



DÁIL ÉIREANN

AN BILLE AERLOINGSEOIREACHTA (EUROCONTROL) 2005

AIR NAVIGATION (EUROCONTROL) BILL 2005

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE AERLOINGSEOIREACHTA (EUROCONTROL) 2005 —ROGHCHOISTE

AIR NAVIGATION (EUROCONTROL) BILL 2005 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 3, before section 1, to insert the following new section:

“1.—In this Act—

“the Act of 1993” means the Irish Aviation Authority Act 1993;

“the Act of 1998” means the Air Navigation & Transport (Amendment) Act 1998.”.
—Olivia Mitchell.

2. In page 3, before section 1, to insert the following new section:

“1.—In this Act—

“the Act of 1993” means the Irish Aviation Authority Act 1993;

“the Protocol of 1997” means the Protocol in the Schedule to this Act.”.
—Olivia Mitchell.

Section opposed.

—Olivia Mitchell.

SECTION 2

3. In page 3, before section 2, to insert the following new section:

“Amendment of
Section 40 (13) the
Air Navigation &
Transport
(Amendment) Act
1998.

2.—Nothing in Section 40 (13) the Air Navigation & Transport (Amendment) Act 1998 shall (i) permit the detention or sale of any aircraft that is not owned by the operator who is liable for the charge or (ii) prejudice any right of a Company to recover any charges, or any part thereof, by action. Any sale ordered under this section shall be on such terms as to preserve the priority and interests of any third parties with an interest in the aircraft or any part of it (including equipment, stores and documents) at the time the aircraft was detained.”.

—Róisín Shortall.

[SECTION 2]

4. In page 3, before section 2, to insert the following new section:

“Reservation.

2.—Ireland’s ratification of the protocol is subject to a reservation in relation to Articles 5, 6 and 9 of Annex IV (“Provisions Relating to the Common Route Charges System”) in that Ireland declares that the provisions for the lien or the joint and several liability (under Article 5) and the detention and sale of aircraft (including equipment, spare parts, fuel, stores and documents) other than those legally and beneficially owned by the operator that is liable for the charge (under Articles 6 and 9) shall not apply.”.

—Róisín Shortall.

5. In page 4, to delete lines 11 to 15 and substitute the following:

“*Schedule 1 to the Aviation Act 2006*), the Final Act and Protocol on the accession of the European Community to the Eurocontrol Convention signed at Brussels on 8 October 2002 (the text of which is set out for convenience of reference in the English language in *Schedule 2** to the *Aviation Act 2006*), and by any other protocol or other instrument which may be signed after the passing of the *Aviation Act 2006*,”.

—An tAire Iompair.

*[*This is the appropriate reference if amendment No. 20 is accepted.*]

6. In page 4, line 12, after “Protocol” to insert the following:

“on the accession of the European Community to the Eurocontrol Convention”.

—Róisín Shortall.

7. In page 4, line 13, after “2002,” to insert the following:

“(the text of which is set out for convenience of reference in the English language in *Schedule 2** to the *Air Navigation (Eurocontrol) Act 2006*)”.

—Róisín Shortall.

*[*This is the appropriate reference if amendment No. 20 is accepted.*]

8. In page 4, between lines 25 and 26, to insert the following:

“(c) in section 43 by adding the following new subsection (3)—

“(3) Nothing in this section shall create a liability on the owner of an aircraft unless that owner was also the operator of the aircraft at the time the charge was incurred, except where the owner is unable to establish that some other person was the operator at that time.”.

—Olivia Mitchell.

9. In page 4, paragraph (c)(i), line 27, to delete “subsection 3(b)(i)” and substitute “subsection (3)(b)(i)”.

—Róisín Shortall.

[SECTION 2]

10. In page 4, paragraph (c)(i), line 28, to delete “and “6 months” for “12 months””.

—Róisín Shortall.

11. In page 4, paragraph (c)(ii), line 29, to delete “subsection 3(b)(ii)” and substitute “subsection (3)(b)(ii)”.

—Róisín Shortall.

SECTION 3

12. In page 4, subsection (1), between lines 45 and 46, to insert the following:

“(a) in section 43 (2), by inserting “Nothing in this section shall create a liability on the owner of an aircraft unless that owner was also the operator of the aircraft at the time the charge was incurred, except where the owner is unable to establish that some other person was the operator at that time.”.

—Róisín Shortall.

SECTION 4

13. In page 7, before section 4, to insert the following new section:

“Amendment of Aer Lingus Act 2004. 4.—The Aer Lingus Act 2004 is amended by inserting, after section 7, the following new section:

“Confirmation of certain matters.

7A.—(1) Notwithstanding section 13(2) and the Aer Lingus Act 2004 (Commencement of Certain Provisions) Order 2005—

(a) section 2 (in so far as it relates to section 5(2) of the Air Companies (Amendment) Act 1993), and

(b) section 7,

are deemed to have come into operation on 19 August 2004.

(2) Without prejudice to the generality of subsection (1), the issue of shares in Aer Lingus Group public limited company on 20 August 2004 is confirmed and deemed always to have had full effect.

(3) Nothing in this section shall affect any proceedings commenced in any court concerning the validity of the issue of shares in the Company under section 7 where those proceedings were commenced before 8 March 2006.”.

—An tAire Iompair.

[SECTION 4]

14. In page 7, before section 4, to insert the following new section:

“Amendment of
Aviation Regulation
Act 2001.

4.—(1) The Aviation Regulation Act 2001 is amended—

(a) in section 2(1), by inserting after the definition of “organiser” the following:

“ ‘Regulation (EC) No. 261/2004’ means Council Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004¹, establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights;”,

(b) in section 8, by inserting after subsection (3) the following:

“(4) The Commission is designated for the purposes of Article 16 of Regulation (EC) No. 261/2004.”,

(c) in section 13, by inserting “, except in accordance with section 40(8B),” after “functions of the Commission”,

(d) in section 40—

(i) in subsection (5), by substituting “3 months” for “2 months”, and

(ii) in subsection (8), by substituting “2 months” for “one month”, and

(iii) by inserting after subsection (8) the following:

“(8A) Where a referral is made under subsection (5), whether before or after the passing of the *Aviation Act 2006*, and there is no person holding office as a commissioner, then a decision under subsection (8) may only be made (other than a decision made before the passing of that Act) within the period referred to in that subsection—

(a) where a commissioner is appointed within the period of 6 months of the referral, by the commissioner from the time he or she is appointed, or

(b) where a commissioner is not appointed within the period referred to in paragraph (a), from the end of that period by the deputy commissioner, unless a commissioner is appointed.

(8B) A decision under subsection (8) shall only be made by a commissioner, other than in the circumstances mentioned in subsection (8A)(b) where no commissioner has been appointed.”,

and

(e) in section 41(1), by substituting for paragraph (e) the following:

¹ O.J. No. L46, 17.2.2004, p.1

[SECTION 4]

“(e) in any case where the Commission considers that the immediate giving of the notice is required, by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender’s—

- (i) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
- (ii) facsimile machine generates a message confirming successful transmission of the total number of pages of the notice.”,

(f) by inserting after section 45 the following:

“Directions— 45A.—(1) Where the Commission either on its own initiative or following a complaint by a passenger is of the opinion that an operating air carrier is failing to comply with or is infringing Regulation (EC) No. 261/2004, it may issue a direction to the carrier to comply with the Regulation or cease the infringement and to comply with any instructions contained in the direction. The carrier may, within 14 days of the issue of the direction, make representations to the Commission, which the Commission shall consider. The Commission shall, where it has received such representations, reply in writing to the carrier within 2 months of such receipt. The Commission in its reply may confirm, vary or withdraw the direction. Where the direction is confirmed (with or without variation) the direction takes effect on the date the reply is given.

(2) Where a direction has been issued to an operating air carrier who—

- (a) has not made representations to the Commission within the period of 14 days of the issue of the direction to the carrier, after such period, or
- (b) has made such representations and the Commission has replied to the carrier confirming the direction with or without variation, after the reply is given,

fails to comply with the direction, the carrier commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding €5,000, or
- (ii) on conviction on indictment, to a fine not exceeding €150,000.

(3) Where a direction or reply is required to be given to an operating air carrier, the direction or reply shall be addressed to the carrier and shall be given to the carrier in one of the following ways—

[SECTION 4]

- (a) by delivering it to the carrier,
- (b) by leaving it at the address at which the carrier carries on business,
- (c) by sending it by post in a pre-paid registered letter addressed to the carrier at the address at which the carrier carries on business,
- (d) if an address for the service of a direction or reply has been furnished by the carrier, by leaving it at, or sending it by pre-paid registered post addressed to the carrier to, that address,
- (e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the carrier carries on business or, if an address for the service of a direction or reply has been furnished by the carrier, that address:

provided that—

- (i) the sender's—

- (I) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or

- (II) facsimile machine generates a message confirming successful transmission of the total number of pages of the direction or reply,

and

- (ii) the direction or reply is also given in one of the other ways mentioned in any of the preceding paragraphs.

(4) For the purposes of subsection (3), a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

(5) A copy of a direction or reply, which has endorsed on it a certificate purporting to be signed by a commissioner, the deputy commissioner or an officer of the Commission (authorised in that behalf by the Commission) stating that the copy is a true copy of the direction or reply may, without proof of signature of that person, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the direction or reply.

- (6) In this section—

“direction” means a direction under subsection (1);

[SECTION 4]

“operating air carrier” has the meaning assigned to it in Article 2 of Regulation (EC) No. 261/2004;

“passenger” means a passenger to whom Article 3 of Regulation (EC) No. 261/2004 applies;

“reply” means a reply by the Commission under subsection (1).”.

(2) The European Communities (Compensation and Assistance to Air Passengers) (Denied Boarding, Cancellation or Long Delay of Flights) Regulations 2005 (S.I. No. 274 of 2005) are revoked.”.

—An tAire Iompair.

15. In page 7, line 23, after “67” to insert “(a) to (c)”.

—Róisín Shortall.

SECTION 5

16. In page 7, before section 5, to insert the following new section:

“Short title.

5.—This Act may be cited as the Aviation Act 2006.”.

—An tAire Iompair.

[Acceptance of this amendment involves the deletion of section 5 of the Bill.]

17. In page 7, before section 5, to insert the following new section:

“Amendment of the Act of 1998.

5.—Part V of the Act of 1998 is amended by deleting section 40(13) and substituting the following:

“(13) (a) Nothing in this section shall—

(i) permit the detention or sale of any aircraft that is not owned by the operator who is liable for the charge, or

(ii) prejudice any right of a Company to recover any charges, or any part thereof, by action.

(b) Any sale ordered under this section shall be on such terms as to preserve the priority and interests of any third parties with an interest in the aircraft or any part of it (including equipment, stores and documents) at the time the aircraft was detained.”.

—Olivia Mitchell.

[SECTION 5]

18. In page 7, before section 5, to insert the following new section:

“Clarification of the
Protocol of 1997.

5.—Ireland’s ratification of the Protocol of 1997 is subject to a reservation in relation to Articles 5, 6 and 9 of Annex IV (“Provisions Relating to the Common Route Charges System”) in that Ireland declares that the provisions for the lien or the joint and several liability (under Article 5) and the detention and sale of aircraft (including equipment, spare parts, fuel, stores and documents) other than those legally and beneficially owned by the operator that is liable for the charge (under Articles 6 and 9) shall not apply.”.

—Olivia Mitchell.

19. In page 7, between lines 25 and 26, to insert the following subsection:

“(2) The Air Navigation and Transport Acts 1936 to 2004, the Air Navigation and Transport (International Convention) Act 2004 and this Act may be cited together as the Air Navigation and Transport Acts 1936 to 2006.”.

—Róisín Shortall.

NEW SCHEDULE

20. In page 80, after line 30, to insert the following new Schedule:

“SCHEDULE 2

FINAL ACT

**OF THE DIPLOMATIC CONFERENCE ON THE PROTOCOL ON THE
ACCESSION OF THE EUROPEAN COMMUNITY TO THE
EUROCONTROL INTERNATIONAL CONVENTION RELATING TO
CO-OPERATION FOR THE SAFETY OF AIR NAVIGATION OF 13
DECEMBER 1960, AS VARIOUSLY AMENDED AND AS
CONSOLIDATED BY THE PROTOCOL OF 27 JUNE 1997
(Brussels, 8 October 2002)**

**THE PLENIPOTENTIARIES OF
THE REPUBLIC OF ALBANIA,
THE FEDERAL REPUBLIC OF GERMANY,
THE REPUBLIC OF AUSTRIA,
THE KINGDOM OF BELGIUM,
THE REPUBLIC OF BULGARIA,
THE REPUBLIC OF CYPRUS,
THE REPUBLIC OF CROATIA,
THE KINGDOM OF DENMARK,
THE KINGDOM OF SPAIN,
THE REPUBLIC OF FINLAND,
THE FRENCH REPUBLIC,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND,
THE HELLENIC REPUBLIC,
THE REPUBLIC OF HUNGARY,
IRELAND,**

[*NEW SCHEDULE*]

**THE ITALIAN REPUBLIC,
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,
THE GRAND DUCHY OF LUXEMBOURG,
THE REPUBLIC OF MALTA,
THE REPUBLIC OF MOLDOVA,
THE PRINCIPALITY OF MONACO,
THE KINGDOM OF NORWAY,
THE KINGDOM OF THE NETHERLANDS,
THE PORTUGUESE REPUBLIC,
ROMANIA,
THE SLOVAK REPUBLIC,
THE REPUBLIC OF SLOVENIA,
THE KINGDOM OF SWEDEN,
THE SWISS CONFEDERATION,
THE CZECH REPUBLIC,
THE REPUBLIC OF TURKEY,
AND
THE EUROPEAN COMMUNITY,**

Assembled at Brussels on 8 October 2002;

1. Have unanimously adopted the text of a Protocol set out in Annex to the present Final Act and hereinafter called "the Accession Protocol", on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called "the revised Convention". The said Accession Protocol has been opened for signature at Brussels on 8 October 2002.

2. Have adopted the following resolutions regarding respectively the ratification, acceptance or approval by the Contracting Parties at their earliest convenience of the Accession Protocol and the early implementation of the Accession Protocol;

The Conference:

Assembled at Brussels on 8 October 2002;

Having unanimously adopted the Protocol, hereinafter called "the Accession Protocol", on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened

for signature on 27 June 1997, hereinafter called "the revised Convention";

1. Resolution urging Contracting Parties to ratify, accept or approve the Accession Protocol at their earliest convenience

Considering that the accession of the European Community will significantly contribute to the aims and tasks of EUROCONTROL on the terms and conditions contained in the Accession Protocol;

Recalling the resolution adopted by the Diplomatic Conference of 27 June 1997 on the Protocol consolidating the EUROCONTROL Convention urging the Contracting Parties to the EUROCONTROL Convention to ratify the above-mentioned Protocol of 27 June 1997 at their earliest convenience;

Agreeing on the importance of an entry into force of the revised Convention

and of the Accession Protocol as soon as possible;

Urges the signatories to the Accession Protocol to ratify, accept or approve that Protocol as soon as possible.

Requests the Director General of EUROCONTROL to take all practical measures, in co-operation with the signatory States and the European Community, to provide assistance, if requested, in the process of ratification, acceptance or approval of the Accession Protocol.

II. Resolution on early implementation of the Accession Protocol

Having noted the Resolution on early implementation of the Consolidating Protocol adopted by the Diplomatic Conference on the adoption of that Protocol on 27 June 1997;

Considering the importance of a smooth and efficient implementation of the Accession Protocol;

Urges all States and the European Community to develop, to the fullest extent possible, arrangements for the early implementation of certain provisions of the Accession Protocol.

3. *Have adopted* the following joint declarations on the absence of Community competence in the fields of national security and defence and on RTDE co-ordination:

I. Joint declaration on the absence of Community competence in the fields of national security and defence

The signatories to the Protocol on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called "the revised Convention",

Having noted that the European Community has at present no competence with regard to defence and security policies;

Taking note of the role of EUROCONTROL as contained in the provisions of the revised Convention relating to military issues;

Agree that:

If the competence of the European Community were to be extended to those matters there would be a need to review whether this radically transforms the extent of their obligations under the revised Convention and whether therefore the Protocol in its present form can be applied to those matters.

II. Joint declaration on RTDE co-ordination

The signatories to the Protocol on the accession of the European Community to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called "the revised Convention",

Having examined the provisions of the revised Convention relating to the co-ordination of research, technological development and evaluation (RTDE)

activities in the fields covered by that Convention;

Having noted that Article 2.1(h) of the revised Convention is applicable to the co-ordination of RTDE activities between EUROCONTROL and its Contracting Parties;

Having noted that the co-ordination organised by the EUROCONTROL Agency under Article 1.5 (i) of its Statute concerns its own RTDE activities and those of ATM Organisations;

Agree that:

-the "co-ordination of RTDE activities" is the exchange of views, information and experience about RTDE programmes and activities in the area of air traffic management; its main objectives are to promote complementarity and to avoid duplication of work;

-in co-ordinating their RTDE activities, all parties involved shall respect the overall objectives, competencies, administrative, managerial and budgetary responsibilities and the procedures of their respective institutions or bodies entrusted with the execution of RTDE programmes, as well as their rules governing participation, dissemination and intellectual property rights;

-the Contracting Parties shall remain free to decide on their RTDE strategies, programmes and projects in accordance with their own internal procedures.

4. Have noted the following joint declaration by the States signatories to the Consolidating Protocol and this Final Act:

III. Joint declaration regarding the entry into force of the Consolidating Protocol and the Accession Protocol, and regarding further signatures to the Accession Protocol

The States signatories to the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, opened for signature on 27 June 1997, hereinafter called "the Consolidating Protocol", and signatories to the Final Act of the Diplomatic Conference on the Protocol on the accession of the European Community to the EUROCONTROL Convention, opened for signature on 8 October 2002, hereinafter called "the Accession Protocol";

Desirous to clarify the conditions regarding the entry into force of the consolidating Protocol and the Accession Protocol;

Confirm their interpretation of Article II, paragraph 3, of the Consolidating Protocol to the effect that the aforesaid Protocol shall enter into force when all States that are parties to the EUROCONTROL Convention on 8 October 2002, have deposited their instruments of ratification, acceptance or approval of the Consolidating Protocol.

Agree that EUROCONTROL shall take the appropriate steps to ensure, when considering a request for accession to the EUROCONTROL Convention and for an authorisation to sign the Consolidating Protocol, that adequate commitments are made for signature and for ratification, acceptance or approval, of the Accession Protocol.

PROTOCOL

**ON THE ACCESSION OF THE EUROPEAN COMMUNITY TO THE
EUROCONTROL INTERNATIONAL CONVENTION RELATING TO
CO-OPERATION FOR THE SAFETY OF AIR NAVIGATION OF 13
DECEMBER 1960, AS VARIOUSLY AMENDED AND AS
CONSOLIDATED BY THE PROTOCOL OF 27 JUNE 1997**

**THE REPUBLIC OF ALBANIA,
THE FEDERAL REPUBLIC OF GERMANY,
THE REPUBLIC OF AUSTRIA,
THE KINGDOM OF BELGIUM,
THE REPUBLIC OF BULGARIA,
THE REPUBLIC OF CYPRUS,
THE REPUBLIC OF CROATIA,
THE KINGDOM OF DENMARK,
THE KINGDOM OF SPAIN,
THE REPUBLIC OF FINLAND,
THE FRENCH REPUBLIC,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND,
THE HELLENIC REPUBLIC,
THE REPUBLIC OF HUNGARY,
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THE ITALIAN REPUBLIC,
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,
THE GRAND DUCHY OF LUXEMBOURG,
THE REPUBLIC OF MALTA,
THE REPUBLIC OF MOLDOVA,
THE PRINCIPALITY OF MONACO,
THE KINGDOM OF NORWAY,
THE KINGDOM OF THE NETHERLANDS,
THE PORTUGUESE REPUBLIC,
ROMANIA,
THE SLOVAK REPUBLIC,
THE REPUBLIC OF SLOVENIA,
THE KINGDOM OF SWEDEN,
THE SWISS CONFEDERATION,
THE CZECH REPUBLIC,
THE REPUBLIC OF TURKEY,
AND
THE EUROPEAN COMMUNITY,**

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Additional Protocol of 6 July 1970, in turn amended by the Protocol of 21 November 1978, all amended by the Protocol of 12 February 1981, and as amended and consolidated by the Protocol of 27 June 1997, hereinafter referred to as “the Convention”, and in particular Article 40 thereof;

Having regard to the responsibilities granted by the Treaty establishing the European Community of 25 March 1957, as revised by the Amsterdam Treaty of 2 October 1997, to the European Community in certain areas covered by the Convention;

Whereas the European Community Member States, Members of EUROCONTROL, when adopting the Protocol consolidating the Convention

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which was opened for signature on 27 June 1997, declared that their signature was without prejudice to the Community's exclusive competence in certain areas covered by that Convention and to the Community's membership of EUROCONTROL for the purpose of exercising such exclusive competence;

Whereas the purpose of the accession of the European Community to the Convention is to assist the European Organisation for the Safety of Air Navigation, hereinafter referred to as "EUROCONTROL", in achieving its objectives as set out in the Convention, notably that of being a single and efficient body for Air Traffic Management policy-making in Europe;

Whereas the European Community's accession to EUROCONTROL requires clarification of the way in which the provisions of the Convention will apply to the European Community and its Member States;

Whereas the terms and conditions of the accession of the European Community to the Convention shall enable the Community to exercise within EUROCONTROL such competencies that have been transferred to it from its Member States;

Whereas arrangements for greater co-operation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries, and such arrangements have yet to come into operation;

HAVE AGREED AS FOLLOWS:

Article 1

The European Community, within the framework of its competence, accedes to the Convention on the terms and conditions laid down in this Protocol, in accordance with Article 40 of the Convention.

Article 2

For the European Community, within the framework of its competence, the Convention shall apply to en-route air navigation services and related approach and aerodrome services for air traffic in the Flight Information Regions of its Member States listed in Annex II to the Convention, which are within the limits of the territorial applicability of the Treaty establishing the European Community.

The application of this Protocol to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

Application of this Protocol to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will inform the other Contracting Parties to this Protocol of such date of entry into operation.

Article 3

Subject to the provisions of this Protocol, provisions in the Convention shall be so interpreted as to also include the European Community within the framework of Community competence, and the various terms used to designate the Contracting Parties to the Convention and their representatives are to be understood accordingly.

Article 4

The European Community will not contribute to the budget of EUROCONTROL.

Article 5

Without prejudice to the exercise of its voting rights under Article 6, the European Community shall be entitled to be represented and involved in the work of all bodies of EUROCONTROL in which any of its Member States is entitled to be represented as a Contracting Party, and where matters falling within its competence may be dealt with, with the exception of bodies which have an audit function.

In all bodies of EUROCONTROL where it may participate, the European Community will present its positions, within the framework of its competence, in accordance with its institutional rules.

The European Community may not submit candidates for membership of elected EUROCONTROL bodies, nor may it submit candidates for office on the bodies in which it is entitled to participate.

Article 6

1. For decisions in matters where the European Community has exclusive competence and for the purpose of the application of the rules provided for in Article 8 of the Convention, the European Community shall exercise the voting rights of its Member States under the Convention, and the votes and weighted votes so cast by the European Community shall be cumulated for the determination of the majorities provided for in the said Article 8 of the Convention. When the Community votes, its Member States shall not vote.

For the purpose of deciding on the number of Contracting Parties to the Convention required for a request for decision-making by a three-quarters majority, as stipulated at the end of the first sub-paragraph of Article 8.2, the Community shall be considered as representing its Member States, which are Members of EUROCONTROL.

A decision proposed with respect to a specific item to be voted on by the European Community shall be postponed if a Contracting Party to the Convention that is not a member of the European Community so requests. The postponement shall be used for consultations between the Contracting Parties to the Convention, assisted by the EUROCONTROL Agency, on the decision proposed. In the event of such a request, the taking of the decision may be postponed for a maximum period of six months.

2. For decisions in matters where the European Community has no exclusive competence, Member States of the European Community shall vote in accordance with their voting rights as provided for in Article 8 of the Convention, and the European Community shall not vote.

3. The European Community shall inform on a case-by-case basis the other Contracting Parties to the Convention of the cases where, with regard to the various items of the agendas of the General Assembly, the Council and other deliberating bodies to which the General Assembly and the Council have delegated powers, it will exercise the voting rights provided for in paragraph 1 above. This obligation shall also apply when decisions are taken by correspondence.

Article 7

The scope of the competence transferred to the Community is indicated in general terms in a written declaration made by the European Community at the time of the signature of this Protocol.

This declaration may be modified as appropriate by notification from the European Community to EUROCONTROL. It does not replace or in any way limit the matters that may be covered by the notifications of Community competence to be made prior to EUROCONTROL decision-making by means of formal voting or otherwise.

Article 8

Article 34 of the Convention shall apply to any dispute arising between two or more Contracting Parties to this Protocol or between one or more Contracting Parties to this Protocol and EUROCONTROL relating to the interpretation, application or performance of this Protocol, including its existence, validity and termination.

Article 9

1. This Protocol shall be opened for signature by all States signatories to the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as variously amended, opened for signature on 27 June 1997, hereinafter referred to as “the Consolidating Protocol”, and the European Community.

It shall also be open, prior to the date of its entry into force, for signature by any State, duly authorised to sign the Consolidating Protocol, in accordance with Article II of that Protocol.

2. This Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Kingdom of Belgium.

3. This Protocol shall enter into force when it has been ratified, accepted or approved, on the one hand, by all signatory States that are also signatories to the Consolidating Protocol and whose ratification, acceptance or approval is required for the entry into force of the Consolidating Protocol, and on the other hand, by the European Community, on the first day of the second

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month after the deposit of the last instrument of ratification, acceptance or approval, provided that the Consolidating Protocol has come into force on that date. Where this condition is not met, it shall enter into force on the same date as the Consolidating Protocol.

4. This Protocol shall enter into force with respect to such signatories that have deposited their instruments of ratification, acceptance or approval after its entry into force on the first day of the second month following the deposit of the relevant instruments of ratification, acceptance or approval.

5. The Government of the Kingdom of Belgium shall notify the Governments of the other signatory States of this Protocol and the European Community of each signature, each deposit of an instrument of ratification, acceptance or approval and each date of entry into force of this Protocol pursuant to paragraphs 3 and 4 above.

Article 10

Each accession to the Convention after its entry into force shall represent also consent to be bound by this Protocol. The provisions of Articles 39 and 40 of the Convention shall also apply to this Protocol.

Article 11

1. This Protocol shall remain in force for an indefinite period.

2. If all EUROCONTROL Member States which are Members of the European Community withdraw from EUROCONTROL, notification of withdrawal from the Convention, as well as from this Protocol, shall be considered to have been given by the European Community together with the notification of withdrawal under Article 38.2 of the Convention of the last Member State of the European Community withdrawing from EUROCONTROL.

Article 12

The Government of the Kingdom of Belgium shall have this Protocol registered with the Secretary-General of the United Nations pursuant to Article 102 of the Charter of the United Nations and with the Council of the International Civil Aviation Organization pursuant to Article 83 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944.”

—Róisín Shortall.

TITLE

21. In page 3, line 12, after “1993” to insert the following:

“, TO AMEND THE AVIATION REGULATION ACT 2001, TO AMEND THE AER LINGUS ACT 2004”.

—An tAire Iompair.

[*TITLE*]

22. In page 3, line 12, after “1993” to insert the following:

“AND THE AIR NAVIGATION & TRANSPORT (AMENDMENT) ACT 1998,”.
—Olivia Mitchell.

23. In page 3, line 12, after “1993” to insert “, AND TO CLARIFY THE
PROTOCOL OF 1997,”.

—Olivia Mitchell.