

AIR TRANSPORT AGREEMENT BETWEEN THE PORTUGUESE REPUBLIC AND UKRAINE

The PORTUGUESE REPUBLIC and UKRAINE, hereinafter referred to as "the Parties",

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944;

Considering that the Portuguese Republic is a Member State of the European Community;

Desiring to organize, in a safe and orderly manner, international air services and to promote in the greatest possible measure international cooperation in respect of such services; and

Desiring to conclude an Agreement for the purpose of establishing scheduled air services between and beyond their territories;

Agree as follows:

ARTICLE 1 DEFINITION

For the purpose of this Agreement, unless otherwise stated:

a) The term "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944, including any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof, so far as those Annexes and amendments have been adopted by both Parties;

b) The term "aeronautical authorities" means, in the case of the Portuguese Republic the National Institute of Civil Aviation, and in the case of Ukraine the Ministry of Transport and Communications or, in both cases, any person or

body authorized to perform any functions at present exercised by the said authorities or similar functions;

c) The term "designated airline" means any airline, which has been designated and authorised in accordance with Article 3 of this Agreement;

d) The term "territory" has the meaning assigned to it in Article 2 of the Convention;

e) The terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings assigned to them in Article 96 of the Convention;

f) The term "tariff" means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, including prices and conditions for agency and other ancillary services, but excluding remuneration or conditions for the carriage of mail;

g) The term "Agreement" means this Agreement, its Annexes and any amendments thereto;

h) The term "standard" means any specifications for physical characteristics, configurations, material, performance, personnel or procedure, and such other matters referred to in Article 37 of the Convention, the uniform application of which is recognized as necessary for the safety, regularity or efficiency of international air navigation and to which the Parties will conform in accordance with the Convention; in the event of impossibility of compliance, notification to the Council of the International Civil Aviation Organization is compulsory under Article 38 of the Convention.

i) The term "effective regulatory control",

- (i)** in the case of the Portuguese Republic, is predicated upon but is not limited to: the air carrier holds a valid Operating Licence issued by the competent authorities, and meets the criteria for the operation of international air services established by the competent authorities, such as proof of financial fitness, ability to meet, where relevant, public interest requirement, obligations for assurance of service, etc., and the licensing European Community

Member State has and maintains aviation safety and security oversight programs in compliance with standards of the International Civil Aviation Organization at least;

- (ii) in the case of Ukraine, means a relationship constituted by rights, contracts which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an airline or otherwise confer a decisive influence on the running of the business of an airline.

j) The term “Operating Licence”,

- (i) in the case of the Portuguese Republic means an authorization granted by the Member State of the European Community responsible to an undertaking, permitting the airline to carry out carriage by air of passengers, baggage, mail and/or cargo, as stated in the Operating Licence for remuneration and/or hire;
- (ii) and in the case of Ukraine means an authorization granted by the aeronautical authorities of Ukraine permitting the designated airline to provide carriage by air of passengers, baggage, mail and/or cargo, as stated in the licence for remuneration and/or hire.

k) The term “Air Operator’s Certificate” means a document issued to an airline by the competent authorities which affirms that the airline in question has the professional ability and organization to secure the safe operation of aircraft for the aviation activities specified in the certificate.

l) The term “Agreed Services” means scheduled international air services on the routes specified in the appropriate section of Annex 1 to this Agreement for the transport of passengers, cargo and mail, separately or in combination;

m) The term “Specified Route” means any route specified in the appropriate section of Annex 1 to this Agreement.

ARTICLE 2 GRANT OF RIGHTS

1. Each Party grants to the designated airlines of the other Party the following rights in respect of its international air services:

- a) The right to fly across its territory without landing;
- b) The right to make stops in its territory for non-traffic purposes; and
- c) The right to make stops in its territory at the points specified for that route in the Annex 1 to this Agreement for the purpose of taking on board and disembarking passengers, baggage, cargo and mail.

2 Nothing in paragraph 1 of this Article shall be deemed to confer on the designated airlines of one Party the right of embarking, in the territory of the other Party, traffic carried for remuneration or hire and destined for another point in the territory of that Party.

3 If the designated airlines of one Party are unable to operate services on its normal routing because of armed conflict, political disturbances, or unusual circumstances the other Party shall make its best efforts to facilitate the continued operation of such service through appropriate rearrangements of such routes, including the grant of rights for such time as may be necessary to facilitate viable operations. The provisions of this norm shall be applied without discrimination between the designated airlines of the Parties.

ARTICLE 3 DESIGNATION AND OPERATING AUTHORIZATION OF AIRLINES

1. Each Party shall have the right to designate two airlines for the purpose of operating the agreed services on the routes specified in the Annex 1 to this Agreement and to withdraw or alter such designations. Those designations shall be transmitted to the other Party through diplomatic channels.

2. On receipt of such a designation, and of applications from the designated airline, in the form and manner prescribed for operating authorizations and technical permissions, the other Party shall grant the appropriate authorizations and permissions with minimum procedural delay, provided that:

a) In the case of an airline designated by the Portuguese Republic:

- (i)** It is established in the territory of the Portuguese Republic under the Treaty establishing the European Community and has a valid Operating Licence in accordance with European Community law; and
- (ii)** Effective regulatory control of the airline is exercised and maintained by the European Community Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and
- (iii)** It is owned, directly or through majority ownership, and it is effectively controlled by Member States of the European Community and/or nationals of Member States of the European Community, and/or by other states listed in Annex 2 to this Agreement and/or nationals of such other states;

b) In the case of an airline designated by Ukraine:

- (i)** It is established in the territory of Ukraine and has a valid Operating Licence in accordance with its national legislation in force;
- (ii)** Ukraine exercises and maintains effective regulatory control of the airline; and
- (iii)** It is owned, directly or through majority ownership, and it is effectively controlled by Ukraine and/or nationals of Ukraine;

c) The designated airline is qualified to meet the conditions prescribed under the legislation normally applied to the operation of international air services by the Party considering the application or applications.

3. When an airline has been so designated and authorized it may begin to operate the agreed services provided that the airline complies with the applicable provisions of this Agreement.

ARTICLE 4
WITHHOLDING, REVOCATION, SUSPENSION OR LIMITATION OF OPERATING
AUTHORIZATIONS

1. Each Party shall have the right to withhold, revoke, suspend or limit the operating authorizations or technical permissions of an airline designated by the other Party, or to impose conditions on such authorizations as it may deem necessary on the exercise by a designated airline of the rights specified in Article 2 of this Agreement, where:

a) In the case of an airline designated by the Portuguese Republic:

- (i)** It is not established in the territory of the Portuguese Republic under the Treaty establishing the European Community or does not have a valid Operating Licence in accordance with European Community law; or
- (ii)** Effective regulatory control of the designated airline is not exercised or not maintained by the European Community Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or
- (iii)** It is not owned, directly or through majority ownership, or it is not effectively controlled by Member States of the European Community and/or nationals of Member States of the European Community, and/or by other states listed in Annex 2 to this Agreement and/or nationals of such other states;

b) In the case of an airline designated by Ukraine:

- (i)** It is not established in the territory of Ukraine or does not have a valid Operating Licence in accordance with its national legislation; or
- (ii)** Ukraine does not have or maintain effective regulatory control of the airline; or

- (iii)** It is not owned, directly or through majority ownership, and it is not effectively controlled by Ukraine and/or nationals of Ukraine;
- c)** In the case the designated airline fails to meet the conditions prescribed under the legislation normally applied to the operation of international air services by the Party considering the application or applications; or
- d)** In the case of failure by such airline to comply with the legislation in force of the Party granting these rights; or
- e)** In the case the airline fails to operate the agreed services in accordance with the conditions prescribed under this Agreement; or
- f)** In the case of failure by the other Party to take appropriate action to improve safety in accordance with paragraph 2 of Article 15 and security in accordance with paragraph 7 of Article 14 of this Agreement.

2. Unless immediate action is essential to prevent infringement of the provisions mentioned in paragraph 1 of this Article, the rights established by this Article shall be exercised only after consultation with the Parties. The consultation shall begin within thirty (30) days after the date of receipt of the request by the other Party, unless otherwise agreed by the Parties.

ARTICLE 5 LAWS AND REGULATIONS

1. The legislation in force and procedures of one Party relating to the admission to, sojourn in, or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of both Parties upon entering into or departing from or while within the territory of the first Party.

2. The legislation in force and procedures of one Party relating to the admission to, sojourn in, or departure from its territory of passengers, crew, baggage, cargo and mail transported on board the aircraft, such as legislation and regulations relating to entry, clearance, immigration, passports, customs and sanitary control shall be complied with by the airline of the other Party or on behalf of such passengers, crew, entity entitled of baggage, cargo and mail upon entrance into or departure from or while within the territory of this Party.

3. Neither Party may grant any preference to its own airline with regard to the designated airlines of the other Party in the application of the legislation provided for in this Article.

ARTICLE 6 CUSTOMS DUTIES AND OTHER CHARGES

1. Aircraft operating on international services by the designated airlines of either Party, as well as their regular equipment, spare parts, supplies of fuels and lubricants, other consumable technical supplies and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempted from custom duties, inspection fees and other duties or taxes on arriving in the territory of the other Party, provided such equipment, supplies and aircraft stores remain on board the aircraft up to such time as they are re-exported, or are used on the part of the flight performed over that territory.

The relevant transport documents of the designated airlines of either Party including air tickets, airway bills as well as advertising materials introduced in the territory of the other Party, shall be exempted from custom duties, inspection fees and other duties or taxes, in accordance with the legislation in force and procedures applied by each Party.

2. There shall also be exempt from the same duties, fees and taxes, with the exception of charges corresponding to the service performed:

- a) Aircraft stores taken on board in the territory of either Party, within limits fixed by the authorities of one Party, and for use on board outbound aircraft engaged in international air services by the designated airlines of the other Party;
- b) Spare parts and regular equipment entered into the territory of either Party for the maintenance or repair of aircraft used on international air services by the designated airlines of the other Party;
- c) Fuel lubricants and other consumable technical supplies destined to supply outbound aircraft operated on international air services by the designated airlines of the other Party, even when these supplies are to be used on the part of the flight performed over the territory of the Party in which they are taken aboard.

3. All materials referred to in paragraph 2 of this Article may be required to be kept under the supervision or control of the customs authorities.

4. The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of the designated airlines of either Party, may be unloaded in the territory of the other Party only with the approval of the customs authorities of that Party. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

5. The exemptions provided for by this Article shall also be available in situations where the designated airlines of either Party have entered into arrangements with another airline or airlines for the loan or transfer in the territory of the other Party of the items specified in paragraphs 1 and 2 of this Article, provided such other airline or airlines similarly enjoy such exemptions from the other Party.

6. Nothing in this Agreement shall prevent the Portuguese Republic 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 airline of Ukraine that operates between a point in the territory of the Portuguese Republic and another point in the territory of the Portuguese Republic or in the territory of another European Community Member State.

ARTICLE 7 USER CHARGES

1. Each Party may impose or permit to be imposed just and reasonable charges for the use of airports, other facilities and air services under its control.

2. Neither Party shall impose or permit to be imposed upon the designated airlines of the other Party user charges higher than those imposed on its own airlines engaged in similar international air services.

3. Such charges shall be just and reasonable and shall be based on sound economic principles.

4. Each Party shall encourage consultations between airports and/or air navigation service providers and the designated airlines, using the services and facilities, and, as far as possible through the airlines' representative organizations.

Reasonable notice of any proposals for changes in user charges shall be given to users to enable them to express their views before changes are made.

ARTICLE 8 DIRECT TRANSIT

Traffic in direct transit across the territory of either Party and not leaving the area of the airport reserved for such purpose shall, except in respect of security measures against the threat of unlawful interference, such as violence and air piracy and measures for the combat of illicit drug traffic, be subject to no more than a simplified control. Baggage and cargo in direct transit shall be exempted from custom duties, charges and other similar taxes.

ARTICLE 9 RECOGNITION OF CERTIFICATES AND LICENCES

1. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Party and still in force, shall be recognized as valid by the other Party for the purpose of operating the agreed services, provided that the requirements under which such certificates and licences were issued, or rendered valid, are equal to or above the minimum standards which are established or may be established pursuant to the Convention.

2. The provisions of paragraph 1 of this Article also apply with respect to an airline designated by the Portuguese Republic whose effective regulatory control is exercised and maintained by another European Community Member State.

3. Each Party, however, reserves the right to refuse to recognize as valid, for the purpose of flights above its territory, certificates of competency and licences granted or validated to its own nationals by the other Party or by any other State.

ARTICLE 10 COMMERCIAL REPRESENTATION

1. The designated airlines of each Party are granted the right:
 - a) To establish in the territory of the other Party offices for the promotion of air transportation and sale of air tickets as well as, in accordance with the

legislation in force of such other Party, other facilities required for the provision of air transportation; and

- b) To bring in to and to maintain in the territory of the other Party, in accordance with the legislation in force of such other Party relating to entry, residence and employment, managerial, sales, technical, operational and other specialist staff that are required for the provision of air transportation; and
- c) In the territory of the other Party to engage directly and, at the airlines discretion, through its agents in the sale of air transportation.

2. The competent authorities of each Party will take all necessary steps to ensure that the representation of the airlines designated by the other Party may exercise their activities in an orderly manner.

ARTICLE 11

COMMERCIAL ACTIVITIES, CONVERSION AND TRANSFER OF REVENUES

1. The designated airlines of each Party shall have the right to sell air transportation in the territory of the other Party, directly or through agents, in local currency or, in freely convertible currencies of other countries in accordance with the applicable legislation, and any person shall be free to purchase such transportation

2. Each Party grants to the designated airlines of the other Party the right of free transfer at the official rate of exchange, of the excess of receipts over expenditures achieved in connection with the carriage of passengers, baggage, cargo and mail on the agreed services in the territory of the other Party.

ARTICLE 12

CAPACITY

1. There shall be fair and equal opportunity for the designated airlines of both Parties to operate the agreed services on the specified routes.

2. In operating the agreed services, the designated airlines of each Party shall take into account the interests of the designated airlines of the other Party so as not to affect unduly the services, which the latter provides on the whole or part of the same route.

3. The agreed services provided by the designated airlines of the Parties shall bear a close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated traffic requirements, including seasonal variations for the carriage of passengers, baggage, cargo and mail, embarked or disembarked in the territory of the Party which has designated the airlines.

4. Provision for the carriage of passengers, baggage, cargo and mail embarked in the territory of the other Party and disembarked at points in third countries on the specified routes or vice versa shall be made in accordance with the general principles that capacity shall be related to:

- a) The requirements of traffic embarked or disembarked in the territory of the Party, which has designated the airline;
- b) The requirements of traffic of the area through which the airline passes, after taking account of the other air transport services established by airlines of the States situated in the area; and
- c) The requirements of through airline operations.

5. The frequency and capacity shall be subject to the approval of the aeronautical authorities of both Parties.

6. In the event that the aeronautical authorities of the Parties do not approve the capacity to be offered, the matter shall be dealt with in accordance with Article 18 of this Agreement.

7. If the aeronautical authorities of the Parties fail to agree on the capacity to be provided under paragraph 5 of this Article, the capacity that may be provided by the designated airlines of the Parties shall not exceed the total capacity, including seasonal variations, previously agreed to be provided.

ARTICLE 13

APPROVAL OF CONDITIONS OF OPERATION

The airlines designated by one Party shall submit for approval or notification as provided in Article 12 of this Agreement to the aeronautical authorities of the other

Party, the flight scheduled of the agreed services and the conditions of their operation at least thirty (30) days before the intended date of their inauguration. Any significant modification to such flight schedules or conditions of their operation shall also be submitted to the aeronautical authorities for approval. In special cases, the above set time limit may be reduced subject to the agreement of the said authorities.

ARTICLE 14 SECURITY

1. In accordance with their rights and obligations under international law, the Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Parties shall act, in particular, in conformity with the provisions of the Convention on Offences and Certain other Acts Committed on Board Aircraft done at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991, as well as any other international agreement relating to the security of civil aviation which both Parties adhere to.

2. The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, its passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

3. When an incident or threat of an incident of unlawful seizure of civil aircraft or other acts of unlawful interference against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate as rapidly and safely such incident or threat thereof.

4. Each Party shall take measures, as it may find practicable, to ensure that an aircraft subjected to an act of unlawful seizure or other acts of unlawful interference which has landed in its territory is detained on the ground unless its departure is

necessitated by the overriding duty to protect human life. Wherever practicable, such measures shall be taken on the basis of mutual consultations.

5. The Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention to the extent that such security provisions are applicable to the Parties.

6. Each Party agrees that the designated airlines shall be required to observe the aviation security provisions referred to in paragraph 5 of this Article applied by the other Party for entry into, departure from, or while within, the territory of that other Party. For departure from, or while within, the territory of the Portuguese Republic, designated airlines shall be required to observe aviation security provisions in conformity with European Community law. For departure from, or while within, the territory of Ukraine, designated airlines shall be required to observe aviation security provisions in conformity with its national legislation in force. Each Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crews, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Party shall also give due consideration to any request from the other Party for reasonable special security measures to meet a particular threat.

7. When a Party has reasonable grounds to believe that the other Party has departed from the provisions of this Article, the first Party may request consultations. Such consultations shall start within fifteen (15) days of receipt of such a request from either Party. Failure to reach satisfactory agreement within fifteen (15) days from the start of consultations shall constitute grounds for withholding, revoking, suspending or imposing conditions on the operating authorizations of the airline or airlines designated by the other Party. When justified by an emergency, or to prevent further non-compliance with the provisions of this Article, the first Party may take interim action at any time.

ARTICLE 15 SAFETY

1. Each Party may request consultations with the other Party at any time concerning safety standards in any area relating to aeronautical facilities, aircrew, aircraft or their operation adopted by the other Party. Such consultations shall take place within thirty (30) days of the receipt that request.

2. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Convention, the first Party shall notify the other Party of those findings and the steps considered necessary to conform with those standards and that other Party shall take appropriate corrective action. Failure by the other Party to take appropriate action within fifteen (15) days or such longer period as may be agreed, shall constitute grounds for the application of Article 4 of this Agreement.

3. As provided for in Article 16 of the Convention the Parties agreed that the aircraft operated by the designated airlines of one Party on services to or from the territory of the other Party, may, while within the territory of the other Party, be the subject of a search by the authorized representatives of the aeronautical authorities of the other Party (in this Article called "ramp inspection"), provided this does not cause unreasonable delay in the operation of the aircraft. Recognizing the validity of the aircraft documentation, the licences of its crew pursuant to Article 33 of the Convention, the mentioned documents and licences, the condition of an aircraft and its equipment may be subject to verifying of their conformity to the safety standards established at that time, pursuant to the Convention while the search.

4. If any ramp inspection or series of ramp inspections give rise to:

a) Serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention; or

b) Serious concerns that there is a lack of effective maintenance and administration of the safety standards established at that time pursuant to the Convention,

the Party carrying out the inspection shall, for the purposes of Article 33 of the Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid, or that the requirements under which that aircraft is operated, are not equal to or above the minimum standards pursuant to the Convention.

5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by a designated airline of one Party in accordance with paragraph 3 of this Article is denied by the representative of that designated airline, the other Party shall be free to infer that serious concerns of the type referred to in paragraph 4 of this Article exist.

6. Each Party reserves the right to suspend or vary the operating authorization of the designated airline of the other Party immediately in the event the first Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of the airlines' operation.

7. Any action by one Party in relation to the designated airline of the other Party, accordance with paragraph 2 or 6 of this Article, shall be discontinued once the basis for taking that action ceases to exist.

8. With reference to paragraph 2 of this Article, if it is determined that one Party remains in non-compliance with the International Civil Aviation Organization standards when the agreed time period has lapsed, the Secretary General of the International Civil Aviation Organization and the European Air Safety Agency should be advised thereof. The latter should also be advised of the subsequent satisfactory resolution of the situation.

9. If the Portuguese Republic has designated an airline whose effective regulatory control is exercised and maintained by another Member State of the European Community, than that another Member State of the European Community shall be individually responsible for adoption, exercising and compliance of safety standards and the rights of Ukraine under this Article shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State of the European Community and in respect of the operating authorization of that airline.

ARTICLE 16

PROVISION OF STATISTICS

The aeronautical authorities of one Party shall supply to the aeronautical authorities of the other Party, at their request, with such statistics as may be reasonably required for information purposes.

ARTICLE 17 TARIFFS

1. The tariffs on any agreed service shall be established by the designated airlines at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit and characteristics of service. The aeronautical authorities of the Parties shall consider unacceptable tariffs that are discriminatory, unduly high or restrictive because of the abuse of a dominant position, or artificially low because of direct or indirect subsidy or support, or are predatory.

2. The aeronautical authorities of each Party may require notification and filing of tariffs for carriage on passenger air services operated pursuant to this Agreement by a designated airline between points in the Portuguese Republic and points in Ukraine.

3. Intervention by the aeronautical authorities of the Parties shall be limited to:

- a) The prevention of unreasonably low or discriminatory tariffs or practices;
or
- b) The protection of consumers from tariffs that are unreasonably high or unreasonably restrictive due either to the abuse of a dominant position or to concerted practices among airlines; or
- c) The protection of airlines from tariffs that are artificially low because of direct or indirect governmental subsidy or support.

4. If the aeronautical authorities of either Party believe that any such tariff is inconsistent with the considerations set out in paragraph 3 of this Article, they shall send appropriate notice to the designated airline in question. The aeronautical authority sending this notice may request consultations with the aeronautical authorities of the other Party, and in doing so shall notify the other Party of the reasons for its dissatisfaction. Such consultations shall be held not later than fourteen (14) days after receipt of the request. If no agreement is reached, the decision of the aeronautical authorities of the Party where travel originated shall prevail. The aeronautical authorities of this Party may use the rights specified in Article 4 of this Agreement.

5. Notwithstanding the provisions of this Article, the tariffs to be charged by the designated airlines of both Parties for carriage wholly within the European Community shall be subject to European Community law.

ARTICLE 18 CONSULTATIONS

1. In order to ensure close cooperation concerning all the issues related to the interpretation and application of this Agreement, the aeronautical authorities of each Party shall consult each other on request of either Party.

2. Such consultations shall begin within a period of forty five (45) days from the date the other Party has received the written request.

ARTICLE 19 AMENDMENTS

1. If either Party considers it desirable to amend any provision of this Agreement, it may at any time request consultation to the other Party. Such consultation, shall begin within a period of sixty (60) days from the date the other Party has received the written request.

2. Any amendment to this Agreement shall be made through a legal instrument which shall enter into force pursuant to Article 21 of this Agreement.

ARTICLE 20 SETTLEMENT OF DISPUTES

1. Disputes relating to the interpretation or application of the provisions of this Agreement shall be settled by negotiations between the Parties.

2. If the Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some entity, or the dispute may at the request of either Party be submitted for decision to an arbitral tribunal of three arbitrators, one to be nominated by each Party and the third to be appointed by the two so nominated.

3. Each of the Parties shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Party from the other of a notice through

diplomatic channels requesting arbitration, and the third arbitrator shall be appointed within a further period of sixty (60) days.

4. If either of the Parties fails to nominate an arbitrator within the period specified or the third arbitrator is not appointed, the President of the Council of the International Civil Aviation Organization may be requested by either Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third State and shall act as president of the arbitral body.

5. The Parties undertake to comply with any decision given under paragraph 2 of this Article.

6. If and so long as either Party or the designated airlines of either Party fail to comply with the decision given under paragraph 2 of this Article, the other Party may limit, suspend or revoke any rights or privileges which it has granted by virtue of this Agreement to the Party in default.

7. Each Party shall pay the expenses of the arbitrator it has nominated. The remaining expenses of the arbitral tribunal shall be shared equally by the Parties.

ARTICLE 21 ENTRY INTO FORCE

This Agreement shall enter into force on the thirtieth day after the date of the receipt of the last notification by the Parties, through diplomatic channels, on the completion of internal legal procedures necessary for entry into force of this Agreement.

ARTICLE 22 DURATION AND TERMINATION

1. This Agreement shall remain in force for an undetermined period;
2. Each Party may, at any time, terminate this Agreement;
3. The termination must be notified to the other Party and, simultaneously, to the International Civil Aviation Organisation, producing its effects twelve (12) months after the receipt of the notification by the other Party.

4. In case of failure of information to the other Party of the receipt of the notification, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organisation.

ARTICLE 23 REGISTRATION

This Agreement and any amendment thereto shall be registered with the Secretary General of the United Nations and the International Civil Aviation Organization by the Party in the territory of which the signature will take place.

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

Done at Lisbon this 24th day of June two thousand and eight, in duplicate in the Portuguese, Ukrainian and English languages, all the texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE PORTUGUESE REPUBLIC

Luís Amado
Minister of State and Foreign Affairs

FOR UKRAINE

Volodymyr Gryzko
Minister of Foreign Affairs

**ANNEX 1
TO THE AIR TRANSPORT AGREEMENT
BETWEEN THE PORTUGUESE REPUBLIC
AND UKRAINE**

Section 1

Routes to be operated in both directions by the designated airlines of the Portuguese Republic:

Points in Portugal – intermediate points – Kyiv – points beyond

Section 2

Routes to be operated in both directions by the designated airlines of the Ukraine:

Points in Ukraine - intermediate points – Lisbon – points beyond

Notes

1. The designated airlines of each Party may on any or all flights omit stops at any of the intermediate points and/or points beyond mentioned above provided that the agreed services on the route begin or end in the territory of the Party which has designated the airline.
2. The designated airlines of each Party may select any intermediate points and/or points beyond at its own choice and such points may be changed in the next season on condition that no traffic rights are exercised between those points and the territory of the other Party, subject to preliminary agreement between the aeronautical authorities of both Parties.
3. The exercise of the fifth freedom traffic rights on the specified intermediate points and/or points beyond shall be subject to agreement between the aeronautical authorities of both Parties.

**ANNEX 2
TO THE AIR TRANSPORT AGREEMENT
BETWEEN THE PORTUGUESE REPUBLIC
AND UKRAINE**

List of other States referred to in Article 3 and Article 4 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).