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I

(Legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2017/2454

of 5 December 2017

amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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 Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Regulation (EU) No 904/2010 ⁽³⁾ lays down rules on the exchange and storage of information by Member States in order to establish the special schemes provided for by Chapter 6 of Title XII of Council Directive 2006/112/EC ⁽⁴⁾.
- (2) The extension from 1 January 2021 of those special schemes to distance sales of goods and services other than telecommunications, broadcasting or electronically supplied services requires extending the scope of the rules of this Regulation concerning the provision of information and transfer of money between the Member State of identification and the Member States of consumption.
- (3) Due to the extended scope of the special schemes to cover also distance sales of goods and all services, the number of transactions to be reported in the VAT return will increase considerably. In order to allow the Member State of identification sufficient time to treat the VAT returns submitted by taxable persons under the special scheme, the deadline for transferring the information of the VAT return and the VAT amount paid to every Member State of consumption should be extended by 10 days.
- (4) The extension of the special schemes to distance sales of goods imported from third territories or third countries requires that the customs authority of the Member State of importation is able to identify imports of goods in small consignments for which value added tax (VAT) is to be paid through one of the special schemes. The identification number under which VAT is paid should therefore be communicated in advance to enable customs authorities to check its validity upon importation of the goods.

⁽¹⁾ Opinion of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ OJ C 345, 13.10.2017, p. 79.

⁽³⁾ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

⁽⁴⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (5) Taxable persons using such special schemes may be subject to requests for records from and administrative enquiries by the Member State of identification and all the Member States of consumption where goods or services are supplied to. To reduce the administrative burden and compliance costs for businesses as well as for tax administrations of multiple requests for records and administrative enquiries and to avoid duplication of work, such requests and enquiries should as much as possible be coordinated by the Member State of identification.
- (6) To simplify the collection of statistical data concerning the application of the special schemes, the Commission should be authorised to extract aggregated statistical and diagnostic information, such as the number of the different types of electronic messages exchanged between Member States, related to the special schemes, with the exception of data concerning individual taxable persons.
- (7) The information to be submitted by the taxable person and to be transmitted between Member States for the application of the special schemes, as well as the technical details, including common electronic messages, for the submission by the taxable person or the transmission of this information between Member States should be adopted in accordance with the comitology procedure provided for in this Regulation.
- (8) Taking account of the time needed to put in place the measures necessary to implement this Regulation and for the Member States to adapt their IT system for registration and for declaration and payment of the VAT as well as to take into account amendments introduced by Article 2 of Council Directive (EU) 2017/2455 ⁽¹⁾, this Regulation should apply from the date of the application of those amendments.
- (9) Regulation (EU) No 904/2010 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 904/2010 is amended as follows:

- (1) in Article 1, paragraph 4 is replaced by the following:

‘4. This Regulation also lays down rules and procedures for the exchange by electronic means of VAT information on goods and services supplied in accordance with the special schemes provided for in Chapter 6 of Title XII of Directive 2006/112/EC and also for any subsequent exchange of information and, as far as goods and services covered by the special schemes are concerned, for the transfer of money between Member States’ competent authorities.’

- (2) in Article 2, paragraph 2 is replaced by the following:

‘2. The definitions contained in Articles 358, 358a, 369a and 369l of Directive 2006/112/EC for the purposes of each special scheme shall also apply for the purposes of this Regulation.’

- (3) in Article 17(1), point (d) is replaced by the following:

‘(d) information which it collects pursuant to Articles 360, 361, 364, 365, 369c, 369f, 369g, 369o, 369p, 369s and 369t of Directive 2006/112/EC.’

- (4) in Article 17(1), the following point is added:

‘(e) data on the VAT identification numbers referred to Article 369q of Directive 2006/112/EC it has issued and, per VAT identification number issued by any Member State, the total value of the imports of goods exempted under Article 143(1), point (ca), during each month.’

- (5) in Article 17, paragraph 2 is replaced by the following:

‘2. The technical details concerning the automated enquiry of the information referred to in points (b), (c), (d) and (e) of paragraph 1 shall be adopted in accordance with the procedure provided for in Article 58(2).’

⁽¹⁾ Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (see page 7 of this Official Journal).

(6) Article 31 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The competent authorities of each Member State shall ensure that persons involved in the intra-Community supply of goods or of services and non-established taxable persons supplying services, are allowed to obtain, for the purposes of such transactions, confirmation by electronic means of the validity of the VAT identification number of any specified person as well as the associated name and address. This information shall correspond to the data referred to in Article 17.’;

(b) paragraph 3 is deleted.

(7) Chapter XI is amended as follows:

(a) the heading of Section 2 is replaced by the following:

‘Provisions applicable from 1 January 2015 until 31 December 2020’;

(b) the following Section is added:

‘SECTION 3

Provisions applicable from 1 January 2021

Subsection 1

General provision

Article 47a

The provisions of this Section shall apply from 1 January 2021.

Subsection 2

Exchange of information

Article 47b

1. Member States shall provide that the information provided by the taxable person making use of the special scheme in Section 2 of Chapter 6 of Title XII of Directive 2006/112/EC to the Member State of identification when his activities commence pursuant to Article 361 of that Directive shall be submitted by electronic means. Similar details for the identification of the taxable person making use of the special scheme in Section 3 of Chapter 6 of Title XII of Directive 2006/112/EC when his activities commence pursuant to Article 369c of that Directive shall be submitted by electronic means. Any changes in the information provided pursuant to Article 361(2) and 369c of Directive 2006/112/EC shall also be submitted by electronic means.

2. The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authorities of the other Member States within 10 days from the end of the month during which the information was received from the taxable person making use of one of the special schemes in Sections 2 and 3 of Chapter 6 of Title XII of Directive 2006/112/EC. In the same manner, the Member State of identification shall inform the competent authorities of the other Member States of the VAT identification numbers referred to in these sections 2 and 3.

3. The Member State of identification shall without delay inform by electronic means the competent authorities of the other Member States if the taxable person making use of one of the special schemes in Sections 2 and 3 of Chapter 6 of Title XII of Directive 2006/112/EC is excluded from that special scheme.

Article 47c

1. Member States shall provide that the information provided by the taxable person making use of the special scheme in Section 4 of Chapter 6 of Title XII of Directive 2006/112/EC or his intermediary, to the Member State of identification when his activities commence pursuant to Article 369p(1), (2) and (2a) of that Directive shall be submitted by electronic means. Any changes in this information provided pursuant to Article 369p(3) of Directive 2006/112/EC shall also be submitted by electronic means.

2. The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authorities of the other Member States within 10 days from the end of the month during which the information was received from the taxable person making use of the special scheme in Section 4 of Chapter 6 of Title XII of Directive 2006/112/EC or, where applicable, his intermediary. In the same manner, the Member State of identification shall inform the competent authorities of the other Member States of the allocated individual VAT identification number for the application of this special scheme.

3. The Member State of identification shall without delay inform by electronic means the competent authorities of the other Member States if the taxable person making use of the special scheme in Section 4 of Chapter 6 of Title XII of Directive 2006/112/EC or, where applicable, his intermediary is deleted from the identification register.

Article 47d

1. Member States shall provide that the VAT return with the details set out in Articles 365, 369g and 369t of Directive 2006/112/EC shall be submitted by electronic means.

2. The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authority of the Member State of consumption concerned at the latest 20 days after the end of the month during which the return was received.

The Member State of identification shall also transmit the information provided for in paragraphs 2 of Article 369g of Directive 2006/112/EC to the competent authority of each other Member State from which goods are dispatched or transported and the information provided for in paragraph 3 of Article 369g of Directive 2006/112/EC to the competent authority of each Member State of establishment concerned.

Member States which have required the VAT return to be made in a national currency other than euro, shall convert the amounts into euro using the exchange rate valid for the last date of the tax period. The exchange shall be done following the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

Article 47e

The Member State of identification shall without delay transmit by electronic means to the Member State of consumption the information needed to link each payment with a relevant VAT return.

Article 47f

1. The Member State of identification shall ensure that the amount the taxable person making use of one of the special schemes provided for in Chapter 6 of Title XII of Directive 2006/112/EC or, if applicable his intermediary, has paid is transferred to the bank account denominated in euro which has been designated by the Member State of consumption to which the payment is due.

Member States which required the payments in a national currency other than euro shall convert the amounts into euro using the exchange rate valid for the last date of the tax period. The exchange shall be done following the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

The transfer shall take place at the latest 20 days after the end of the month during which the payment was received.

2. If the taxable person making use of one of the special schemes or, if applicable, his intermediary does not pay the total tax due, the Member State of identification shall ensure that the payment is transferred to the Member States of consumption in proportion to the tax due in each Member State. The Member State of identification shall inform by electronic means the competent authorities of the Member States of consumption thereof.

Article 47g

Member States shall notify by electronic means the competent authorities of the other Member States of the relevant bank account numbers for receiving payments in accordance with Article 47f.

Member States shall without delay notify by electronic means the competent authorities of the other Member States and the Commission of changes in the tax rates applicable for supplies of goods and services to which the special schemes apply.

Subsection 3

Control of transactions and taxable persons

Article 47h

Member States shall, upon importation of goods on which VAT is to be declared under the special scheme provided for in Section 4 of Chapter 6 of Title XII of Directive 2006/112/EC, carry out an electronic verification of the validity of the individual VAT identification number allocated by way of Article 369q of that Directive and communicated at the latest upon lodging of the import declaration.

Article 47i

1. To obtain the records held by a taxable person or intermediary pursuant to Articles 369, 369k and 369x of Directive 2006/112/EC, the Member State of consumption shall first make a request to the Member State of identification by electronic means.
2. Where the Member State of identification receives a request referred to in paragraph 1, it shall transmit that request by electronic means and without delay to the taxable person or his intermediary.
3. Member States shall provide that, upon request, a taxable person or his intermediary submits the requested records by electronic means to the Member State of identification. Member States shall accept that the records may be submitted using a standard form.
4. The Member State of identification shall transmit the records obtained by electronic means and without delay to the requesting Member State of consumption.
5. Where the requesting Member State of consumption does not receive the records within 30 days of the date of the making of the request, that Member State may take any action in accordance with its national legislation to obtain such records.

Article 47j

1. If the Member State of identification decides to carry out in its territory an administrative enquiry on a taxable person who makes use of one of the special schemes provided for in Chapter 6 of Title XII of Directive 2006/112/EC or, if applicable, on an intermediary it shall inform in advance of the enquiry the competent authorities of all the other Member States.

The first subparagraph shall apply only in respect of an administrative enquiry concerning the special schemes.

2. Without prejudice to Article 7(4), if the Member State of consumption decides that an administrative enquiry is required, it shall first consult with the Member State of identification on the need for such an enquiry.

In cases where the need for an administrative enquiry is agreed, the Member State of identification shall inform the other Member States.

This shall not preclude Member States to take any action in accordance with their national legislation.

3. Each Member State shall communicate to the other Member States and the Commission the details of the competent authority responsible for coordination of administrative enquiries within that Member State.

Subsection 4

Statistical information

Article 47k

Member States shall allow the Commission to extract information directly from messages generated by the computerised system referred to in Article 53 for aggregated statistical and diagnostic purposes pursuant to points (d) and (e) of Article 17(1). This information shall not contain data concerning individual taxable persons.

Subsection 5

Conferral of implementing powers*Article 47l*

For the purpose of the uniform application of this Regulation, the Commission shall be empowered to adopt the following measures in accordance with the procedure referred to in Article 58(2):

- (a) the technical details, including a common electronic message, for providing the information referred to in Articles 47b(1), 47c(1), and 47d(1), and the standard form as referred to in Article 47i(3);
 - (b) the technical details, including a common electronic message, for providing the information referred to in Articles 47b(2) and (3), 47c(2) and (3), 47d(2), 47e, 47f(2), 47i(1), (2) and (4), and 47j(1), (2) and (4) as well as the technical means for the transmission of this information;
 - (c) the technical details for the transmission between Member States of the information referred to in Article 47g;
 - (d) the technical details concerning the verification of the information referred to in Article 47h by the Member State of importation;
 - (e) the aggregated statistical and diagnostic information to be extracted by the Commission as referred to in Article 47k as well as the technical means for the extraction of this information.’
- (8) in Annex I, point 1 is replaced by the following:

‘1. distance selling (Article 33 of Directive 2006/112/EC);’.

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*.

It shall apply from 1 January 2021.

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

Done at Brussels, 5 December 2017.

For the Council
The President
T. TÕNISTE

DIRECTIVES

COUNCIL DIRECTIVE (EU) 2017/2455

of 5 December 2017

amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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 Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Directive 2006/112/EC ⁽³⁾ provides for special schemes for charging value added tax (VAT) for non-established taxable persons providing telecommunications, broadcasting or electronically supplied services to non-taxable persons.
- (2) Council Directive 2009/132/EC ⁽⁴⁾ provides for an exemption from VAT of imports of small consignments of negligible value.
- (3) The assessment of those special schemes as introduced on 1 January 2015 has identified a number of areas for improvement. First, the burden for micro-businesses established in a Member State occasionally supplying such services to other Member States of having to comply with VAT obligations in Member States other than their Member State of establishment should be reduced. A Community-wide threshold should therefore be introduced up to which those supplies remain subject to VAT in their Member State of establishment. Second, the requirement of having to comply with the invoicing requirements of all Member States to which supplies are made is very burdensome. Hence, to minimise burdens on business, the rules concerning invoicing should be those applicable in the Member State of identification of the supplier making use of the special schemes. Third, taxable persons not established in the Community but having a VAT registration in a Member State, for example because they carry out occasional transactions subject to VAT in that Member State, can use neither the special scheme for taxable persons not established in the Community, nor the special scheme for taxable persons established in the Community. As a consequence, such taxable persons should be permitted to use the special scheme for taxable persons not established within the Community.
- (4) Furthermore, the assessment of the special schemes for the taxation of telecommunications, broadcasting or electronically supplied services introduced on 1 January 2015 has shown that the requirement to submit the VAT

⁽¹⁾ Opinion of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ OJ C 345, 13.10.2017, p. 79.

⁽³⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁽⁴⁾ Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods (OJ L 292, 10.11.2009, p. 5).

return within 20 days following the end of the tax period covered by the return is too short a time limit, in particular for supplies through a telecommunications network, an interface or a portal, where the services supplied through that network, interface or portal are presumed to be supplied by the operator of the network, interface or portal, who has to collect the information to complete the VAT return from each single service supplier. The assessment has also shown that the requirement to make corrections in the VAT return of the tax period concerned is very burdensome for taxable persons, as it may require them to re-submit several VAT returns every quarter. As a consequence, the deadline to submit the VAT return should be extended from 20 days to the end of the month following the end of the tax period and taxable persons should be allowed to correct previous VAT returns in a subsequent return instead of in the returns of the tax periods to which the corrections relate.

- (5) To avoid that taxable persons supplying services other than telecommunications, broadcasting or electronically supplied services to non-taxable persons have to be identified for VAT purposes in each and every Member State where those services are subject to VAT, Member States should permit taxable persons supplying such services to make use of the IT system for registration and for declaration and payment of the VAT allowing them to declare and pay VAT on those services in a single Member State.
- (6) The realisation of the internal market, globalisation, and technological change have resulted in an explosive growth of electronic commerce and, hence, of distance sales of goods, both supplied from one Member State to another and from third territories or third countries to the Community. The relevant provisions of Directives 2006/112/EC and 2009/132/EC should be adapted to this evolution, taking into account the principle of taxation at destination, the need to protect Member States' tax revenue, to create a level playing field for the businesses concerned and to minimise burdens on them. The special scheme for telecommunications, broadcasting or electronically supplied services supplied by taxable persons established within the Community but not in the Member State of consumption should therefore be extended to intra-Community distance sales of goods and a similar special scheme should be introduced for distance sales of goods imported from third territories or third countries. To clearly determine the scope of the measures applying to intra-Community distance sales of goods and distance sales of goods imported from third territories or third countries, those concepts should be defined.
- (7) A major share of distance sales of goods, both supplied from one Member State to another and from third territories or third countries to the Community are facilitated through the use of an electronic interface such as a marketplace, platform, portal or similar means, often resorting to fulfilment warehousing arrangements. Whilst Member States may provide that a person other than the person liable for the payment of VAT is to be held jointly and severally liable for payment of VAT in such cases, this has proved insufficient to ensure effective and efficient collection of VAT. To achieve that objective and reduce the administrative burden for vendors, tax administrations and consumers, it is, therefore, necessary to involve taxable persons who facilitate distance sales of goods through the use of such an electronic interface in the collection of VAT on those sales by providing that they are the persons who are deemed to make those sales. For distance sales of goods imported from third territories or third countries to the Community, this should be restricted to sales of goods which are dispatched or transported in consignments of an intrinsic value not exceeding EUR 150, as of which a full customs declaration upon importation is required for customs purposes.
- (8) The keeping of records for a period of at least 10 years in respect of supplies by taxable persons facilitated by an electronic interface such as a marketplace, platform, portal or similar means is necessary to assist Member States to verify that VAT has been accounted for correctly on those supplies. The period of 10 years is consistent with existing record keeping provisions. Where the records consist of personal data, they should comply with Union law on data protection.
- (9) To reduce the burden for businesses making use of the special scheme for intra-Community distance sales of goods, the obligation to issue an invoice for such sales should be removed. To provide legal certainty to such businesses, the definition of those supplies of goods should clearly state that it applies also where the goods are transported or dispatched on behalf of the supplier including where the supplier intervenes indirectly in the transport or dispatch of the goods.

- (10) The scope of the special scheme for distance sales of goods imported from third territories or third countries should be restricted to sales of goods of an intrinsic value not exceeding EUR 150 that are dispatched directly from a third territory or third country to a customer in the Community, as of which a full customs declaration is required for customs purposes upon importation. Goods subject to excise duty should be excluded from its scope as excise duty is part of the taxable amount for VAT upon importation. In order to avoid double taxation, an exemption from value added tax upon importation of the goods declared under that special scheme should be introduced.
- (11) In addition, in order to avoid distortion of competition between suppliers inside and outside the Community and to avoid losses of tax revenue, it is necessary to remove the exemption for imports of goods in small consignments of negligible value provided for in Directive 2009/132/EC.
- (12) A taxable person making use of the special scheme for distance sales of goods imported from third territories or third countries should be allowed to appoint an intermediary established in the Community as the person liable for payment of the VAT and to fulfil the obligations laid down in that special scheme in his name and on his behalf.
- (13) In order to protect Member States' tax revenue, a taxable person not established in the Community making use of this special scheme should be obliged to designate an intermediary. However, that obligation should not apply if he is established in a country with which the Union has concluded an agreement on mutual assistance.
- (14) In order to ensure uniform conditions for the implementation of this Directive concerning the establishment of the list of third countries with which the Union has concluded an agreement on mutual assistance similar in scope to Council Directive 2010/24/EU ⁽¹⁾ and Council Regulation (EU) No 904/2010 ⁽²⁾, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽³⁾. Since the establishment of the list of third countries is directly linked with the administrative cooperation in the field of value added tax, it is appropriate that the Commission be assisted by the Standing Committee on Administrative Cooperation set up by Article 58 of Regulation (EU) No 904/2010.
- (15) Following the explosive growth of electronic commerce and the resulting increase in the number of small consignments of an intrinsic value not exceeding EUR 150 imported in the Community, Member States should systematically permit the use of special arrangements for declaration and payment of import VAT. Those arrangements can be applied where the special scheme for distance sales of goods imported from third territories or third countries is not used. Where the Member State of importation does not provide for the systematic application of reduced VAT rates under this special arrangement, the final customer should be able to opt for the standard import procedure in order to avail himself of a potential reduced VAT rate.
- (16) The date of application of the provisions of this Directive shall, where relevant, take account of the time needed to put in place the measures necessary to implement this Directive and for the Member States to adapt their IT system for registration and for declaration and payment of the VAT.
- (17) Since the objective of this Directive, namely the simplification of VAT obligations, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (18) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents ⁽⁴⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

⁽¹⁾ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

⁽²⁾ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

⁽³⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽⁴⁾ OJ C 369, 17.12.2011, p. 14.

(19) Directives 2006/112/EC and 2009/132/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2006/112/EC with effect from 1 January 2019

With effect from 1 January 2019, Directive 2006/112/EC is amended as follows:

(1) Article 58 is replaced by the following:

'Article 58

1. The place of supply of the following services to a non-taxable person shall be the place where that person is established, has his permanent address or usually resides:

- (a) telecommunications services;
- (b) radio and television broadcasting services;
- (c) electronically supplied services, in particular those referred to in Annex II.

Where the supplier of a service and the customer communicate via electronic mail, that shall not of itself mean that the service supplied is an electronically supplied service.

2. Paragraph 1 shall not apply where the following conditions are met:

- (a) the supplier is established or, in the absence of an establishment, has his permanent address or usually resides in only one Member State; and
- (b) services are supplied to non-taxable persons who are established, have their permanent address or usually reside in any Member State other than the Member State referred to in point (a); and
- (c) the total value, exclusive of VAT, of the supplies referred to in point (b) does not in the current calendar year exceed EUR 10 000, or the equivalent in national currency, and did not do so in the course of the preceding calendar year.

3. Where, during a calendar year, the threshold referred to in point (c) of paragraph 2 is exceeded, paragraph 1 shall apply as of that time.

4. The Member State within the territory of which the suppliers referred to in paragraph 2 are established or, in the absence of an establishment, have their permanent address or usually reside, shall grant those suppliers the right to opt for the place of supply to be determined in accordance with paragraph 1, which shall in any event cover two calendar years.

5. Member States shall take appropriate measures to monitor the fulfilment by the taxable person of the conditions referred to in paragraphs 2, 3 and 4.

6. The corresponding value in national currency of the amount referred to in point (c) of paragraph 2 shall be calculated by applying the exchange rate published by the European Central Bank on the date of adoption of Council Directive (EU) 2017/2455. (*)

(*) Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).;

(2) Article 219a is replaced by the following:

'Article 219a

1. Invoicing shall be subject to the rules applying in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V.

2. By way of derogation from paragraph 1, invoicing shall be subject to the following rules:

(a) the rules applying in the Member State in which the supplier has established his business or has a fixed establishment from which the supply is made or, in the absence of such place of establishment or fixed establishment, the Member State where the supplier has his permanent address or usually resides, where:

(i) the supplier is not established in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V, or his establishment in that Member State does not intervene in the supply within the meaning of point (b) of Article 192a, and the person liable for the payment of the VAT is the person to whom the goods or services are supplied unless the customer issues the invoice (self-billing);

(ii) the supply of goods or services is deemed not to be made within the Community, in accordance with the provisions of Title V;

(b) the rules applying in the Member State where the supplier making use of one of the special schemes referred to in Chapter 6 of Title XII is identified.

3. Paragraphs 1 and 2 of this Article shall apply without prejudice to Articles 244 to 248.;

(3) in Article 358a, point (1) is replaced by the following:

'(1) taxable person not established within the Community' means a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there;';

(4) in Article 361(1), point (e) is replaced by the following:

'(e) a statement that the person has not established his business in the territory of the Community and has no fixed establishment there.'

Article 2

Amendments to Directive 2006/112/EC with effect from 1 January 2021

With effect from 1 January 2021, Directive 2006/112/EC is amended as follows:

(1) in Article 14, the following paragraph is added:

'4. For the purposes of this Directive, the following definitions shall apply:

(1) 'intra-Community distance sales of goods' means supplies of goods dispatched or transported by or on behalf of the supplier, including where the supplier intervenes indirectly in the transport or dispatch of the goods, from a Member State other than that in which dispatch or transport of the goods to the customer ends, where the following conditions are met:

(a) the supply of goods is carried out for a taxable person, or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or for any other non-taxable person;

(b) the goods supplied are neither new means of transport nor goods supplied after assembly or installation, with or without a trial run, by or on behalf of the supplier;

(2) 'distance sales of goods imported from third territories or third countries' means supplies of goods dispatched or transported by or on behalf of the supplier, including where the supplier intervenes indirectly in the transport or dispatch of the goods, from a third territory or third country, to a customer in a Member State, where the following conditions are met:

(a) the supply of goods is carried out for a taxable person, or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or for any other non-taxable person;

(b) the goods supplied are neither new means of transport nor goods supplied after assembly or installation, with or without a trial run, by or on behalf of the supplier.;

(2) the following Article is added:

'Article 14a

1. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, distance sales of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding EUR 150, that taxable person shall be deemed to have received and supplied those goods himself.

2. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the supply of goods within the Community by a taxable person not established within the Community to a non-taxable person, the taxable person who facilitates the supply shall be deemed to have received and supplied those goods himself.'

(3) Article 33 is replaced by the following:

'Article 33

By way of derogation from Article 32:

- (a) the place of supply of intra-Community distance sales of goods shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the customer ends;
- (b) the place of supply of distance sales of goods imported from third territories or third countries into a Member State other than that in which dispatch or transport of the goods to the customer ends, shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the customer ends;
- (c) the place of supply of distance sales of goods imported from third territories or third countries into the Member State in which dispatch or transport of the goods to the customer ends shall be deemed to be in that Member State, provided that VAT on those goods is to be declared under the special scheme of Section 4 of Chapter 6 of Title XII.;

(4) Article 34 is deleted;

(5) Article 35 is replaced by the following:

'Article 35

Article 33 shall not apply to supplies of second-hand goods, works of art, collectors' items or antiques, as defined in points (1) to (4) of Article 311(1), nor to supplies of second-hand means of transport, as defined in Article 327(3), subject to VAT in accordance with the relevant special arrangements.;

(6) in Article 58, paragraphs 2 to 6 are deleted;

(7) in Title V, the following Chapter is inserted:

'CHAPTER 3a

Threshold for taxable persons making supplies of goods covered by point (a) of Article 33 and supplies of services covered by Article 58

Article 59c

1. Point (a) of Article 33 and Article 58 shall not apply, where the following conditions are met:

- (a) the supplier is established or, in the absence of an establishment, has his permanent address or usually resides only in one Member State;
- (b) services are supplied to non-taxable persons who are established, have their permanent address or usually reside in any Member State other than the Member State referred to in point (a) or goods are dispatched or transported to a Member State other than the Member State referred to in point (a); and
- (c) the total value, exclusive of VAT, of the supplies referred to in point (b) does not in the current calendar year exceed EUR 10 000, or the equivalent in national currency, nor did it do so in the course of the preceding calendar year.

2. Where, during a calendar year, the threshold referred to in point (c) of paragraph 1 is exceeded, point (a) of Article 33 and Article 58 shall apply as of that time.

3. The Member State within the territory of which the goods are located at the time when their dispatch or transport begins or where the taxable persons supplying telecommunications, radio and television broadcasting services and electronically supplied services are established shall grant taxable persons carrying out supplies eligible under paragraph 1 the right to opt for the place of supply to be determined in accordance with point (a) of Article 33 and Article 58, which shall in any event cover two calendar years.

4. Member States shall take appropriate measures to monitor the fulfilment by the taxable person of the conditions referred to in paragraphs 1, 2 and 3.

5. The corresponding value in national currency of the amount mentioned in point (c) of paragraph 1 shall be calculated by applying the exchange rate published by the European Central Bank on the date of adoption of Directive (EU) 2017/2455.;

(8) the following Article is added:

'Article 66a

By way of derogation from Articles 63, 64 and 65, in respect of supplies of goods for which VAT is payable by the person facilitating the supply pursuant to Article 14a, the chargeable event shall occur and VAT shall become chargeable at the time when the payment has been accepted.;

(9) in Article 143(1), the following point is inserted:

'(ca) the importation of goods where the VAT is to be declared under the special scheme in Chapter 6, Section 4, of Title XII and where, at the latest upon lodging of the import declaration, the individual VAT identification number for the application of the special scheme of the supplier or of the intermediary acting on his behalf allocated under Article 369q has been provided to the competent customs office in the Member State of importation.;

(10) in Article 220(1), point (2) is replaced by the following:

'(2) supplies of goods as referred to in Article 33 except where a taxable person is making use of the special scheme in Section 3 of Chapter 6 of Title XII.;

(11) the following Article is added:

'Article 242a

1. Where a taxable person facilitates, through the use of an electronic interface such as a market place, platform, portal or similar means, the supply of goods or services to a non-taxable person within the Community in accordance with the provisions of Title V, the taxable person who facilitates the supply shall be obliged to keep records of those supplies. Those records shall be sufficiently detailed to enable the tax authorities of the Member States where those supplies are taxable to verify that VAT has been accounted for correctly.

2. The records referred to in paragraph 1 must be made available electronically on request to the Member States concerned.

Those records must be kept for a period of 10 years from the end of the year during which the transaction was carried out.;

(12) the heading of Chapter 6 of Title XII is replaced by the following:

'Special schemes for taxable persons supplying services to non-taxable persons or making distance sales of goods';

(13) in Article 358, points 1, 2 and 3 are deleted;

(14) the heading of Section 2 is replaced by the following:

'Special scheme for services supplied by taxable persons not established within the Community';

(15) in Article 358a, the following point is added:

'(3) 'Member State of consumption' means the Member State in which the supply of services is deemed to take place according to Chapter 3 of Title V.;

(16) Article 359 is replaced by the following:

'Article 359

Member States shall permit any taxable person not established within the Community supplying services to a non-taxable person who is established in a Member State or has his permanent address or usually resides in a Member State, to use this special scheme. This scheme applies to all those services supplied within the Community.;

(17) Article 362 is replaced by the following:

'Article 362

The Member State of identification shall allocate to the taxable person not established within the Community an individual VAT identification number for the application of this special scheme and shall notify him of that number by electronic means. On the basis of the information used for that identification, Member States of consumption may have recourse to their own identification systems.;

(18) in Article 363, point (a) is replaced by the following:

'(a) if he notifies that Member State that he no longer supplies services covered by this special scheme.;

(19) Articles 364 and 365 are replaced by the following:

'Article 364

The taxable person not established within the Community making use of this special scheme shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not services covered by this special scheme have been supplied. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.

Article 365

The VAT return shall show the individual VAT identification number for the application of this special scheme and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of supplies of services covered by this special scheme carried out during the tax period and total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 364. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.;

(20) Article 368 is replaced by the following:

'Article 368

The taxable person not established within the Community making use of this special scheme may not deduct VAT pursuant to Article 168 of this Directive. Notwithstanding point (1) of Article 1 of Directive 86/560/EEC, the taxable person in question shall be refunded in accordance with that Directive. Article 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to services covered by this special scheme.

If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he shall deduct VAT incurred in that Member State in respect of his taxable activities which are covered by this special scheme in the VAT return to be submitted pursuant to Article 250 of this Directive.;

(21) the heading of Section 3 of Chapter 6 of Title XII is replaced by the following:

'Special scheme for intra-Community distance sales of goods and for services supplied by taxable persons established within the Community but not in the Member State of consumption';

(22) In Article 369a, the following point is added:

'(3) 'Member State of consumption' means the Member State in which the supply of services is deemed to take place according to Chapter 3 of Title V or, in the case of intra-Community distance sales of goods, the Member State where the dispatch or transport of the goods to the customer ends.;

(23) Articles 369b and 369c are replaced by the following:

'Article 369b

Member States shall permit any taxable person carrying out intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying services to a non-taxable person, to use this special scheme. This special scheme applies to all those goods or services supplied in the Community.

Article 369c

A taxable person shall state to the Member State of identification when he commences and ceases his taxable activities covered by this special scheme, or changes those activities in such a way that he no longer meets the conditions necessary for use of this special scheme. He shall communicate that information electronically.'

(24) Article 369e is amended as follows:

(a) the introductory words are replaced by the following:

'The Member State of identification shall exclude a taxable person from the special scheme in any of the following cases:'

(b) point (a) is replaced by the following:

'(a) if he notifies that he no longer carries out intra-Community distance sales of goods and supplies of services covered by this special scheme;';

(25) Articles 369f and 369g are replaced by the following:

'Article 369f

The taxable person making use of this special scheme shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not intra-Community distance sales of goods have been carried out or services covered by this special scheme have been supplied. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.

Article 369g

1. The VAT return shall show the VAT identification number referred to in Article 369d and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of intra-Community distance sales of goods as well as of supplies of services covered by this special scheme carried out during the tax period and the total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return. The VAT return shall also include amendments relating to previous tax periods as provided in paragraph 4 of this Article.

2. Where, in the case of intra-Community distance sales of goods covered by this special scheme, goods are dispatched or transported from Member States other than the Member State of identification, the VAT return shall also include the total value of such sales for each Member State where the goods are dispatched or transported from, together with the individual VAT identification number or the tax reference number allocated by each such Member State. The VAT return shall include this information for each Member State other than the Member State of identification, broken down by Member State of consumption.

3. Where the taxable person supplying services covered by this special scheme has one or more fixed establishments, other than that in the Member State of identification, from which the services are supplied, the VAT return shall also include the total value of such supplies, for each Member State in which he has an establishment, together with the individual VAT identification number or the tax reference number of this establishment, broken down by Member State of consumption.

4. Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369f. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.;

(26) in the second subparagraph of Article 369h(1), the second sentence is replaced by the following:

'If the supplies have been made in other currencies, the taxable person making use of this special scheme shall, for the purposes of completing the VAT return, use the exchange rate applying on the last date of the tax period.'

(27) in Article 369i, the first paragraph is replaced by the following:

'The taxable person making use of this special scheme shall pay the VAT, making reference to the relevant VAT return, at the latest at the expiry of the deadline by which the return must be submitted.'

(28) Article 369j is replaced by the following:

'Article 369j

The taxable person making use of this special scheme may not, in respect of his taxable activities covered by this special scheme, deduct VAT incurred in the Member State of consumption pursuant to Article 168 of this Directive. Notwithstanding Article 2(1), Article 3 and point (e) of Article 8(1) of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with that Directive.

If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he shall deduct VAT incurred in that Member State in respect of his taxable activities which are covered by this special scheme in the VAT return to be submitted pursuant to Article 250 of this Directive.'

(29) in Article 369k, paragraph 1 is replaced by the following:

'1. The taxable person making use of this special scheme shall keep records of the transactions covered by this special scheme. Those records must be sufficiently detailed to enable the tax authorities of the Member State of consumption to verify that the VAT return is correct.'

(30) in Chapter 6 of Title XII, the following Section is added:

'SECTION 4

Special scheme for distance sales of goods imported from third territories or third countries

Article 369l

For the purposes of this Section, distance sales of goods imported from third territories or third countries shall only cover goods, except products subject to excise duty, in consignments of an intrinsic value not exceeding EUR 150.

For the purposes of this Section, and without prejudice to other Community provisions, the following definitions shall apply:

- (1) 'taxable person not established within the Community' means a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there;
- (2) 'intermediary' means a person established in the Community appointed by the taxable person carrying out distance sales of goods imported from third territories or third countries as the person liable for payment of the VAT and to fulfil the obligations laid down in this special scheme in the name and on behalf of the taxable person;
- (3) 'Member State of identification' means the following:
 - (a) where the taxable person is not established in the Community, the Member State in which he chooses to register;
 - (b) where the taxable person has established his business outside the Community but has one or more fixed establishments therein, the Member State with a fixed establishment where the taxable person indicates he will make use of this special scheme;
 - (c) where the taxable person has established his business in a Member State, that Member State;

- (d) where the intermediary has established his business in a Member State, that Member State;
- (e) where the intermediary has established his business outside the Community but has one or more fixed establishments therein, the Member State with a fixed establishment where the intermediary indicates he will make use of this special scheme.

For the purposes of points (b) and (e), where the taxable person or the intermediary has more than one fixed establishment in the Community he shall be bound by the decision to indicate the Member State of establishment for the calendar year concerned and the two calendar years following;

- (4) 'Member State of consumption' means the Member State where the dispatch or transport of the goods to the customer ends.

Article 369m

1. Member States shall permit the following taxable persons carrying out distance sales of goods imported from third territories or third countries to use this special scheme:

- (a) any taxable person established in the Community carrying out distance sales of goods imported from third territories or third countries;
- (b) any taxable person whether or not established in the Community carrying out distance sales of goods imported from third territories or third countries and who is represented by an intermediary established in the Community;
- (c) any taxable person established in a third country with which the Union has concluded an agreement on mutual assistance similar in scope to Council Directive 2010/24/EU (*) and Regulation (EU) No 904/2010 and who is carrying out distance sales of goods from that third country.

Those taxable persons shall apply this special scheme to all their distance sales of goods imported from third territories or third countries.

2. For the purposes of point (b) of paragraph 1, any taxable person cannot appoint more than one intermediary at the same time.

3. The Commission shall adopt an implementing act establishing the list of third countries referred to in point (c) of paragraph 1 of this Article. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 and for this purpose the committee shall be the committee established by Article 58 of Regulation (EU) No 904/2010.

Article 369n

For distances sales of goods imported from third territories or third countries on which VAT is declared under this special scheme, the chargeable event shall occur and VAT shall become chargeable at the time of supply. The goods shall be regarded as having been supplied at the time when the payment has been accepted.

Article 369o

The taxable person making use of this special scheme or an intermediary acting on his behalf, shall state to the Member State of identification when he commences or ceases his activity under this special scheme, or changes that activity in such a way that he no longer meets the conditions necessary for use of this special scheme. That information shall be communicated electronically.

Article 369p

1. The information which the taxable person not making use of an intermediary must provide to the Member State of identification before he commences the use of this special scheme shall contain the following details:

- (a) name;
- (b) postal address;
- (c) electronic address and websites;
- (d) VAT identification number or national tax number.

2. The information which the intermediary must provide to the Member State of identification before he commences the use of this special scheme on behalf of a taxable person shall contain the following details:

- (a) name;
- (b) postal address;
- (c) electronic address;
- (d) VAT identification number.

3. The information which the intermediary must provide to the Member State of identification in respect of each taxable person which he represents before that taxable person commences the use of this special scheme shall contain the following details:

- (a) name;
- (b) postal address;
- (c) electronic address and websites;
- (d) VAT identification number or national tax number;
- (e) his individual identification number allocated in accordance with Article 369q(3).

4. Any taxable person making use of this special scheme or where applicable his intermediary shall notify the Member State of identification of any changes in the information provided.

Article 369q

1. The Member State of identification shall allocate to the taxable person making use of this special scheme an individual VAT identification number for the application of this special scheme and shall notify him of that number by electronic means.

2. The Member State of identification shall allocate to an intermediary an individual identification number and shall notify him of that number by electronic means.

3. The Member State of identification shall allocate an individual VAT identification number for the application of this special scheme to the intermediary in respect of each taxable person for which he is appointed.

4. The VAT identification number allocated under paragraphs 1, 2 and 3 shall be used only for the purposes of this special scheme.

Article 369r

1. The Member State of identification shall delete the taxable person not making use of an intermediary from the identification register in the following cases:

- (a) if he notifies the Member State of identification that he no longer carries out distance sales of goods imported from third territories or third countries;
- (b) if it may otherwise be assumed that his taxable activities of distance sales of goods imported from third territories or third countries have ceased;
- (c) if he no longer meets the conditions necessary for use of this special scheme;
- (d) if he persistently fails to comply with the rules relating to this special scheme.

2. The Member State of identification shall delete the intermediary from the identification register in the following cases:

- (a) if for a period of two consecutive calendar quarters he has not acted as an intermediary on behalf of a taxable person making use of this special scheme;
- (b) if he no longer meets the other conditions necessary for acting as an intermediary;
- (c) if he persistently fails to comply with the rules relating to this special scheme.

3. The Member State of identification shall delete the taxable person represented by an intermediary from the identification register in the following cases:

- (a) if the intermediary notifies the Member State of identification that this taxable person no longer carries out distance sales of goods imported from third territories or third countries;
- (b) if it may otherwise be assumed that the taxable activities of distance sales of goods imported from third territories or third countries of this taxable person have ceased;
- (c) if this taxable person no longer meets the conditions necessary for use of this special scheme;
- (d) if this taxable person persistently fails to comply with the rules relating to this special scheme;
- (e) if the intermediary notifies the Member State of identification that he no longer represents this taxable person.

Article 369s

The taxable person making use of this special scheme or his intermediary shall submit by electronic means to the Member State of identification a VAT return for each month, whether or not distance sales of goods imported from third territories or third countries have been carried out. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.

Where a VAT return is to be submitted in accordance with the first paragraph, Member States shall not impose, for VAT purposes, any additional obligation or other formality upon importation.

Article 369t

1. The VAT return shall show the VAT identification number referred to in Article 369q and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of distance sales of goods imported from third territories or third countries for which VAT has become chargeable during the tax period and the total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

2. Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369s. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.

Article 369u

1. The VAT return shall be made out in euro.

Member States whose currency is not the euro may require the VAT return to be made out in their national currency. If the supplies have been made in other currencies, the taxable person making use of this special scheme or his intermediary shall, for the purposes of completing the VAT return, use the exchange rate applying on the last date of the tax period.

2. The conversion shall be made by applying the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

Article 369v

The taxable person making use of this special scheme or his intermediary shall pay the VAT, making reference to the relevant VAT return at the latest at the expiry of the deadline by which the return must be submitted.

Payment shall be made to a bank account denominated in euro, designated by the Member State of identification. Member States which have not adopted the euro may require the payment to be made to a bank account denominated in their own currency.

Article 369w

The taxable person making use of this special scheme may not, in respect of his taxable activities covered by this special scheme, deduct VAT incurred in the Member States of consumption pursuant to Article 168 of this Directive. Notwithstanding point (1) of Article 1 of Directive 86/560/EEC and point (1) of Article 2 and Article 3 of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with those Directives. Article 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to goods covered by this special scheme.

If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he shall deduct VAT incurred in that Member State in respect of his taxable activities which are covered by this special scheme in the VAT return to be submitted pursuant to Article 250 of this Directive.

Article 369x

1. The taxable person making use of this special scheme shall keep records of the transactions covered by this special scheme. An intermediary shall keep records for each of the taxable persons he represents. Those records must be sufficiently detailed to enable the tax authorities of the Member State of consumption to verify that the VAT return is correct.

2. The records referred to in paragraph 1 must be made available electronically on request to the Member State of consumption and to the Member State of identification.

Those records must be kept for a period of 10 years from the end of the year during which the transaction was carried out.

(*) Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).;

(31) In Title XII, the following Chapters are added:

*CHAPTER 7****Special arrangements for declaration and payment of import VAT****Article 369y*

Where, for the importation of goods, except products subject to excise duties, in consignments of an intrinsic value not exceeding EUR 150, the special scheme in Section 4 of Chapter 6 is not used, the Member State of importation shall permit the person presenting the goods to customs on behalf of the person for whom the goods are destined within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport ends in that Member State.

Article 369z

1. For the purpose of this special arrangement, the following shall apply:

(a) the person for whom the goods are destined shall be liable for the payment of the VAT;

(b) the person presenting the goods to customs within the territory of the Community shall collect the VAT from the person for whom the goods are destined and effect the payment of such VAT.

2. Member States shall provide that the person presenting the goods to customs within the territory of the Community takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined.

Article 369za

By way of derogation from Article 94(2), Member States may provide that the standard rate of VAT applicable in the Member State of importation is applicable when using this special arrangement.

Article 369zb

1. Member States shall allow that the VAT collected under this special arrangement be reported electronically in a monthly declaration. The declaration shall show the total VAT collected during the relevant calendar month.

2. Member States shall require that the VAT referred to in paragraph 1 is payable by the end of the month following the importation.

3. The persons making use of this special arrangement shall keep records of the transactions covered by this special arrangement for a period of time to be determined by the Member State of importation. Those records must be sufficiently detailed to enable the tax or customs authorities of the Member State of importation to verify that the VAT declared is correct and be made available electronically on request to the Member State of importation.

CHAPTER 8

Exchange values

Article 369zc

1. The exchange value in national currency of the euro to be taken into consideration for the amount mentioned in Articles 369l and 369y be fixed once a year. The rates to be applied shall be those obtaining on the first working day in October and shall take effect on 1 January the following year.

2. Member States may round off the amount in national currency arrived at by converting the amounts in euro.

3. Member States may continue to apply the amount in force at the time of the annual adjustment provided for in paragraph 1, if conversion of the amount expressed in euro leads, before the rounding-off provided for in paragraph 2 to an alteration of less than 5 % in the amount expressed in national currency or to a reduction in that amount.'

Article 3

Amendment to Directive 2009/132/EC

With effect from 1 January 2021, Title IV of Directive 2009/132/EC is deleted.

Article 4

Transposition

1. Member States shall adopt and publish, by 31 December 2018, the laws, regulations and administrative provisions necessary to comply with Article 1 of this Directive. They shall immediately communicate to the Commission the text of those provisions.

Member States shall adopt and publish, by 31 December 2020, the laws, regulations and administrative provisions necessary to comply with Articles 2 and 3 of this Directive. They shall immediately communicate to the Commission the text of those provisions.

They shall apply the measures necessary to comply with Article 1 of this Directive from 1 January 2019.

They shall apply the measures necessary to comply with Articles 2 and 3 of this Directive from 1 January 2021.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 5

Entry into force

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

*Article 6***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 5 December 2017.

For the Council

The President

T. TÕNISTE

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2017/2456

of 18 December 2017

on the conclusion of the Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 186, in conjunction with point (a)(v) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) Decision (EU) 2017/1324 of the European Parliament and of the Council ⁽²⁾ provides for the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States.
- (2) The People's Democratic Republic of Algeria ('Algeria') expressed its wish to join PRIMA as a Participating State and on an equal footing with the Member States and third countries associated to Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) participating in PRIMA.
- (3) In accordance with Article 1(2) of Decision (EU) 2017/1324 Algeria is to become a Participating State in PRIMA subject to the conclusion of an international agreement for scientific and technological cooperation with the Union setting out the terms and conditions for the participation of Algeria in PRIMA.
- (4) In accordance with Council Decision (EU) 2017/2209 ⁽³⁾ the Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) ('the Agreement'), was signed on 26 October 2017, subject to its conclusion at a later date.
- (5) The Agreement should be approved,

⁽¹⁾ Consent of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ Decision (EU) 2017/1324 of the European Parliament and of the Council of 4 July 2017 on the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States (OJ L 185, 18.7.2017, p. 1).

⁽³⁾ Council Decision (EU) 2017/2209 of 25 September 2017 on the signing, on behalf of the Union, and provisional application of the Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) (OJ L 316, 1.12.2017, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

The Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) is hereby approved on behalf of the Union ⁽¹⁾.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 5(2) of the Agreement ⁽²⁾.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 18 December 2017.

For the Council
The President
K. SIMSON

⁽¹⁾ The Agreement has been published in OJ L 316, 1.12.2017, p. 3 together with the decision on signature.

⁽²⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

COUNCIL DECISION (EU) 2017/2457**of 18 December 2017****on the conclusion of the Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 186, in conjunction with point (a)(v) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) Decision (EU) 2017/1324 of the European Parliament and of the Council ⁽²⁾ provides for the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States.
- (2) The Arab Republic of Egypt ('Egypt') expressed its wish to join PRIMA as a Participating State and on an equal footing with the Member States and third countries associated to Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) participating in PRIMA.
- (3) In accordance with Article 1(2) of Decision (EU) 2017/1324 Egypt is to become a Participating State in PRIMA subject to the conclusion of an international agreement for scientific and technological cooperation with the Union setting out the terms and conditions for the participation of Egypt in PRIMA.
- (4) In accordance with Council Decision (EU) 2017/2210 ⁽³⁾ the Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) ('the Agreement'), was signed on 27 October 2017, subject to its conclusion at a later date.
- (5) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) is hereby approved on behalf of the Union ⁽⁴⁾.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 4(2) of the Agreement ⁽⁵⁾.

⁽¹⁾ Consent of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ Decision (EU) 2017/1324 of the European Parliament and of the Council of 4 July 2017 on the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States (OJ L 185, 18.7.2017, p. 1).

⁽³⁾ Council Decision (EU) 2017/2210 of 25 September 2017 on the signing, on behalf of the Union, and provisional application of the Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) (OJ L 316, 1.12.2017, p. 7).

⁽⁴⁾ The Agreement has been published in OJ L 316 of 1.12.2017, p. 9 together with the decision on signature.

⁽⁵⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 18 December 2017.

For the Council
The President
K. SIMSON

COUNCIL DECISION (EU) 2017/2458**of 18 December 2017****on the conclusion of the Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 186, in conjunction with point (a)(v) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) Decision (EU) 2017/1324 of the European Parliament and of the Council ⁽²⁾ provides for the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States.
- (2) The Hashemite Kingdom of Jordan ('Jordan') expressed its wish to join PRIMA as a Participating State and on an equal footing with the Member States and third countries associated to Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) participating in PRIMA.
- (3) In accordance with Article 1(2) of Decision (EU) 2017/1324 Jordan is to become a Participating State in PRIMA subject to the conclusion of an international agreement for scientific and technological cooperation with the Union setting out the terms and conditions for the participation of Jordan in PRIMA.
- (4) In accordance with Council Decision (EU) 2017/2211 ⁽³⁾ the Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) ('the Agreement'), was signed on 10 November 2017, subject to its conclusion at a later date.
- (5) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

⁽¹⁾ Consent of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ Decision (EU) 2017/1324 of the European Parliament and of the Council of 4 July 2017 on the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States (OJ L 185, 18.7.2017, p. 1).

⁽³⁾ Council Decision (EU) 2017/2211 of 25 September 2017 on the signing, on behalf of the Union, of the Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) (OJ L 316, 1.12.2017, p. 13).

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 4(2) of the Agreement ⁽¹⁾.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 18 December 2017.

For the Council
The President
K. SIMSON

⁽¹⁾ The date of entry into force of the Agreement will be published in *the Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT

for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)

THE EUROPEAN UNION, hereinafter referred to as 'the Union',

of the one part,

and

THE HASHEMITE KINGDOM OF JORDAN, hereinafter referred to as 'Jordan',

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part ⁽¹⁾ ('the Euro-Mediterranean Agreement'), which entered into force on 1 May 2002, provides for scientific and technological cooperation;

WHEREAS the Agreement between the European Community and the Hashemite Kingdom of Jordan on Scientific and Technological Cooperation ⁽²⁾, which entered into force on 29 March 2011, establishes a formal framework for cooperation of the Parties in scientific and technological research;

WHEREAS Decision (EU) 2017/1324 of the European Parliament and of the Council ⁽³⁾ regulates the terms and conditions for the participation of the Member States of the Union and third countries associated to Horizon 2020 — the Framework Programme for Research and Innovation 2014-2020 ('Horizon 2020') which are Participating States of the initiative, in particular their financial obligations and participation in the governing structures of the initiative;

WHEREAS in accordance with Decision (EU) 2017/1324 Jordan is to become a Participating State in the Partnership for Research and Innovation in the Mediterranean Area ('PRIMA') subject to the conclusion of an international agreement for scientific and technological cooperation with the Union setting out the terms and conditions for the participation of Jordan in PRIMA;

WHEREAS Jordan expressed its wish to join PRIMA as a Participating State and on an equal footing with the Member States of the Union and third countries associated to Horizon 2020 participating in PRIMA;

WHEREAS an international agreement between the Union and Jordan is needed to regulate the rights and obligations of Jordan as a Participating State in PRIMA,

HAVE AGREED AS FOLLOWS:

Article 1

The purpose

The purpose of this Agreement is to set out the terms and conditions for the participation of Jordan in the Partnership for Research and Innovation in the Mediterranean Area ('PRIMA').

Article 2

Terms and conditions for the participation of Jordan in PRIMA

The terms and conditions for the participation of Jordan in PRIMA shall be those set out in Decision (EU) 2017/1324. The Parties shall comply with the obligations established by Decision (EU) 2017/1324 and take appropriate measures, in particular by providing all necessary assistance in order to ensure the application of Article 10(2) and Article 11(3) and (4) of that Decision. The detailed arrangements for assistance shall be agreed between the Parties, such arrangements being essential to their cooperation under this Agreement.

⁽¹⁾ OJEU L 129, 15.5.2002, p. 3.

⁽²⁾ OJEU L 159, 17.6.2011, p. 108.

⁽³⁾ Decision (EU) 2017/1324 of the European Parliament and of the Council of 4 July 2017 on the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States (OJEU L 185, 18.7.2017, p. 1).

*Article 3***Territorial application**

This Agreement shall apply, on the one hand, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applied and, on the other, to the territory of Jordan.

*Article 4***Entry into force and duration**

1. This Agreement shall be approved by the Parties in accordance with their own procedures.
2. This Agreement shall enter into force on the date on which both Parties have notified each other through diplomatic channels that the procedures referred to in paragraph 1 have been completed.
3. This Agreement shall remain in force for as long as Decision (EU) 2017/1324 is in force, unless terminated by either Party in accordance with Article 5.

*Article 5***Termination**

1. Either Party may terminate this Agreement at any time by a written notice informing the other Party of the intent to terminate it.

The termination shall take effect six months after the date on which the written notice reaches its addressee.

2. Projects and activities in progress at the time of termination of this Agreement shall continue until their completion under the conditions laid down in this Agreement.
3. Parties shall settle by common consent any other consequences of termination.

*Article 6***Dispute settlement**

The dispute settlement procedure provided for in Article 97 of the Euro-Mediterranean Agreement shall apply to all disputes related to the application or interpretation of this Agreement.

This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Arabic languages, each text being equally authentic.

Съставено в Суейме на десети ноември две хиляди и седемнадесета година.

Hecho en Sweimeh el diez de noviembre de dos mil diecisiete.

Ve Sweimehu dne desátého listopadu dva tisíce sedmnáct.

Udfærdiget i Sweimeh den tiende november i år to tusind og sytten.

Geschehen zu Sweimeh am zehnten November zweitausendsiebzehn.

Kahe tuhande seitsmeteistkümnenda aasta novembrikuu kümnendal päeval Sweimeh's.

Sweimeh, τη δέκατη ημέρα του Νοεμβρίου του έτους δύο χιλιάδες δεκαεπτά.

Done at Sweimeh on the tenth day of November in the year two thousand and seventeen.

Fait à Sweimeh, le dix novembre deux mille dix-sept.

Sastavljeno u Sweimehu desetog studenoga dvije tisuće sedamnaeste.

Fatto a Sweimeh, addì 10 novembre duemiladiciassette.

Sveimē, divi tūkstoši septiņpadsmitā gada desmitajā novembrī.

Priimta du tūkstančiai septynioliktųjų metų lapkričio dešimtą dieną Sveimoje.

Kelt Sweimehben, a kétezer-tizenhetedik év november havának tizedik napján.

Magħmul fi Sweimeh fl-ghaxar jum ta' Novembru fis-sena elfejn u sbatax.

Gedaan te Sweimeh, tien november tweeduizend zeventien.

Sporządzono w Sweimeh w dniu dziesiątego listopada dwa tysiące siedemnastego roku.

Feito em Sweimeh, aos dez dias do mês de novembro do ano dois mil e dezassete.

Întocmit la Sweimeh, la zece noiembrie două mii șaptesprezece.

V meste Sweimeh, desiatego novembra dvetisicsedemnast.

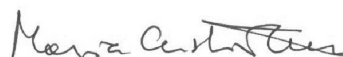
V Sweimehu, dne desetega novembra leta dva tisoč sedemnajst.

Tehty Sweimehissä kymmenentenä päivänä marraskuuta vuonna kaksituhattasetsemäntoista.

Utfärdat i Sweimeh den tionde november år tjugohundrasjutton.

حررت في السويمة في اليوم العاشر من شهر تشرين الثاني في عام ألفين وسبعة عشر

За Европейския съюз
 Por la Unión Europea
 Za Evropskou unii
 For Den Europæiske Union
 Für die Europäische Union
 Euroopa Liidu nimel
 Για την Ευρωπαϊκή Ένωση
 For the European Union
 Pour l'Union européenne
 Za Europsku uniju
 Per l'Unione europea
 Eiropas Savienības vārdā –
 Europos Sąjungos vardu
 Az Európai Unió részéről
 Għall-Unjoni Ewropea
 Voor de Europese Unie
 W imieniu Unii Europejskiej
 Pela União Europeia
 Pentru Uniunea Europeană
 Za Európsku úniu
 Za Evropsko unijo
 Euroopan unionin puolesta
 För Europeiska unionen

عن الإتحاد الأوروبي

За Хашемитското кралство Йордания
 Por el Reino Hachemí de Jordania
 Za Jordánské hášimovské království
 For Det Hashemitiske Kongerige Jordan
 Für das Haschemitische Königreich Jordanien
 Jordaania Hašimiidi Kuningriigi nimel
 Για το Χασεμιτικό Βασίλειο της Ιορδανίας
 For the Hashemite Kingdom of Jordan
 Pour le Royaume hachémite de Jordanie
 Za Hašemitsku Kraljevinu Jordan
 Per il Regno hascemita di Giordania
 Jordānijas Hāšimītu Karalistes vārdā –
 Jordanijos Hašimitų Karalystės vardu
 A Jordán Hásimita Királyság részéről
 Għar-Renju Haxemita tal-Gordan
 Voor het Hasjemitisch Koninkrijk Jordanië
 W imieniu Jordańskiego Królestwa Haszymidzkiego
 Pelo Reino Hachemita da Jordânia
 Pentru Regatul Hașemit al Iordaniei
 Za Jordánske hášimovské král'ovstvo
 Za Hašemitsko kraljevino Jordanijo
 Jordanian hašemiittisen kuningaskunnan puolesta
 För Hashemitiska konungariket Jordanien



عن المملكة الأردنية الهاشمية

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2017/2459

of 5 December 2017

amending Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 397 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Implementing Regulation (EU) No 282/2011 ⁽²⁾ lays down detailed provisions for the presumption of the location of the customer for determining the place of supply of telecommunications, broadcasting or electronically supplied services provided to non-taxable person.
- (2) The evaluation of the requirements for the application of those presumptions has shown that for the taxable person established in a Member State and supplying such services to a non-taxable person in other Member States, to obtain, under certain circumstances, two items of non-contradictory evidence of the place where his customer is established or has his permanent address or usually resides, is extremely burdensome.
- (3) The burden is particularly onerous for small and medium-sized companies. The requirement for one piece of evidence should simplify the obligations for such companies whose intra-Community supplies to consumers in other Member States are below a certain threshold.
- (4) The simplification of the requirement to prove the customer's location is complementary to the amendments introduced by Article 1 of Council Directive (EU) 2017/2455 ⁽³⁾ to the special schemes laid down in Chapter 6 of Title XII of Directive 2006/112/EC and should therefore apply from the same date.
- (5) Implementing Regulation (EU) No 282/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 24b of Implementing Regulation (EU) No 282/2011 is replaced by the following:

'Article 24b

For the application of Article 58 of Directive 2006/112/EC, where telecommunications, broadcasting or electronically supplied services are supplied to a non-taxable person:

- (a) through his fixed land line, it shall be presumed that the customer is established, has his permanent address or usually resides at the place of installation of the fixed land line;
- (b) through mobile networks, it shall be presumed that the place where the customer is established, has his permanent address or usually resides is the country identified by the mobile country code of the SIM card used when receiving those services;

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

⁽³⁾ Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

- (c) for which the use of a decoder or similar device or a viewing card is needed and a fixed land line is not used, it shall be presumed that the customer is established, has his permanent address or usually resides at the place where that decoder or similar device is located, or if that place is not known, at the place to which the viewing card is sent with a view to being used there;
- (d) under circumstances other than those referred to in Article 24a and in points (a), (b) and (c) of this Article, it shall be presumed that the customer is established, has his permanent address or usually resides at the place identified as such by the supplier on the basis of two items of non-contradictory evidence as listed in Article 24f of this Regulation.

Without prejudice to point (d) of the first paragraph, for supplies of services falling under that point, where the total value of such supplies, exclusive of VAT, provided by a taxable person from his business establishment or a fixed establishment located in a Member State, does not exceed EUR 100 000, or the equivalent in national currency, in the current and the preceding calendar year, the presumption shall be that the customer is established, has his permanent address or usually resides at the place identified as such by the supplier on the basis of one item of evidence provided by a person involved in the supply of the services other than the supplier or the customer, as listed in points (a) to (e) of Article 24f.

Where, during a calendar year, the threshold provided in the second paragraph has been exceeded, that paragraph shall not apply as of that time and until such time as the conditions provided in that paragraph are fulfilled again.

The corresponding value in national currency of the amount shall be calculated by applying the exchange rate published by the European Central Bank on the date of adoption of Council Implementing Regulation (EU) 2017/2459 (*).

(*) Council Implementing Regulation (EU) 2017/2459 of 5 December 2017 amending Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 348, 29.12.2017, p. 32).

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*.

It shall apply from 1 January 2019.

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

Done at Brussels, 5 December 2017.

For the Council
The President
T. TÕNISTE

COMMISSION REGULATION (EU) 2017/2460**of 30 October 2017****amending Annex VII to Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, as regards the list of Union reference laboratories****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the compliance with feed and food law, animal health and animal welfare rules ⁽¹⁾, and in particular Article 32(5) thereof,

Whereas:

- (1) Regulation (EC) No 882/2004 lays down general rules for the performance of official controls to verify compliance with, inter alia, rules on food hygiene. In accordance with that Regulation, European Union reference laboratories ('EU reference laboratories') are responsible, in particular, for providing national reference laboratories with details of analytical methods and for the coordination of the application of such methods. The EU reference laboratories are listed in Annex VII to that Regulation.
- (2) The EU reference laboratory on milk and milk products' work programme is essentially aimed at providing analytical methods and ensuring a common approach to inter laboratory proficiency tests conducted by national reference laboratories on quality markers such as somatic cells counts and germs. State of the art expertise on how to properly conduct those analyses is now well established both with the official laboratories performing official controls and with laboratories increasingly utilised by food businesses to analyse those markers, which are a factor determining the price of milk collected at the farm.
- (3) The EU reference laboratory for milk and milk products is no longer required within the Union. It should therefore be removed from the list of the EU reference laboratories set out in Annex VII to Regulation (EC) No 882/2004.
- (4) Annex VII to Regulation (EC) No 882/2004 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

In Part I of Annex VII to Regulation (EC) No 882/2004, point 1 is deleted.

*Article 2*This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 165, 30.4.2004, p. 1.

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

Done at Brussels, 30 October 2017.

For the Commission
The President
Jean-Claude JUNCKER

DECISIONS

**COUNCIL DECISION (EU, Euratom) 2017/2461
of 12 December 2017
amending the Council's Rules of Procedure**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Article 11(6) of the Council's Rules of Procedure ⁽¹⁾,

Whereas:

- (1) When an act is to be adopted by the Council acting by qualified majority, it has to be verified that the Member States constituting the qualified majority represent at least 65 % of the population of the Union.
- (2) That percentage is calculated according to the population figures set out in Annex III to the Council's Rules of Procedure ('the Rules of Procedure').
- (3) Article 11(6) of the Rules of Procedure provides that, with effect from 1 January each year, the Council is to amend the figures set out in that Annex, in accordance with the data available to the Statistical Office of the European Union on 30 September of the preceding year.
- (4) The Rules of Procedure should therefore be amended accordingly for the year 2018,

HAS ADOPTED THIS DECISION:

Article 1

Annex III to the Rules of Procedure is replaced by the following:

'ANNEX III

Figures concerning the population of the Union and the population of each Member State for implementing the provisions concerning qualified majority voting in the Council

For the purposes of implementing Article 16(4) TEU and Article 238(2) and (3) TFEU, the population of the Union and the population of each Member State, as well as the percentage of each Member State's population in relation to the population of the Union, for the period from 1 January 2018 to 31 December 2018 shall be as follows:

Member State	Population	Percentage of the population of the Union (%)
Germany	82 437 641	16,10
France	67 024 633	13,09
United Kingdom	65 808 573	12,85
Italy	61 219 113	11,95
Spain	46 528 966	9,08

⁽¹⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

Member State	Population	Percentage of the population of the Union (%)
Poland	37 972 964	7,41
Romania	19 638 309	3,83
Netherlands	17 220 721	3,36
Belgium	11 365 834	2,22
Greece	10 757 293	2,10
Czech Republic	10 467 628	2,04
Portugal	10 309 573	2,01
Sweden	10 080 000	1,97
Hungary	9 797 561	1,91
Austria	8 752 500	1,71
Bulgaria	7 101 859	1,39
Denmark	5 743 947	1,12
Finland	5 499 447	1,07
Slovakia	5 435 343	1,06
Ireland	4 774 833	0,93
Croatia	4 154 213	0,81
Lithuania	2 847 904	0,56
Slovenia	2 065 895	0,40
Latvia	1 950 116	0,38
Estonia	1 315 635	0,26
Cyprus	854 802	0,17
Luxembourg	589 370	0,12
Malta	440 433	0,09'
EU 28	512 155 106	
Threshold (65 %)	332 900 819	

Article 2

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2018.

Done at Brussels, 12 December 2017.

For the Council
The President
S. MIKSER

COUNCIL DECISION (EU) 2017/2462**of 18 December 2017****authorising Luxembourg and Romania to accept, in the interest of the European Union, the accession of Georgia and South Africa to the 1980 Hague Convention on the Civil Aspects of International Child Abduction**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(3) in conjunction with Article 218 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The European Union has set as one of its aims the promotion of the protection of the rights of the child, as stated in Article 3 of the Treaty on European Union. Measures for the protection of children against wrongful removal or retention are an essential part of that policy.
- (2) The Council adopted Regulation (EC) No 2201/2003 ⁽²⁾ ('Brussels Iia Regulation'), which aims to protect children from the harmful effects of wrongful removal or retention and to establish procedures to ensure their prompt return to the state of their habitual residence, as well as to secure the protection of rights of access and rights of custody.
- (3) The Brussels Iia Regulation complements and reinforces the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ('the 1980 Hague Convention') which establishes, at international level, a system of obligations and cooperation among contracting states and between central authorities and aims at ensuring the prompt return of wrongfully removed or retained children.
- (4) All Member States of the Union are party to the 1980 Hague Convention.
- (5) The Union encourages third states to accede to the 1980 Hague Convention and supports the correct implementation of the 1980 Hague Convention by participating, along with the Member States, inter alia, in the special commissions organised on a regular basis by the Hague Conference on private international law.
- (6) A common legal framework applicable between Member States of the Union and third states could be the best solution for sensitive cases of international child abduction.
- (7) The 1980 Hague Convention stipulates that it applies between the acceding state and such contracting states as have declared their acceptance of the accession.
- (8) The 1980 Hague Convention does not allow regional economic integration organisations such as the Union to become party to it. Therefore, the Union cannot accede to that Convention, nor can it deposit a declaration of acceptance of an acceding state.
- (9) Pursuant to Opinion 1/13 of the Court of Justice of the European Union ⁽³⁾, declarations of acceptance under the 1980 Hague Convention fall within the exclusive external competence of the Union.

⁽¹⁾ Opinion of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

⁽³⁾ ECLI:EU:C:2014:2303.

- (10) Georgia deposited its instrument of accession to the 1980 Hague Convention on 24 July 1997. The 1980 Hague Convention entered into force for Georgia on 1 October 1997.
- (11) All Member States concerned, with the exception of Denmark, Luxembourg and Romania, have already accepted the accession of Georgia to the 1980 Hague Convention. Georgia has accepted the accession of Bulgaria, Estonia, Latvia, Lithuania and Malta to the 1980 Hague Convention. An assessment of the situation in Georgia has led to the conclusion that Luxembourg and Romania are in a position to accept, in the interest of the Union, the accession of Georgia under the terms of the 1980 Hague Convention.
- (12) South Africa deposited its instrument of accession to the 1980 Hague Convention on 8 July 1997. The 1980 Hague Convention entered into force for South Africa on 1 October 1997.
- (13) All Member States concerned, with the exception of Luxembourg and Romania, have already accepted the accession of South Africa to the 1980 Hague Convention. South Africa has accepted the accession of Bulgaria, Estonia, Latvia, Lithuania and Malta to the 1980 Hague Convention. An assessment of the situation in South Africa has led to the conclusion that Luxembourg and Romania are in a position to accept, in the interest of the Union, the accession of South Africa under the terms of the 1980 Hague Convention.
- (14) Luxembourg and Romania should therefore be authorised to deposit their declarations of acceptance of the accession of Georgia and South Africa to the 1980 Hague Convention in the interest of the Union in accordance with the terms set out in this Decision. The other Member States of the Union which have already accepted the accession of Georgia and South Africa to the 1980 Hague Convention should not deposit new declarations of acceptance as the existing declarations remain valid under public international law.
- (15) The United Kingdom and Ireland are bound by the Brussels Iia Regulation and are taking part in the adoption and application of this Decision.
- (16) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. Luxembourg and Romania are hereby authorised to accept the accession of Georgia and South Africa to the 1980 Hague Convention in the interest of the Union.
2. Luxembourg and Romania shall, no later than 19 December 2018, deposit a declaration of acceptance of the accession of Georgia and South Africa to the 1980 Hague Convention in the interest of the Union, to be worded as follows:

'[Full name of MEMBER STATE] declares that it accepts the accession of Georgia and South Africa to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, in accordance with Council Decision (EU) 2017/2462.'
3. Luxembourg and Romania shall inform the Council and the Commission of the deposit of their declarations of acceptance of the accession of Georgia and South Africa to the 1980 Hague Convention and shall communicate the text of those declarations within two months of their deposit to the Commission.

Article 2

Those Member States which deposited their declarations of acceptance of the accession of Georgia and South Africa to the 1980 Hague Convention prior to the date of adoption of this Decision shall not deposit new declarations.

Article 3

This Decision shall take effect on the date of its notification.

Article 4

This Decision is addressed to Luxembourg and Romania.

Done at Brussels 18 December 2017.

For the Council
The President
K. SIMSON

COUNCIL DECISION (EU) 2017/2463**of 18 December 2017****authorising Croatia, the Netherlands, Portugal and Romania to accept, in the interest of the European Union, the accession of San Marino to the 1980 Hague Convention on the Civil Aspects of International Child Abduction**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(3) in conjunction with Article 218 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The European Union has set as one of its aims the promotion of the protection of the rights of the child, as stated in Article 3 of the Treaty on European Union. Measures for the protection of children against wrongful removal or retention are an essential part of that policy.
- (2) The Council adopted Regulation (EC) No 2201/2003 ⁽²⁾ ('Brussels IIa Regulation'), which aims to protect children from the harmful effects of wrongful removal or retention and to establish procedures to ensure their prompt return to the state of their habitual residence, as well as to secure the protection of rights of access and rights of custody.
- (3) The Brussels IIa Regulation complements and reinforces the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ('the 1980 Hague Convention') which establishes, at international level, a system of obligations and cooperation among contracting states and between central authorities and aims at ensuring the prompt return of wrongfully removed or retained children.
- (4) All Member States of the Union are party to the 1980 Hague Convention.
- (5) The Union encourages third states to accede to the 1980 Hague Convention and supports the correct implementation of the 1980 Hague Convention by participating, along with the Member States, inter alia, in the special commissions organised on a regular basis by the Hague Conference on private international law.
- (6) A common legal framework applicable between Member States of the Union and third states could be the best solution for sensitive cases of international child abduction.
- (7) The 1980 Hague Convention stipulates that it applies between the acceding state and such contracting states as have declared their acceptance of the accession.
- (8) The 1980 Hague Convention does not allow regional economic integration organisations such as the Union to become party to it. Therefore, the Union cannot accede to that Convention, nor can it deposit a declaration of acceptance of an acceding state.
- (9) Pursuant to Opinion 1/13 of the Court of Justice of the European Union ⁽³⁾, declarations of acceptance under the 1980 Hague Convention fall within the exclusive external competence of the Union.
- (10) San Marino deposited its instrument of accession to the 1980 Hague Convention on 14 December 2006. The 1980 Hague Convention entered into force for San Marino on 1 March 2007.
- (11) All Member States, with the exception of Croatia, Denmark, the Netherlands, Portugal and Romania, have already accepted the accession of San Marino to the 1980 Hague Convention. An assessment of the situation in San Marino has led to the conclusion that Croatia, the Netherlands, Portugal and Romania are in a position to accept, in the interest of the Union, the accession of San Marino under the terms of the 1980 Hague Convention.

⁽¹⁾ Opinion of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

⁽³⁾ ECLI:EU:C:2014:2303.

- (12) Croatia, the Netherlands, Portugal and Romania should therefore be authorised to deposit their declarations of acceptance of the accession of San Marino to the 1980 Hague Convention in the interest of the Union in accordance with the terms set out in this Decision. The other Member States of the Union which have already accepted the accession of San Marino to the 1980 Hague Convention should not deposit new declarations of acceptance as the existing declarations remain valid under public international law.
- (13) The United Kingdom and Ireland are bound by the Brussels IIa Regulation and are taking part in the adoption and application of this Decision.
- (14) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. Croatia, the Netherlands, Portugal and Romania are hereby authorised to accept the accession of San Marino to the 1980 Hague Convention in the interest of the Union.
2. Member States referred to in paragraph 1 shall, no later than 19 December 2018, deposit a declaration of acceptance of the accession of San Marino to the 1980 Hague Convention in the interest of the Union, to be worded as follows:

 '[Full name of MEMBER STATE] declares that it accepts the accession of San Marino to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, in accordance with Council Decision (EU) 2017/2463'.
3. Member States referred to in paragraph 1 shall inform the Council and the Commission of the deposit of their declarations of acceptance of the accession of San Marino to the 1980 Hague Convention and shall communicate the text of those declarations within two months of their deposit to the Commission.

Article 2

Those Member States which deposited their declarations of acceptance of the accession of San Marino to the 1980 Hague Convention prior to the date of adoption of this Decision shall not deposit new declarations.

Article 3

This Decision shall take effect on the date of its notification.

Article 4

This Decision is addressed to Croatia, the Netherlands, Portugal and Romania.

Done at Brussels, 18 December 2017.

For the Council
The President
K. SIMSON

COUNCIL DECISION (EU) 2017/2464**of 18 December 2017****authorising Austria and Romania to accept, in the interest of the European Union, the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention on the Civil Aspects of International Child Abduction**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(3) in conjunction with Article 218 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The European Union has set as one of its aims the promotion of the protection of the rights of the child, as stated in Article 3 of the Treaty on European Union. Measures for the protection of children against wrongful removal or retention are an essential part of that policy.
- (2) The Council adopted Regulation (EC) No 2201/2003 ⁽²⁾ ('Brussels IIA Regulation'), which aims to protect children from the harmful effects of wrongful removal or retention and to establish procedures to ensure their prompt return to the state of their habitual residence, as well as to secure the protection of rights of access and rights of custody.
- (3) The Brussels IIA Regulation complements and reinforces the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ('the 1980 Hague Convention') which establishes, at international level, a system of obligations and cooperation among contracting states and between central authorities and aims at ensuring the prompt return of wrongfully removed or retained children.
- (4) All Member States of the Union are party to the 1980 Hague Convention.
- (5) The Union encourages third states to accede to the 1980 Hague Convention and supports the correct implementation of the 1980 Hague Convention by participating, along with the Member States, inter alia, in the special commissions organised on a regular basis by the Hague Conference on private international law.
- (6) A common legal framework applicable between Member States of the Union and third states could be the best solution for sensitive cases of international child abduction.
- (7) The 1980 Hague Convention stipulates that it applies between the acceding state and such contracting states as have declared their acceptance of the accession.
- (8) The 1980 Hague Convention does not allow regional economic integration organisations such as the Union to become party to it. Therefore, the Union cannot accede to that Convention, nor can it deposit a declaration of acceptance of an acceding state.
- (9) Pursuant to Opinion 1/13 of the Court of Justice of the European Union ⁽³⁾, declarations of acceptance under the 1980 Hague Convention fall within the exclusive external competence of the Union.
- (10) Panama deposited its instrument of accession to the 1980 Hague Convention on 2 February 1994. The 1980 Hague Convention entered into force for Panama on 1 May 1994.

⁽¹⁾ Opinion of 30 November 2017 (not yet published in the Official Journal).

⁽²⁾ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

⁽³⁾ ECLI:EU:C:2014:2303.

- (11) All Member States concerned, with the exception of Austria and Romania, have already accepted the accession of Panama to the 1980 Hague Convention. Panama has accepted the accession of Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Malta and Slovenia to the 1980 Hague Convention. An assessment of the situation in Panama has led to the conclusion that Austria and Romania are in a position to accept, in the interest of the Union, the accession of Panama under the terms of the 1980 Hague Convention.
- (12) Uruguay deposited its instrument of accession to the 1980 Hague Convention on 18 November 1999. The 1980 Hague Convention entered into force for Uruguay, on 1 February 2000.
- (13) All Member States concerned, with the exception of Austria and Romania, have already accepted the accession of Uruguay to the 1980 Hague Convention. Uruguay has accepted the accession of Bulgaria, Estonia, Latvia and Lithuania to the 1980 Hague Convention. An assessment of the situation in Uruguay has led to the conclusion that Austria and Romania are in a position to accept, in the interest of the Union, the accession of Uruguay under the terms of the 1980 Hague Convention.
- (14) Colombia deposited its instrument of accession to the 1980 Hague Convention on 13 December 1995. The 1980 Hague Convention entered into force for Colombia on 1 March 1996.
- (15) All Member States concerned, with the exception of Austria and Romania, have already accepted the accession of Colombia to the 1980 Hague Convention. Colombia has accepted the accession of Bulgaria, Estonia, Latvia, Lithuania and Malta to the 1980 Hague Convention. An assessment of the situation in Colombia has led to the conclusion that Austria and Romania are in a position to accept, in the interest of the Union, the accession of Colombia under the terms of the 1980 Hague Convention.
- (16) El Salvador deposited its instrument of accession to the 1980 Hague Convention on 5 February 2001. The 1980 Hague Convention entered into force for El Salvador on 1 May 2001.
- (17) All Member States concerned, with the exception of Austria and Romania, have already accepted the accession of El Salvador to the 1980 Hague Convention. El Salvador has accepted the accession of Bulgaria, Estonia, Latvia and Lithuania to the 1980 Hague Convention. An assessment of the situation in El Salvador has led to the conclusion that Austria and Romania are in a position to accept, in the interest of the Union, the accession of El Salvador under the terms of the 1980 Hague Convention.
- (18) Austria and Romania should therefore be authorised to deposit their declarations of acceptance of the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention in the interest of the Union in accordance with the terms set out in this Decision. The other Member States of the Union which have already accepted the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention should not deposit new declarations of acceptance as the existing declarations remain valid under public international law.
- (19) The United Kingdom and Ireland are bound by the Brussels IIa Regulation and are taking part in the adoption and application of this Decision.
- (20) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. Austria and Romania are hereby authorised to accept the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention in the interest of the Union.
2. Austria and Romania shall, no later than 19 December 2018, deposit a declaration of acceptance of the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention in the interest of the Union, to be worded as follows:

'[Full name of MEMBER STATE] declares that it accepts the accession of Panama, Uruguay, Colombia and El Salvador to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, in accordance with Council Decision (EU) 2017/2464'.

3. Austria and Romania shall inform the Council and the Commission of the deposit of their declarations of acceptance of the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention and shall communicate the text of those declarations within two months of their deposit to the Commission.

Article 2

Those Member States which deposited their declarations of acceptance of the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention prior to the date of adoption of this Decision shall not deposit new declarations.

Article 3

This Decision shall take effect on the date of its notification.

Article 4

This Decision is addressed to Austria and Romania.

Done at Brussels, 18 December 2017.

For the Council
The President
K. SIMSON

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2017 OF THE JOINT EUROPEAN UNION/SWITZERLAND AIR TRANSPORT COMMITTEE SET UP UNDER THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION ON AIR TRANSPORT

of 29 November 2017

**replacing the Annex to the Agreement between the European Community and the Swiss
Confederation on Air Transport [2017/2465]**

THE EUROPEAN UNION/SWITZERLAND AIR TRANSPORT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on Air Transport, hereinafter referred to as 'the Agreement', and in particular Article 23(4) thereof,

HAS DECIDED AS FOLLOWS:

Sole Article

The Annex to this Decision replaces the Annex to the Agreement, as from 1 February 2018.

Done at Brussels, 29 November 2017.

For the Joint Committee

The Head of the European Union Delegation
Filip CORNELIS

The Head of the Swiss Delegation
Christian HEGNER

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ANNEX

For the purposes of this Agreement:

- By virtue of the Treaty of Lisbon, entered into force on 1 December 2009, the European Union shall replace and succeed the European Community;
- Wherever acts specified in this Annex contain references to Member States of the European Community, as replaced by the European Union, or a requirement for a link with the latter, the references shall, for the purpose of the Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland;
- The references to Council Regulations (EEC) No 2407/92 and (EEC) No 2408/92 made in the Articles 4, 15, 18, 27 and 35 of the Agreement, shall be understood as references to Regulation (EC) No 1008/2008 of the European Parliament and of the Council;
- Without prejudice to Article 15 of this Agreement, the term ‘Community air carrier’ referred to in the following Community directives and regulations shall include an air carrier which is licensed and has its principal place of business and, if any, its registered office in Switzerland in accordance with the provisions of Regulation (EC) No 1008/2008. Any reference to Regulation (EEC) No 2407/92 shall be understood as reference to Regulation (EC) No 1008/2008;
- Any reference in the following texts to Articles 81 and 82 of the Treaty or to Articles 101 and 102 of the Treaty on the Functioning of the European Union shall be understood to mean Articles 8 and 9 of this Agreement.

1. Aviation liberalisation and other civil aviation rules

No 1008/2008

Regulation of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community

No 2000/79

Council Directive of 27 November 2000 concerning the implementation of the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers’ Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA)

No 93/104

Council Directive of 23 November 1993 concerning certain aspects of the organisation of working time, as amended by:

- Directive 2000/34/EC.

No 437/2003

Regulation of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air.

No 1358/2003

Commission Regulation of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto, as amended by:

- Commission Regulation (EC) No 158/2007.

No 785/2004

Regulation of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators, as amended by:

- Commission Regulation (EU) No 285/2010.

No 95/93

Council Regulation of 18 January 1993 on common rules for the allocation of slots at Community airports (Articles 1-12), as amended by:

— Regulation (EC) No 793/2004.

No 2009/12

Directive of the European Parliament and of the Council of 11 March 2009 on airport charges

No 96/67

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

(Articles 1-9, 11-23, and 25).

No 80/2009

Regulation of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89.

2. **Competition rules**

No 1/2003

Council Regulation of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (Articles 1-13, 15-45).

(To the extent that this Regulation is relevant for the application of this agreement. The insertion of this Regulation does not affect the division of tasks according to this agreement)

No 773/2004

Commission Regulation of 7 April 2004 relating to proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty, as amended by:

— Commission Regulation (EC) No 1792/2006,

— Commission Regulation (EC) No 622/2008.

No 139/2004

Council Regulation of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

(Article 1-18, 19(1)-(2), and 20-23)

With respect to Article 4(5) of the Merger Regulation the following shall apply between the European Community and Switzerland:

- (1) With regard to a concentration as defined in Article 3 of Regulation (EC) No 139/2004 which does not have a Community dimension within the meaning of Article 1 of that Regulation and which is capable of being reviewed under the national competition laws of at least three EC Member States and the Swiss Confederation, the persons or undertakings referred to in Article 4(2) of that Regulation may, before any notification to the competent authorities, inform the EC Commission by means of a reasoned submission that the concentration should be examined by the Commission.
- (2) The European Commission shall transmit all submissions pursuant to Article 4(5) of Regulation (EC) No 139/2004 and the previous paragraph to the Swiss Confederation without delay.
- (3) Where the Swiss Confederation has expressed its disagreement as regards the request to refer the case, the competent Swiss competition authority shall retain its competence, and the case shall not be referred from the Swiss Confederation pursuant to this paragraph.

With respect to time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Articles 22(2) of the Merger Regulation:

- (1) The European Commission shall transmit all the relevant documents pursuant to Articles 4(4) and (5), Articles 9(2) and (6) and Article 22(2) to the competent Swiss competition authority without delay.
- (2) The calculation of the time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Article 22(2) of Regulation (EC) No 139/2004 shall start, for the Swiss Confederation, upon receipt of the relevant documents by the competent Swiss competition authority.

No 802/2004

Commission Regulation of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (Articles 1-24), as amended by:

- Commission Regulation (EC) No 1792/2006,
- Commission Regulation (EC) No 1033/2008,
- Commission Implementing Regulation (EU) No 1269/2013.

No 2006/111

Commission Directive of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings

No 487/2009

Council Regulation of 25 May 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector.

3. Aviation safety

No 216/2008

Regulation of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC, as amended by:

- Commission Regulation (EC) No 690/2009,
- Regulation (EC) No 1108/2009,
- Commission Regulation (EU) No 6/2013,
- Commission Regulation (EU) 2016/4.

The Agency shall enjoy also in Switzerland the powers granted to it under the provisions of the Regulation.

The Commission shall enjoy also in Switzerland the powers granted to it for decisions pursuant to Article 11(2), Article 14(5),(7), Article 24(5), Article 25(1), Article 38(3)(i), Article 39(1), Article 40(3), Article 41(3),(5), Article 42(4), Article 54(1) and Article 61(3).

Notwithstanding the horizontal adaptation provided for in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 65 of the Regulation or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

Nothing in this Regulation shall be construed so as to transfer to the EASA authority to act on behalf of Switzerland under international agreements for other purposes than to assist in the performance of its obligations pursuant to such agreements.

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Article 12 is amended as follows:

- (i) in paragraph 1, the words 'or Switzerland' shall be inserted after the words 'the Community';
- (ii) in paragraph 2(a), the words 'or Switzerland' shall be inserted after the words 'the Community';
- (iii) in paragraphs 2 points (b) and (c) are deleted;
- (iv) the following paragraph is added:

'3. Whenever the Community negotiates with a third country in order to conclude an agreement providing that a Member State or the Agency may issue certificates on the basis of certificates issued by the aeronautical authorities of that third country, it shall endeavour to obtain for Switzerland an offer of a similar agreement with the third country in question. Switzerland shall, in turn, endeavour to conclude with third countries agreements corresponding to those of the Community'.

(b) In Article 29, the following paragraph shall be added:

'4. By way of derogation from Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Communities, Swiss nationals enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.'

(c) In Article 30, the following paragraph is added:

'Switzerland shall apply to the Agency the Protocol on the Privileges and Immunities of the European Union, which is set out as Annex A to the present Annex, in accordance with the Appendix to Annex A.'

(d) In Article 37, the following paragraph is added:

'Switzerland shall participate fully in the Management Board and shall within it have the same rights and obligations as European Union Member States, except for the right to vote'.

(e) In Article 59, the following paragraph shall be added:

'12. Switzerland shall participate in the financial contribution referred to in paragraph 1(b), according to the following formula:

$$S (0,2/100) + S [1 - (a + b) 0,2/100] c/C$$

where:

- S = the part of the budget of the Agency not covered by the fees and charges mentioned in paragraph 1 (c) and (d),
- a = the number of Associated States,
- b = the number of EU Member States,
- c = the contribution of Switzerland to the ICAO budget,
- C = the total contribution of the EU Member States and of the Associated States to the ICAO budget.'

(f) In Article 61, the following paragraph is added:

'The provisions relating to financial control by the Community in Switzerland concerning the participants in the activities of the Agency are set out in Annex B to the present Annex.'

(g) Annex II to the Regulation shall be extended to include the following aircraft as products covered by Article 2(3)(a)(ii) of Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ⁽¹⁾:

A/c – [HB-IMY, HB-IWY] – type Gulfstream G-IV,

A/c – [HB-IMJ, HB-IVZ, HB-JES] – type Gulfstream G-V,

A/c – [HB-ZCW, HB-ZDF] – type MD900.

⁽¹⁾ OJ L 243, 27.9.2003, p. 6.

No 1178/2011

Commission Regulation of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by:

- Commission Regulation (EU) No 290/2012,
- Commission Regulation (EU) No 70/2014,
- Commission Regulation (EU) No 245/2014,
- Commission Regulation (EU) 2015/445,
- Commission Regulation (EU) 2016/539,

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, and 13), as amended by:

- Regulation (EC) No 1899/2006,
- Regulation (EC) No 1900/2006,
- Commission Regulation (EC) No 8/2008,
- Commission Regulation (EC) No 859/2008,

No 996/2010

Regulation of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, as amended by:

- Regulation (EU) No 376/2014.

No 104/2004

Commission Regulation of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency.

No 2111/2005

Regulation of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of directive 2004/36/EC.

No 473/2006

Commission Regulation of 22 March 2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council.

No 474/2006

Commission Regulation of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council, as last amended by:

- Commission Implementing Regulation (EU) 2017/830.

No 1332/2011

Commission Regulation of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance, as amended by:

- Commission Regulation (EU) 2016/583.

No 646/2012

Commission Implementing Regulation of 16 July 2012 laying down detailed rules on fines and periodic penalty payments pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

No 748/2012

Commission Regulation of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations, as amended by:

- Commission Regulation (EU) No 7/2013,
- Commission Regulation (EU) No 69/2014,
- Commission Regulation (EU) 2015/1039,
- Commission Regulation (EU) 2016/5.

No 965/2012

Commission Regulation of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by:

- Commission Regulation (EU) No 800/2013,
- Commission Regulation (EU) No 71/2014,
- Commission Regulation (EU) No 83/2014,
- Commission Regulation (EU) No 379/2014,
- Commission Regulation (EU) 2015/140,
- Commission Regulation (EU) 2015/1329,
- Commission Regulation (EU) 2015/640,
- Commission Regulation (EU) 2015/2338,
- Commission Regulation (EU) 2016/1199
- Commission Regulation (EU) 2017/363.

No 2012/780

Commission Decision of 5 December 2012 on access rights to the European Central Repository of Safety Recommendations and their responses established by Article 18(5) of Regulation (EU) No 996/2010 of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC.

No 628/2013

Commission Implementing Regulation of 28 June 2013 on working methods of the European Aviation Safety Agency for conducting standardisation inspections and for monitoring the application of the rules of Regulation (EC) No 216/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 736/2006.

No 139/2014

Commission Regulation of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by:

- Commission Regulation (EC) No 2017/161.

No 319/2014

Commission Regulation of 27 March 2014 on the fees and charges levied by the European Aviation Safety Agency, and repealing Regulation (EC) No 593/2007.

No 376/2014

Regulation of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007.

No 452/2014

Commission Regulation of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by:

— Commission Regulation (EU) 2016/1158.

No 1321/2014

Commission Regulation of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, as amended by:

— Commission Regulation (EU) 2015/1088,

— Commission Regulation (EU) 2015/1536,

— Commission Regulation (EU) 2017/334.

No 2015/340

Commission Regulation of 20 February 2015 laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011.

No 2015/640

Commission Regulation of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012.

No 2015/1018

Commission Implementing Regulation of 29 June 2015 laying down a list classifying occurrences in civil aviation to be mandatorily reported according to Regulation (EU) No 376/2014 of the European Parliament and of the Council.

No 2016/2357

Commission Decision of 19 December 2016 regarding the lack of effective compliance with Regulation (EC) No 216/2008 of the European Parliament and of the Council and its implementing rules in respect of certificates issued by the Hellenic Aviation Training Academy (HATA), and Part-66 licenses issued on the basis thereof.

4. Aviation Security

No 300/2008

Regulation of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002.

No 272/2009

Commission Regulation of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council, as amended by:

- Commission Regulation (EU) No 297/2010,
- Commission Regulation (EU) No 720/2011,
- Commission Regulation (EU) No 1141/2011,
- Commission Regulation (EU) No 245/2013.

No 1254/2009

Commission Regulation of 18 December 2009 setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures, as amended by:

Commission Regulation (EU) 2016/2096.

No 18/2010

Commission Regulation of 8 January 2010 amending Regulation (EC) No 300/2008 of the European Parliament and of the Council as far as specifications for national quality control programmes in the field of civil aviation security are concerned.

No 72/2010

Commission Regulation of 26 January 2010 laying down procedures for conducting Commission inspections in the field of aviation security, as amended by:

- Commission Implementing Regulation (EU) 2016/472.

No 2015/1998

Commission Implementing Regulation of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security, as amended by:

- Commission Implementing Regulation (EU) 2015/2426,
- Commission Implementing Regulation (EU) 2017/815.

No C(2015) 8005

Commission Implementing Decision of 16 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security containing information, as referred to in point (a) of Article 18 of Regulation (EC) No 300/2008 as amended by:

- Commission Implementing Decision C(2017) 3030.

5. Air traffic management*No 549/2004*

Regulation of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky (the Framework Regulation), as amended by:

- Regulation (EC) No 1070/2009.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 6, 8, 10, 11 and 12.

Article 10 shall be amended as follows:

In paragraph 2, the words 'at Community level' should be replaced by words 'at Community level, involving Switzerland'.

Notwithstanding the horizontal adjustment referred to in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 5 of Regulation (EC) No 549/2004 or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

No 550/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the Service Provision Regulation), as amended by:

— Regulation (EC) No 1070/2009.

The Commission shall enjoy towards Switzerland the powers granted to it pursuant to Articles 9a, 9b, 15, 15a, 16 and 17.

The provisions of the Regulation shall, for the purposes of this Agreement, be amended as follows:

(a) Article 3 shall be amended as follows:

In paragraph 2, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(b) Article 7 is amended as follows:

In paragraph 1 and paragraph 6, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(c) Article 8 is amended as follows:

In paragraph 1, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(d) Article 10 is amended as follows:

In paragraph 1, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(e) Article 16(3) is replaced by the following:

'3. The Commission shall address its decision to the Member States and inform the service provider thereof, in so far as it is legally concerned.'

No 551/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the Airspace Regulation), as amended by:

— Regulation (EC) No 1070/2009.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 3a, 6 and 10.

No 552/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the Interoperability Regulation), as amended by:

— Regulation (EC) No 1070/2009.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 4, 7 and 10(3).

The provisions of the Regulation shall, for the purposes of this Agreement, be amended as follows:

(a) Article 5 is amended as follows:

In paragraph 2, the words 'or Switzerland' shall be inserted after the words 'the Community'.

(b) Article 7 is amended as follows:

In paragraph 4, the words 'or Switzerland' shall be inserted after the words 'the Community'.

(c) Annex III shall be amended as follows:

In section 3, second and last indents, the words 'or Switzerland' shall be inserted after the words 'the Community'.

No 2150/2005

Commission Regulation of 23 December 2005 laying down common rules for the flexible use of airspace.

No 1033/2006

Commission Regulation of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the Single European Sky, as amended by:

- Commission Implementing Regulation (EU) No 923/2012,
- Commission Implementing Regulation (EU) No 428/2013,
- Commission Implementing Regulation (EU) 2016/2120.

No 1032/2006

Commission Regulation of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units, as amended by:

- Commission Regulation (EC) No 30/2009.

No 219/2007

Council Regulation of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR), as amended by:

- Council Regulation (EC) No 1361/2008,
- Council Regulation (EU) No 721/2014.

No 633/2007

Commission Regulation of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units, as amended by:

- Commission Regulation (EU) No 283/2011.

No 2017/373 ⁽¹⁾

- Commission Implementing Regulation of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011.

No 29/2009

Commission Regulation of 16 January 2009 laying down requirements on data link services for the Single European Sky, as amended by:

- Commission Implementing Regulation (EU) 2015/310.

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

‘Switzerland UIR’ is added in Annex I, part A.

⁽¹⁾ Regulation (EC) No 2017/373 is applicable only as of January 2020. However, Article 9(2) is applicable as of the date of the entry into force of Regulation (EC) No 2017/373; in respect of the Agency Article 4(1), (2), (5), (6) and (8) and Article 5 will also apply from the date of entry into force. In respect of data services providers, Article 6 will apply from 1 January 2019 and, where such a provider applies for and is granted a certificate in accordance with Article 6, from the date of entry into force of Regulation (EC) No 2017/373. In the meantime also the relevant articles of Regulation (EC) No 482/2008 continue to apply.

No 262/2009

Commission Regulation of 30 March 2009 laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the Single European Sky, as amended by:

Commission Implementing Regulation (EU) 2016/2345.

No 73/2010

Commission Regulation of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the Single European Sky, as amended by:

— Commission Implementing Regulation (EU) No 1029/2014.

No 255/2010

Commission Regulation of 25 March 2010 laying down common rules on air traffic flow management, as amended by:

— Commission Implementing Regulation (EU) No 923/2012,

— Commission Implementing Regulation (EU) 2016/1006.

No C(2010) 5134

Commission Decision of 29 July 2010 on the designation of the Performance Review Body of the Single European Sky.

No 176/2011

Commission Regulation of 24 February 2011 on the information to be provided before the establishment and modification of a functional airspace block.

No 677/2011

Commission Regulation of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010, as amended by:

— Commission Implementing Regulation (EU) No 970/2014,

— Commission Implementing Regulation (EU) 2017/373.

No 2011/4130

Commission Decision of 7 July 2011 on the nomination of the Network Manager for the air traffic management (ATM) network functions of the single European sky.

No 1034/2011

Commission Implementing Regulation of 17 October 2011 on safety oversight in air traffic management and air navigation services and amending Regulation (EU) No 691/2010.

No 1035/2011

Commission Implementing Regulation of 17 October 2011 laying down common requirements for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010, as amended by:

— Commission Implementing Regulation (EU) No 923/2012,

— Commission Implementing Regulation (EU) No 448/2014.

No 1206/2011

Commission Implementing Regulation of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky.

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

'Switzerland UIR' is added in Annex I.

No 1207/2011

Commission Implementing Regulation of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky, as amended by:

- Commission Implementing Regulation (EU) No 1028/2014,
- Commission Implementing Regulation (EU) 2017/386.

No 923/2012

Commission Implementing Regulation of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010, as amended by:

- Commission Regulation (EU) 2015/340,
- Commission Implementing Regulation (EU) 2016/1185.

No 1079/2012

Commission Implementing Regulation of 16 November 2012 laying down requirements for voice channels spacing for the single European sky, as amended by:

- Commission Implementing Regulation (EU) No 657/2013,
- Commission Implementing Regulation (EU) 2016/2345.

No 390/2013

Commission Implementing Regulation of 3 May 2013 laying down a performance scheme for air navigation services and network functions.

No 391/2013

Commission Implementing Regulation of 3 May 2013 laying down a common charging scheme for air navigation services.

No 409/2013

Commission Implementing Regulation of 3 May 2013 on the definition of common projects, the establishment of governance and the identification of incentives supporting the implementation of the European Air Traffic Management Master Plan.

No 2014/132

Commission Implementing Decision of 11 March 2014 setting the Union-wide performance targets for the air traffic management network and alert thresholds for the second reference period 2015-2019.

No 716/2014

Commission Implementing Regulation of 27 June 2014 on the establishment of the Pilot Common Project supporting the implementation of the European Air Traffic Management Master Plan.

No 2015/2224

Commission Implementing Decision of 27 November 2015 on the appointment of the chairperson, the members and their alternates of the Network Management Board for the air traffic management network functions for the second reference period (2015-2019).

No 2016/1373

Commission Implementing Decision of 11 August 2016 approving the Network Performance Plan for the second reference period of the Single European Sky performance scheme (2015-2019).

6. **Environment and noise**

No 2002/30

Directive of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (Articles 1-12, and 14-18).

(The amendments to Annex I, arising from Annex II, Chapter 8 (Transport policy), Section G (Air transport), point 2 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, shall apply).

No 89/629

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

(Articles 1-8).

No 2006/93

Directive of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988).

7. **Consumer protection**

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).

No 2027/97

Council Regulation of 9 October 1997 on air carrier liability in the event of accidents (Articles 1-8), as amended by:
— Regulation (EC) No 889/2002.

No 261/2004

Regulation of the Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91.

(Articles 1-18).

No 1107/2006

Regulation of the European Parliament and of the Council of 5 July 2006 concerning the right of disabled persons and persons with reduced mobility when travelling by air.

8. Miscellaneous

No 2003/96

Council Directive of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity

Article 14(1)(b), and Article 14(2).

9. Annexes

A: Protocol on the Privileges and Immunities of the European Union

B: Provisions on financial control by the European Union as regards Swiss participants in activities of the EASA.

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ANNEX A

PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 343 of the Treaty on the Functioning of the European Union and Article 191 of the Treaty establishing the European Atomic Energy Community ('EAEC'), the European Union and the EAEC shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN UNION*Article 1*

The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Union shall be inviolable.

Article 3

The Union, its assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Union makes, for its official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Union.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER*Article 5*

For their official communications and the transmission of all their documents, the institutions of the Union shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Union shall not be subject to censorship.

Article 6

Laissez-passer in a form to be prescribed by the Council, acting by a simple majority, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Union by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Union.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 7*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 8

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 9

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN UNION*Article 10*

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN UNION*Article 11*

In the territory of each Member State and whatever their nationality, officials and other servants of the Union shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 12

Officials and other servants of the Union shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

Article 13

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 14

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down the scheme of social security benefits for officials and other servants of the Union.

Article 15

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN UNION*Article 16*

The Member State in whose territory the Union has its seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Union.

CHAPTER VII

GENERAL PROVISIONS*Article 17*

Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union.

Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union.

Article 18

The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 19

Articles 11 to 14 and Article 17 shall apply to Members of the Commission.

Article 20

Articles 11 to 14 and Article 17 shall apply to the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union relating to immunity from legal proceedings of Judges and Advocates-General.

Article 21

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 22

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

*Appendix***Procedures for the application in Switzerland of the Protocol on privileges and immunities of the European Union**

1. Extension of application to Switzerland

Wherever the Protocol on the privileges and immunities of the European Union (hereinafter called 'the Protocol') contains references to Member States, the references are to be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

2. Exemption of the Agency from indirect taxation (including VAT)

Goods and services exported from Switzerland are not to be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT is by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund is to be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications must be processed within the three months following the date on which they were lodged together with the necessary supporting documents.

3. Procedures for the application of the rules relating to the Agency's staff

As regards the second paragraph of Article 12 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 of the Council ⁽¹⁾ from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the European Union and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 13 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the European Union are not obliged to be members of the Swiss social security system.

The Court of Justice of the European Union shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to the application of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council ⁽²⁾ and the other provisions of the European Union law laying down working conditions.

⁽¹⁾ Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply (OJ L 74, 27.3.1969, p. 1).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (Conditions of Employment of Other Servants) (OJ L 56, 4.3.1968, p. 1).

ANNEX B

FINANCIAL CONTROL AS REGARDS SWISS PARTICIPANTS IN ACTIVITIES OF THE EUROPEAN AVIATION AGREEMENT*Article 1***Direct communication**

The Agency and the Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency, as contractors, participants in Agency programmes, recipients of payments from the Agency or the Community budget, or subcontractors. Such persons may send directly to the Commission and to the Agency all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Decision and of contracts or agreements concluded and any decisions taken pursuant to them.

*Article 2***Checks**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and the Financial Regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ and with the other instruments referred to in this Decision, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Agency and Commission officials or by other persons mandated by the Agency and the Commission.
2. Agency and Commission officials and other persons mandated by the Agency and the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Decision.
3. The European Court of Auditors is to have the same rights as the Commission.
4. The audits may take place until five years after the expiry of this Decision or under the terms of the contracts or agreements concluded and the decisions taken.
5. The Swiss Federal Audit Office is to be informed in advance of audits conducted on Swiss territory. This information will not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Under this Agreement, the Commission (OLAF) is authorised to carry out on-the-spot checks and inspections on Swiss territory, under the terms and conditions set out in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities. ⁽³⁾
2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.
3. If the Swiss competent authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and the Swiss competent authorities.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 72.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission is required to inform the aforementioned authority of the result of such checks and inspections.

Article 4

Information and consultation

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.

2. The competent Swiss authorities shall inform the Agency and the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Decision.

Article 5

Confidentiality

Information communicated or acquired in any form whatsoever pursuant to this Annex will be covered by professional confidentiality and protected in the same way as similar information is protected by the national legislation of Switzerland and by the corresponding provisions applicable to the Community institutions. Such information shall not be communicated to persons other than those within the Community institutions, in the Member States, or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the financial interests of the Contracting Parties.

Article 6

Administrative measures and penalties

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Agency or the Commission in accordance with Regulation (EC, Euratom) No 1605/2002 and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽²⁾.

Article 7

Recovery and enforcement

Decisions taken by the Agency or the Commission within the scope of this Decision which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland.

The enforcement order must be issued, without any further control than verification of the authenticity of the act, by the authority designated by the Swiss government, which must inform the Agency or the Commission thereof. Enforcement must take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision is subject to control by the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause are enforceable on the same terms.

⁽¹⁾ OJ L 357, 31.12.2002, p. 1.

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

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