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VEDLEGG 18

Annex Q. Air transport (Art. 29)

Article 1

Scope

This Annex sets out rules for the Member States in the field of air transport and shall apply to the extent that they concern air transport or matters directly related to air transport as mentioned in the Appendix to this Annex.

Article 2

Non-discrimination

Within the scope of this Annex, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

Article 3

Freedom of establishment

Within the scope of this Annex and without prejudice to the provisions of Council Regulation (EEC) No 2407/92, as included in the Appendix to this Annex, there shall be no restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State. This shall also apply to the setting up of agencies, branches and subsidiaries by nationals of a Member State established in the territory of another Member State. Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of paragraph 2 of Article 4 under the conditions laid down for its own nationals by the law of the State where such establishment is effected.

The provisions of this Article shall apply to the extent that no restrictions exist according to Annexes L and M and the Protocol to Annex K on movement of persons between Liechtenstein and Switzerland.

Article 4

Companies or firms

Within the scope of this Annex, companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business in the territory of Member State shall be treated in the same way as natural persons who are nationals of a Member State.

«Companies or firms» means companies or firms constituted under civil or commercial law, including co-operative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

Article 5

Exceptions

Articles 3 and 4 shall not apply, as far as a Member State is concerned, to activities which in that Member State are connected, even occasionally, with the exercise of official authority.

Articles 3 and 4 and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

Article 6

State aid

Save as otherwise provided in this Annex, any aid granted by one or several Member States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with this Annex.

The following shall be compatible with this Annex:

aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;

aid to make good the damage caused by natural disasters or exceptional occurrences.

The following may be considered to be compatible with this Annex:

aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious under-employment;

aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

Article 7

Surveillance

The competent authorities shall keep under constant review all systems of aid existing respectively in the Member State concerned. Each Member State shall ensure that the other Member States are informed of any procedure initiated to guarantee respect of the rules of Article 6 and, if necessary, may submit observations before any final decision is taken. Upon request by one Member State, the Council shall discuss any appropriate measures required by the purpose and functioning of this Annex.

Article 8

Existing bilateral agreements

The provisions concerning traffic rights, referred to in the Appendix, supersede the relevant provisions of existing bilateral arrangements between the Member States. However, existing traffic rights which originate from these bilateral arrangements and which are not covered under these provisions can continue to be exercised, provided that there is no discrimination on the grounds of nationality and competition is not distorted.

Without prejudice to paragraph 1, this Annex shall supersede the relevant provisions of bilateral arrangements in force between the Member States concerning any matter covered by this Annex.

Article 9

Committee

The Council shall establish a Committee on air transport, which shall be responsible for the management and proper application of this Annex.

For this purpose, the Committee shall make recommendations.

It may in particular recommend to the Council to amend the provisions of the Appendix.

For the purpose of the proper implementation of this Annex, the Member States shall exchange information and, at the request of one Member State, shall hold consultations within the Committee.

Article 10

Acquired rights

In the event of termination of this Convention or the withdrawal of a Member State, air services operated at the date of the expiry of the Convention or when the secession becomes effective may continue until the end of the scheduling season into which that date falls.

The rights and obligations acquired by undertakings by virtue of Articles 3 and 4 of this Annex and of the rules of Council Regulation (EEC) No 2407/92 as included in the Appendix to this Annex, shall not be affected by the termination of or withdrawal from this Convention.

Appendix

For the purposes of this Appendix:

wherever acts referred to in this Appendix contain references to Member States of the European Community, or a requirement for a link with the latter, the references shall, for the purpose of the Annex, be understood to apply equally to the Member States or to the requirement of a link with one of the Member States;

the term «Community air carrier» referred to in the following Community directives and regulations shall be understood to mean an air carrier which is licensed and has its principal place of business and, if any, its registered office in one of the Member States according to the provisions of Council Regulation (EEC) No 2407/92.

Insofar as the application of the Annex involves common concepts of the legal instruments referred to in this Appendix, account shall be taken of relevant case-law prior to 21 June 1999. In order to ensure the good functioning of this Annex, the Council shall, at the request of any Member State, determine the implications of case-law after 21 June 1999.

*Third aviation package of liberalisation and other civil aviation rules **No 2407/92***

Council Regulation of 23 July 1992 on licensing of air carriers.

(Articles 1-18; as regards the application of Article 13(3), the reference to Article 169 of the EC Treaty shall be understood to mean a reference to the applicable procedures of this Annex) **No 2408/92**

Council Regulation of 23 July 1992 on access for Community air carriers to intra-Community air routes.

(Articles 1-10, 12-15)

The provisions of the Regulation shall, or the purposes of this Convention, be read with the following adaptation:

The Annexes to the Regulation shall include only airports in the EFTA States. **No 2409/92**

Council Regulation of 23 July 1992 on fares and rates for air services.

(Articles 1-11) **No 295/91**

Council Regulation of 4 February 1991 establishing common rules for a denied oarding compensation system in scheduled air transport.

(Articles 1-9) **No 2299/89**

Council Regulation of 24 July 1989 introducing a code of conduct for computer reservation systems, as amended by Council Regulation No 3089/93.

(Articles 1-22) **No 3089/93**

Council Regulation of 29 October 1993 amending Regulation (EEC) No 2299/89 on a code of conduct for computerised reservation systems.

(Article 1) **No 80/51**

Council Directive of 20 December 1979 on the limitation of noise emissions from subsonic aircraft, as amended by Directive 83/206/EEC.

(Articles 1-9) No 89/629

Council Directive of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes.

(Articles 1-8) No 92/14

Council Directive of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume I of Annex 16 to the Convention of International Civil Aviation, second edition (1988).

(Articles 1-11) No 91/670

Council Directive of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation.

(Articles 1-8)

No 95/93

Council Regulation of 18 January 1993 on common rules for the allocation of slots at Community airports.

(Articles 1-12) No 96/67

Council Directive of 15 October 1996 on access to the groundhandling market at Community airports.

(Articles 1-9, 11-23, 25) No 2027/97

Council Regulation of 9 October 1997 on air carrier liability in the event of accidents.

(Articles 1-8) No 323/1999

Council Regulation of 8 February 1999 amending Regulation (EEC) No 2299/89 on a code of conduct for computer reservation systems (CRSs).

(Articles 1 and 2)

Technical Harmonisation No 3922/91

Council Regulation of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation.

(Articles 1-3, 4(2), 5-11, 13) No 93/65

Council Directive of 19 July 1993 on the definition and the use of compatible technical and operating specifications for the procurement of air traffic management equipment and systems.

(Articles 1-5, 7-10)

The provisions of the Directive shall, for the purposes of this Convention, be read with the following adaptation:

The Annex should be adapted to include organisations in the EFTA States covered by Article 5. **No 97/15**

Commission Directive of 25 March 1997 adopting Eurocontrol standards and amending Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air-traffic-management equipment and systems.

(Articles 1-4, 6)

Air Safety No 94/56

Council Directive of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents.

(Articles 1-13)

Others No 90/314

Council Directive of 13 June 1990 on package travel, package holidays and package tours.

(Articles 1-10) **No 93/13**

Council Directive of 5 April 1993 on unfair terms in consumer contracts.

(Articles 1-11)