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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community - Outcome of the European Parliament's first reading (Brussels, 28-29 November 2018)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Claudia ȚAPARDEL (S&D, RO) presented a compromise amendment (amendment 3) to the proposal for a Regulation on behalf of the Committee on Transport and Tourism. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 29 November 2018, the plenary adopted the compromise amendment (amendment 3) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Common rules for the operation of air services *I**

European Parliament legislative resolution of 29 November 2018 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community (COM(2016)0818 – C8-0531/2016 – 2016/0411(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0818),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0531/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 5 July 2017³,
 - after consulting the Committee of the Regions,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 23 October 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A8-0150/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ OJ C 345, 13.10.2017, p. 126.

Position of the European Parliament adopted at first reading on 29 November 2018 with a view to the adoption of Regulation (EU) 2018/... of the European Parliament and of the Council amending Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁵,

Whereas:

⁴ OJ C 345, 13.10.2017, p. 126.

⁵ Position of the European Parliament of 29 November 2018.

- (1) Regulation (EC) No 1008/2008 includes provisions allowing lease agreements for aircraft registered in third countries, in particular wet lease agreements.
- (2) Those agreements are permitted in exceptional circumstances, such as in the case of a lack of adequate aircraft in the Union market. They should be strictly limited in time and should fulfil safety standards equivalent to the safety rules provided for in Union and national law.
- (3) The Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand⁶ (ATA) was signed on 25 April 2007 and subsequently amended by a Protocol of 24 June 2010. The ATA reflects its parties' commitment to the shared goal of continuing to remove market access barriers in order to maximise benefits for consumers, airlines, labour and communities on both sides of the Atlantic.
- (4) The ATA provides for an open wet-lease regime between its parties. The relevant provisions that are included under Article 10 of the ATA permit wet lease agreements for international air transport, provided that all parties to such agreements have the appropriate authority and meet the conditions prescribed under the laws and regulations normally applied by the parties to the ATA.

⁶ OJ L 134, 25.5.2007, p. 4.

- (5) Relevant developments and past discussions of the Joint Committee established under the ATA have shown that parties to the ATA would benefit from a dedicated wet lease agreement which would provide precision to the relevant provisions of the ATA.
- (6) Since such a wet lease agreement would involve the relaxation of the existing time limits, it would have a ripple effect on Regulation (EC) No 1008/2008, in which time limits are provided for in cases where Union carriers wet lease from third-country carriers.
- (7) Regulation (EC) No 1008/2008 therefore needs to be amended to allow for the relaxation of time limits on wet-leasing to be agreed in international agreements concluded by the Union with third countries.
- (8) ***Taking into account the fact that the Commission is currently reviewing Regulation (EC) No 1008/2008, including its provisions on wet-leasing and their possible impact on employees and consumers, and that the Commission's review could lead to a general revision of Regulation (EC) No 1008/2008, this Regulation is limited to aligning Regulation (EC) No 1008/2008 with the relevant international obligations. The international agreement on wet-leasing should include reciprocal rights and obligations for both parties and should be based on an existing Air Transport Agreement.***
- (9) Regulation (EC) No 1008/2008 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

In point (b) of Article 13(3) of Regulation (EC) No 1008/2008, the introductory phrase is replaced by the following:

"unless otherwise provided for in an international agreement ***on wet-leasing signed*** by the Union ***which is based on an Air Transport Agreement to which the Union is a party and which was signed before 1 January 2008***, one of the following conditions is fulfilled:"

Article 2

This Regulation shall enter into force on the ***twentieth*** day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President
