initialled

- Air Transport Agreement between the Austrian Federal Government and the Government of the Kyrgyz Republic, done at Vienna on 17 March 1998, hereinafter referred to 'Kyrgyzstan — Austria Agreement' in Annex II,
- Air Services Agreement between the Government of the Czech Republic and the Government of the Kyrgyz Republic, done at Prague on 29 April 2004, hereinafter referred to 'Kyrgyzstan — Czech Republic Agreement' in Annex II,
- Agreement between the Government of the Federal Republic of Germany and the Government of the Kyrgyz Republic concerning air services, done at Bishkek on 13 May 1997, hereinafter referred to 'Kyrgyzstan — Germany Agreement' in Annex II,
- Air Services Agreement between the Government of the Kyrgyz Republic and the Government of the Hellenic Republic, done at Athens on 1 November 2004, hereinafter referred to 'Kyrgyzstan — Greece Agreement' in Annex II,
- Air Services Agreement between the Government of the Kyrgyz Republic and the Government of the Slovak Republic, initialled at Bishkek on 27 September 2006, hereinafter referred to 'Kyrgyzstan — Slovak Agreement' in Annex II,
- Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kyrgyz Republic concerning air services, done at London on 8 December 1994, hereinafter referred to 'Kyrgyzstan — United Kingdom Agreement' in Annex II.

Last modified by Memorandum of Understanding between Civil Aviation Authorities of the two countries done at London on 2 September 2003, hereinafter referred to 'Kyrgyzstan — United Kingdom MOU'.

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## 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, paragraph 5 of the Kyrgyzstan – Austria Agreement,
  - Article 3, paragraph 4 of the Kyrgyzstan – Czech Republic Agreement,
  - Article 3, paragraph 4 of the Kyrgyzstan – Germany Agreement,
  - Article 3, paragraph 2(a) of the Kyrgyzstan – Greece Agreement,
  - Article 4, paragraph 4 of the Kyrgyzstan – United Kingdom Agreement and Annex B, Article 4(a), of the Kyrgyzstan – United Kingdom MOU;
- (b) Refusal, revocation, suspension or limitation of authorisations or permissions:
- Article 4, paragraph 1(a) of the Kyrgyzstan – Austria Agreement,
  - Article 4, paragraph 1(b) of the Kyrgyzstan – Czech Republic Agreement,
  - Article 4, paragraph 1(a) of the Kyrgyzstan – Greece Agreement,
  - Article 5, paragraph 1(a) of the Kyrgyzstan – United Kingdom Agreement and Annex B, Article 5(1)(a), of the Kyrgyzstan – United Kingdom MOU;
- (c) Safety:
- Article 6 of the Kyrgyzstan – Austria Agreement,
  - Article 7 of the Kyrgyzstan – Czech Republic Agreement,
  - Article 12 of the Kyrgyzstan – Germany Agreement,
  - Article 8 of the Kyrgyzstan – Greece Agreement,
  - Annex B, Article 13 a of the Kyrgyzstan – United Kingdom MOU;
- (d) Taxation of aviation fuel:
- Article 7 of the Kyrgyzstan – Austria Agreement,
  - Article 8 of the Kyrgyzstan – Czech Republic Agreement,
  - Article 6 of the Kyrgyzstan – Germany Agreement,
  - Article 9 of the Kyrgyzstan – Greece Agreement,
  - Article 9 of the Kyrgyzstan – Slovak Agreement,
  - Article 8 of the Kyrgyzstan – United Kingdom Agreement;
- (e) Tariffs for carriage within the European Community:
- Article 11 of the Kyrgyzstan – Austria Agreement,
  - Article 12 of the Kyrgyzstan – Czech Republic Agreement,
  - Article 10 of the Kyrgyzstan – Germany Agreement,
  - Article 13 of the Kyrgyzstan – Greece Agreement,
  - Article 7 of the Kyrgyzstan – United Kingdom Agreement; and Annex B, Article 7 of the Kyrgyzstan – United Kingdom MOU.
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*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).
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