Regulation (EU) 2019/2 of the European Parliament and of the Council of 11 December 2018 amending Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community

REGULATION (EU) 2019/2 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 December 2018

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 Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Regulation (EC) No 1008/2008 of the European Parliament and of the Council[(3)] 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[(4)] between the European Community and its Member States, on the one hand, and the United States of America, on the other hand (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.

(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.