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I

(Acts whose publication is obligatory)

**REGULATION (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 20 December 2006
on establishing a financing instrument for the promotion of democracy and human rights worldwide**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179(1) and 181a(2) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽¹⁾,

Whereas:

(1) A new framework for planning and delivering assistance is proposed in order to make the Community's external assistance more effective and transparent. Council Regulation (EC) No 1085/2006 ⁽²⁾ establishes an Instrument for Pre-Accession Assistance (IPA) for Community assistance to candidate and potential candidate countries. Regulation (EC) No 1638/2006 ⁽³⁾ establishes a European Neighbourhood and Partnership Instrument (ENPI) providing direct support for the EU's European Neighbourhood Policy. Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 ⁽⁴⁾ establishes a financing instrument for Development Cooperation (DCI). Council Regulation (EC) No 1889/2006 ⁽⁴⁾ establishes a financing instrument for cooperation with industrialised and other high-income countries and territories (ICI). Regulation (EC) No 1717/2006 ⁽⁵⁾ establishes a financing Instrument for Stability (IfS) providing assistance in situations of crisis and emerging crisis, and specific global and trans-regional threats. This Regulation establishes a financing instrument for the promotion of democracy and human rights worldwide (European Instrument for Democracy and Human Rights) allowing for assistance independent from the consent of third country governments and other public authorities.

(2) Article 6(1) of the Treaty on European Union stipulates that the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

(3) The promotion, development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms constitute a prime objective of the Community's development policy and economic, financial and technical cooperation with third countries ⁽⁶⁾. A commitment to respect, promote and protect democratic principles and human rights is an essential element of the Community's contractual relations with third countries ⁽⁷⁾.

(4) This financing instrument contributes to the achievement of the objectives of the development policy statement on the 'European Consensus on Development' (DPS) jointly adopted by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission on 20 December 2005 ⁽⁸⁾. The DPS underlines that 'progress in the protection of human rights, good governance and democratisation is fundamental for poverty reduction and sustainable development', thereby contributing to the achievement of the Millennium Development Goals (MDGs).

(5) The DPS having reaffirmed that the promotion of gender equality and women's rights is a fundamental human right and a question of social justice, as well as being instrumental in achieving all the MDGs, the Cairo Programme of Action and the Convention on the Elimination of All Forms of Discrimination Against Women, this Regulation includes a strong gender component.

⁽¹⁾ Opinion of the European Parliament of 12 December 2006 (not yet published in the Official Journal) and Council Decision of 20 December 2006.

⁽²⁾ OJ L 210, 31.7.2006, p. 82.

⁽³⁾ OJ L 310, 9.11.2006, p. 1.

⁽⁴⁾ OJ L 386, 29.12.2006, p. 1

⁽⁵⁾ OJ L 327, 24.11.2006, p. 1.

⁽⁶⁾ Commission Communication of 8 May 2001 on the European Union's role in promoting human rights and democratisation in third countries.

⁽⁷⁾ Commission Communication of 23 May 1995 on the Inclusion of Respect for Democratic Principles and Human Rights in Agreements between the Community and Third Countries.

⁽⁸⁾ OJ C 46, 24.2.2006, p. 1.

- (6) This financing instrument contributes to achieving the objective of the Union's Common Foreign and Security Policy, as set out in Article 11(1) of the Treaty on European Union and shaped by EU Guidelines, regarding the development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms.
- (7) The Community's contribution to the development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms is rooted in the general principles established by the International Bill of Human Rights, and any other human rights instrument adopted within the framework of the United Nations, as well as relevant regional human rights instruments.
- (8) Democracy and human rights are inextricably linked. The fundamental freedoms of expression and association are the preconditions for political pluralism and democratic process, whereas democratic control and separation of powers are essential to sustain an independent judiciary and the rule of law which in turn are required for effective protection of human rights.
- (9) Human rights are considered in the light of universally accepted international norms, but democracy has also to be seen as a process, developing from within, involving all sections of society and a range of institutions, in particular national democratic parliaments, that should ensure participation, representation, responsiveness and accountability. The task of building and sustaining a culture of human rights and making democracy work for citizens, though especially urgent and difficult in emerging democracies, is essentially a continuous challenge, belonging first and foremost to the people of the country concerned but without diminishing the commitment of the international community.
- (10) In order to address the above issues in an effective, transparent, timely and flexible manner beyond the expiry of Council Regulation (EC) No 975/1999 of 29 April 1999 laying down the requirements for the implementation of development cooperation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms ⁽¹⁾ and Council Regulation (EC) No 976/1999 of 29 April 1999 laying down the requirements for the implementation of Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries ⁽²⁾, which served as the legal base for the European Initiative for Democracy and Human Rights and which expire by 31 December 2006, there is a need for specific financial resources and a specific financing instrument that can continue to work in an independent manner whilst remaining complementary to and reinforcing related Community instruments for external assistance, the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part ⁽³⁾, and humanitarian aid.
- (11) Community assistance under this Regulation is designed to complement the various other tools for implementation of EU policies on democracy and human rights, which range from political dialogue and diplomatic demarches to various instruments of financial and technical cooperation, including both geographic and thematic programmes. It will also complement the more crisis-related interventions of the Instrument for Stability.
- (12) In particular, in addition and complementary to the measures agreed with partner countries in the context of the cooperation pursued under the Instrument for Pre-accession Assistance, the European Neighbourhood and Partnership Instrument, the Development Cooperation Instrument, the Cotonou Agreement with ACP countries, the Instrument for Cooperation with Industrialised Countries and other high-income countries and territories and the Instrument for Stability, the Community provides assistance under this Regulation that addresses global, regional, national and local human rights and democratisation issues in partnership with civil society understood to span all types of social action by individuals or groups that are independent from the state and active in the field of human rights and democracy promotion.

⁽¹⁾ OJ L 120, 8.5.1999, p. 1. Regulation as last amended by Regulation (EC) No 2110/2005 of the European Parliament and of the Council (OJ L 344, 27.12.2005, p. 1).

⁽²⁾ OJ L 120, 8.5.1999, p. 8. Regulation as last amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

⁽³⁾ OJ L 317, 15.12.2000, p. 3; OJ L 385, 29.12.2004, p. 88.

- (13) Furthermore, whilst democracy and human rights objectives must be increasingly mainstreamed in all external assistance financing instruments, Community assistance under this Regulation will have a specific complementary and additional role by virtue of its global nature and its independence of action from the consent of third country governments and other public authorities. This makes possible cooperation with civil society on sensitive human rights and democracy issues, including migrants' enjoyment of human rights, rights of asylum seekers and internally displaced persons, providing the flexibility to respond to changing circumstances or to support innovation. It also provides a Community capacity to articulate and support specific objectives and measures at international level which are neither geographically linked nor crisis related and which may require a transnational approach or involve operations both within the Community and in a range of third countries. It provides the necessary framework for operations, such as support to independent EU election observation missions requiring policy coherence, a unified management system and common operating standards.
- (14) Developing and consolidating democracy under this Regulation should include democratic parliaments and their capacity to support and advance democratic reform processes. National parliaments need therefore to be included as eligible bodies for funding under this Regulation when this is necessary in order to achieve its objectives, unless the proposed measure can be financed under a related Community external assistance instrument.
- (15) The 'Guidelines for strengthening operational coordination between the Community, represented by the Commission, and the Member States in the field of external assistance' of 21 January 2001 emphasise the need for enhanced coordination of EU external assistance in the fields of supporting democratisation and promoting respect for human rights and fundamental freedoms worldwide. The Commission and Member States should ensure that their respective assistance measures are complementary and coherent, avoiding overlapping and duplication. The Commission and Member States should seek closer coordination with other donors. Community policy in the sphere of development cooperation should be complementary to the policies pursued by the Member States.
- (16) The relevance and scope of Community assistance in promoting democracy and human rights calls for the Commission to seek regular and frequent exchanges of information with the European Parliament.
- (17) The Commission needs to consult representatives of civil society, as well as other donors and actors, as early as appropriate in the programming process in order to facilitate their respective contributions and to ensure that assistance activities are as complementary to each other as possible.
- (18) The Community needs to be able to respond rapidly to unforeseen needs and in exceptional circumstances in order to enhance the credibility and effectiveness of its commitment to the promotion of democracy and human rights in countries where such situations arise. This requires that the Commission have the possibility to decide on Special Measures not covered by Strategy Papers. This assistance management instrument corresponds to those included in the other external assistance financing instruments.
- (19) The Community should also be able to respond in a flexible and timely manner to the specific needs of human rights defenders by means of ad hoc measures which are not subject to calls for proposals. Moreover, eligibility of entities which do not have legal personality under the applicable national law is also possible under the conditions of the Financial Regulation.
- (20) This Regulation establishes a financial envelope for the period 2007-2013 which constitutes the prime reference amount for the budgetary authority according to point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾.
- (21) Financial support needs to be secured for the European Inter-University Centre for Human Rights and Democratisation, providing a European Masters Degree in Human Rights and Democratisation and an EU-UN Fellowship Programme, beyond the expiry by the end of 2006 of Decision No 791/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote bodies active at European level and support specific activities in the field of education and training ⁽²⁾, which served as the legal basis for funding.
- (22) European Union Election Observation Missions contribute significantly and successfully to democratic processes in third countries ⁽³⁾. However, the promotion of democracy extends far beyond the electoral process alone. Expenditure for EU Election Observation Missions should therefore not take up a disproportionate amount of the total funding available under this Regulation.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 138, 30.4.2004, p. 31.

⁽³⁾ Commission Communication of 11 April 2000 on EU Election Assistance and Observation.

(23) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.

(24) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of this Regulation to lay down rules on a European Instrument for Democracy and Human Rights. This Regulation does not go beyond what is necessary in order to achieve the objective pursued, in accordance with the third paragraph of Article 5 of the Treaty,

HAVE ADOPTED THIS REGULATION:

TITLE I

OBJECTIVES AND SCOPE

Article 1

Objectives

1. This Regulation establishes a European Instrument for Democracy and Human Rights under which the Community shall provide assistance, within the framework of the Community's policy on development cooperation, and economic, financial and technical cooperation with third countries, consistent with the European Union's foreign policy as a whole, contributing to the development and consolidation of democracy and the rule of law, and of respect for all human rights and fundamental freedoms.

2. Such assistance shall aim in particular at

- (a) enhancing the respect for and observance of human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human Rights and other international and regional human rights instruments, and promoting and consolidating democracy and democratic reform in third countries, mainly through support for civil society organisations, providing support and solidarity to human rights defenders and victims of repression and abuse, and strengthening civil society active in the field of human rights and democracy promotion;
- (b) supporting and strengthening the international and regional framework for the protection, promotion and monitoring of human rights, the promotion of democracy and the rule of law, and reinforcing an active role for civil society within these frameworks;

- (c) building confidence in and enhancing the reliability of electoral processes, in particular through election observation missions, and through support for local civil society organisations involved in these processes.

Article 2

Scope

1. Having regard to Articles 1 and 3, Community assistance shall relate to the following fields:

- (a) promotion and enhancement of participatory and representative democracy, including parliamentary democracy, and the processes of democratisation, mainly through civil society organisations, inter alia in:
 - i) promoting freedom of association and assembly, unhindered movement of persons, freedom of opinion and expression, including artistic and cultural expression, independent media, unimpeded access to information, and measures to combat administrative obstacles to the exercise of these freedoms, including the fight against censorship;
 - ii) strengthening the rule of law, promoting the independence of the judiciary, encouraging and evaluating legal and institutional reforms, and promoting access to justice;
 - iii) promoting and strengthening the International Criminal Court, ad hoc international criminal tribunals and the processes of transitional justice and truth and reconciliation mechanisms;
 - iv) supporting reforms to achieve effective and transparent democratic accountability and oversight, including that of the security and justice sectors, and encouraging measures against corruption;
 - v) promoting political pluralism and democratic political representation, and encouraging political participation by citizens, in particular marginalised groups, in democratic reform processes at local, regional and national level;
 - vi) promoting the equal participation of men and women in social, economic and political life, and supporting equality of opportunity, and the participation and political representation of women;
 - vii) supporting measures to facilitate the peaceful conciliation of group interests, including support for confidence-building measures relating to human rights and democratisation.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (b) the promotion and protection of human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human rights and other international and regional instruments concerning civil, political, economic, social and cultural rights, mainly through civil society organisations, relating to inter alia:
- i) the abolition of the death penalty, prevention of torture, ill-treatment and other cruel, inhuman and degrading treatment or punishment, and the rehabilitation of victims of torture;
 - ii) support for, protection of, and assistance to human rights defenders, in terms of Article 1 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;
 - iii) the fight against racism and xenophobia, and discrimination based on any ground including sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;
 - iv) the rights of indigenous peoples and the rights of persons belonging to minorities and ethnic groups;
 - v) the rights of women as proclaimed in the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocols, including measures to combat female genital mutilation, forced marriages, crimes of honour, trafficking, and any other form of violence against women;
 - vi) the rights of the child, as proclaimed in the Convention on the Rights of the Child and its Optional Protocols, including the fight against child labour, child trafficking and child prostitution, and the recruitment and use of child soldiers;
 - vii) the rights of persons with disabilities;
 - viii) the promotion of core labour standards and corporate social responsibility;
 - ix) education, training and monitoring in the area of human rights and democracy, and in the area covered by paragraph 1(a)(vii);
 - x) support for local, regional, national or international civil society organisations involved in the protection, promotion or defence of human rights and in measures referred to in paragraph 1(a)(vii);
- (c) the strengthening of the international framework for the protection of human rights, justice, the rule of law and the promotion of democracy, in particular by
- i) providing support for international and regional instruments concerning human rights, justice, the rule of law and democracy;
 - ii) fostering cooperation of civil society with international and regional intergovernmental organisations, and supporting civil society activities aimed at promoting and monitoring the implementation of international and regional instruments concerning human rights, justice, the rule of law and democracy;
 - iii) promoting observance of international humanitarian law;
- (d) building confidence in and enhancing the reliability and transparency of democratic electoral processes, in particular
- i) through deployment of European Union Election Observation Missions;
 - ii) through other measures of monitoring electoral processes;
 - iii) by contributing to developing electoral observation capacity of civil society organisations at regional and local level, and supporting their initiatives to enhance participation in, and the follow-up to, the electoral process
 - iv) by supporting measures aimed at implementing recommendations of European Union Election Observation Missions, in particular through civil society organisations.
2. The promotion and protection of gender equality, the rights of the child, rights of indigenous peoples, rights of persons with disabilities, and principles such as empowerment, participation, non-discrimination of vulnerable groups and accountability shall be taken into account whenever relevant by all assistance measures referred to in this Regulation.
3. The assistance measures referred to in this Regulation shall be implemented in the territory of third countries or shall be directly related to situations arising in third countries, or shall be directly related to global or regional actions.

*Article 3***Complementarity and Coherence of Community Assistance**

1. Community assistance under this Regulation shall be consistent with the framework of the Community's policy on development cooperation and with the European Union's foreign policy as a whole, and complementary to that provided for under related Community instruments for external assistance and the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, on the other part. Complementary Community assistance under this Regulation shall be provided to reinforce action under the related external assistance instruments.

2. The Commission shall ensure that measures adopted under this Regulation are consistent with the Community's overall strategic policy framework and in particular with the objectives of the above instruments, as well as with other relevant Community measures.

3. In order to enhance the effectiveness and consistency of Community and Member States assistance measures, the Commission shall ensure close coordination between its own activities and those of the Member States, both at decision-making level and on the ground. Coordination shall involve regular consultations and frequent exchanges of relevant information, including with other donors, during the different phases of the assistance cycle, in particular at field level.

4. The Commission shall inform and have regular exchanges of views with the European Parliament.

5. The Commission shall seek regular exchanges of information with civil society, at all levels, including in third countries.

TITLE II

IMPLEMENTATION

*Article 4***General framework for implementation**

Community assistance under this Regulation shall be implemented through the following measures:

- a) Strategy Papers and revisions thereof as appropriate;
- b) Annual Action Programmes;
- c) Special Measures;
- d) Ad hoc Measures.

*Article 5***Strategy Papers and Revisions**

1. Strategy Papers shall set out the Community's strategy for Community assistance under this Regulation, the Community's priorities, the international situation and the activities of the main partners. They shall be consistent with the overall purpose, objectives, scope, and principles of this Regulation.

2. Strategy Papers shall set out the priority areas selected for financing by the Community, the specific objectives, the expected results and the performance indicators. They shall also give the indicative financial allocation, both overall and per priority area; this may be given in the form of a range, where appropriate.

3. Strategy Papers, and any revisions or extensions thereof, shall be adopted in accordance with the procedure laid down in Article 17(2). They shall cover no more than the period of validity of this Regulation. Strategy Papers shall be reviewed at mid-term, or ad hoc if necessary.

4. The Commission and Member States shall exchange information and consult each other, as well as other donors and actors including representatives of civil society, at an early stage of the programming process in order to promote complementarity among their cooperation activities.

*Article 6***Annual Action Programmes**

1. Notwithstanding Article 7, the Commission shall adopt Annual Action Programmes based on the Strategy Papers and Revisions referred to in Article 5.

2. Annual Action Programmes shall specify the objectives pursued, the fields of intervention, the expected results, the management procedures and the total amount of financing planned. They shall take into account lessons learned from past implementation of Community assistance. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. Objectives shall be measurable and have time-bound benchmarks.

3. Annual Action Programmes, and any revisions or extensions thereof, shall be adopted in accordance with the procedure laid down in Article 17(2). In cases where amendments to Annual Action Programmes do not exceed 20 % of the global amount allocated to them, such amendments shall be adopted by the Commission. It shall inform the Committee referred to in Article 17(1) thereof.

4. In case an Annual Action Programme has not yet been adopted, the Commission may exceptionally, on the basis of the Strategy Papers referred to in Article 5, adopt measures not provided for in an Annual Action Programme under the same rules and procedures as for Annual Action Programmes.

*Article 7***Special Measures**

1. Notwithstanding Article 5, in the event of unforeseen and duly justified needs or exceptional circumstances, the Commission may adopt Special Measures not covered in the Strategy Papers.
2. Special Measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures and the total amount of financing. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and the indicative timetable for their implementation. They shall include a definition of the type of performance indicators that will have to be monitored when implementing the special measures.
3. Where the cost of such measures is equal to or exceeds EUR 3 000 000, the Commission shall adopt them in accordance with the procedure laid down in Article 17(2).
4. For Special Measures costing below EUR 3 000 000, the Commission shall send the measures to the European Parliament and the Member States for information within 10 working days of adopting its decision.

*Article 8***Support measures**

1. Community financing under this Regulation may cover expenditure associated with the preparation, follow-up, monitoring, audit and evaluation activities directly necessary for the implementation of this Regulation and the achievement of its objectives, such as studies, meetings, information, awareness-raising, training and publication activities, including training and educational measures for partners from civil society, expenditure associated with computer networks for the exchange of information, and any other administrative or technical assistance expenditure necessary for the management of the programme. It may also cover expenditure, where appropriate, for actions to highlight the Community character of the assistance measures, and for activities to explain the objectives and results of assistance measures to the general public in the countries concerned.
2. Community financing shall also cover expenditure at Commission delegations on the administrative support needed to manage operations financed under this Regulation.
3. The Commission shall adopt Support Measures not covered by Strategy Papers as referred to in Article 5 in accordance with Article 7(3) and (4).

*Article 9***Ad hoc Measures**

1. Notwithstanding Article 5, the Commission may allocate small grants on an ad hoc basis to human rights defenders responding to urgent protection needs.
2. The Commission shall regularly inform the European Parliament and the Member States of the ad hoc measures carried out.

*Article 10***Eligibility**

1. Without prejudice to Article 14, the following bodies and actors operating on an independent and accountable basis shall be eligible for funding under this Regulation for the purposes of implementing the assistance measures referred to in Articles 6, 7 and 9:
 - a) civil society organisations, including non-governmental non-profit organisations and independent political foundations, community based organisations, and private sector non-profit agencies, institutions and organisations, and networks thereof at local, national, regional and international level;
 - b) public sector non-profit agencies, institutions and organisations and networks at local, national, regional, and international level;
 - c) national, regional and international parliamentary bodies, when this is necessary to achieve the objectives of this instrument and unless the proposed measure can be financed under a related Community external assistance instrument;
 - d) international and regional inter-governmental organisations;
 - e) natural persons when this is necessary to achieve the objectives of this Regulation.
2. Other bodies or actors not listed in paragraph 1 can be financed, exceptionally and in duly justified cases, provided this is necessary to achieve the objectives of this Regulation.

*Article 11***Management Procedures**

1. The assistance measures financed under this Regulation shall be implemented 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 any revision thereof on a centralised basis or by joint management with international organisations in accordance with Article 53(1) of that Regulation.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

2. In the event of co-financing and in other duly justified cases, the Commission may, in accordance with Article 54 of Regulation (EC, Euratom) No 1605/2002, decide to entrust tasks of public authority, and in particular budget implementation tasks, to bodies referred to in Article 54(2)(c) of that Regulation.

Article 12

Budget commitments

1. Budget commitments shall be made on the basis of decisions taken by the Commission in accordance with Articles 6, 7, 8 and 9.

2. Community financing may take one of the following legal forms, inter alia:

- a) grant agreements, grant decisions or contribution agreements;
- b) agreements pursuant to Article 54 of Regulation (EC, Euratom) No 1605/2002;
- c) procurement contracts;
- d) employment contracts.

Article 13

Types of financing

1. Community financing may take the following forms:

- a) projects and programmes;
- b) grants to finance projects submitted by international and regional inter-governmental organisations as referred to in Article 10(1)(d);
- c) small grants to human rights defenders as referred to in Article 2(1)(b)(ii) to finance urgent protection measures under Article 9(1);
- d) grants to support operating costs of the Office of the UN High Commissioner for Human Rights;
- e) grants to support operating costs of the European Inter-University Centre for Human Rights and Democratisation (EIUC), in particular for the European Master's Degree Programme in Human Rights and Democratisation and the EU-UN Fellowship Programme, fully accessible to nationals of third countries, as well as other education, training and research activities promoting human rights and democratisation;

f) contributions to international funds, such as those managed by international or regional organisations;

g) human and material resources for effective implementation of European Union Election Observation Missions;

h) public contracts as defined in Article 88 of Regulation (EC, Euratom) No 1605/2002.

2. Measures financed under this Regulation are eligible for cofinancing from the following, in particular from:

- a) Member States and their local authorities, and in particular their public and parastatal agencies;
- b) other donor countries, and in particular their public and parastatal agencies;
- c) international and regional inter-governmental organisations;
- d) companies, firms, other private organisations and business, trade unions, trade union federations, and other non-state actors.

3. In the case of parallel co-financing, the project or programme is to be split into a number of clearly identifiable components, which are each financed by different partners providing co-financing in such a way that the end-use of the financing can always be identified. In the case of joint co-financing, the total cost of the project or programme is to be shared between the partners providing the co-financing and resources are pooled in such a way that it is not possible to identify the source of funding for any given activity undertaken as part of the project or programme.

4. In the case of joint co-financing, the Commission may receive and manage funds on behalf of the bodies referred to in paragraph 2 (a), (b), and (c), for the purpose of implementing joint measures. Such funds shall be dealt with as assigned revenue in accordance with Article 18 of Regulation (EC, Euratom) No 1605/2002.

5. In the event of co-financing and in other duly justified cases, the Commission may entrust tasks of public authority, and in particular budget implementation tasks, to bodies referred to in Article 54(2)(c) of Regulation (EC) No 1605/2002.

6. Community assistance shall not be used for paying taxes, duties or charges in beneficiary countries.

Article 14

Rules of participation and rules of origin

1. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural persons who are nationals of or legal persons who are established in a Member State of the Community, in an accession or official candidate country as recognised by the European Community or in a Member State of the European Economic Area.

Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural persons who are nationals of or legal persons who are established in a developing country, as specified by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD/DAC), in addition to natural or legal persons eligible by virtue of this Regulation. The Commission shall publish and update the list of developing countries established by the OECD/DAC in accordance with regular reviews of this list and inform the Council thereof.

2. Participation in the award of procurement or grant contracts financed under this Regulation shall also be open to all natural persons who are nationals of or legal persons who are established in any country other than those referred to in paragraph 1, where reciprocal access to their external assistance has been established. Reciprocal access shall be granted whenever a country grants eligibility on equal terms to the Member States and to the recipient country concerned.

Reciprocal access shall be established by means of a specific decision concerning a given country or a given regional group of countries. Such a decision shall be adopted in accordance with the procedure laid down in Article 17(2) and shall be in force for a minimum period of one year.

3. Participation in the award of grants and public contracts financed under this Regulation shall be open to international organisations.

4. The provisions of paragraphs 1, 2 and 3 are without prejudice to the participation of categories of eligible organisations by nature or by localization in regard to the objectives of the action to carry out.

5. Experts may be of any nationality. This is without prejudice to the qualitative and financial requirements set out in the Community's procurement rules.

6. If measures financed under this Regulation are implemented on a centralised basis and indirectly by delegation to specialised Community bodies, international or national public sector bodies, or bodies governed by private law with a public mission

in accordance with Article 54(2)(c) of Regulation (EC, Euratom) No 1605/2002, participation in the public procurement and grant award procedures of the managing entity shall be open to natural persons who are nationals of the countries having access to Community contracts and grants in accordance with the principles set out in paragraph 1 of this Article, and of any other country eligible under the rules and procedures of the managing entity, and to legal persons which are established in those countries.

7. Whenever Community assistance covers an operation implemented through an international organisation, participation in the appropriate contractual procedures shall be open to all natural persons and legal persons who are eligible pursuant to this Article, as well as to all natural persons and legal persons who are eligible pursuant to the rules of that organisation, care being taken to ensure that equal treatment is afforded to all donors. The same rules shall apply in respect of supplies, materials and experts.

8. Whenever Community funding covers an operation co-financed with a third country, subject to reciprocity, or with a regional organisation, or with a Member State, participation in the appropriate contractual procedures shall be open to all natural persons and legal persons who are eligible pursuant to this Article as well as to all natural persons and legal persons who are eligible under the rules of such third country, regional organisation or Member State. The same rules shall apply in respect of supplies, materials and experts.

9. All supplies and materials purchased under a contract financed under this Regulation must originate from the Community or from an eligible country as defined in paragraphs 1 and 2. The term 'origin' for the purpose of this Regulation is defined in the relevant Community legislation on rules of origin for customs purposes.

10. The Commission may, in duly substantiated cases, authorise the participation of natural and legal persons either from countries having traditional economic, trade or geographical links with neighbouring countries, or from other third countries, and the purchase and use of supplies and materials of different origin.

11. Derogations may be justified on the basis of the unavailability of products and services in the markets of the countries concerned, for reasons of extreme urgency, or if the eligibility rules would make the realisation of a project, a programme or an action impossible or exceedingly difficult.

12. Tenderers who have been awarded contracts shall respect internationally agreed core labour standards, such as the International Labour Organization's core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour.

*Article 15***Protection of the financial interests of the Community**

1. Any agreement or contract resulting from the implementation of this Regulation shall contain provisions ensuring the protection of the Community's financial interests, in particular with respect to fraud, corruption and any other irregularities in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽¹⁾, 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 ⁽²⁾, and Regulation (EC, Euratom) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽³⁾.

2. Agreements and contracts shall expressly entitle the Commission and the Court of Auditors to have the power of audit, on the basis of documents and on-the-spot, over all contractors and subcontractors who have received Community funds. They shall also expressly authorise the Commission to carry out on-the-spot checks and inspections, as provided for in Regulation (Euratom, EC) No 2185/96.

*Article 16***Evaluation**

1. The Commission shall regularly monitor and review its programmes, and evaluate the effectiveness, coherence and consistency of programming, where appropriate by means of independent external evaluations, in order to ascertain whether the objectives have been met and to enable it to formulate recommendations with a view to improving future operations. Proposals by the European Parliament or the Council for independent external evaluations shall be taken into due account.

2. The Commission shall send its evaluation reports to the Committee referred to in Article 17(1) and to the European Parliament for information. Member States may request discussion of specific evaluations in the Committee referred to in Article 17(1). The results shall feed back into programme design and resource allocation.

3. The Commission shall associate all stakeholders as appropriate in the evaluation phase of Community assistance provided under this Regulation. Joint evaluations with Member States, international organisations or other bodies shall be encouraged.

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 136, 31.5.1999, p. 1.

TITLE III

FINAL PROVISIONS*Article 17***Committee**

1. The Commission shall be assisted by a Democracy and Human Rights Committee, hereinafter referred to as 'the Committee'.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period provided for in Article 4(3) of Decision 1999/468/EC shall be 30 days.

3. The Committee shall adopt its rules of procedure.

*Article 18***Annual Report**

1. The Commission shall examine progress achieved in implementing the assistance measures undertaken pursuant to this Regulation and shall submit to the European Parliament and to the Council an annual report on the implementation and results and, as far as possible, main outcomes and impacts of the assistance. The report shall be an integral part of the Annual Report on European Community development policy implementation and implementation of external assistance and of the EU Annual Report on Human Rights.

2. The annual report shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement of the relevant partners, and the implementation of budget commitments and payments, broken down according to global, regional, and country measures, and fields of assistance. It shall assess the results of assistance, using as far as possible specific and measurable indicators of its role in meeting the objectives of this Regulation.

*Article 19***Financial envelope**

The financial envelope for the implementation of this Regulation for the period 2007-2013 shall be EUR 1 104 000 000. Annual appropriations shall be authorised by the budgetary authority within the limits of the Financial Framework 2007 – 2013.

*Article 20***Review**

Not later than 31 December 2010, the Commission shall submit to the European Parliament and to the Council a report evaluating the implementation of this Regulation in the first three years with, if appropriate, a legislative proposal introducing the necessary modifications to this Regulation.

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

Done at Brussels, 20 December 2006.

For the European Parliament
The President
J. BORRELL FONTELLES

*Article 21***Entry into force**

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

It shall apply from 1 January 2007 until 31 December 2013.

For the Council
The President
J. KORKEAOJA

**REGULATION (EC) No 1890/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 20 December 2006**

on amending Council Regulation (EEC) No 571/88 on the organisation of Community surveys on the structure of agricultural holdings, as regards the financial framework for the period 2007-2009 and the maximum Community contribution for Bulgaria and Romania

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 56 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽¹⁾,

Whereas:

(1) Council Regulation (EEC) No 571/88 ⁽²⁾ provides for the Member States to be reimbursed up to a maximum amount per survey, as a contribution to expenses incurred.

(2) In order to carry out the surveys on the structure of agricultural holdings, considerable funding will be required from the Member States and from the Community to meet the information requirements of the Community institutions.

(3) With a view to the accession of Bulgaria and Romania and to conducting surveys on the structure of agricultural holdings in these new Member States in 2007, it is appropriate to provide for a maximum Community contribution per survey; this adaptation is needed by reason of accession and has not been provided for in the Act of Accession.

(4) This Regulation lays down, for the remainder of the programme, a financial envelope constituting the prime reference for the budgetary authority during the annual budgetary procedure, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 571/88 is amended as follows:

1) the following indents are added to the first subparagraph of Article 14(1):

— EUR 2 000 000 for Bulgaria,

— EUR 2 000 000 for Romania.;

2) in Article 14, the third, fourth and fifth subparagraphs of paragraph 1 are replaced by the following:

'The financial envelope for the implementation of this programme, including the appropriations necessary for the management of the Eurofarm project, shall be set at EUR 20 400 000 for the period 2007-2009.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.'

⁽¹⁾ Opinion of the European Parliament of 12 December 2006 (not yet published in the Official Journal) and Council Decision of...

⁽²⁾ OJ L 56, 2.3.1988, p. 1. Regulation as last amended by Commission Regulation (EC) No 204/2006 (OJ L 34, 7.2.2006, p. 3).

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

Article 2

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

Article 1(1) shall apply as from 1 January 2007.

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

Done at Brussels, 20 December 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

J. KORKEAOJA

COUNCIL REGULATION (EC) No 1891/2006

of 18 December 2006

amending Regulations (EC) No 6/2002 and (EC) No 40/94 to give effect to the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Parliament,

Whereas:

(1) Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs⁽¹⁾ created the Community design system whereby undertakings can by means of one procedural system obtain Community designs to which uniform protection is given and which produce their effects throughout the entire area of the Community.

(2) Following preparations initiated and carried out by the World Intellectual Property Organisation (WIPO) with the participation of the Member States which are members of the Hague Union, the Member States which are not members of the Hague Union and the European Community, the Diplomatic Conference, convened for that purpose at Geneva, adopted the Geneva Act of the Hague Agreement concerning the international registration of industrial designs (hereinafter referred to as the 'Geneva Act') on 2 July 1999.

(3) The Council, by Council Decision 954 approved the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs⁽²⁾ and authorised the President of the Council to deposit the instrument of accession with the Director-General of WIPO as from the date on which the Council has adopted the measures which are necessary to give effect to the accession of the Community to the Geneva Act. This Regulation contains those measures.

(4) The appropriate measures should be incorporated in Regulation (EC) No 6/2002 through the inclusion of a new title on 'International registration of designs'.

(5) The rules and procedures relating to international registrations designating the Community should, in principle, be the same as the rules and procedures which apply to Community designs applications. According to this principle, an international registration designating the Community should be subject to the examination as to the grounds for non-registrability before it takes the same effect as a registered Community design. Likewise, an international registration having the same effect as a registered Community design should be subject to the same rules on invalidation as a registered Community design.

(6) Regulation (EC) No 6/2002 should therefore be amended accordingly.

(7) The accession of the Community to the Geneva Act will create a new source of revenues for the Office for the Harmonisation in the Internal Market (Trade Marks and Designs). Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark⁽³⁾ should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Article 134(3) of Regulation (EC) No 40/94 is replaced by the following:

'3. Revenue shall comprise, without prejudice to other types of income, total fees payable under the fees regulations, total fees payable under the Madrid Protocol referred to in Article 140 of this Regulation for an international registration designating the European Communities and other payments made to Contracting Parties to the Madrid Protocol, total fees payable under the Geneva Act referred to in Article 106c of Regulation (EC) No 6/2002 for an international registration designating the European Community and other payments made to Contracting Parties to the Geneva Act, and, to the extent necessary, a subsidy entered against a specific heading of the general budget of the European Communities, Commission section.'

⁽¹⁾ OJ L 3, 5.1.2002, p. 1. Regulation as last amended by 2005 Act of Accession.

⁽²⁾ See page 18 of this Official Journal.

⁽³⁾ OJ L 11, 14.1.1994, p. 1. Regulation as last amended by 2005 Act of Accession.

Article 2

Regulation (EC) No 6/2002 is amended as follows:

1. Article 25(1)(d) is replaced by the following:

‘(d) if the Community design is in conflict with a prior design which has been made available to the public after the date of filing of the application or, if priority is claimed, the date of priority of the Community design, and which is protected from a date prior to the said date

(i) by a registered Community design or an application for such a design,

or

(ii) by a registered design right of a Member State, or by an application for such a right,

or

(iii) by a design right registered under the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999, hereinafter referred to as “the Geneva Act”, which was approved by Council Decision 954/2006 and which has effect in the Community, or by an application for such a right;’

2. The following title is inserted after title XI:

‘TITLE XIa:

INTERNATIONAL REGISTRATION OF DESIGNS

Section 1

General provisions

Article 106a

Application of provisions

1. Unless otherwise specified in this title, this Regulation and any Regulations implementing this Regulation adopted pursuant to Article 109 shall apply, *mutatis mutandis*, to registrations of industrial designs in the international register maintained by the International Bureau of the World Intellectual Property Organisation (hereinafter referred to as “international registration” and “the International Bureau”) designating the Community, under the Geneva Act.

2. Any recording of an international registration designating the Community in the International Register shall have the same effect as if it had been made in the register of Community designs of the Office, and any publication of an international registration designating the Community in the Bulletin of the International Bureau shall have the same effect as if it had been published in the Community Designs Bulletin.

Section 2

International registrations designating the community

Article 106b

Procedure for filing the international application

International applications pursuant to Article 4(1) of the Geneva Act shall be filed directly at the International Bureau.

Article 106c

Designation fees

The prescribed designation fees referred to in Article 7(1) of the Geneva Act are replaced by an individual designation fee.

Article 106d

Effects of international registration designating the European Community

1. An international registration designating the Community shall, from the date of its registration referred to in Article 10(2) of the Geneva Act, have the same effect as an application for a registered Community design.

2. If no refusal has been notified or if any such refusal has been withdrawn, the international registration of a design designating the Community shall, from the date referred to in paragraph 1, have the same effect as the registration of a design as a registered Community design.

3. The Office shall provide information on international registrations referred to in paragraph 2, in accordance with the conditions laid down in the Implementing Regulation.

*Article 106e***Refusal**

1. The Office shall communicate to the International Bureau a notification of refusal not later than six months from the date of publication of the international registration, if in carrying out an examination of an international registration, the Office notices that the design for which protection is sought does not correspond to the definition under Article 3(a), or is contrary to public policy or to accepted principles of morality.

The notification shall state the grounds on which the refusal is based.

2. The effects of an international registration in the Community shall not be refused before the holder has been allowed the opportunity of renouncing the international registration in respect of the Community or of submitting observations.

3. The conditions for the examination as to the grounds for refusal shall be laid down in the Implementing Regulation.

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

Done at Brussels, 18 December 2006.

*Article 106f***Invalidation of the effects of an international registration**

1. The effects of an international registration in the Community may be declared invalid partly or in whole in accordance with the procedure in Titles VI and VII or by a Community design court on the basis of a counterclaim in infringement proceedings.

2. Where the Office is aware of the invalidation, it shall notify it to the International Bureau.'

Article 3

This Regulation shall enter into force on the date on which the Geneva Act enters into force with respect to the European Community.

The date of entry into force of this Regulation shall be published in the *Official Journal of the European Union*.

For the Council
The President
J.-E. ENESTAM

II

(Acts whose publication is not obligatory)

COUNCIL DECISION**of 27 March 2006****on the signing and provisional application of the Agreement between the European Community and the Kingdom of Morocco on certain aspects of air services**

(2006/953/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Article 1

Having regard to the Treaty establishing the European Community, and in particular Article 80(2), in conjunction with Article 300(2), first sentence of the first subparagraph thereof,

The signing of the Agreement between the European Community and the Kingdom of Morocco on certain aspects of air services is hereby approved on behalf of the Community, subject to the Council Decision concerning the conclusion of the said Agreement.

Having regard to the proposal from the Commission,

The text of the Agreement is attached to this Decision.

Article 2

Whereas:

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community subject to its conclusion.

Article 3

(1) On 5 June 2003, the Council authorised the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community Agreement.

Pending its entry into force, the Agreement shall be applied provisionally from the first day of the first month following the date on which the Parties have notified each other of the completion of the necessary procedures for this purpose.

Article 4

(2) The Commission has negotiated, on behalf of the Community, an Agreement with the Kingdom of Morocco on certain aspects of air services, hereinafter referred to as 'the Agreement' in accordance with the mechanisms and directives in the Annex to the Council Decision authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community Agreement.

The President of the Council is hereby authorised to make the notification provided in Article 8(2) of the Agreement.

Done at Brussels, 27 March 2006.

(3) The Agreement should be signed and provisionally applied, subject to its possible conclusion at a later date,

For the Council
The President
M. GORBACH

AGREEMENT**Between the European Community and the Kingdom of Morocco on certain aspects of air services**

THE EUROPEAN COMMUNITY

of the one part, and

THE KINGDOM OF MOROCCO

of the other part

(hereinafter referred to as 'the Parties'),

NOTING that bilateral air service agreements have been concluded between several Member States of the European Community and the Kingdom of Morocco containing provisions contrary to European Community law;

NOTING that the European Community has exclusive competence with respect to several aspects that may be included in bilateral air service agreements between Member States of the European Community and third countries;

NOTING that, under European Community law, Community air carriers established in a Member State have the right to non-discriminatory access to the market in routes between Member States and third countries;

HAVING REGARD to the agreements between the European Community and certain third countries providing for the possibility for the nationals of such third countries to acquire ownership of air carriers licensed in accordance with European Community law;

RECOGNISING that provisions of the bilateral air service agreements between Member States of the European Community and the Kingdom of Morocco which are contrary to European Community law must be brought into full conformity with it in order to establish a sound legal basis for air services between the European Community and the Kingdom of Morocco and to preserve the continuity of such air services;

NOTING that it is not a purpose of the European Community, as part of these negotiations, to increase the total volume of air traffic between the European Community and the Kingdom of Morocco, to affect the balance between Community air carriers and air carriers of the Kingdom of Morocco, or to negotiate bilateral amendments to the provisions of bilateral air service agreements concerning traffic rights,

HAVE AGREED AS FOLLOWS:

*Article 2***Designation by a Member State***Article 1***General provisions**

1. For the purposes of this Agreement, 'Member States' shall mean Member States of the European Community.

2. References in each of the Agreements listed in Annex I to nationals of the Member State that is a party to that Agreement shall be understood as referring to nationals of the Member States of the European Community.

3. References in each of the Agreements listed in Annex I to air carriers or airlines of the Member State that is a party to that Agreement shall be understood as referring to air carriers or airlines designated by that Member State.

1. The provisions of paragraphs 2 and 3 of this Article shall supersede the corresponding provisions of the Articles listed in Annex II(a) and (b) respectively, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by the Kingdom of Morocco, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.

2. On receipt of a designation by a Member State, the Kingdom of Morocco shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

(i) the air carrier is established, under the Treaty establishing the European Community, in the territory of the designating Member State and has a valid Operating Licence in accordance with European Community law;

(ii) effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation;

and

(iii) the air carrier is owned and shall continue to be owned directly or through majority ownership by Member States and/or nationals of Member States, and/or by other States listed in Annex III and/or nationals of such other States, and shall at all times be effectively controlled by such States and/or such nationals.

3. The Kingdom of Morocco may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

(i) the air carrier is not established, under the Treaty establishing the European Community, in the territory of the designating Member State or does not have a valid Operating Licence in accordance with European Community law;

(ii) effective regulatory control of the air carrier is not exercised and maintained by the Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation;

or

(iii) the air carrier is not owned and effectively controlled directly or through majority ownership by Member States and/or nationals of Member States, and/or by other States listed in Annex III and/or nationals of such other States.

In exercising its right under this paragraph, the Kingdom of Morocco shall not discriminate between Community air carriers on the grounds of nationality.

4. The provisions of paragraphs 5 and 6 of this Article shall supersede the corresponding provisions of the Articles listed in Annex II(a) and (b) respectively, in relation to the designation of an air carrier by the Kingdom of Morocco, its authorisations and permissions granted by the Member State concerned, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.

5. On receipt of a designation by the Kingdom of Morocco, a Member State, shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

(i) the air carrier is established in the territory of the Kingdom of Morocco and has a valid Operating Licence or any other equivalent document in accordance with Moroccan law;

(ii) effective regulatory control of the air carrier is exercised and maintained by the Kingdom of Morocco,

and

(iii) the air carrier is owned and shall continue to be owned directly or through majority ownership by the Kingdom of Morocco and/or its nationals or by Member States and/or their nationals, and shall at all times be effectively controlled by the Kingdom of Morocco and/or its nationals or by Member States and/or their nationals, unless the applicable Agreement listed in Annex I contains more favourable provisions in this connection.

6. The Member State concerned may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by the Kingdom of Morocco where:

(i) the air carrier is not established in the territory of the Kingdom of Morocco or does not have a valid Operating Licence in accordance with Moroccan law;

(ii) effective regulatory control of the air carrier is not exercised and maintained by the Kingdom of Morocco;

or

(iii) the air carrier is not owned and effectively controlled, directly or through majority ownership, by the Kingdom of Morocco and/or its nationals or by Member States and/or their nationals, unless the applicable Agreement listed in Annex I contains more favourable provisions in this connection.

Article 3

Rights with regard to regulatory control

1. The provisions of paragraph 2 of this Article shall complement the articles listed in Annex II(c).

2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of the Kingdom of Morocco under the safety provisions of the Agreement between the Member State that has designated the air carrier and the Kingdom of Morocco shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

*Article 4***Taxation of aviation fuel**

1. The provisions of paragraph 2 of this Article shall complement the articles listed in Annex II(d).
2. Notwithstanding any other provision to the contrary, nothing in each of the Agreements listed in Annex II(d) shall prevent a Member State from imposing taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated air carrier of the Kingdom of Morocco that operates between a point in the territory of that Member State and another point in the territory of that Member State or in the territory of another Member State.

*Article 5***Tariffs**

1. The provisions of paragraph 2 of this Article shall complement the articles listed in Annex II(e).
2. The tariffs to be charged by the air carrier(s) designated by the Kingdom of Morocco under an agreement listed in Annex I containing a provision listed in Annex II(e) for carriage wholly within the European Community shall be subject to European Community law.
3. The tariffs to be charged by the air carrier(s) designated by the Member States under an agreement listed in Annex I containing a provision listed in Annex II(e) for carriage wholly within Morocco shall be subject to Moroccan law.

*Article 6***Annexes to the Agreement**

The Annexes to this Agreement shall form an integral part thereof.

IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed this Agreement.

Done at Brussels, in duplicate, on twenty third of March in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish, Swedish and Arabic languages.

*Article 7***Revision or amendment**

The Parties may, at any time, revise or amend this Agreement by mutual consent.

*Article 8***Entry into force and provisional application**

1. This Agreement shall enter in force when the Parties have notified each other in writing that their respective internal procedures necessary for this purpose have been completed.
2. Notwithstanding paragraph 1, the Parties agree to provisionally apply this Agreement from the first day of the month following the date on which the Parties have notified each other of the completion of the necessary procedures.
3. Agreements and other arrangements between Member States and the Kingdom of Morocco which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally are listed in Annex I(b). This Agreement shall apply to all such Agreements and arrangements upon their entry into force or provisional application.

*Article 9***Termination**

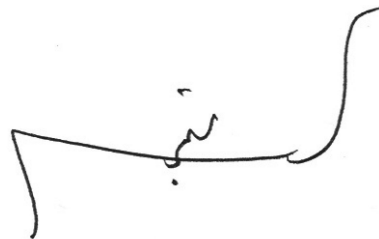
1. In the event that an Agreement listed in Annex I is terminated, all provisions of this Agreement that relate to the Agreement concerned shall terminate at the same time.
2. In the event that all Agreements listed in Annex I are terminated, this Agreement shall terminate at the same time.

Por la Comunidad Europea
 Za Evropské společenství
 For Det Europæiske Fællesskab
 Für die Europäische Gemeinschaft
 Euroopa Ühenduse nimel
 Για την Ευρωπαϊκή Κοινότητα
 For the European Community
 Pour la Communauté européenne
 Per la Comunità europea
 Eiropas Kopienas vārdā
 Europos bendrijos vardu
 az Európai Közösség részéről
 Ghall-Komunità Ewropea
 Voor de Europese Gemeenschap
 W imieniu Wspólnoty Europejskiej
 Pela Comunidade Europeia
 Za Európske spoločenstvo
 Za Evropsko skupnost
 Euroopan yhteisön puolesta
 För Europeiska gemenskapens vägnar



عن المجموعة الأوروبية

Por el Reino de Marruecos
 Za Marocké království
 For Kongeriget Marokko
 Für das Königreich Marokko
 Maroko Kuningriigi nimel
 Για το Βασίλειο του Μαρόκου
 For the Kingdom of Morocco
 Pour le Royaume du Maroc
 Per il Regno del Marocco
 Marokas Karalistes vārdā
 Maroko Karalystès vardu
 A Marokkói Királyság részéről
 Ghar-Renju tal-Marokk
 Voor het Koninkrijk Marokko
 W imieniu Królestwa Marokańskiego
 Pelo Reino de Marrocos
 Za Marocké královstvo
 Za Kraljevino Maroko
 Marokon kuningaskunnan puolesta
 För Konungariket Marocko



عن المملكة المغربية

ANNEX I

List of Agreements referred to in Article 1 of this Agreement

- (a) Bilateral air services agreements between the Kingdom of Morocco and Member States of the European Community which, at the date of signature of this Agreement, have been concluded, have been signed and/or are being applied provisionally
- Air Transport Agreement between the Government of the Kingdom of Belgium and the Government of His Majesty the King of Morocco, done at Rabat on 20 January 1958 (hereinafter referred to as the 'Morocco – Belgium Agreement').
Supplemented by the Exchange of Notes dated 20 January 1958.
Last amended by the Memorandum of Understanding done at Rabat on 11 June 2002;
 - Air Transport Agreement between the Government of the Czechoslovak Socialist Republic and the Government of His Majesty the King of Morocco, done at Rabat on 8 May 1961, in respect of which the Czech Republic has deposited a declaration of succession (hereinafter referred to as the 'Morocco – Czech Republic Agreement');
 - Air Services Agreement between the Government of the Kingdom of Denmark and the Government of the Kingdom of Morocco, done at Rabat on 14 November 1977 (hereinafter referred to as the 'Morocco – Denmark Agreement').
Supplemented by the Exchange of Notes dated 14 November 1977;
 - Air Transport Agreement between the Federal Republic of Germany and the Kingdom of Morocco, done at Bonn on 12 October 1961 (hereinafter referred to as the 'Morocco – Germany Agreement').
Amended by the Memorandum of Understanding done at Bonn on 12 December 1991.
Amended by the Exchange of Notes dated 9 April 1997 and 16 February 1998.
Last amended by the Memorandum of Understanding done at Rabat on 15 July 1998;
 - Air Transport Agreement between the Government of the Hellenic Republic and the Government of the Kingdom of Morocco, done at Athens on 6 October 1998 (hereinafter referred to as the 'Morocco – Greece Agreement').
To be read together with the Memorandum of Understanding done at Athens on 6 October 1998;
 - Air Transport Agreement between the Government of the Spain and the Government of the Kingdom of Morocco, done at Madrid on 7 July 1970 (hereinafter referred to as the 'Morocco – Spain Agreement').
Last supplemented by the Exchange of Letters dated 12 August 2003 and 25 August 2003;
 - Air Transport Agreement between the Government of the French Republic and the Government of His Majesty the King of Morocco, done at Rabat on 25 October 1957 (hereinafter referred to as the 'Morocco – France Agreement');
 - Air Transport Agreement between the Government of the Republic of Italy and the Government of His Majesty the King of Morocco, done at Rome on 8 July 1967 (hereinafter referred to as the 'Morocco – Italy Agreement').
Amended by the Memorandum of Understanding done at Rome on 13 July 2000.
Last amended by the Exchange of Notes dated 17 October 2001 and 3 January 2002;
 - Air Transport Agreement between the Government of the Republic of Latvia and the Government of the Kingdom of Morocco, done at Warsaw on 19 May 1999 (hereinafter referred to as the 'Morocco – Latvia Agreement');
 - Air Transport Agreement between the Government of the Grand-Duchy of Luxembourg and the Government of His Majesty the King of Morocco, done at Bonn on 5 July 1961 (hereinafter referred to as the 'Morocco – Luxembourg Agreement');
 - Air Transport Agreement between the Hungarian People's Republic and the Kingdom of Morocco, done at Rabat on 21 March 1967 (hereinafter referred to as the 'Morocco – Hungary Agreement');

- Air Transport Agreement between the Government of the Republic of Malta and the Government of His Majesty the King of Morocco, done at Rabat on 26 May 1983 (hereinafter referred to as the 'Morocco – Malta Agreement');
 - Air Transport Agreement between the Government of Her Majesty the Queen of the Netherlands and the Government of His Majesty the King of Morocco, done at Rabat on 20 May 1959 (hereinafter referred to as the 'Morocco – Netherlands Agreement');
 - Air Transport Agreement between the Federal Government of Austria and the Government of the Kingdom of Morocco, done at Rabat on 27 February 2002 (hereinafter referred to as the 'Morocco – Austria Agreement');
 - Air Transport Agreement between the Government of the People's Republic of Poland and the Government of the Kingdom of Morocco, done at Rabat on 29 November 1969 (hereinafter referred to as the 'Morocco – Poland Agreement');
 - Air Transport Agreement between Portugal and the Government of the Kingdom of Morocco, done at Rabat on 3 April 1958 (hereinafter referred to as the 'Morocco – Portugal Agreement').
Supplemented by the Minutes done at Lisbon on 19 December 1975.
Last supplemented by the Minutes done at Lisbon on 17 November 2003;
 - Air Transport Agreement between the Government of the Kingdom of Sweden and the Government of the Kingdom of Morocco, done at Rabat on 14 November 1977 (hereinafter referred to as the 'Morocco – Sweden Agreement').
Supplemented by the Exchange of Notes dated 14 November 1977;
 - Air Services Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Morocco, done at London on 22 October 1965 (hereinafter referred to as the 'Morocco – UK Agreement').
Amended by the Exchange of Notes dated 10 and 14 October 1968.
Amended by the Minutes done at London on 14 March 1997.
Amended by the Minutes done at Rabat on 17 October 1997.
- (b) Air services agreements and other arrangements initialled or signed between the Kingdom of Morocco and Member States of the European Community which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally
- Air Services Agreement between the Government of the Kingdom of the Netherlands and the Government of the Kingdom of Morocco as attached, as Annex 1, to the Memorandum of Understanding, done at The Hague on 20 June 2001 (hereinafter referred to as the 'Morocco – Netherlands Initialled Agreement').
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ANNEX II

List of articles in the Agreements listed in Annex I and referred to in Articles 2 to 5 of this Agreement

- (a) Designation by a Member State:
- Article 18 of the Morocco – Belgium Agreement;
 - Article 13 of the Morocco – Czech Republic Agreement;
 - Article 3 of the Morocco – Denmark Agreement;
 - Article 3 of the Morocco – Germany Agreement;
 - Article 3 of the Morocco – Greece Agreement;
 - Article 3 of the Morocco – Spain Agreement;
 - Article 12 of the Morocco – France Agreement;
 - Article 14 of the Morocco – Italy Agreement;
 - Article 3 of the Morocco – Latvia Agreement;
 - Article 14 of the Morocco – Luxembourg Agreement;
 - Article 3 of the Morocco – Hungary Agreement;
 - Article 16 of the Morocco – Malta Agreement;
 - Article 17 of the Morocco – Netherlands Agreement;
 - Article 3 of the Morocco – Netherlands initialled Agreement;
 - Article 3 of the Morocco – Austria Agreement;
 - Article 7 of the Morocco – Poland Agreement;
 - Article 13 of the Morocco – Portugal Agreement;
 - Article 3 of the Morocco – Sweden Agreement;
 - Article 3 of the Morocco – UK Agreement.
- (b) Refusal, revocation, suspension or limitation of authorisations or permissions:
- Article 5 of the Morocco – Belgium Agreement;
 - Article 7 of the Morocco – Czech Republic Agreement;
 - Article 4 of the Morocco – Denmark Agreement;
 - Article 4 of the Morocco – Germany Agreement;
 - Article 4 of the Morocco – Greece Agreement;
 - Article 4 of the Morocco – Spain Agreement;
 - Article 6 of the Morocco – France Agreement;
 - Article 7 of the Morocco – Italy Agreement;
 - Article 4 of the Morocco – Latvia Agreement;
 - Article 7 of the Morocco – Luxembourg Agreement;
 - Article 8 of the Morocco – Hungary Agreement;
 - Article 9 of the Morocco – Malta Agreement;

- Article 4 of the Morocco – Netherlands Agreement;
 - Article 4 of the Morocco – Netherlands initialled Agreement;
 - Article 4 of the Morocco – Austria Agreement;
 - Article 8 of the Morocco – Poland Agreement;
 - Article 6 of the Morocco – Portugal Agreement;
 - Article 4 of the Morocco – Sweden Agreement;
 - Article 4 of the Morocco – UK Agreement.
- (c) Regulatory control:
- Article 9a of the Morocco – Germany Agreement;
 - Article 7 of the Morocco – Greece Agreement;
 - Article 5a of the Morocco – Italy Agreement;
 - Article 5 of the Morocco – Luxembourg Agreement;
 - Article 6 of the Morocco – Hungary Agreement;
 - Article 17 of the Morocco – Netherlands initialled Agreement.
- (d) Taxation of aviation fuel:
- Article 7 of the Morocco – Belgium Agreement;
 - Article 3 of the Morocco – Czech Republic Agreement;
 - Article 6 of the Morocco – Denmark Agreement;
 - Article 6 of the Morocco – Germany Agreement;
 - Article 10 of the Morocco – Greece Agreement;
 - Article 5 of the Morocco – Spain Agreement;
 - Article 3 of the Morocco – France Agreement;
 - Article 3 of the Morocco – Italy Agreement;
 - Article 14 of the Morocco – Latvia Agreement;
 - Article 3 of the Morocco – Luxembourg Agreement;
 - Article 4 of the Morocco – Hungary Agreement;
 - Article 3 of the Morocco – Malta Agreement;
 - Article 6 of the Morocco – Netherlands Agreement;
 - Article 10 of the Morocco – Netherlands initialled Agreement;
 - Article 9 of the Morocco – Austria Agreement;
 - Article 3 of the Morocco – Poland Agreement;
 - Article 3 of the Morocco – Portugal Agreement;
 - Article 6 of the Morocco – Sweden Agreement;
 - Article 5 of the Morocco – UK Agreement.

- (e) Tariffs for carriage within the European Community:
- Article 19 of the Morocco – Belgium Agreement;
 - Article 19 of the Morocco – Czech Republic Agreement;
 - Article 9 of the Morocco – Denmark Agreement;
 - Article 9 of the Morocco – Germany Agreement;
 - Article 13 of the Morocco – Greece Agreement;
 - Article 11 of the Morocco – Spain Agreement;
 - Article 17 of the Morocco – France Agreement;
 - Article 20 of the Morocco – Italy Agreement;
 - Article 10 of the Morocco – Latvia Agreement;
 - Article 20 of the Morocco – Luxembourg Agreement;
 - Article 17 of the Morocco – Hungary Agreement;
 - Article 19 of the Morocco – Malta Agreement;
 - Article 18 of the Morocco – Netherlands Agreement;
 - Article 6 of the Morocco – Netherlands initialled Agreement;
 - Article 13 of the Morocco – Austria Agreement;
 - Article 19 of the Morocco – Poland Agreement;
 - Article 18 of the Morocco – Portugal Agreement;
 - Article 9 of the Morocco – Sweden Agreement;
 - Article 9 of the Morocco – UK Agreement.
-

*ANNEX III***List of other States referred to in Article 2 of this Agreement**

- (a) The Republic of Iceland (under the Agreement on the European Economic Area);
 - (b) The Principality of Liechtenstein (under the Agreement on the European Economic Area);
 - (c) The Kingdom of Norway (under the Agreement on the European Economic Area);
 - (d) The Swiss Confederation (under the Air Transport Agreement between the European Community and the Swiss Confederation).
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COUNCIL DECISION**of 18 December 2006****approving the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999**

(2006/954/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308, in conjunction with Article 300(2), first subparagraph, second sentence, and Article 300(3), first subparagraph, thereof,

Having regard to the proposal from the Commission,

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

Having regard to the Opinion of the European Parliament,

Whereas:

(1) Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs ⁽¹⁾, which is based on Article 308 of the Treaty, aims to create a market which functions properly and offers conditions which are similar to those obtaining in a national market. In order to create a market of this kind and make it increasingly a single market, that Regulation created the Community design system whereby undertakings can by means of a single procedure obtain Community designs to which uniform protection is given and which produce their effects throughout the entire area of the Community.

(2) Following preparations initiated and carried out by the World Intellectual Property Organisation (WIPO) with the participation of the Member States which are members of the Hague Union, the Member States which are not members of the Hague Union and the European Community, the Diplomatic Conference, convened for that purpose at Geneva, adopted the Geneva Act of the Hague Agreement concerning the international registration of industrial designs (hereinafter referred to as the 'Geneva Act') on 2 July 1999.

(3) The Geneva Act was adopted in order to introduce certain innovations to the system for the international deposit of industrial designs provided for in the London Act, which had been adopted on 2 June 1934, and the Hague Act, which had been adopted on 28 November 1960.

(4) The objectives of the Geneva Act are to extend the Hague system of international registration to new members, and to make the system more attractive to applicants. As compared to the London Act and the Hague Act, one of the main innovations is that an intergovernmental organisation which maintains an office authorised to grant protection to designs with effect in the territory of the organisation may become party to the Geneva Act.

(5) The facility whereby an intergovernmental organisation which has a regional office for the registration of designs may become a party to the Geneva Act was introduced in order to allow, in particular, for the Community to accede to that Act, and hence, to the Hague Union.

(6) The Geneva Act entered into force on 23 December 2003 and became operational on 1 April 2004. As of 1 January 2003, the Office for the Harmonisation in the Internal Market (Trade Marks and Designs) started admitting applications for registered Community designs, the first date of filing being granted on 1 April 2003.

(7) The Community design system and the international registration system as established by the Geneva Act are complementary. The Community design system provides for a complete and unified regional designs registration system which covers the whole territory of the Community. The Hague Agreement constitutes a treaty centralising the procedures for obtaining protection of designs in the territory of the designated Contracting Parties.

(8) The establishment of a link between the Community design system and the international registration system under the Geneva Act would enable designers to obtain, through one single international application protection for their designs in the Community under the Community design system and in the territories of the Geneva Act inside and outside the Community.

(9) Moreover, the establishment of a link between the Community design system and the international registration system under the Geneva Act will promote a harmonious development of economic activities, will eliminate distortions of competition, will be cost efficient and will increase the level of integration and functioning of the internal market. Therefore, the Community needs to accede to the Geneva Act in order to make the Community design system more attractive.

⁽¹⁾ OJ L 3, 5.1.2002, p. 1. Regulation as amended by 2003 Act of Accession.

- (10) The Commission should be authorised to represent the Community in the Assembly of the Hague Union after the accession of the Community to the Geneva Act.
- (11) This Decision does not affect the right of the Member States to participate in the Assembly of the Hague Union with regard to their national designs,

HAS DECIDED AS FOLLOWS:

Article 1

The Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999 (hereinafter referred to as the Geneva Act), is hereby approved on behalf of the Community with regard to the matters within its competence.

The text of the Geneva Act is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to deposit the instrument of accession with the Director-General of the World Intellectual Property Organisation as from the date on which the Council and the Commission have adopted the measures which are necessary for the establishment of a link between Community design law and the Geneva Act.
2. The declarations which are attached to this Decision shall be made in the instrument of accession.

Article 3

1. The Commission is hereby authorised to represent the European Community at the meetings of the Hague Union Assembly held under the auspices of the World Intellectual Property Organisation.
2. On all matters lying within the competence of the Community with regard to Community design, the Commission shall negotiate in the Hague Union Assembly on behalf of the Community and in accordance with the following arrangements:
 - (a) the position which the Community may adopt within the Assembly shall be prepared by the relevant Council working party or, if this is not possible, at on-the-spot meetings convened in the course of the work within the framework of the World Intellectual Property Organisation;
 - (b) as regards decisions involving amendments to Regulation (EC) No 6/2002, or to any other act of the Council requiring unanimity, the Community position shall be adopted by the Council acting unanimously on a proposal from the Commission;
 - (c) as regards other decisions affecting Community design law, the Community position shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

Done at Brussels, 18 December 2006

For the Council
The President
J.-E. ENESTAM

ANNEX

Geneva Act of 2 July 1999

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INTRODUCTORY PROVISIONS

Article 1

Abbreviated Expressions

For the purposes of this Act:

- | | | | |
|--------|--|---------|---|
| (i) | 'the Hague Agreement' means the Hague Agreement Concerning the International Deposit of Industrial Designs, henceforth renamed the Hague Agreement Concerning the International Registration of Industrial Designs; | (xii) | 'intergovernmental organisation' means an intergovernmental organisation eligible to become party to this Act in accordance with Article 27(1)(ii); |
| (ii) | 'this Act' means the Hague Agreement as established by the present Act; | (xiii) | 'Contracting Party' means any State or intergovernmental organisation party to this Act; |
| (iii) | 'Regulations' means the Regulations under this Act; | (xiv) | 'applicant's Contracting Party' means the Contracting Party or one of the Contracting Parties from which the applicant derives its entitlement to file an international application by virtue of satisfying, in relation to that Contracting Party, at least one of the conditions specified in Article 3; where there are two or more Contracting Parties from which the applicant may, under Article 3, derive its entitlement to file an international application, 'applicant's Contracting Party' means the one which, among those Contracting Parties, is indicated as such in the international application; |
| (iv) | 'prescribed' means prescribed in the Regulations; | (xv) | 'territory of a Contracting Party' means, where the Contracting Party is a State, the territory of that State and, where the Contracting Party is an intergovernmental organisation, the territory in which the constituent treaty of that intergovernmental organisation applies; |
| (v) | 'Paris Convention' means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1 883, as revised and amended; | (xvi) | 'Office' means the agency entrusted by a Contracting Party with the grant of protection for industrial designs with effect in the territory of that Contracting Party; |
| (vi) | 'international registration' means the international registration of an industrial design effected according to this Act; | (xvii) | 'Examining Office' means an Office which <i>ex officio</i> examines applications filed with it for the protection of industrial designs at least to determine whether the industrial designs satisfy the condition of novelty; |
| (vii) | 'international application' means an application for international registration; | (xviii) | 'designation' means a request that an international registration have effect in a Contracting Party; it also means the recording, in the International Register, of that request; |
| (viii) | 'International Register' means the official collection of data concerning international registrations maintained by the International Bureau, which data this Act or the Regulations require or permit to be recorded, regardless of the medium in which such data are stored; | (xix) | 'designated Contracting Party' and 'designated Office' means the Contracting Party and the Office of the Contracting Party, respectively, to which a designation applies; |
| (ix) | 'person' means a natural person or a legal entity; | (xx) | '1934 Act' means the Act signed at London on June 2, 1934, of the Hague Agreement; |
| (x) | 'applicant' means the person in whose name an international application is filed; | (xxi) | '1960 Act' means the Act signed at The Hague on November 28, 1960, of the Hague Agreement; |
| (xi) | 'holder' means the person in whose name an international registration is recorded in the International Register; | | |

(xxii) '1961 Additional Act' means the Act signed at Monaco on November 18, 1961, additional to the 1934 Act;

(xxiii) 'Complementary Act of 1967' means the Complementary Act signed at Stockholm on 14 July 1967, as amended, of the Hague Agreement;

(xxiv) 'Union' means the Hague Union established by the Hague Agreement of November 6, 1925, and maintained by the 1934 and 1960 Acts, the 1961 Additional Act, the Complementary Act of 1967 and this Act;

(xxv) 'Assembly' means the Assembly referred to in Article 21(1)(a) or any body replacing that Assembly;

(xxvi) 'Organisation' means the World Intellectual Property Organisation;

(xxvii) 'Director General' means the Director General of the Organisation;

(xxviii) 'International Bureau' means the International Bureau of the Organisation;

(xxix) 'instrument of ratification' shall be construed as including instruments of acceptance or approval.

Article 2

Applicability of Other Protection Accorded by Laws of Contracting Parties and by Certain International Treaties

1. [Laws of Contracting Parties and Certain International Treaties] The provisions of this Act shall not affect the application of any greater protection which may be accorded by the law of a Contracting Party, nor shall they affect in any way the protection accorded to works of art and works of applied art by international copyright treaties and conventions, or the protection accorded to industrial designs under the Agreement on Trade-Related Aspects of Intellectual Property Rights annexed to the Agreement Establishing the World Trade Organisation.

2. [Obligation to Comply with the Paris Convention] Each Contracting Party shall comply with the provisions of the Paris Convention which concern industrial designs.

CHAPTER I

INTERNATIONAL APPLICATION AND INTERNATIONAL REGISTRATION

Article 3

Entitlement to File an International Application

Any person that is a national of a State that is a Contracting Party or of a State member of an intergovernmental organisation that is a Contracting Party, or that has a domicile, a habitual residence or a real and effective industrial or commercial establishment in the territory of a Contracting Party, shall be entitled to file an international application.

Article 4

Procedure for Filing the International Application

1. [Direct or Indirect Filing]
 - (a) The international application may be filed, at the option of the applicant, either directly with the International Bureau or through the Office of the applicant's Contracting Party.
 - (b) Notwithstanding subparagraph (a), any Contracting Party may, in a declaration, notify the Director General that international applications may not be filed through its Office.
2. [Transmittal Fee in Case of Indirect Filing] The Office of any Contracting Party may require that the applicant pay a transmittal fee to it, for its own benefit, in respect of any international application filed through it.

Article 5

Contents of the International Application

1. [Mandatory Contents of the International Application] The international application shall be in the prescribed language or one of the prescribed languages and shall contain or be accompanied by
 - (i) a request for international registration under this Act;
 - (ii) the prescribed data concerning the applicant;
 - (iii) the prescribed number of copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international application, presented in the prescribed manner; however, where the industrial design is two-dimensional and a request for deferment of publication is made in accordance with paragraph (5), the international application may, instead of containing reproductions, be accompanied by the prescribed number of specimens of the industrial design;
 - (iv) an indication of the product or products which constitute the industrial design or in relation to which the industrial design is to be used, as prescribed;
 - (v) an indication of the designated Contracting Parties;
 - (vi) the prescribed fees;
 - (vii) any other prescribed particulars.

2. [Additional Mandatory Contents of the International Application]

- (a) Any Contracting Party whose Office is an Examining Office and whose law, at the time it becomes party to this Act, requires that an application for the grant of protection to an industrial design contain any of the elements specified in subparagraph (b) in order for that application to be accorded a filing date under that law may, in a declaration, notify the Director General of those elements.

- (b) The elements that may be notified pursuant to subparagraph (a) are the following:
- (i) indications concerning the identity of the creator of the industrial design that is the subject of that application;
 - (ii) a brief description of the reproduction or of the characteristic features of the industrial design that is the subject of that application;
 - (iii) a claim.
- (c) Where the international application contains the designation of a Contracting Party that has made a notification under subparagraph (a), it shall also contain, in the prescribed manner, any element that was the subject of that notification.

3. [Other Possible Contents of the International Application] The international application may contain or be accompanied by such other elements as are specified in the Regulations.

4. [Several Industrial Designs in the Same International Application] Subject to such conditions as may be prescribed, an international application may include two or more industrial designs.

5. [Request for Deferred Publication] The international application may contain a request for deferment of publication.

Article 6

Priority

1. [Claiming of Priority]
- (a) The international application may contain a declaration claiming, under Article 4 of the Paris Convention, the priority of one or more earlier applications filed in or for any country party to that Convention or any Member of the World Trade Organisation.
 - (b) The Regulations may provide that the declaration referred to in subparagraph (a) may be made after the filing of the international application. In such case, the Regulations shall prescribe the latest time by which such declaration may be made.
2. [International Application Serving as a Basis for Claiming Priority] The international application shall, as from its filing date and whatever may be its subsequent fate, be equivalent to a regular filing within the meaning of Article 4 of the Paris Convention.

Article 7

Designation Fees

1. [Prescribed Designation Fee] The prescribed fees shall include, subject to paragraph (2), a designation fee for each designated Contracting Party.

2. [Individual Designation Fee] Any Contracting Party whose Office is an Examining Office and any Contracting Party that is an intergovernmental organisation may, in a declaration, notify the Director General that, in connection with any international application in which it is designated, and in connection with the renewal of any international registration resulting from such an international application, the prescribed designation fee referred to in paragraph (1) shall be replaced by an individual designation fee, whose amount shall be indicated in the declaration and can be changed in further declarations. The said amount may be fixed by the said Contracting Party for the initial term of protection and for each term of renewal or for the maximum period of protection allowed by the Contracting Party concerned. However, it may not be higher than the equivalent of the amount which the Office of that Contracting Party would be entitled to receive from an applicant for a grant of protection for an equivalent period to the same number of industrial designs, that amount being diminished by the savings resulting from the international procedure.

3. [Transfer of Designation Fees] The designation fees referred to in paragraphs (1) and (2) shall be transferred by the International Bureau to the Contracting Parties in respect of which those fees were paid.

Article 8

Correction of Irregularities

1. [Examination of the International Application] If the International Bureau finds that the international application does not, at the time of its receipt by the International Bureau, fulfill the requirements of this Act and the Regulations, it shall invite the applicant to make the required corrections within the prescribed time limit.

2. [Irregularities Not Corrected]

- (a) If the applicant does not comply with the invitation within the prescribed time limit, the international application shall, subject to subparagraph (b), be considered abandoned.
- (b) In the case of an irregularity which relates to Article 5(2) or to a special requirement notified to the Director General by a Contracting Party in accordance with the Regulations, if the applicant does not comply with the invitation within the prescribed time limit, the international application shall be deemed not to contain the designation of that Contracting Party.

Article 9

Filing Date of the International Application

1. [International Application Filed Directly] Where the international application is filed directly with the International Bureau, the filing date shall, subject to paragraph (3), be the date on which the International Bureau receives the international application.

2. [International Application Filed Indirectly] Where the international application is filed through the Office of the applicant's Contracting Party, the filing date shall be determined as prescribed.

3. [International Application with Certain Irregularities] Where the international application has, on the date on which it is received by the International Bureau, an irregularity which is prescribed as an irregularity entailing a postponement of the filing date of the international application, the filing date shall be the date on which the correction of such irregularity is received by the International Bureau.

Article 10 ⁽¹⁾

International Registration, Date of the International Registration, Publication and Confidential Copies of the International Registration

1. [International Registration] The International Bureau shall register each industrial design that is the subject of an international application immediately upon receipt by it of the international application or, where corrections are invited under Article 8, immediately upon receipt of the required corrections. The registration shall be effected whether or not publication is deferred under Article 11.

2. [Date of the International Registration]

(a) Subject to subparagraph (b), the date of the international registration shall be the filing date of the international application.

(b) Where the international application has, on the date on which it is received by the International Bureau, an irregularity which relates to Article 5(2), the date of the international registration shall be the date on which the correction of such irregularity is received by the International Bureau or the filing date of the international application, whichever is the later.

3. [Publication]

(a) The international registration shall be published by the International Bureau. Such publication shall be deemed in all Contracting Parties to be sufficient publicity, and no other publicity may be required of the holder.

(b) The International Bureau shall send a copy of the publication of the international registration to each designated Office.

4. [Maintenance of Confidentiality Before Publication] Subject to paragraph (5) and Article 11(4)(b), the International Bureau shall keep in confidence each international application and each international registration until publication.

5. [Confidential Copies]

(a) the International Bureau shall, immediately after registration has been effected, send a copy of the international registration, along with any relevant statement, document or specimen accompanying the international application, to each Office that has notified the International Bureau that it wishes to receive such a copy and has been designated in the international application.

(b) The Office shall, until publication of the international registration by the International Bureau, keep in confidence each international registration of which a copy has been sent to it by the International Bureau and may use the said copy only for the purpose of the examination of the international registration and of applications for the protection of industrial designs filed in or for the Contracting Party for which the Office is competent. In particular, it may not divulge the contents of any such international registration to any person outside the Office other than the holder of that international registration, except for the purposes of an administrative or legal proceeding involving a conflict over entitlement to file the international application on which the international registration is based. In the case of such an administrative or legal proceeding, the contents of the international registration may only be disclosed in confidence to the parties involved in the proceeding who shall be bound to respect the confidentiality of the disclosure.

Article 11

Deferment of Publication

1. [Provisions of Laws of Contracting Parties Concerning Deferment of Publication]

(a) Where the law of a Contracting Party provides for the deferment of the publication of an industrial design for a period which is less than the prescribed period, that Contracting Party shall, in a declaration, notify the Director General of the allowable period of deferment.

(b) Where the law of a Contracting Party does not provide for the deferment of the publication of an industrial design, the Contracting Party shall, in a declaration, notify the Director General of that fact.

2. [Deferment of Publication] Where the international application contains a request for deferment of publication, the publication shall take place,

(i) where none of the Contracting Parties designated in the international application has made a declaration under paragraph (1), at the expiry of the prescribed period,

or

(ii) where any of the Contracting Parties designated in the international application has made a declaration under paragraph (1)(a), at the expiry of the period notified in such declaration or, where there is more than one such designated Contracting Party, at the expiry of the shortest period notified in their declarations.

3. [Treatment of Requests for Deferment Where Deferment Is Not Possible Under Applicable Law] Where deferment of publication has been requested and any of the Contracting Parties designated in the international application has made a declaration under paragraph (1)(b) that deferment of publication is not possible under its law,

(i) subject to item (ii), the International Bureau shall notify the applicant accordingly; if, within the prescribed period, the applicant does not, by notice in writing to the International Bureau, withdraw the designation of the said Contracting Party, the International Bureau shall disregard the request for deferment of publication;

⁽¹⁾ When adopting Article 10, the Diplomatic Conference understood that nothing in this Article precludes access to the international application or the international registration by the applicant or the holder or a person having the consent of the applicant or the holder.

- (ii) where, instead of containing reproductions of the industrial design, the international application was accompanied by specimens of the industrial design, the International Bureau shall disregard the designation of the said Contracting Party and shall notify the applicant accordingly.

4. [Request for Earlier Publication or for Special Access to the International Registration]

- (a) At any time during the period of deferment applicable under paragraph (2), the holder may request publication of any or all of the industrial designs that are the subject of the international registration, in which case the period of deferment in respect of such industrial design or designs shall be considered to have expired on the date of receipt of such request by the International Bureau.
- (b) The holder may also, at any time during the period of deferment applicable under paragraph (2), request the International Bureau to provide a third party specified by the holder with an extract from, or to allow such a party access to, any or all of the industrial designs that are the subject of the international registration.

5. [Renunciation and Limitation]

- (a) If, at any time during the period of deferment applicable under paragraph (2), the holder renounces the international registration in respect of all the designated Contracting Parties, the industrial design or designs that are the subject of the international registration shall not be published.
- (b) If, at any time during the period of deferment applicable under paragraph (2), the holder limits the international registration, in respect of all of the designated Contracting Parties, to one or some of the industrial designs that are the subject of the international registration, the other industrial design or designs that are the subject of the international registration shall not be published.

6. Publication and Furnishing of Reproductions]

- (a) At the expiration of any period of deferment applicable under the provisions of this Article, the International Bureau shall, subject to the payment of the prescribed fees, publish the international registration. If such fees are not paid as prescribed, the international registration shall be cancelled and publication shall not take place.
- (b) Where the international application was accompanied by one or more specimens of the industrial design in accordance with Article 5(1)(iii), the holder shall submit the prescribed number of copies of a reproduction of each industrial design that is the subject of that application to the International Bureau within the prescribed time limit. To the extent that the holder does not do so, the international registration shall be cancelled and publication shall not take place.

Article 12

Refusal

1. [Right to Refuse] The Office of any designated Contracting Party may, where the conditions for the grant of protection under the law of that Contracting Party are not met in respect of any or all of the industrial designs that are the subject of an international registration, refuse the effects, in part or in whole, of the international registration in the territory of the said Contracting Party, provided that no Office may refuse the effects, in part or in whole, of any international registration on the ground that requirements relating to the form or contents of the international application that are provided for in this Act or the Regulations or are additional to, or different from, those requirements have not been satisfied under the law of the Contracting Party concerned.
2. [Notification of Refusal]
- (a) The refusal of the effects of an international registration shall be communicated by the Office to the International Bureau in a notification of refusal within the prescribed period.
- (b) Any notification of refusal shall state all the grounds on which the refusal is based.
3. [Transmission of Notification of Refusal; Remedies]
- (a) The International Bureau shall, without delay, transmit a copy of the notification of refusal to the holder.
- (b) The holder shall enjoy the same remedies as if any industrial design that is the subject of the international registration had been the subject of an application for the grant of protection under the law applicable to the Office that communicated the refusal. Such remedies shall at least consist of the possibility of a re-examination or a review of the refusal or an appeal against the refusal.
4. ⁽¹⁾ [Withdrawal of Refusal] Any refusal may be withdrawn, in part or in whole, at any time by the Office that communicated it.

Article 13

Special Requirements Concerning Unity of Design

1. [Notification of Special Requirements] Any Contracting Party whose law, at the time it becomes party to this Act, requires that designs that are the subject of the same application conform to a requirement of unity of design, unity of production or unity of use, or belong to the same set or composition of items, or that only one independent and distinct design may be claimed in a single application, may, in a declaration, notify the Director General accordingly. However, no such declaration shall affect the right of an applicant to include two or more industrial designs in an international application in accordance with Article 5(4), even if the application designates the Contracting Party that has made the declaration.

⁽¹⁾ When adopting Article 12(4), Article 14(2)(b) and Rule 18(4), the Diplomatic Conference understood that a withdrawal of refusal by an Office that has communicated a notification of refusal may take the form of a statement to the effect that the Office concerned has decided to accept the effects of the international registration in respect of the industrial designs, or some of the industrial designs, to which the notification of refusal related. It was also understood that an Office may, within the period allowed for communicating a notification of refusal, send a statement to the effect that it has decided to accept the effects of the international registration even where it has not communicated such a notification of refusal.

2. [Effect of Declaration] Any such declaration shall enable the Office of the Contracting Party that has made it to refuse the effects of the international registration pursuant to Article 12(1) pending compliance with the requirement notified by that Contracting Party.

3. [Further Fees Payable on Division of Registration] Where, following a notification of refusal in accordance with paragraph (2), an international registration is divided before the Office concerned in order to overcome a ground of refusal stated in the notification, that Office shall be entitled to charge a fee in respect of each additional international application that would have been necessary in order to avoid that ground of refusal.

Article 14

Effects of the International Registration

1. [Effect as Application Under Applicable Law] The international registration shall, from the date of the international registration, have at least the same effect in each designated Contracting Party as a regularly-filed application for the grant of protection of the industrial design under the law of that Contracting Party.

2. [Effect as Grant of Protection Under Applicable Law]

(a) In each designated Contracting Party the Office of which has not communicated a refusal in accordance with Article 12, the international registration shall have the same effect as a grant of protection for the industrial design under the law of that Contracting Party at the latest from the date of expiration of the period allowed for it to communicate a refusal or, where a Contracting Party has made a corresponding declaration under the Regulations, at the latest at the time specified in that declaration.

(b) ⁽¹⁾Where the Office of a designated Contracting Party has communicated a refusal and has subsequently withdrawn, in part or in whole, that refusal, the international registration shall, to the extent that the refusal is withdrawn, have the same effect in that Contracting Party as a grant of protection for the industrial design under the law of the said Contracting Party at the latest from the date on which the refusal was withdrawn.

(c) The effect given to the international registration under this paragraph shall apply to the industrial design or designs that are the subject of that registration as received from the International Bureau by the designated Office or, where applicable, as amended in the procedure before that Office.

3. [Declaration Concerning Effect of Designation of Applicant's Contracting Party]

(a) Any Contracting Party whose Office is an Examining Office may, in a declaration, notify the Director General that, where it is the applicant's Contracting Party, the designation of that Contracting Party in an international registration shall have no effect.

(b) Where a Contracting Party having made the declaration referred to in subparagraph (a) is indicated in an international application both as the applicant's Contracting Party and as a designated Contracting Party, the International Bureau shall disregard the designation of that Contracting Party.

Article 15

Invalidation

1. [Requirement of Opportunity of Defense] Invalidation, by the competent authorities of a designated Contracting Party, of the effects, in part or in whole, in the territory of that Contracting Party, of the international registration may not be pronounced without the holder having, in good time, been afforded the opportunity of defending his rights.

2. [Notification of Invalidation] The Office of the Contracting Party in whose territory the effects of the international registration have been invalidated shall, where it is aware of the invalidation, notify it to the International Bureau.

Article 16

Recording of Changes and Other Matters Concerning International Registrations

1. [Recording of Changes and Other Matters] The International Bureau shall, as prescribed, record in the International Register

(i) any change in ownership of the international registration, in respect of any or all of the designated Contracting Parties and in respect of any or all of the industrial designs that are the subject of the international registration, provided that the new owner is entitled to file an international application under Article 3,

(ii) any change in the name or address of the holder,

(iii) the appointment of a representative of the applicant or holder and any other relevant fact concerning such representative,

(iv) any renunciation, by the holder, of the international registration, in respect of any or all of the designated Contracting Parties,

(v) any limitation, by the holder, of the international registration, in respect of any or all of the designated Contracting Parties, to one or some of the industrial designs that are the subject of the international registration,

(vi) any invalidation, by the competent authorities of a designated Contracting Party, of the effects, in the territory of that Contracting Party, of the international registration in respect of any or all of the industrial designs that are the subject of the international registration,

(vii) any other relevant fact, identified in the Regulations, concerning the rights in any or all of the industrial designs that are the subject of the international registration.

⁽¹⁾ See footnote on Article 12(4).

2. [Effect of Recording in International Register] Any recording referred to in items (i), (ii), (iv), (v), (vi) and (vii) of paragraph (1) shall have the same effect as if it had been made in the Register of the Office of each of the Contracting Parties concerned, except that a Contracting Party may, in a declaration, notify the Director General that a recording referred to in item (i) of paragraph (1) shall not have that effect in that Contracting Party until the Office of that Contracting Party has received the statements or documents specified in that declaration.

3. [Fees] Any recording made under paragraph (1) may be subject to the payment of a fee.

4. [Publication] The International Bureau shall publish a notice concerning any recording made under paragraph (1). It shall send a copy of the publication of the notice to the Office of each of the Contracting Parties concerned.

Article 17

Initial Term and Renewal of the International Registration and Duration of Protection

1. [Initial Term of the International Registration] The international registration shall be effected for an initial term of five years counted from the date of the international registration.

2. [Renewal of the International Registration] The international registration may be renewed for additional terms of five years, in accordance with the prescribed procedure and subject to the payment of the prescribed fees.

3. [Duration of Protection in Designated Contracting Parties]

(a) Provided that the international registration is renewed, and subject to subparagraph (b), the duration of protection shall, in each of the designated Contracting Parties, be 15 years counted from the date of the international registration.

(b) Where the law of a designated Contracting Party provides for a duration of protection of more than 15 years for an industrial design for which protection has been granted under that law, the duration of protection shall, provided that the international registration is renewed, be the same as that provided for by the law of that Contracting Party.

(c) Each Contracting Party shall, in a declaration, notify the Director General of the maximum duration of protection provided for by its law.

4. [Possibility of Limited Renewal] The renewal of the international registration may be effected for any or all of the designated Contracting Parties and for any or all of the industrial designs that are the subject of the international registration.

5. [Recording and Publication of Renewal] The International Bureau shall record renewals in the International Register and publish a notice to that effect. It shall send a copy of the publication of the notice to the Office of each of the Contracting Parties concerned.

Article 18

Information Concerning Published International Registrations

1. [Access to Information] The International Bureau shall supply to any person applying therefor, upon the payment of the prescribed fee, extracts from the International Register, or information concerning the contents of the International Register, in respect of any published international registration.

2. [Exemption from Legalisation] Extracts from the International Register supplied by the International Bureau shall be exempt from any requirement of legalisation in each Contracting Party.

CHAPTER II

ADMINISTRATIVE PROVISIONS

Article 19

Common Office of Several States

1. [Notification of Common Office] If several States intending to become party to this Act have effected, or if several States party to this Act agree to effect, the unification of their domestic legislation on industrial designs, they may notify the Director General

(i) that a common Office shall be substituted for the national Office of each of them,

and

(ii) that the whole of their respective territories to which the unified legislation applies shall be deemed to be a single Contracting Party for the purposes of the application of Articles 1, 3 to 18 and 31 of this Act.

2. [Time at Which Notification Is to Be Made] The notification referred to in paragraph (1) shall be made,

(i) in the case of States intending to become party to this Act, at the time of the deposit of the instruments referred to in Article 27(2);

(ii) in the case of States party to this Act, at any time after the unification of their domestic legislation has been effected.

3. [Date of Entry into Effect of the Notification] The notification referred to in paragraphs (1) and (2) shall take effect,

(i) in the case of States intending to become party to this Act, at the time such States become bound by this Act;

(ii) in the case of States party to this Act, three months after the date of the communication thereof by the Director General to the other Contracting Parties or at any later date indicated in the notification.

Article 20

Membership of the Hague Union

The Contracting Parties shall be members of the same Union as the States party to the 1934 Act or the 1960 Act.

Article 21

Assembly

1. [Composition]

- (a) The Contracting Parties shall be members of the same Assembly as the States bound by Article 2 of the Complementary Act of 1967.
- (b) Each member of the Assembly shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts, and each delegate may represent only one Contracting Party.
- (c) Members of the Union that are not members of the Assembly shall be admitted to the meetings of the Assembly as observers.

2. [Tasks]

- (a) The Assembly shall
 - (i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Act;
 - (ii) exercise such rights and perform such tasks as are specifically conferred upon it or assigned to it under this Act or the Complementary Act of 1967;
 - (iii) give directions to the Director General concerning the preparations for conferences of revision and decide the convocation of any such conference;
 - (iv) amend the Regulations;
 - (v) review and approve the reports and activities of the Director General concerning the Union, and give the Director General all necessary instructions concerning matters within the competence of the Union;
 - (vi) determine the program and adopt the biennial budget of the Union, and approve its final accounts;
 - (vii) adopt the financial regulations of the Union;
 - (viii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Union;
 - (ix) subject to paragraph (1)(c), determine which States, intergovernmental organisations and non-governmental organisations shall be admitted to its meetings as observers;

- (x) take any other appropriate action to further the objectives of the Union and perform any other functions as are appropriate under this Act.

- (b) With respect to matters which are also of interest to other Unions administered by the Organisation, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organisation.

3. [Quorum]

- (a) One-half of the members of the Assembly which are States and have the right to vote on a given matter shall constitute a quorum for the purposes of the vote on that matter.
- (b) Notwithstanding the provisions of subparagraph (a), if, in any session, the number of the members of the Assembly which are States, have the right to vote on a given matter and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States and have the right to vote on that matter, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States, have the right to vote on the said matter and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

4. [Taking Decisions in the Assembly]

- (a) The Assembly shall endeavour to take its decisions by consensus.
- (b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,
 - (i) each Contracting Party that is a State shall have one vote and shall vote only in its own name,
 - and
 - (ii) any Contracting Party that is an intergovernmental organisation may vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Act, and no such intergovernmental organisation shall participate in the vote if any one of its Member States exercises its right to vote, and *vice versa*.
- (c) On matters concerning only States that are bound by Article 2 of the Complementary Act of 1967, Contracting Parties that are not bound by the said Article shall not have the right to vote, whereas, on matters concerning only Contracting Parties, only the latter shall have the right to vote.

5. [Majorities]
- (a) Subject to Articles 24(2) and 26(2), the decisions of the Assembly shall require two-thirds of the votes cast.
- (b) Abstentions shall not be considered as votes.
6. [Sessions]
- (a) The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organisation.
- (b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the members of the Assembly or on the Director General's own initiative.
- (c) The agenda of each session shall be prepared by the Director General.
7. [Rules of Procedure] The Assembly shall adopt its own rules of procedure.

Article 22

International Bureau

1. [Administrative Tasks]
- (a) International registration and related duties, as well as all other administrative tasks concerning the Union, shall be performed by the International Bureau.
- (b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.
2. [Director General] The Director General shall be the chief executive of the Union and shall represent the Union.
3. [Meetings Other than Sessions of the Assembly] The Director General shall convene any committee and working group established by the Assembly and all other meetings dealing with matters of concern to the Union.
4. [Role of the International Bureau in the Assembly and Other Meetings]
- (a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly, and any other meetings convened by the Director General under the aegis of the Union.

- (b) The Director General or a staff member designated by the Director General shall be *ex officio* secretary of the Assembly, and of the committees, working groups and other meetings referred to in subparagraph (a).

5. [Conferences]

- (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.
- (b) The International Bureau may consult with intergovernmental organisations and international and national non-governmental organisations concerning the said preparations.
- (c) The Director General and persons designated by the Director General shall take part, without the right to vote, in the discussions at revision conferences.

6. [Other Tasks] The International Bureau shall carry out any other tasks assigned to it in relation to this Act.

Article 23

Finances

1. [Budget]
- (a) The Union shall have a budget.
- (b) The budget of the Union shall include the income and expenses proper to the Union and its contribution to the budget of expenses common to the Unions administered by the Organisation.
- (c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organisation shall be considered to be expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.
2. [Coordination with Budgets of Other Unions] The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organisation.
3. [Sources of Financing of the Budget] The budget of the Union shall be financed from the following sources:
- (i) fees relating to international registrations;
- (ii) charges due for other services rendered by the International Bureau in relation to the Union;
- (iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;
- (iv) gifts, bequests and subventions;
- (v) rents, interests and other miscellaneous income.

4. [Fixing of Fees and Charges; Level of the Budget]
- (a) The amounts of the fees referred to in paragraph (3)(i) shall be fixed by the Assembly on the proposal of the Director General. Charges referred to in paragraph 3(ii) shall be established by the Director General and shall be provisionally applied subject to approval by the Assembly at its next session.
- (b) The amounts of the fees referred to in paragraph (3)(i) shall be so fixed that the revenues of the Union from fees and other sources shall be at least sufficient to cover all the expenses of the International Bureau concerning the Union.
- (c) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.
5. [Working Capital Fund] The Union shall have a working capital fund which shall be constituted by the excess receipts and, if such excess does not suffice, by a single payment made by each member of the Union. If the fund becomes insufficient, the Assembly shall decide to increase it. The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General.

6. [Advances by Host State]

- (a) In the headquarters agreement concluded with the State on the territory of which the Organisation has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organisation.
- (b) The State referred to in subparagraph (a) and the Organisation shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

7. [Auditing of Accounts] The auditing of the accounts shall be effected by one or more of the States members of the Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 24

Regulations

1. [Subject Matter] The Regulations shall govern the details of the implementation of this Act. They shall, in particular, include provisions concerning
- (i) matters which this Act expressly provides are to be prescribed;
- (ii) further details concerning, or any details useful in the implementation of, the provisions of this Act;
- (iii) any administrative requirements, matters or procedures.

2. [Amendment of Certain Provisions of the Regulations]

- (a) The Regulations may specify that certain provisions of the Regulations may be amended only by unanimity or only by a four-fifths majority.
- (b) In order for the requirement of unanimity or a four-fifths majority no longer to apply in the future to the amendment of a provision of the Regulations, unanimity shall be required.
- (c) In order for the requirement of unanimity or a four-fifths majority to apply in the future to the amendment of a provision of the Regulations, a four-fifths majority shall be required.

3. [Conflict Between This Act and the Regulations] In the case of conflict between the provisions of this Act and those of the Regulations, the former shall prevail.

CHAPTER III

REVISION AND AMENDMENT

Article 25

Revision of This Act

1. [Revision Conferences] This Act may be revised by a conference of the Contracting Parties.
2. [Revision or Amendment of Certain Articles] Articles 21, 22, 23 and 26 may be amended either by a revision conference or by the Assembly according to the provisions of Article 26.

Article 26

Amendment of Certain Articles by the Assembly

1. [Proposals for Amendment]
- (a) Proposals for the amendment by the Assembly of Articles 21, 22, 23 and this Article may be initiated by any Contracting Party or by the Director General.
- (b) Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.
2. [Majorities] Adoption of any amendment to the Articles referred to in paragraph (1) shall require a three-fourths majority, except that adoption of any amendment to Article 21 or to the present paragraph shall require a four-fifths majority.

3. [Entry into Force]
- (a) Except where subparagraph (b) applies, any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of those Contracting Parties which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on that amendment.
- (b) Any amendment to Article 21(3) or (4) or to this subparagraph shall not enter into force if, within six months of its adoption by the Assembly, any Contracting Party notifies the Director General that it does not accept such amendment.
- (c) Any amendment which enters into force in accordance with the provisions of this paragraph shall bind all the States and intergovernmental organisations which are Contracting Parties at the time the amendment enters into force, or which become Contracting Parties at a subsequent date.
- (b) The effective date of the deposit of the instrument of ratification or accession of any State in respect of which protection of industrial designs may be obtained only through the Office maintained by an intergovernmental organisation of which that State is a member shall be the date on which the instrument of that intergovernmental organisation is deposited if that date is later than the date on which the instrument of the said State has been deposited.
- (c) The effective date of the deposit of any instrument of ratification or accession containing or accompanied by the notification referred to in Article 19 shall be the date on which the last of the instruments of the States members of the group of States having made the said notification is deposited.
- (d) Any instrument of ratification or accession of a State may contain or be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one other State or one intergovernmental organisation, or the instruments of two other States, or the instruments of one other State and one intergovernmental organisation, specified by name and eligible to become party to this Act, is or are also deposited. The instrument containing or accompanied by such a declaration shall be considered to have been deposited on the day on which the condition indicated in the declaration is fulfilled. However, when an instrument specified in the declaration itself contains, or is itself accompanied by, a declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

CHAPTER IV

FINAL PROVISIONS

Article 27

Becoming Party to This Act

1. [Eligibility] Subject to paragraphs (2) and (3) and Article 28,
- (i) any State member of the Organisation may sign and become party to this Act;
- (ii) any intergovernmental organisation which maintains an Office in which protection of industrial designs may be obtained with effect in the territory in which the constituting treaty of the intergovernmental organisation applies may sign and become party to this Act, provided that at least one of the member States of the intergovernmental organisation is a member of the Organisation and provided that such Office is not the subject of a notification under Article 19.
2. [Ratification or Accession] Any State or intergovernmental organisation referred to in paragraph (1) may deposit
- (i) an instrument of ratification if it has signed this Act,
- or
- (ii) an instrument of accession if it has not signed this Act.

3. [Effective Date of Deposit]

- (a) Subject to subparagraphs (b) to (d), the effective date of the deposit of an instrument of ratification or accession shall be the date on which that instrument is deposited.

- (e) Any declaration made under paragraph (d) may be withdrawn, in its entirety or in part, at any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General.

Article 28

Effective Date of Ratifications and Accessions

1. [Instruments to Be Taken into Consideration] or the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organisations referred to in Article 27(1) and that have an effective date according to Article 27(3) shall be taken into consideration.
2. [Entry into Force of This Act] this Act shall enter into force three months after six States have deposited their instruments of ratification or accession, provided that, according to the most recent annual statistics collected by the International Bureau, at least three of those States fulfil at least one of the following conditions:
- (i) at least 3,000 applications for the protection of industrial designs have been filed in or for the State concerned,
- or
- (ii) at least 1,000 applications for the protection of industrial designs have been filed in or for the State concerned by residents of States other than that State.

3. [Entry into Force of Ratifications and Accessions]

- (a) Any State or intergovernmental organisation that has deposited its instrument of ratification or accession three months or more before the date of entry into force of this Act shall become bound by this Act on the date of entry into force of this Act.
- (b) Any other State or intergovernmental organisation shall become bound by this Act three months after the date on which it has deposited its instrument of ratification or accession or at any later date indicated in that instrument.

Article 29

Prohibition of Reservations

No reservations to this Act are permitted.

Article 30

Declarations Made by Contracting Parties

1. *Time at Which Declarations May Be Made*] Any declaration under Articles 4(1)(b), 5(2)(a), 7(2), 11(1), 13(1), 14(3), 16(2) or 17(3)(c) may be made

- (i) at the time of the deposit of an instrument referred to in Article 27(2), in which case it shall become effective on the date on which the State or intergovernmental organisation having made the declaration becomes bound by this Act,

or

- (ii) after the deposit of an instrument referred to in Article 27(2), in which case it shall become effective three months after the date of its receipt by the Director General or at any later date indicated in the declaration but shall apply only in respect of any international registration whose date of international registration is the same as, or is later than, the effective date of the declaration.

2. *[Declarations by States Having a Common Office]* Notwithstanding paragraph (1), any declaration referred to in that paragraph that has been made by a State which has, with another State or other States, notified the Director General under Article 19(1) of the substitution of a common Office for their national Offices shall become effective only if that other State or those other States makes or make a corresponding declaration or corresponding declarations.

3. *Withdrawal of Declarations*] Any declaration referred to in paragraph (1) may be withdrawn at any time by notification addressed to the Director General. Such withdrawal shall take effect three months after the date on which the Director General has received the notification or at any later date indicated in the notification. In the case of a declaration made under Article 7(2), the withdrawal shall not affect international applications filed prior to the coming into effect of the said withdrawal.

Article 31

Applicability of the 1934 and 1960 Acts

1. *[Relations Between States Party to Both This Act and the 1934 or 1960 Acts]* This Act alone shall be applicable as regards the mutual relations of States party to both this Act and the 1934 Act or the 1960 Act. However, such States shall, in their mutual relations, apply the 1934 Act or the 1960 Act, as the case may be, to industrial designs deposited at the International Bureau prior to the date on which this Act becomes applicable as regards their mutual relations.

2. *[Relations Between States Party to Both This Act and the 1934 or 1960 Acts and States Party to the 1934 or 1960 Acts Without Being Party to This Act]*

- (a) any State that is party to both this Act and the 1934 Act shall continue to apply the 1934 Act in its relations with States that are party to the 1934 Act without being party to the 1960 Act or this Act.
- (b) Any State that is party to both this Act and the 1960 Act shall continue to apply the 1960 Act in its relations with States that are party to the 1960 Act without being party to this Act.

Article 32

Denunciation of This Act

1. *[Notification]* Any Contracting Party may denounce this Act by notification addressed to the Director General.

2. *[Effective Date]* Denunciation shall take effect one year after the date on which the Director General has received the notification or at any later date indicated in the notification. It shall not affect the application of this Act to any international application pending and any international registration in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

Article 33

Languages of This Act; Signature

1. *[Original Texts; Official Texts]*

- (a) This Act shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

- (b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

2. *[Time Limit for Signature]* This Act shall remain open for signature at the headquarters of the Organisation for one year after its adoption.

*Article 34***Depositary**

The Director General shall be the depositary of this Act.

DECLARATION

on direct filing

The President of the Council, when depositing this instrument of accession with the Director-General of WIPO, shall attach the following declaration to the instrument of accession:

'The European Community declares that international applications may not be filed through its Office.'

DECLARATION

on the individual fee system

The President of the Council, when depositing this instrument of accession with the Director-General of WIPO, shall attach the following declaration to the instrument of accession:

'The European Community declares that, in connection with each international application registration in which it is designed, and in connection with the renewal of any international registration resulting from such an international application, the prescribed designation fee referred to in Article 7(1) of the Geneva Act shall be replaced by an individual designation fee, whose amount shall be:

- EUR 62 per design at the international application stage;
- EUR 31 per design at the renewal stage.'

DECLARATION

on the duration of protection in the European Community

The President of the Council, when depositing this instrument of accession with the Director-General of WIPO, shall attach the following declaration to the instrument of accession:

'The European Community declares that the maximum duration of protection provided for by its law is 25 years.'

DECISION OF THE COUNCIL
of 18 December 2006
amending the Rules of Procedure of the Court of Justice of the European Communities as regards the language arrangements

(2006/955/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to Article 64 of the Statute of the Court of Justice,

In accordance with the procedure referred to in the second paragraph of Article 245 of the Treaty establishing the European Community and the second paragraph of Article 160 of the Treaty establishing the European Atomic Energy Community,

Having regard to the request of the Court of Justice,

Having regard to the opinion of the Commission of 12 December 2006,

Having regard to the Opinion of the European Parliament of 13 December 2006,

Whereas with the accession of the Republic of Bulgaria and Romania, Bulgarian and Romanian will become official languages of the European Union and whereas those languages should be included in those listed in the Rules of Procedure as the languages of a case,

The texts of the Rules of Procedure of the Court of Justice in Bulgarian and Romanian shall be adopted after the entry into force of the Treaty referred to in paragraph 1.

Done at Brussels, 18 December 2006.

Article 1

The Rules of Procedure of the Court of Justice of the European Communities of 19 June 1991 (OJ L 176, 4.7.1991, p. 7. Corrigendum: OJ L 383, 29.12.1992, p. 117), as amended on 21 February 1995 (OJ L 44, 28.2.1995, p. 61), 11 March 1997 (OJ L 103, 19.4.1997, p. 1. Corrigendum: OJ L 351, 23.12.1997, p. 72), 16 May 2000 (OJ L 122, 24.5.2000, p. 43), 28 November 2000 (OJ L 322, 19.12.2000, p. 1), 3 April 2001 (OJ L 119, 27.4.2001, p. 1), 17 September 2002 (OJ L 272, 10.10.2002, p. 24. Corrigendum: OJ L 281, 19.10.2002, p. 24), 8 April 2003 (OJ L 147, 14.6.2003, p. 17), 19 April 2004 (OJ L 132, 29.4.2004, p. 2), 20 April 2004 (OJ L 127, 29.4.2004, p. 107), 12 July 2005 (OJ L 203, 4.8.2005, p. 19) and 18 October 2005 (OJ L 288, 29.10.2005, p. 51) are hereby amended as follows:

Article 29(1) shall be replaced by the following:

'1. The languages of a case shall be Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, or Swedish.'

Article 2

This Decision shall take effect at the same time as the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union.

For the Council
The President
J.-E. ENESTAM

**COUNCIL DECISION
of 18 December 2006**

amending the Rules of Procedure of the Court of First Instance of the European Communities with regard to languages

(2006/956/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to Article 64 of the Protocol on the Statute of the Court of Justice,

In accordance with the procedure referred to in the second paragraph of Article 245 of the Treaty establishing the European Community and the second paragraph of Article 160 of the Treaty establishing the European Atomic Energy Community,

Having regard to the request of the Court of Justice,

Having regard to the Opinion of the European Parliament of 13 December 2006,

Having regard to the opinion of the Commission of 12 December 2006,

Whereas on the accession of the Republic of Bulgaria and of Romania, Bulgarian and Romanian become official languages of the European Union and whereas those languages should be added to the list of languages of the case set out in the Rules of Procedure,

The texts of the Rules of Procedure of the Court of First Instance in Bulgarian and Romanian shall be adopted after the entry into force of the Treaty referred to in the first paragraph.

Done at Brussels, 18 December 2006.

Article 1

The Rules of Procedure of the Court of First Instance of the European Communities of 2 May 1991 (OJ L 136, 30.5.1991, p. 1. Corrigendum in OJ L 317 of 19.11.1991, p. 34), as amended on 15 September 1994 (OJ L 249, 24.9.1994, p. 17), 17 February 1995 (OJ L 44, 28.2.1995, p. 64), 6 July 1995 (OJ L 172, 22.7.1995, p. 3), 12 March 1997 (OJ L 103, 19.4.1997, p. 6. Corrigendum in OJ L 351, 23.12.1997, p. 72), 17 May 1999 (OJ L 135, 29.5.1999, p. 92), 6 December 2000 (OJ L 322, 19.12.2000, p. 4), 21 May 2003 (OJ L 147, 14.6.2003, p. 22), 19 April 2004 (OJ L 132, 29.4.2004, p. 3), 21 April 2004 (OJ L 127, 29.4.2004, p. 108) and 12 October 2005 (OJ L 298, 15.11.2005, p. 1) are hereby amended as follows:

Article 35(1) shall be replaced by the following:

'1. The language of a case shall be Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish or Swedish.'

Article 2

This Decision shall take effect at the same time as the Treaty concerning the accession of the Republic of Bulgaria and of Romania to the European Union.

For the Council
The President
J.-E. ENESTAM

COUNCIL DECISION

of 18 December 2006

on the conclusion, on behalf of the European Community, of an amendment to the Convention on access to information, public participation in decision-making and access to justice in environmental matters

(2006/957/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1), in conjunction with the first sentence of the first subparagraph of Article 300(2), and the first subparagraph of Article 300(3), thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

(1) The UN/ECE Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention) aims to grant the public rights, and imposes obligations on Parties and public authorities, regarding access to information and public participation and access to justice regarding environmental matters.

(2) The European Community, in accordance with the Treaty, and in particular Article 175(1) thereof, has competence, together with its Member States, to enter into international agreements that contribute to the pursuit of the objectives listed in Article 174(1) of the Treaty and to implement the resulting obligations.

(3) The Community signed the Aarhus Convention on 25 June 1998. The Convention entered into force on 30 October 2001. The Community approved the Convention on 17 February 2005, in accordance with Council Decision 2005/370/EC ⁽¹⁾.

(4) The second meeting of the Parties, held on 25-27 May 2005, adopted an amendment to the Aarhus Convention making more specific the obligations placed on Parties with regard to public participation in genetically modified organism (GMO) decision-making processes. Relevant Community law governing GMOs, and in particular Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms ⁽²⁾ and Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ⁽³⁾, incorporates provisions for public participation in decision-making on GMOs, consistent with the amendment to the Aarhus Convention.

(5) The amendment to the Aarhus Convention has been open for ratification, acceptance or approval by Parties since 27 September 2005. The European Community and its Member States should take the necessary steps to permit the deposit, as far as possible simultaneously, of their instruments of ratification, acceptance or approval.

(6) The amendment to the Aarhus Convention should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The amendment to the Aarhus Convention concerning public participation in decision-making on genetically modified organisms is hereby approved on behalf of the Community.

The text of the amendment to the Aarhus Convention is attached to this Decision.

⁽¹⁾ OJ L 124, 17.5.2005, p. 1.

⁽²⁾ OJ L 106, 17.4.2001, p. 1. Directive as last amended by Regulation (EC) No 1830/2003 (OJ L 268, 18.10.2003, p. 24).

⁽³⁾ OJ L 268, 18.10.2003, p. 1.

Article 2

1. The President of the Council is hereby authorised to designate the person(s) empowered to deposit the instrument of approval of the amendment with the Secretary-General of the United Nations, in accordance with Article 14 of the Aarhus Convention.

2. The European Community and Member States which are Parties to the Aarhus Convention shall endeavour to deposit as soon as possible, and not later than 1 February 2008, their instruments of ratification, acceptance or approval of the amendment.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 18 December 2006.

For the Council
The President
J.-E. ENESTAM

ANNEX

Amendment to the convention on access to information, public participation in decision-making and access to justice in environmental matters

Article 6, paragraph 11

For the existing text, substitute:

'11. Without prejudice to Article 3, paragraph 5, the provisions of this Article shall not apply to decisions on whether to permit the deliberate release into the environment and placing on the market of genetically modified organisms.'

Article 6 bis

After Article 6, insert a new article reading:

'Article 6 bis

Public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms

1. In accordance with the modalities laid down in Annex I bis, each Party shall provide for early and effective information and public participation prior to making decisions on whether to permit the deliberate release into the environment and placing on the market of genetically modified organisms.
2. The requirements made by Parties in accordance with the provisions of paragraph 1 of this Article should be complementary and mutually supportive to the provisions of their national biosafety framework, consistent with the objectives of the Cartagena Protocol on Biosafety.'

Annex I bis

After Annex I, insert a new annex reading:

'Annex I bis

Modalities referred to in article 6 bis

1. Each Party shall lay down, in its regulatory framework, arrangements for effective information and public participation for decisions subject to the provisions of Article 6 bis, which shall include a reasonable time frame, in order to give the public an adequate opportunity to express an opinion on such proposed decisions.
2. In its regulatory framework, a Party may, if appropriate, provide for exceptions to the public participation procedure laid down in this annex:
 - (a) In the case of the deliberate release of a genetically modified organism (GMO) into the environment for any purpose other than its placing on the market, if:
 - (i) such a release under comparable bio-geographical conditions has already been approved within the regulatory framework of the Party concerned;and
 - (ii) sufficient experience has previously been gained with the release of the GMO in question in comparable ecosystems.

- (b) In the case of the placing of a GMO on the market, if:
- (i) It was already approved within the regulatory framework of the Party concerned;
 - or
 - (ii) It is intended for research or for culture collections.
3. Without prejudice to the applicable legislation on confidentiality in accordance with the provisions of Article 4, each Party shall make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorisation for the deliberate release into the environment or the placing on the market of a GMO on its territory, as well as the assessment report where available and in accordance with its national biosafety framework.
4. Parties shall in no case consider the following information as confidential:
- (a) A general description of the genetically modified organism or organisms concerned, the name and address of the applicant for the authorisation of the deliberate release, the intended uses and, if appropriate, the location of the release.
 - (b) The methods and plans for monitoring the genetically modified organism or organisms concerned and for emergency response.
 - (c) The environmental risk assessment.
5. Each Party shall ensure transparency of decision-making procedures and provide access to the relevant procedural information to the public. This information could include for example:
- (i) The nature of possible decisions.
 - (ii) The public authority responsible for making the decision.
 - (iii) Public participation arrangements laid down pursuant to paragraph 1.
 - (iv) An indication of the public authority from which relevant information can be obtained.
 - (v) An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments.
6. The provisions made pursuant to paragraph 1 shall allow the public to submit any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release, including placing on the market, in any appropriate manner.
7. Each Party shall endeavour to ensure that, when decisions are taken on whether to permit the deliberate release of GMOs into the environment, including placing on the market, due account is taken of the outcome of the public participation procedure organised pursuant to paragraph 1.
8. Parties shall provide that when a decision subject to the provisions of this Annex has been taken by a public authority, the text of the decision is made publicly available along with the reasons and considerations upon which it is based.
-

COUNCIL DECISION
of 19 December 2006

concerning the conclusion of an Agreement between the European Community and the Swiss Confederation on the revision of the Agreement on mutual recognition in relation to conformity assessment between the European Community and the Swiss Confederation

(2006/958/EC)

THE COUNCIL OF THE EUROPEAN UNION,

The text of the Agreement is attached to this Decision.

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Article 2

Having regard to the proposal from the Commission,

Whereas:

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Community.

(1) The Commission has negotiated on behalf of the Community an Agreement with the Swiss Confederation on the revision of the Agreement on mutual recognition in relation to conformity assessment between the European Community and the Swiss Confederation.

Article 3

(2) The Agreement should be approved,

The President of the Council is hereby authorised to designate the person(s) empowered to transmit on behalf of the European Community the diplomatic note provided for in Article 2 of the Agreement.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Swiss Confederation on the revision of the Agreement on mutual recognition in relation to conformity assessment between the European Community and the Swiss Confederation is hereby approved on behalf of the Community.

Done at Brussels, 19 December 2006.

For the Council
The President
J. KORKEAOJA

AGREEMENT**revising the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment**

THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION,

hereinafter referred to as 'the Parties',

Having concluded an Agreement on mutual recognition in relation to conformity assessment

hereinafter referred to as 'the Agreement';

WHEREAS the Agreement entered into force on 1 June 2002;

WHEREAS there is a need to simplify the operation of the Agreement;

WHEREAS the Agreement in Articles 1, 5, 6, 7, 8, 9, 10 and 11 refers to conformity assessment bodies listed in Annex 1;

WHEREAS the Agreement in Article 2 refers to definitions laid down in the 1996 edition of ISO/IEC Guide 2 and in the 1993 edition of the European standard EN 45020;

WHEREAS the Agreement in Article 4 restricts the application of the Agreement to products that originate in the Parties according to non-preferential rules of origin;

WHEREAS the Agreement in Article 6 refers to the procedures set out in Article 11;

WHEREAS the Agreement in Article 8 refers to the Chairman of the Committee;

WHEREAS the Agreement in Article 9 refers to coordination and comparison work between conformity assessment bodies recognised under the Agreement;

WHEREAS the Agreement in Article 10 establishes a Committee that decides on the inclusion of conformity assessment bodies in Annex 1 and on their removal from Annex 1;

WHEREAS the Agreement in Article 11 sets out a procedure for the inclusion of conformity assessment bodies in Annex 1 and their removal from Annex 1;

WHEREAS the Agreement in Article 12 sets out obligations for information exchange;

CONSIDERING that in order to reflect the changes introduced to Article 11 of the Agreement, the term 'conformity assessment bodies listed in Annex 1' should be deleted and replaced by a reference to the 'recognised conformity assessment bodies' in Articles 1, 5, 6, 7, 8, 9, 10 and 11;

CONSIDERING that in order to avoid the need to modify the Agreement when changes are introduced to the definitions in the relevant ISO/IEC guides, the reference to specific editions of these guides should be deleted from Article 2 and replaced by a general reference to definitions laid down by ISO and IEC;

CONSIDERING that since the reference to the definitions laid down in European standards 45020 (1993 edition) is no longer valid, the reference should be deleted from Article 2;

CONSIDERING that in order to facilitate trade between the Parties, and to simplify the operation of the Agreement, the restriction to apply the Agreement to products that originate in the Parties should be deleted from Article 4;

CONSIDERING that in order to simplify the Agreement, certain provisions of Article 6 should be deleted in order to avoid duplication with corresponding provisions set out in Article 11;

CONSIDERING that in order to reflect that the Committee is co-chaired by the Parties, the reference to the Chairman of the Committee should be deleted from Article 8;

CONSIDERING that in order to facilitate trade between the Parties, and to ensure transparency in the operation of the Agreement, an obligation to indicate possible suspensions of recognised conformity assessment bodies in the list of recognised conformity assessment bodies should be included in Article 8;

CONSIDERING that in order to facilitate the functioning of the Agreement, the need for designating authorities to use their best endeavours to ensure that recognised conformity assessment bodies cooperate in an appropriate way should be included in Article 9;

CONSIDERING that in order to simplify the operation of the Agreement, the need for the Committee to take decisions on the recognition or withdrawal of recognition of conformity assessment bodies should be limited to cases that have been contested by the other Party should be included in Article 10;

CONSIDERING that in order to simplify the operation of the Agreement, a simpler procedure for the recognition, withdrawal of recognition, modification of the scope, and suspension of conformity assessment bodies should be set up in Article 11;

CONSIDERING that in order to increase transparency, an obligation to notify in writing changes related to relevant legislative, regulatory and administrative provisions as well as to designating authorities and competent authorities should be added in Article 12,

HAVE AGREED TO REVISE THE AGREEMENT AS FOLLOWS:

4. Article 5 is replaced by the following:

Article 1

Revisions to the Agreement

1. Article 1 is revised as follows:
 - (i) In paragraph 1, 'bodies listed in Annex 1' is replaced by 'bodies recognised in accordance with the procedures of this Agreement' (hereinafter recognised conformity assessment bodies).
 - (ii) In paragraph 2, 'the bodies listed in Annex 1' is replaced by 'recognised conformity assessment bodies'.
2. Article 2(2) is replaced by the following:

'The definitions laid down by ISO and IEC may be used to establish the meaning of the general terms relating to conformity assessment contained in this Agreement.'

3. Article 4 is replaced by the following:

'Article 4

Origin

The provisions of this Agreement shall apply to products covered by this Agreement irrespective of their origin.'

'Article 5

Recognised conformity assessment bodies

The Parties hereby agree that conformity assessment bodies recognised in accordance with the procedure provided for in Article 11 fulfil the conditions of eligibility to assess conformity.'

5. Article 6 is replaced by the following:

'Article 6

Designating authorities

1. The Parties hereby undertake to ensure that their designating authorities have the necessary power and competence to designate conformity assessment bodies or withdraw designation, suspend or remove suspension of designated conformity assessment bodies under their respective jurisdiction.

2. For the designation of conformity assessment bodies, the designating authorities shall observe the general principles for designation set out in Annex 2, subject to the provisions of the respective section IV in Annex 1. These designating authorities shall observe the same principles when withdrawing designation, suspending or removing suspension.'

6. Article 7 is revised as follows:

In paragraph 1, 'the conformity assessment bodies under their jurisdiction listed in Annex 1' is replaced by 'recognised conformity assessment bodies under their jurisdiction'.

7. Article 8 is revised as follows:

(i) In the first subparagraph of paragraph 1 'listed in Annex 1' is replaced by 'of recognised conformity assessment bodies.'

(ii) In the second subparagraph of paragraph 1, the text 'and to the Chairman of the Committee' is deleted.

(iii) In paragraph 4, a new sentence: 'Such suspension shall be indicated in the common list of recognised conformity assessment bodies referred to in Annex 1.' is added after the first sentence.

8. Article 9 is revised as follows:

(i) In paragraph 2, 'conformity assessment bodies under their jurisdiction listed in Annex 1' is replaced by 'recognised conformity assessment bodies under their jurisdiction'.

(ii) In paragraph 3, 'The conformity assessment bodies listed in Annex 1' is replaced by 'The recognised conformity assessment bodies', and the following sentence is added after the first sentence: 'The designating authorities shall use their best endeavours to ensure that recognised conformity assessment bodies cooperate in an appropriate way.'

9. Article 10, paragraph 4, is replaced by the following:

'4. The Committee may consider any matter related to this Agreement. In particular, it shall be responsible for:

(a) drawing up the procedure for carrying out the verifications provided for in Article 7;

(b) drawing up the procedure for carrying out the verifications provided for in Article 8;

(c) deciding on the recognition of conformity assessment bodies contested under Article 8;

(d) deciding on the withdrawal of recognition of recognised conformity assessment bodies contested under Article 8;

(e) examining any legislative, regulatory and administrative provisions notified by one Party to another pursuant to Article 12 in order to assess their repercussions on the Agreement and to amend the appropriate sections in Annex 1.'

10. Article 11 is replaced by the following:

'Article 11

Recognition, withdrawal of recognition, modification of the scope, and suspension of conformity assessment bodies

1. The following procedure shall apply for the recognition of conformity assessment bodies in relation to the requirements set out in the relevant Chapters of Annex 1:

(a) a Party wishing to have recognised any conformity assessment body shall notify the other Party in writing of its proposal, to that effect, adding the appropriate information to its request;

(b) if the other Party agrees to the proposal or raises no objection within 60 days of the notification of the proposal, the conformity assessment body shall be considered to be a recognised conformity assessment body under the terms of Article 5;

(c) if the other Party raises objections in writing within that 60-day period, Article 8 shall apply.

2. A Party can withdraw or suspend the recognition or remove the suspension of recognition of a conformity assessment body under its jurisdiction. The Party concerned shall immediately notify the other Party of its decision in writing, together with the date of such decision. The withdrawal, suspension, or removal of suspension shall take effect at that date. Such withdrawal or suspension shall be indicated in the common list of recognised conformity assessment bodies referred to in Annex 1.

3. A Party can propose that the scope of activity of a recognised conformity assessment body under its jurisdiction be amended. For scope extensions and scope reductions the procedures provided for in Article 11(1) and (2) respectively shall apply.

4. A Party can, in exceptional circumstances, contest the technical competence of a recognised conformity assessment body under the jurisdiction of the other Party. In this case Article 8 shall apply.

5. Reports, certificates, authorisation and conformity marks issued by a conformity assessment body after the date at which its recognition has been withdrawn or suspended need not be recognised by the Parties. Reports, certificates, authorisations and conformity marks issued by a conformity assessment body before the date its recognition has been withdrawn shall continue to be recognised by the Parties unless the responsible designating authority has limited or cancelled their validity. The Party under whose jurisdiction the responsible designating authority is operating shall notify the other Party in writing of any such changes relating to a limitation or cancellation of validity.'

11. Article 12 is revised as follows:

- (i) In paragraph 2, 'in writing' shall be added after 'and shall notify'.
- (ii) A paragraph 2a is inserted after paragraph 2: 'Each Party shall notify changes to its designating authorities and competent authorities to the other Party in writing.'

Article 2

Entry into force

This Agreement shall be ratified or approved by the Parties in accordance with their own procedures. It shall enter into force on the first day of the second month following the date on which the Parties have exchanged diplomatic notes confirming the completion of their respective procedures for adoption of this Agreement.

Article 3

Languages

1. This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

2. This Agreement and the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment will as soon as possible be translated into the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovene languages. The Committee is empowered to approve these language versions. Once approved, the versions in these languages shall also be authentic, in the same way as for the languages referred to in paragraph 1.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly empowered to this effect, have signed this Agreement

DECISION OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL

of 4 December 2006

on the signature and provisional application of the Euro-Mediterranean Aviation Agreement between the European Community and its Member States, of the one part, and the Kingdom of Morocco, of the other part

(Text with EEA relevance)

(2006/959/EC)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

HAVE DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Council has authorised the Commission to open negotiations with the Kingdom of Morocco to establish a Euro-Mediterranean Aviation Agreement.
- (2) The Commission has negotiated on behalf of the Community and its Member States an Euro-Mediterranean Aviation Agreement with the Kingdom of Morocco (hereinafter 'the Agreement') in accordance with the Council Decision authorising the Commission to open negotiations.
- (3) The Agreement was initialled at Marrakech on 14 December 2005.
- (4) Subject to its possible conclusion at a later date, the Agreement negotiated by the Commission should be signed and applied provisionally by the Community and the Member States.
- (5) It is necessary to lay down procedural arrangements for the participation of the Community and the Member States in the Joint Committee set up under Article 22 of the Agreement and in the arbitration procedures provided for in Article 23 of the Agreement, as well as for implementing certain provisions of the Agreement, including those concerning the adoption of safeguard measures, the granting and revocation of traffic rights, and certain safety and security matters,

Article 1

Signature and provisional application

1. The signing of the Euro-Mediterranean Aviation Agreement between the European Community and its Member States, of the one part, and the Kingdom of Morocco, of the other part, hereinafter 'the Agreement', is hereby approved on behalf of the Community, subject to the conclusion of the Agreement.
2. The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community, subject to its conclusion.
3. Pending its entry into force, the Agreement shall be applied in accordance with Article 30(1) thereof.
4. The text of the Agreement is attached to this Decision.

Article 2

Joint Committee

1. The Community and the Member States shall be represented in the Joint Committee established under Article 22 of the Agreement by representatives of the Commission and of the Member States.
2. The position to be taken by the Community and the Member States within the Joint Committee as regards the amendment of the Annexes to the Agreement others than Annex I (Agreed Services and Specific Routes) and Annex IV (Transitional Provisions), and any matters falling within Article 7 or 8 of the Agreement shall be adopted by the Commission, following consultation with a Special Committee of the Representatives of the Member States appointed by the Council.

3. For other Joint Committee decisions concerning matters that fall within Community competence, the position of the Community and its Member States shall be adopted by the Council, acting by qualified majority, on a proposal from the Commission.

4. For other Joint Committee decisions concerning matters that fall within Member States' competence, the position to be presented shall be adopted by the Council, acting by unanimity, on a proposal from the Commission or from Member States.

5. The position of the Community and of the Member States within the Joint Committee shall be presented by the Commission, except in areas that fall exclusively within Member States' competence, in which case it shall be presented by the Presidency of the Council or, if the Council so decides, by the Commission.

Article 3

Arbitration

1. The Commission shall represent the Community and the Member States in arbitration proceedings under Article 23 of the Agreement.

2. A decision to limit, suspend or revoke the application of rights or privileges pursuant to Article 23(6) of the Agreement shall be taken by the Council on the basis of a Commission proposal. The Council shall decide by qualified majority.

3. Any other appropriate action to be taken under Article 23 of the Agreement on matters which fall within Community competence shall be decided by the Commission, with the assistance of a Special Committee of Representatives of the Member States appointed by the Council.

Article 4

Safeguard measures

1. A decision to take safeguard measures pursuant to Article 24 of the Agreement shall be taken, on its own initiative

or upon a request from a Member State, by the Commission, which shall be assisted by a Special Committee of Representatives of the Member States appointed by the Council.

2. Where a Member State requests the Commission to apply safeguard measures, it shall provide the Commission, in support of its request, with the information necessary to justify it. The Commission shall take a decision on such request within one month or, in cases of urgency, within 10 working days, and inform the Council and the Member States of its decision. Any Member State may refer the Commission's decision to the Council within 10 working days of its notification. The Council may take a different decision within one month of the referral. The Council shall decide by qualified majority.

Article 5

Informing the Commission

1. Member States shall promptly inform the Commission of any decision to refuse, revoke, suspend or limit the authorisations of an air carrier of Morocco that they have adopted under Articles 3 or 4 of the Agreement.

2. Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 14 of the Agreement.

3. Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 15 of the Agreement.

Done at Brussels, 4 December 2006.

For the Council

The President

M. PEKKARINEN

EURO-MEDITERRANEAN AVIATION AGREEMENT

**between the European Community and its Member States, of the one part
and the Kingdom of Morocco, of the other part**

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community, hereinafter referred to as the 'Member States', and

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE KINGDOM OF MOROCCO, hereinafter referred to as 'Morocco',

of the other part,

DESIRING to promote an international aviation system based on fair competition among air carriers in the marketplace with minimum government interference and regulation;

DESIRING to facilitate the expansion of international air transport opportunities, including through the development of air transport networks to meet the needs of passengers and shippers for convenient air transport services;

DESIRING to make it possible for air carriers to offer the travelling and shipping public competitive prices and services in open markets;

DESIRING to have all sectors of the air transport industry, including air carrier workers, benefit in a liberalised agreement;

DESIRING to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern with regard to acts or threats against the security of aircraft, which jeopardise the safety of persons or property, adversely affect the operation of air transport and undermine public confidence in the safety of civil aviation;

NOTING the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944;

DESIRING to ensure a level playing field for air carriers;

RECOGNISING that government subsidies may adversely affect air carrier competition and may jeopardise the basic objectives of this Agreement;

AFFIRMING the importance of protecting the environment in developing and implementing international aviation policy and recognising the rights of sovereign States to take appropriate measures to this effect;

NOTING the importance of protecting consumers, including the protections afforded by the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal 28 May 1999, insofar as both the Contracting Parties are parties to this Convention;

INTENDING to build upon the framework of existing air transport agreements with the goal of opening access to markets and maximising benefits for the consumers, air carriers, labour, and communities of both Contracting Parties;

CONSIDERING that an agreement between the European Community and its Member States, of the one part, and Morocco, of the other part, can constitute a reference in Euro-Mediterranean aviation relations in order fully to promote the benefits of liberalisation in this crucial economic sector;

NOTING that the purpose of such an agreement is that it be applied in a progressive but integral way, and that a suitable mechanism can ensure ever closer harmonisation with Community legislation,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Agreement, unless otherwise stated, the term:

- 1) the terms 'agreed service' and 'specified route' mean international air transport pursuant to Article 2 of, and Annex I to, this Agreement;
- 2) 'Agreement' means this Agreement, its Annexes, and any amendments thereto;
- 3) 'air transport' means the carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, held out to the public for remuneration or hire, which, for the avoidance of doubt, shall include scheduled and non-scheduled (charter) air transport, and full cargo services;
- 4) 'Association Agreement' means the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, done at Brussels on 26 February 1996;
- 5) 'Community operating licence' means an operating licence in relation to air carriers established in the European Community granted and maintained in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers;
- 6) 'Convention' means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes:
 - (a) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Morocco and the Member State or Member States of the European Community,
 - (b) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both Morocco and the Member State or Member States of the European Community as is relevant to the issue in question;
- 7) 'full cost' means the cost of providing service plus a reasonable charge for administrative overhead and where relevant any applicable charges aimed at reflecting environmental costs and applied without distinction as to nationality;
- 8) 'Contracting Parties' shall mean, on the one hand, the Community or its Member States, or the Community and its Member States, in accordance with their respective powers, and, on the other hand, Morocco;
- 9) 'national' means any person or entity having Moroccan nationality for the Moroccan Party, or the nationality of a Member State for the European Party, insofar as, in the case of a legal entity, it is at all times under the effective control, be it directly or by majority participation, of persons or entities having Moroccan nationality for the Moroccan Party, or persons or entities having the nationality of a Member State or one of the third countries identified in Annex V for the European Party;
- 10) 'subsidies': any financial contribution granted by the authorities or a regional organisation or another public organisation, i.e. when:
 - (a) a practice of a government or regional body or other public organisation involves a direct transfer of funds such as grants, loans or equity infusion, potential direct transfer of funds to the company or the assumption of liabilities of the company such as loan guarantees;
 - (b) revenue of a government or regional body or other public organisation that is otherwise due is foregone or not collected;
 - (c) a government or regional body or other public organisation provides goods or services other than general infrastructure, or purchases goods or services;

and

or

(d) a government or regional body or other public organisation makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions illustrated under (a), (b) and (c) which would normally be vested in the government and, in practice, in no real sense differs from practices normally followed by governments;

and where a benefit is thereby conferred.

11) 'international air transport' means air transport that passes through the airspace over the territory of at least two States;

12) 'price' means tariffs applied by air carriers or their agents for the carriage of passengers, baggage and/or cargo (excluding mail) in air transport, including, where applicable, the surface transportation in connection with international air transport, and the conditions to which their application is subjected;

13) 'user charge' means a charge imposed on airlines for the provision of airport, airport environmental, air navigation, or aviation security facilities or services including related services and facilities;

14) 'SESAR' means the technical implementation of the Single European Sky which provides a coordinated, synchronised research, development and deployment of the new generations of air traffic management systems;

15) 'territory' means, for Morocco, the land areas (mainland and islands), internal waters and territorial sea under its sovereignty or jurisdiction, and, for the European Community, the land areas (mainland and islands), internal waters and territorial sea in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and any successor instrument. The application of this Agreement to Gibraltar airport is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to their dispute over sovereignty over the territory in which the airport is situated and to the continuing suspension of Gibraltar Airport from EU Aviation measures existing as at 18 September 2006 as between Member States in accordance with the terms of the Ministerial Statement on Gibraltar Airport agreed in Cordoba on 18 September 2006;

and

16) 'competent authorities' means the government agencies or entities identified in Annex III. Any amendments to national law with respect to the status of the competent authorities shall be notified by the Contracting Party concerned to the other Contracting Party.

TITLE I

ECONOMIC PROVISIONS

Article 2

Traffic Rights

1. Each Party shall grant to the other Party, except as otherwise specified in Annex I, the following rights for the conduct of international air transport by the air carriers of the other Party:

- (a) the right to fly across its territory without landing;
- (b) the right to make stops in its territory for any purpose other than taking on or discharging passengers, baggage, cargo and/or mail in air transport (non-traffic purposes);
- (c) while operating an agreed service on a specified route, the right to make stops in its territory for the purpose of taking up and discharging international traffic in passengers, cargo and/or mail, separately or in combination;

and

- (d) the rights otherwise specified in this Agreement.

2. Nothing in this Agreement shall be deemed to confer on the air carriers of:

- (a) Morocco the right to take on board, in the territory of any Member State, passengers, baggage, cargo, and/or mail carried for compensation and destined for another point in the territory of that Member State;
- (b) the European Community the right to take on board, in the territory of Morocco, passengers, baggage, cargo, and/or mail carried for compensation and destined for another point in the territory of Morocco.

*Article 3***Authorisation**

On receipt of applications for operating authorisation from an air carrier of one of the Contracting Parties, the competent authorities of the other Party shall grant appropriate authorisations with minimum procedural delay, provided that:

(a) for an air carrier of Morocco:

- the air carrier has its principal place of business and, if any, its registered office in Morocco, and received its licence, and any other corresponding document in accordance with the law of the Kingdom of Morocco;
- effective regulatory control of the air carrier is exercised and maintained by the Kingdom of Morocco;

and

- the air carrier is owned and continues to be owned, directly or by majority participation, by Morocco and/or by nationals of Morocco and that it is always effectively controlled by Morocco and/or by nationals of Morocco, or it is owned and continues to be owned, directly or by majority participation by the Member States and/or nationals of Member States, and it is always effectively controlled by the Member States and or nationals of Member States;

(b) for an air carrier of the European Community:

- the air carrier has its principal place of business and, if any, its registered office in the territory of a Member State under the Treaty establishing the European Community, and has received a Community operating licence;

and

- effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operators Certificate and the relevant Aeronautical Authority is clearly identified;
- the air carrier is owned and continues to be owned, directly or by majority participation, by Member States and/or by nationals of the Member States, or by other States listed in Annex V, and/or of the nationals of these other States;

- (c) the air carrier meets the conditions prescribed under the laws and regulations normally applied by the authority competent for the operation of international air transport;

and

- (d) the provisions set forth in Article 14 (Aviation Safety) and Article 15 (Aviation Security) are being maintained and administered.

*Article 4***Revocation of Authorisation**

1. The competent authorities of either Contracting Party may revoke, suspend or limit the operating authorisations or otherwise suspend or limit the operations of an air carrier of the other Contracting Party where:

(a) for an air carrier of Morocco:

- the air carrier does not have its principal place of business or, if any, its registered office in Morocco, or has not received its operating licence and any other corresponding document in accordance with the applicable law of Morocco;
- effective regulatory control of the air carrier is not exercised and maintained by Morocco;

or

- the air carrier is not owned and effectively controlled, directly or by majority participation, by Morocco and/or nationals of Morocco or by Member States and/or nationals of Member States;

(b) for an air carrier of the European Community:

- the air carrier does not have its principal place of business or, if any, its registered office in the territory of a Member State under the Treaty establishing the European Community, or has not received a Community operating licence;
- effective regulatory control of the air carrier is not exercised and maintained by the Member State responsible for issuing its Air Operators Certificate or the competent aeronautical authority is not clearly identified;

or

- the air carrier is not owned and effectively controlled, directly or by majority participation, by Member States and/or nationals of Member States, or by the other States listed in Annex V, and/or nationals of these other States;
- (c) the air carrier has failed to comply with the laws and regulations referred to in Article 6 (Application of Laws) of this Agreement;

or

- (d) the provisions set forth in Article 14 (Aviation Safety) and Article 15 (Aviation Security) are not being maintained or administered.

2. Unless immediate action is essential to prevent further non-compliance with points (c) or (d) of paragraph 1, the rights established by this Article shall be exercised only after consultation with the competent authorities of the other Contracting Party.

Article 5

Investment

The majority ownership or the effective control of an air carrier of Morocco by Member States or their nationals, or of an air carrier of the European Community by Morocco or its nationals, shall be subject to a preliminary decision of the Joint Committee established by this Agreement.

This decision shall specify the conditions associated with the operation of the agreed services under this Agreement and with the services between third countries and the Contracting Parties. The provisions of Article 22(9) of this Agreement shall not apply to this type of decisions.

Article 6

Compliance with laws and regulations

1. While entering, within, or leaving the territory of one Contracting Party, the laws and regulations applicable within that territory relating to the admission to or departure from its territory of aircraft engaged in international air transport, or to the operation and navigation of aircraft shall be complied with by the other Contracting Party's air carriers.

2. While entering, within, or leaving the territory of one Contracting Party, the laws and regulations applicable within that territory relating to the admission to or departure from its territory of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the other Contracting Party's air carriers.

Article 7

Competition

Within the scope of this Agreement, the provisions of Chapter II ('Competition and other Economic Provisions') of Title IV of the Association Agreement shall apply, except where more specific rules are contained in this Agreement.

Article 8

Subsidies

1. The Contracting Parties recognise that public subsidies to air carriers distort or threaten to distort competition by favouring certain undertakings in the provision of air transport services, that they jeopardise the basic objectives of the Agreement and that they are incompatible with the principle of an open aviation area.

2. When a Contracting Party deems it essential to grant public subsidies to an air carrier operating under this Agreement in order to achieve a legitimate objective, it shall see to it that such subsidies are proportionate to the objective, transparent and designed to minimise, to the extent feasible, their adverse impact on the air carriers of the other Contracting Party. The Contracting Party intending to grant any such subsidy shall inform the other Contracting Party of its intention and shall make sure that such subsidy is consistent with the criteria laid down in this Agreement.

3. If one Contracting Party believes that a subsidy provided by the other Contracting Party, or, as the case may be, by a public or governmental body of a country other than the Contracting Parties, is inconsistent with the criteria laid down in paragraph 2, it may request a meeting of the Joint Committee, as provided in Article 22 to consider the issue and develop appropriate responses to concerns found to be legitimate.

4. When a dispute can not be settled by the Joint Committee, the Contracting Parties retain the possibility of applying their respective anti-subsidy measures.

5. The provisions of this Article shall apply without prejudice to the Contracting Parties' laws and regulations regarding essential air services and public service obligations in the territories of the Contracting Parties.

Article 9

Commercial opportunities

1. The air carriers of each Contracting Party shall have the right to establish offices in the territory of the other Contracting Party for the promotion and sale of air transport and related activities.

2. The air carriers of each Contracting Party shall be entitled, in accordance with the laws and regulations of the other Contracting Party relating to entry, residence, and employment, to bring in and maintain in the territory of the other Contracting Party managerial, sales, technical, operational, and other specialist staff who are required to support the provision of air transport.

3. (a) Without prejudice to point (b) below, each air carrier shall have in relation to groundhandling in the territory of the other Contracting Party:

(i) the right to perform its own groundhandling ('self-handling') or, at its option

(ii) the right to select among competing suppliers that provide groundhandling services in whole or in part where such suppliers are allowed market access on the basis of the laws and regulations of each Contracting Party, and where such suppliers are present in the market.

(b) For the following categories of groundhandling services i.e. baggage handling, ramp handling, fuel and oil handling, freight and mail handling as regards the physical handling of freight and mail between the air terminal and the aircraft, the rights under point (a)(i) and (ii) shall be subject only to specific constraints according to the laws and regulations applicable in the territory of the other Party. Where such constraints preclude self-handling and where there is no effective competition between suppliers that provide groundhandling services, all such services shall be available on both an equal and an adequate basis to all air carriers; prices of such services shall not exceed their full cost including a reasonable return on assets, after depreciation.

4. Any air carrier of each Contracting Party may engage in the sale of air transport in the territory of the other Contracting Party directly and/or, at the air carrier's discretion, through its sales agents or other intermediaries appointed by the air carrier. Each air carrier shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies.

5. Each air carrier shall have the right to convert and remit from the territory of the other Contracting Party to its home territory and, except where inconsistent with generally applicable law or regulation, to the country or countries of its choice, on demand, local revenues. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance on the date the carrier makes the initial application for remittance.

6. The air carriers of each Contracting Party shall be permitted to pay for local expenses, including purchases of fuel, in the territory of the other Contracting Party in local currency. At their discretion, the air carriers of each Party may pay for such expenses in the territory of the other Party in freely convertible currencies according to local currency regulation.

7. In operating or holding out services under the Agreement, any air carrier of a Contracting Party may enter into cooperative marketing arrangements, such as blocked-space agreements or code-sharing arrangements, with:

(a) any air carrier or carriers of the Contracting Parties;

and

(b) any air carrier or carriers of a third country;

and

(c) any surface, land or maritime carriers;

provided that (i) all participants in such arrangements hold the appropriate authority and (ii) the arrangements meet the requirements relating to safety and competition normally applied to such arrangements. In respect of passenger transport sold involving code-shares, the purchaser shall be informed at the point of sale, or in any case before boarding, which transportation providers will operate each sector of the service.

8. (a) In relation to the transport of passengers, surface transportation providers shall not be subject to laws and regulations governing air transport on the sole basis that such surface transportation is held out by an air carrier under its own name. Surface transportation providers have the discretion to decide whether to enter into cooperative arrangements. In deciding on any particular arrangement, surface transportation providers may consider, among other things, consumer interests and technical, economic, space, and capacity constraints.
- (b) Moreover, and notwithstanding any other provision of this Agreement, air carriers and indirect providers of cargo transportation of the Contracting Parties shall be permitted, without restriction, to employ in connection with international air transport any surface transportation for cargo to or from any points in the territories of Morocco and the European Community, or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right[s] to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Air carriers may elect to perform their own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other air carriers and indirect providers of cargo air transport. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.
2. There shall also be exempt, on the basis of reciprocity, from the taxes, levies, duties, fees and charges referred to in paragraph 1 of this Article, with the exception of charges based on the cost of the service provided:
- (a) aircraft stores introduced into or supplied in the territory of a Contracting Party and taken on board, within reasonable limits, for use on outbound aircraft of an air carrier of the other Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the said territory;
- (b) ground equipment and spare parts (including engines) introduced into the territory of a Contracting Party for the servicing, maintenance, or repair of aircraft of an air carrier of the other Contracting Party used in international air transport;
- (c) lubricants and consumable technical supplies introduced into or supplied in the territory of a Contracting Party for use in an aircraft of an air carrier of the other Contracting Party engaged in international air transport, even when these supplies are to be used on a part of the journey performed over the said territory;
- (d) printed matter, as provided for by the customs legislation of each Contracting Party, introduced into or supplied in the territory of one Contracting Party and taken on board for use on outbound aircraft of an air carrier of the other Contracting Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the said territory;

Article 10

Customs duties and charges

1. On arriving in the territory of one Contracting Party, aircraft operated in international air transport by the air carriers of the other Contracting Party, their regular equipment, fuel, lubricants, consumable technical supplies, ground equipment, spare parts (including engines), aircraft stores (including but not limited to such items of food, beverages and liquor, tobacco and other products destined for sale to or use by passengers in limited quantities during flight), and other items intended for or used solely in connection with the operation or servicing of aircraft engaged in international air transport shall be exempt, on the basis of reciprocity, from all import restrictions, property taxes and capital levies, customs duties, excise taxes, and similar fees and charges that are (a) imposed by the national or local authorities or the European Community, and (b) not based on the cost of services provided, provided that such equipment and supplies remain on board the aircraft.

and

- (e) safety and security equipment for use at airports or cargo terminals.

3. This Agreement does not exempt fuel supplied by a Contracting Party to air carriers within its territory from taxes, levies, duties, fees, and charges similar to those referred to in paragraph 1. While entering, within, or leaving the territory of one Contracting Party, its laws and regulations relating to the sale, supply, and use of aircraft fuel shall be complied with by the other Contracting Party's air carriers.

4. Equipment and supplies referred to in paragraphs 1 and 2 of this Article may be required to be kept under the supervision or control of the appropriate authorities.

Article 13

Statistics

5. The exemptions provided by this Article shall also be available where the air carriers of one Contracting Party have contracted with another air carrier, which similarly enjoys such exemptions from the other Contracting Party, for the loan or transfer in the territory of the other Party of the items specified in paragraphs 1 and 2.

The competent authorities of either Contracting Party shall supply the competent authorities of the other Contracting Party, at their request, with the information and statistics related to the traffic carried by the air carriers authorised by one Contracting Party on the agreed services to or from the territory of the other Contracting Party in the same form as they have been prepared and submitted by the authorised air carriers to their national competent authorities. Any additional statistical data related to traffic which the competent authorities of one Contracting Party may request from the authorities of the other Contracting Party shall be subject to discussions by the Joint Committee, at the request of either Contracting Party.

6. Nothing in this Agreement shall prevent either Contracting Party from imposing taxes, levies, duties, fees or charges on goods sold other than for consumption on board to passengers during a sector of an air service between two points within its territory at which embarkation or disembarkation is permitted.

TITLE II

REGULATORY COOPERATION

Article 11

User Charges

1. Each Contracting Party shall undertake not to impose on the air carriers of the other Contracting Party user charges higher than those imposed on its own air carriers operating similar international air services.

Article 14

Aviation safety

2. Increased or new charges should only follow adequate consultation between the competent charging authorities and the air carriers of each Contracting Party. Reasonable notice of any proposals for changes in user charges should be given to users to enable them to express their views before changes are made. The Contracting Parties shall also encourage the exchange of such information as may be necessary to permit an accurate assessment of the reasonableness of, justification for and apportionment of the charges in accordance with the principles set out above.

1. The Contracting Parties shall act in conformity with the provisions of the Community's aviation safety legislation specified in Annex VI. A, under the conditions set out hereafter.

2. The Contracting Parties shall ensure that aircraft registered in one Contracting Party suspected of non-compliance with international aviation safety standards established pursuant to the Convention landing at airports open to international air traffic in the territory of the other Contracting Party shall be subject to ramp inspections by the competent authorities of that other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment.

Article 12

Pricing

Prices for air transport services operated pursuant to this Agreement shall be established freely and shall not be subject to approval, but they may be required to be filed for information purposes only. Prices to be charged for carriage wholly within the European Community shall be subject to European Community law.

3. Either Contracting Party may request consultations at any time concerning the safety standards maintained by the other Contracting Party.

4. Nothing in this Agreement shall be construed to limit the authority of the competent authorities of a Contracting Party to take all appropriate and immediate measures whenever they ascertain that an aircraft, a product or an operation may:

- (a) fail to satisfy the minimum standards established pursuant to the Convention or the legislation specified in Part A of Annex VI, whichever is applicable,
- (b) give rise to serious concerns – established through an inspection referred to in paragraph 2 – that an aircraft or the operation of an aircraft does not comply with the minimum standards established pursuant to the Convention or the legislation specified in Part A of Annex VI, whichever is applicable,
- or
- (c) give rise to serious concerns that there is a lack of effective maintenance and administration of minimum standards established pursuant to the Convention or the legislation specified in Part A of Annex VI, whichever is applicable.

5. Where the competent authorities of one Contracting Party take action under paragraph 4, they shall promptly inform the competent authorities of the other Contracting Party of taking such action, providing reasons for its action.

6. Where measures taken in application of paragraph 4 are not discontinued even though the basis for taking them has ceased to exist, either Contracting Party may refer the matter to the Joint Committee.

Article 15

Aviation Security

1. The assurance of safety for civil aircraft, their passengers and crew being a fundamental pre-condition for the operation of international air services, the Contracting Parties reaffirm their obligations to each other to provide for the security of civil aviation against acts of unlawful interference, and in particular their obligations under the Chicago Convention, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 and the Convention on the marking of plastic explosives for purpose of detection signed at Montreal on 1 March 1991, insofar as both Contracting Parties are parties to these conventions, as well as all other conventions and protocols relating to civil aviation safety of which both Parties are parties.

2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security Standards and, so far as they are applied by them, the Recommended Practices established by the International Civil Aviation Organisation (ICAO) and designated as Annexes to the Chicago Convention, to the extent that such security provisions are applicable to the Contracting Parties. Both Contracting Parties shall require that operators of aircraft of their registry, operators who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory, act in conformity with such aviation security provisions.

4. Each Contracting Party shall ensure that effective measures are taken within its territory to protect aircraft, to screen passengers and their carry-on items, and to carry out appropriate checks on crew, cargo (including hold baggage) and aircraft stores prior to and during boarding or loading and that those measures are adjusted to meet increases in the threat. Each Contracting Party agrees that their air carriers may be required to observe the aviation security provisions referred to in paragraph 3 required by the other Contracting Party, for entrance into, departure from, or while within, the territory of that other Contracting Party. Each Contracting Party shall also act favourably upon any request from the other Contracting Party for reasonable special security measures to meet a particular threat

5. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

6. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, that Contracting Party may request immediate consultations with the other Contracting Party.

7. Without prejudice to Article 4 (Revocation of Authorisations) of this Agreement, failure to reach a satisfactory agreement within fifteen (15) days from the date of such request shall constitute grounds to withhold, revoke, limit or impose conditions on the operating authorisation of one or more air carriers of such other Contracting Party.

8. When required by an immediate and extraordinary threat, a Contracting Party may take interim action prior to the expiry of fifteen (15) days.

9. Any action taken in accordance with the paragraph 7 shall be discontinued upon compliance by the other Contracting Party with the provisions of this Article.

Article 16

Air traffic management

1. The Contracting Parties shall act in conformity with the provisions of the legislation specified in Part B of Annex VI, under the conditions set out hereafter.

2. The Contracting Parties commit themselves to the highest degree of cooperation in the field of air traffic management with a view to extending the Single European Sky to Morocco in order to enhance current safety standards and overall efficiency for general air traffic standards in Europe, to optimise capacities and to minimise delays.

3. With a view to facilitating the application of the Single European Sky legislation in their territories:

(a) Morocco shall take the necessary measures to adjust their air traffic management institutional structures to the Single European Sky, in particular by establishing pertinent national supervisory bodies at least functionally independent of air navigation service providers;

and

(b) The European Community shall associate Morocco with relevant operational initiatives in the fields of air navigation services, airspace and interoperability that stem from the Single European Sky, in particular through the early involvement of Morocco's efforts to establish functional airspace blocks, or through appropriate coordination on SESAR.

Article 17

Environment

1. The Contracting Parties shall act in conformity with Community legislation relating to air transport specified in Part C of Annex VI.

2. Nothing in this Agreement shall be construed to limit the authority of the competent authorities of a Contracting Party to take all appropriate measures to prevent or otherwise address the environmental impacts of the international air transport performed under the Agreement provided that such measures are applied without distinction as to nationality.

Article 18

Consumer protection

The Contracting Parties shall act in accordance with Community legislation relating to air transport specified in Part D of Annex VI.

Article 19

Computer reservation systems

The Contracting Parties shall act in accordance with Community legislation relating to air transport specified in Part E of Annex VI.

Article 20

Social aspects

The Contracting Parties shall act in accordance with Community legislation relating to air transport specified in Part F of Annex VI.

TITLE III

INSTITUTIONAL PROVISIONS

Article 21

Interpretation and enforcement

1. The Contracting Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement and shall refrain from any measures which would jeopardise attainment of the objectives of this Agreement.

2. Each Contracting Party shall be responsible, in its own territory, for the proper enforcement of this Agreement and, in particular, the regulations and directives related to air transport listed in Annex VI.

3. Each Contracting Party shall give the other Contracting Party all necessary information and assistance in the case of investigations on possible infringements which that other Contracting Party carries out under its respective competences as provided in this Agreement.

4. Whenever the Contracting Parties act under the powers granted to them by this Agreement on matters which are of interest to the other Contracting Party and which concern the authorities or undertakings of the other Contracting Party, the competent authorities of the other Contracting Party shall be fully informed and given the opportunity to comment before a final decision is taken.

Article 22

The Joint Committee

1. A committee composed of representatives of the Contracting Parties (hereinafter referred to as the Joint Committee) is hereby established, which shall be responsible for the administration of this Agreement and shall ensure its proper implementation. For this purpose it shall make recommendations and take decisions in the cases provided for in this Agreement.

2. The decisions of the Joint Committee shall be jointly adopted and shall be binding upon the Contracting Parties. They will be put into effect by the Contracting Parties in accordance with their own rules.

3. The Joint Committee shall meet as and when necessary and at least once a year. Either Contracting Party may request the convening of a meeting.

4. A Contracting Party may also request a meeting of the Joint Committee to seek to resolve any question relating to the interpretation or application of this Agreement. Such a meeting shall begin at the earliest possible date, but not later than two months from the date of receipt of the request, unless otherwise agreed by the Contracting Parties.

5. For the purpose of the proper implementation of this Agreement, the Contracting Parties shall exchange information and, at the request of either Contracting Party, shall hold consultations within the Joint Committee.

6. The Joint Committee shall adopt, by a decision, its rules of procedure.

7. If, in the view of one of the Contracting Parties, a decision of the Joint Committee is not properly implemented by the other Contracting Party, the former may request that the issue be discussed by the Joint Committee. If the Joint Committee cannot solve the issue within two months of its referral, the requesting Contracting Party may take appropriate temporary safeguard measures under Article 24.

8. The decisions of the Joint Committee shall state the date of its implementation in the Contracting Parties and any other information likely to concern economic operators.

9. Without prejudice to paragraph 2, if the Joint Committee does not take a decision on an issue which has been referred to it within six months of the date of referral, the Contracting Parties may take appropriate temporary safeguard measures under Article 24.

10. The Joint Committee shall examine questions relating to bilateral investments of majority participation, or changes in the effective control of air carriers of the Contracting Parties.

11. The Joint Committee shall also develop cooperation by:

(a) fostering expert-level exchanges on new legislative or regulatory initiatives and developments, including in the fields of security, safety, the environment, aviation infrastructure (including slots), and consumer protection;

(b) regularly examining the social effects of the Agreement as it is implemented, notably in the area of employment and developing appropriate responses to concerns found to be legitimate;

and

(c) considering potential areas for the further development of the Agreement, including the recommendation of amendments to the Agreement.

Article 23

Dispute Resolution and Arbitration

1. Either Contracting Party may refer to the Joint Committee any dispute relating to the application or interpretation of this Agreement, having not been resolved in accordance with Article 22. For the purposes of this Article, the Association Council established under the Association Agreement shall act as Joint Committee.

2. The Joint Committee may settle the dispute by means of a decision.

3. The Contracting Parties shall take the necessary measures to implement the decision referred to in paragraph 2.

4. Should the Contracting Parties be unable to settle the dispute in accordance with paragraph 2, the dispute shall, at the request of either Contracting Party, be submitted to an arbitration panel of three arbitrators in accordance with the procedure laid down hereafter:

(a) each Contracting Party shall appoint an arbitrator within sixty (60) days from the date of reception of the notification for the request for arbitration by the arbitration court addressed by the other Contracting Party through diplomatic channels; the third arbitrator should be appointed by the other two arbitrators within sixty (60) additional days. If one of the Contracting Parties has not appointed an arbitrator within the agreed period, or if the third arbitrator is not appointed within the agreed period, each Contracting Party may request the President of the Council of the ICAO to appoint an arbitrator or arbitrators, whichever is applicable;

(b) the third arbitrator appointed under the terms of paragraph a) above should be a national of a third State and shall act as a President of the arbitration court;

(c) the arbitration court shall agree its rules of procedure;

and

(d) subject to the final decision of the arbitration court, the initial expenses of the arbitration shall be shared equally by the Contracting Parties.

5. Any provisional decision or final decision of the arbitration court shall be binding upon the Contracting Parties.

6. If one of the Contracting Parties does not act in conformity with a decision of the arbitration court taken under the terms of this Article within thirty (30) days from the notification of the aforementioned decision, the other Contracting Party may, for as long as this failure endures, limit, suspend or revoke the rights or privileges which it had granted under the terms of this Agreement from the Party at fault.

Article 24

Safeguard measures

1. The Contracting Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

2. If either Contracting Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation or maintain the balance of this Agreement. Priority shall be given to such measures as will least disturb the functioning of this Agreement.

3. A Contracting Party which is considering taking safeguard measures shall notify the other Contracting Parties through the Joint Committee and shall provide all relevant information.

4. The Contracting Parties shall immediately enter into consultations in the Joint Committee with a view to finding a commonly acceptable solution.

5. Without prejudice to Articles 3(d), Article 4(d) and Articles 14 and 15, the Contracting Party concerned may not take safeguard measures until one month has elapsed after the date of notification under paragraph 3, unless the consultation procedure under paragraph 4 has been concluded before the expiration of the stated time limit.

6. The Contracting Party concerned shall, without delay, notify the measures taken to the Joint Committee and shall provide all relevant information.

7. Any action taken under the terms of this Article shall be suspended, as soon as the Contracting Party at fault satisfies the provisions of this Agreement.

Article 25

Geographic extension of the Agreement

The Contracting Parties, although recognising the bilateral nature of this Agreement, note that it lies within the scope of the Euro-Mediterranean partnership envisaged in the declaration of Barcelona of 28 November 1995. The Contracting Parties commit to conduct a continuous dialogue to ensure the coherence of this Agreement with the Barcelona process, and in particular with regard to the possibility of mutually agreeing amendments to take into account similar air transport agreements.

*Article 26***Relationship to other Agreements**

1. The provisions of this Agreement supersede the relevant provisions of existing bilateral agreements between Morocco and the Member States. However, existing traffic rights which originate from these bilateral agreements and which are not covered under this Agreement can continue to be exercised, provided that there is no discrimination between the Member States and their nationals.

2. If the Contracting Parties become parties to a multilateral agreement, or endorse a decision adopted by the International Civil Aviation Organisation or another international organisation, that addresses matters covered by this Agreement, they shall consult in the Joint Committee to determine whether this Agreement should be revised to take into account such developments.

3. This Agreement shall be without prejudice to any decision by the two Contracting Parties to implement future recommendations that may be made by the ICAO. The Contracting Parties shall not cite this Agreement, or any part of it, as the basis for opposing consideration in the ICAO of alternative policies on any matter covered by this Agreement.

*Article 27***Amendments**

1. If one of the Contracting Parties wishes to revise the provisions of this Agreement, it shall notify the Joint Committee accordingly. The agreed amendment to this Agreement shall enter into force after completion of the respective internal procedures.

2. The Joint Committee may, upon the proposal of one Contracting Party and in accordance with this Article, decide to modify the Annexes of this Agreement.

3. This Agreement shall be without prejudice to the right of each Contracting Party, subject to compliance with the principle of non-discrimination and the provisions of this Agreement to unilaterally adopt new legislation or amend its existing legislation in the field of air transport or an associated area mentioned in Annex VI, with respect to the principle of non-discrimination and in accordance with the provisions of this Agreement.

4. As soon as new legislation is being drawn up by one of the Contracting Parties, it shall inform and consult the other Contracting Party as closely as possible. At the request of one of the Contracting Parties, a preliminary exchange of views may take place in the Joint Committee.

5. As soon as a Contracting Party has adopted new legislation or an amendment to its legislation in the field of air transport or an associated area mentioned in Annex VI, it shall inform the other Contracting Party not later than thirty days after its adoption. Upon the request of any Contracting Party, the Joint Committee shall within sixty days thereafter hold an exchange of views on the implications of such new legislation or amendment for the proper functioning of this Agreement.

6. The Joint Committee shall:

(a) adopt a decision revising Annex VI of this Agreement so as to integrate therein, if necessary on a basis of reciprocity, the new legislation or amendment in question;

(b) adopt a decision to the effect that the new legislation or amendment in question shall be regarded as in accordance with this Agreement;

or

(c) decide any other measures, to be adopted within a reasonable period of time, to safeguard the proper functioning of this Agreement.

*Article 28***Termination**

1. This Agreement is concluded for an unlimited period.

2. Either Party may, at any time, give notice in writing through diplomatic channels to the other Party of its decision to terminate this Agreement. Such notice shall be sent simultaneously to the ICAO. This Agreement shall terminate twelve months after the date of receipt of the notice by the other Party, unless the notice to terminate is withdrawn before the expiry of this period.

3. This Agreement shall cease to be in force or be suspended if the Association Agreement ceases to be in force or is suspended, respectively.

*Article 29***Registration with the International Civil Aviation Organisation and the United Nations Secretariat**

This Agreement and all amendments thereto shall be registered with the ICAO and with the UN Secretariat.

*Article 30***Entry into force**

1. This Agreement shall be applied provisionally, in accordance with the national laws of the Contracting Parties, from the date of signature.

2. This Agreement shall enter into force one month after the date of the last note in an exchange of diplomatic notes between the Contracting Parties confirming that all necessary procedures for entry into force of this Agreement have been completed. For purposes of this exchange, the Kingdom of Morocco shall deliver to the General Secretariat of the Council of the European Union its diplomatic note to the European Community and its Member States, and the General Secretariat of the Council of the European Union shall deliver to the Kingdom of Morocco the diplomatic note from the European Community and its Member States. The diplomatic note from the European Community and its Member States shall contain communications from each Member State confirming that its necessary procedures for entry into force of this Agreement have been completed.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Agreement.

Done at Brussels on the twelfth day of December in the year two thousand and six, in duplicate, in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovene, Spanish, Swedish and Arabic languages, each text being equally authentic.

Pour le Royaume de Belgique
Voor het Koninkrijk België
Für das Königreich Belgien



Za Českou republiku



På Kongeriget Danmarks vegne



Für die Bundesrepublik Deutschland



Eesti Vabariigi nimel



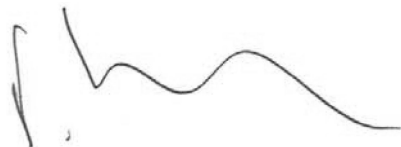
Για την Ελληνική Δημοκρατία



Por el Reino de España



Pour la République française



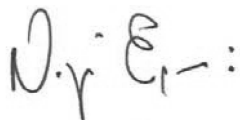
Thar cheann Na hÉireann
For Ireland



Per la Repubblica italiana



Για την Κυπριακή Δημοκρατία



Latvijas Republikas vārdā



Lietuvos Respublikos vardu



Pour le Grand-Duché de Luxembourg



A Magyar Köztársaság részéről



Għar-Repubblika ta' Malta



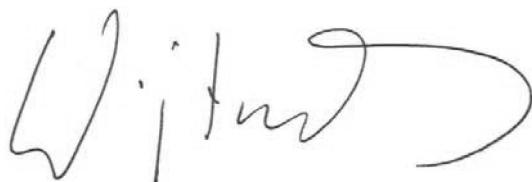
Voor het Koninkrijk der Nederlanden



Für die Republik Österreich



W imieniu Rzeczypospolitej Polskiej



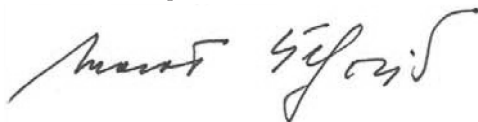
Pela República Portuguesa



Za Republiko Slovenijo



Za Slovenskú republiku



Suomen tasavallan puolesta

För Republiken Finland



För Konungariket Sverige



For the United Kingdom of Great Britain and Northern Ireland



Por la Comunidad Europea
 Za Evropské společenství
 For Det Europæiske Fællesskab
 Für die Europäische Gemeinschaft
 Euroopa Ühenduse nimel
 Για την Ευρωπαϊκή Κοινότητα
 For the European Community
 Pour la Communauté européenne
 Per la Comunità europea
 Eiropas Kopienas vārdā
 Europos bendrijos vardu
 az Európai Közösség részéről
 Għall-Komunità Ewropea
 Voor de Europese Gemeenschap
 W imieniu Wspólnoty Europejskiej
 Pela Comunidade Europeia
 Za Európske spoločenstvo
 Za Evropsko skupnost
 Euroopan yhteisön puolesta
 På Europeiska gemenskapens vägnar

Por el Reino de Marruecos
 Za Marocké království
 For Kongeriget Marokko
 Für das Königreich Marokko
 Maroko Kuningriigi nimel
 Για το Βασίλειο του Μαρόκου
 For the Kingdom of Morocco
 Pour le Royaume du Maroc
 Per il Regno del Marocco
 Marokas Karalistes vārdā
 Maroko Karalystès vardu
 A Marokkói Királyság részéről
 Għar-Renju tal-Marokk
 Voor het Koninkrijk Marokko
 W imieniu Królestwa Marokańskiego
 Pelo Reino de Marrocos
 Za Marocké kráľovstvo
 Za Kraljevino Maroko
 Marokon kuningaskunnan puolesta
 För Konungariket Marocko

عن المملكة المغربية

ANNEX I

AGREED SERVICES AND SPECIFIED ROUTES

1. This Annex is subject to the transitional provisions contained in Annex IV of this Agreement.
2. Each Contracting Party grants to the air carriers of the other Contracting Party the rights to operate air services on the routes specified hereunder:

- (a) for air carriers of the European Community:

Points in the European Community – one or more points in Morocco – points beyond,

- (b) for air carriers of Morocco:

Points in Morocco – one or more points in the European Community,

3. Air carriers of Morocco are authorised to exercise the traffic rights in Article 2 of this Agreement between more than one point located in the territory of the European Community provided that these services originate or terminate in the territory of Morocco.

Air carriers of the European Community are authorised to exercise the traffic rights in Article 2 of this Agreement between Morocco and points located beyond, provided that these services originate or terminate in the territory of the European Community and that, in relation to passenger services, these points are located in the countries of the European Neighbourhood Policy.

Air carriers of the European Community are authorised, for the services to/from Morocco, to serve more than one point on the same service (co-terminalisation) and to exercise the right of stop-over between these points.

The countries of the European Neighbourhood Policy are: Algeria, Armenia, the Palestinian Authority, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldavia, Morocco, Syria, Tunisia and Ukraine. The points located in the countries of the Neighbourhood policy can also be used as intermediate points.

4. The specified routes may be operated in either direction. Each point, intermediate or beyond point, of the specified routes may, at the discretion of each undertaking, be omitted for some or all of the services, provided that the service originates or terminates in the territory of Morocco for air carriers of Morocco, or in the territory of a Member State of the European Community for air carriers of the Community.
 5. Each Contracting Party shall allow each air carrier to determine the frequency and capacity of the international air transport it offers based upon commercial considerations in the marketplace. Consistent with this right, neither Contracting Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the air carriers of the other Contracting Party, except for customs, technical, operational, environmental or protection of health reasons.
 6. Any air carrier may perform international air transport without any limitation as to change, on all points of the specified routes, in the type of aircraft operated.
 7. The leasing with crew (wet-leasing) by a Moroccan air carrier of an aircraft of an airline company of a third country, or, by an air carrier of the European Community, of an aircraft of an airline company of a third country other than those mentioned in Annex V, in order to exploit the rights envisaged in this Agreement, must remain exceptional or meet temporary needs. It shall be submitted for prior approval of the authority having delivered the licence of this leasing air carrier and to the competent authority of the other Contracting Party.
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ANNEX II

BILATERAL AGREEMENTS BETWEEN MOROCCO AND THE MEMBER STATES OF THE EUROPEAN COMMUNITY

As provided in Article 26 of this Agreement, the relevant provisions of the following bilateral air transport agreements between Morocco and the Member States shall be superseded by this Agreement:

- Air Transport Agreement between the Government of the Kingdom of Belgium and the Government of His Majesty the King of Morocco done at Rabat on 20 January 1958;

supplemented by the Exchange of Notes dated 20 January 1958;

last amended by the Memorandum of Understanding done at Rabat on 11 June 2002;
- Air Transport Agreement between the Czechoslovak Socialist Republic and Morocco done at Rabat on 8 May 1961, in respect of which the Czech Republic has deposited a declaration of succession;
- Air Services Agreement between the Government of the Kingdom of Denmark and the Government of the Kingdom of Morocco done at Rabat on 14 November 1977;

supplemented by the Exchange of Notes dated 14 November 1977;
- Air Transport Agreement between the Federal Republic of Germany and the Kingdom of Morocco done at Bonn on 12 October 1961;
- Air Transport Agreement between the Government of the Hellenic Republic and the Government of the Kingdom of Morocco done at Rabat on 10 May 1999;

to be read together with the Memorandum of Understanding done at Athens on 6 October 1998;
- Air Transport Agreement between the Government of the Spain and the Government of the Kingdom of Morocco done at Madrid on 7 July 1970;

last supplemented by the Exchange of Letters dated 12 August 2003 and 25 August 2003;
- Air Transport Agreement between the Government of the French Republic and the Government of His Majesty the King of Morocco done at Rabat on 25 October 1957;
 - amended by the Exchange of Letters dated 22 March 1961;
 - amended by the Agreed Minutes dated 2 and 5 December 1968;
 - amended by the Memorandum of the Morocco-French Consultations of 17-18 May 1976;
 - amended by the Memorandum of the Morocco-French Consultations dated 15 March 1977;last amended by the Memorandum of the Morocco-French Consultations of 22-23 March 1984 and Exchange of letters of 14 March 1984;
- Air Transport Agreement between the Government of the Republic of Italy and the Government of His Majesty the King of Morocco done at Rome on 8 July 1967;

amended by the Memorandum of Understanding done at Rome on 13 July 2000;

last amended by the Exchange of Notes dated 17 October 2001 and 3 January 2002;
- Air Transport Agreement between the Government of the Republic of Latvia and the Government of the Kingdom of Morocco done at Warsaw on 19 May 1999;
- Air Transport Agreement between the Government of the Grand-Duchy of Luxembourg and the Government of His Majesty the King of Morocco done at Bonn on 5 July 1961;
- Air Transport Agreement between the Hungarian People's Republic and the Kingdom of Morocco done at Rabat on 21 March 1967;

- Air Transport Agreement between the Government of the Republic of Malta and the Government of His Majesty the King of Morocco done at Rabat on 26 May 1983;
 - Air Transport Agreement between the Government of Her Majesty the Queen of the Netherlands and the Government of His Majesty the King of Morocco done at Rabat on 20 May 1959;
 - Air Transport Agreement between the Federal Government of Austria and the Government of the Kingdom of Morocco done at Rabat on 27 February 2002;
 - Air Transport Agreement between the Government of the People's Republic of Poland and the Government of the Kingdom of Morocco done at Rabat on 29 November 1969;
 - Air Transport Agreement between Portugal and the Government of the Kingdom of Morocco done at Rabat on 3 April 1958;
supplemented by the Minutes done at Lisbon on 19 December 1975;
last supplemented by the Minutes done at Lisbon on 17 November 2003;
 - Air Transport Agreement between the Government of the Kingdom of Sweden and the Government of the Kingdom of Morocco done at Rabat on 14 November 1977;
supplemented by the Exchange of Notes dated 14 November 1977;
 - Air Services Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Morocco done at London on 22 October 1965;
amended by the Exchange of Notes dated 10 and 14 October 1968;
amended by the Minutes done at London on 14 March 1997;
last amended by the Minutes done at Rabat on 17 October 1997;
 - Air services agreements and other arrangements initialled or signed between the Kingdom of Morocco and Member States of the European Community which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally;
 - Air Services Agreement between the Government of the Kingdom of the Netherlands and the Government of the Kingdom of Morocco as attached, as Annex 1, to the Memorandum of Understanding done at The Hague on 20 June 2001.
-

ANNEX III

PROCEDURES FOR OPERATING AUTHORISATIONS AND TECHNICAL PERMISSIONS: COMPETENT AUTHORITIES

1. The European Community

Austria:

Civil Aviation Authority
Federal Ministry of Transport, Innovation and Technology

Belgium:

Air Transport Directorate General
Federal Office for Mobility and Transport

Cyprus:

Department of Civil Aviation
Ministry of Communications and Works

Czech Republic:

Civil Aviation Department
Ministry of Transport
Civil Aviation Authority

Denmark:

Civil Aviation Administration

Estonia:

Civil Aviation Administration

Finland:

Civil Aviation Authority

France:

Directorate General for Civil Aviation (DGAC)

Germany:

Luftfahrt-Bundesamt
Federal Ministry of Transport, Building and Urban Affairs

Greece:

Hellenic Civil Aviation Authority
Ministry of Transport and Communications

Hungary:

General Directorate of Civil Aviation
Ministry of Economy and Transport

Ireland:

Directorate General of Civil Aviation
Department of Transport

Italy:

National Agency for Civil Aviation (ENAC)

Latvia:

Civil Aviation Administration
Ministry of Transport

Lithuania:

Civil Aviation Administration

Luxembourg:

Directorate of Civil Aviation

Malta:

Department of Civil Aviation

Netherlands:

Ministry of Transport, Public Works and Water Management: Directorate-General of Civil Aviation and Freight Transport
Transport and Water Management Inspectorate

Poland:

Civil Aviation Office

Portugal:

National Institute of Civil Aviation (INAC)
Ministry for Equipment, Planning and Administration of the Territories

Spain:

Directorate General of Civil Aviation
Ministry of Promotions

The Slovak Republic:

Department of Civil Aviation
Ministry of Transport, Posts and Telecommunications

Slovenia:

Directorate of Civil Aviation
Ministry of Transport

Sweden:

Civil Aviation Authority

United Kingdom:

Aviation Directorate
Department for Transport (DfT)

2. Kingdom of Morocco

Civil Aviation Directorate
Ministry of Equipment and Transport

ANNEX IV

TRANSITIONAL PROVISIONS

1. The implementation and application by the Moroccan Party of all the provisions of Community legislation relating to air transport indicated in Annex VI shall be the subject of an evaluation under the responsibility of the European Community which should be validated by the Joint Committee. This decision of the Joint Committee should be adopted two years after the entry into force of the Agreement at the latest.
 2. Until the moment of the adoption of the decision referred to in point 1, the agreed services and specified routes in Annex I, shall not include the right for air carriers of the European Community to uplift traffic in Morocco and discharge traffic on points beyond and vice versa and, the right for Moroccan air carriers to uplift traffic at a point in the European Community to be discharged in another point of the European Community and vice versa. However, all 5th freedom traffic rights granted by one of the bilateral agreements between Morocco and the Member States of the European Community, listed in Annex II, can continue to be exercised insofar as there is no discrimination on the basis of nationality.
-

ANNEX V

LIST OF OTHER STATES REFERRED TO IN ARTICLE 3 AND 4 OF THE AGREEMENT

1. The Republic of Iceland (under the Agreement on the European Economic Area)
 2. The Principality of Liechtenstein (under the Agreement on the European Economic Area)
 3. The Kingdom of Norway (under the Agreement on the European Economic Area)
 4. The Swiss Confederation (under the Air Transport Agreement between the European Community and the Swiss Confederation)
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ANNEX VI

RULES APPLICABLE TO CIVIL AVIATION

The 'Applicable provisions' of the following acts shall be applicable in accordance with the Agreement unless otherwise specified in this Annex or in Annex IV on Transitional Provisions. Where necessary, specific adaptations for each individual act are set out hereafter:

A. AVIATION SAFETY

Note: The precise conditions with regard to the participation as observer of Morocco to the European Aviation Safety Agency (EASA) will need to be discussed at a later stage.

No 3922/91

Council Regulation (EEC) 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

as amended by:

- Commission Regulation (EC) No 2176/96 of 13 November 1996 amending to scientific and technical progress Council Regulation (EEC) No 3922/91
- Commission Regulation (EC) No 1069/1999 of 25 May 1999 adapting to scientific and technical progress Council Regulation (EEC) No 3922/91
- Commission Regulation (EC) No 2871/2000 of 28 December 2000 adapting to scientific and technical progress Council Regulation (EEC) No 3922/91
- Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

Applicable provisions: Articles 1 to 10, 12 to 13 with the exception of Article 4, paragraph 1 and Article 8 paragraph 2, sentence 2, Annexes I, II and III

As regards the application of Article 12 'Member States' shall read 'EC Member States'.

No 94/56

Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigations of civil aviation accidents and incidents

Applicable provisions: Articles 1 to 12

No 1592/2002

Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

as amended by:

- Regulation (EC) No 1643/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1592/2002
- Commission Regulation (EC) No 1701/2003 of 24 September 2003 adapting Article 6 of Regulation (EC) No 1592/2002

Applicable provisions: Articles 1 to 57, Annexes I and II

No 2003/42

Directive 2003/42/EC of the European Parliament and the Council of 13 June 2003 on occurrence reporting in civil aviation

Applicable provisions: Articles 1 to 11, Annexes I and II

No 1702/2003

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

Applicable provisions: Articles 1 to 4 Annex

No 2042/2003

Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

Applicable provisions: Articles 1 to 6, Annexes I to IV

No 104/2004

Commission Regulation (EC) No 104/2004 of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency

Applicable provisions: Articles 1 to 7 and Annex

B. AIR TRAFFIC MANAGEMENT

No 93/65

Council Directive 93/65/EC of 19 July 1993 on the definition and the use of compatible technical and operating specifications for the procurement of air traffic management equipment and systems

as amended by

- Commission Directive 97/15/EC of 25 March 1997 adopting Eurocontrol standards and amending Council Directive 93/65/EEC on the definition and use of compatible technical specifications for the procurement of air – traffic – management and systems, as amended by Commission Regulation (EC) No 2082/2000 of 6 September 2000 adopting Eurocontrol standards and amending Directive 97/15/EC, adopting Eurocontrol standards and amending Council Directive 93/65/EEC, as amended by Commission Regulation (EC) No 980/2002 of 4 June 2002 amending Regulation (EC) No 2082/2000, adopting Eurocontrol standards

Applicable provisions: Articles 1 to 9, Annexes I and II

Reference to Council Directive 93/65/EEC shall be deleted as of 20 October 2005.

No 2082/2000

Commission Regulation (EC) No 2082/2000 of 6 September 2000 adopting Eurocontrol standards and amending Directive 97/15, adopting Eurocontrol standards and amending Council Directive 93/65/EEC

as amended by

- Commission Regulation (EC) No 980/2002 of 4 June 2002 amending Regulation (EC) No 2082/2000, adopting Eurocontrol standards

Applicable provisions: Articles 1 to 3, Annexes I to III

No 549/2004

Regulation (EC) No 549/2004 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')

Applicable provisions: Articles 1 to 4, 6, and 9 to 14.

No 550/2004

Regulation (EC) No 550/2004 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)

Applicable provisions: Articles 1 to 19

No 551/2004

Regulation (EC) No 551/2004 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)

Applicable provisions: Articles 1 to 11

No 552/2004

Regulation (EC) No 552/2004 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)

Applicable provisions: Articles 1 to 12

C. ENVIRONMENT

No 89/629

Council Directive 89/629/EEC of 4 December 1989 on the limitation of noise emission from civil subsonic jet aeroplanes.

Applicable provisions: Articles 1 to 8

No 92/14

Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 of the Convention of International Civil Aviation, second edition (1988)

as amended by:

- Council Directive 98/20/EC of 30 March 1998 amending Directive 92/14/EEC
- Commission Directive 1999/28/EC of 21 April 1999 amending the Annex to Council Directive 92/14/EEC
- Commission Regulation (EC) No 991/2001 of 21 May 2001 amending the Annex to Council Directive 92/14/EEC

Applicable provisions: Articles 1 to 11 and Annex

No 2002/30

Directive 2002/30/EC 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

Applicable provisions: Articles 1 to 15, Annexes I and II

No 2002/49

Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise

Applicable provisions: Articles 1 to 16, Annexes I to IV

D. CONSUMER PROTECTION

No 90/314

Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours

Applicable provisions: Articles 1 to 10

No 92/59

Council Directive 92/59/EEC of 29 June 1992 on general product safety

Applicable provisions: Articles 1 to 19

No 93/13

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts

Applicable provisions: Articles 1 to 10 and Annex

No 95/46

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Applicable provisions: Articles 1 to 34

No 2027/97

Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents

as amended by:

— Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97

Applicable provisions: Articles 1 to 8

No 261/2004

Regulation (EC) No 261/2004 of the European 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

Applicable provisions: Articles 1 to 17

E. COMPUTER RESERVATION SYSTEMS

No 2299/1989

Council Regulation (EEC) No 2299/1989 of 24 July 1989 introducing a code of conduct for computer reservation systems

as amended by:

— Council Regulation (EEC) No 3089/93 of 29 October 1993 amending Regulation (EEC) No 2299/89

— Council Regulation (EC) No 323/1999 of 8 February 1999 amending Regulation (EEC) No 2299/89

Applicable provisions: Articles 1 to 22 and Annex

F. SOCIAL ASPECTS

No 1989/391

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work

Applicable provisions: Articles 1 to 16, and 18-19

No 2003/88

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time

Applicable provisions: Articles 1 to 19, 21 to 24 and 26 to 29

No 2000/79

Council Directive 2000/79/EEC of 27 November 2000 concerning 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)

Applicable provisions: Articles 1 to 5

G. OTHER LEGISLATION

No 91/670

Council Directive 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

Applicable provisions: Articles 1 to 8 and Annex

(Acts adopted under Title VI of the Treaty on European Union)

COUNCIL FRAMEWORK DECISION 2006/960/JHA

of 18 December 2006

on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30(1)(a) and (b) and 34(2)(b) thereof,

Having regard to the initiative of the Kingdom of Sweden,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) One of the core objectives of the European Union is to provide its citizens with a high level of security within an area of freedom, security and justice.
- (2) That objective is to be achieved by preventing and combating crime through closer cooperation between law enforcement authorities in the Member States, while respecting the principles and rules relating to human rights, fundamental freedoms and the rule of law on which the Union is founded and which are common to the Member States.
- (3) Exchange of information and intelligence on crime and criminal activities is the basis for law enforcement cooperation in the Union serving the overall objective of improving the safety of the Union's citizens.
- (4) The timely access to accurate and up to date information and intelligence is a crucial element for the possibility of law enforcement authorities to successfully detect, prevent and investigate crime or criminal activity, in particular within an area where internal border controls have been abolished. As the activities of criminals are carried out clandestinely, they need to be controlled, and information relating to them needs to be exchanged particularly expeditiously.
- (5) It is important that the possibilities for law enforcement authorities to obtain information and intelligence concerning serious crime and terrorist acts from other Member States be viewed horizontally and not in terms of differences with regard to type of crime or division of competencies between law enforcement or judicial authorities.
- (6) Currently, effective and expeditious exchange of information and intelligence between law enforcement authorities is seriously hampered by formal procedures, administrative structures and legal obstacles laid down in Member States' legislation; such a state of affairs is unacceptable to the citizens of the European Union and it therefore calls for greater security and more efficient law enforcement while protecting human rights.
- (7) It is necessary for law enforcement authorities to be able to request and obtain information and intelligence from other Member States at different stages of investigation, from the phase of gathering criminal intelligence to the phase of criminal investigation. The Member State's systems are different in that respect, but this Framework Decision does not purport to change these systems. However, it seeks, as regards certain types of information and intelligence, to ensure that certain information vital for law enforcement authorities is exchanged expeditiously within the Union.
- (8) The absence of a common legal framework for the effective and expeditious exchange of information and intelligence between the law enforcement authorities of the Member States is a deficiency that will have to be remedied; the Council of the European Union therefore deems it necessary to adopt a legally binding instrument on simplifying the exchange of information and intelligence. This Framework Decision should not affect existing or future instruments which allow the objectives of this Framework Decision to be extended or which facilitate the procedures for exchanging information and intelligence, such as the Convention of 18 December 1997 drawn up on the basis of Article K.3 of the Treaty on European Union on Mutual Assistance and Cooperation between Customs Administrations ⁽¹⁾.
- (9) As regards the exchange of information, this Framework Decision is without prejudice to essential national security interests, the jeopardizing of the success of a current investigation or the safety of individuals, or specific intelligence activities in the field of State security.

⁽¹⁾ OJ C 24, 23.1.1998, p. 2.

(10) It is important to promote the exchange of information as widely as possible, in particular in relation to offences linked directly or indirectly to organised crime and terrorism, and in a way which does not detract from the required level of cooperation between Member States under existing arrangements.

(11) The common interest of Member States in fighting crime of a cross-border nature must strike the appropriate balance between fast and efficient law enforcement cooperation and agreed principles and rules on data protection, fundamental freedoms, human rights and individual liberties.

(12) In the Declaration on combating terrorism as adopted by the European Council at its meeting on 25 March 2004, the European Council instructed the Council to examine measures for simplifying the exchange of information and intelligence between law enforcement authorities of the Member States.

(13) As regards Iceland and Norway, this Framework Decision constitutes a development of the provisions of the Schengen acquis which fall within the area referred to in Article 1 of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis ⁽¹⁾. The procedures set out in that Agreement have been followed in respect of this Framework Decision.

(14) As regards Switzerland, this Framework Decision constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1(H) of Decision 1999/437/EC read in conjunction with Article 4(1) of Decision 2004/860/EC ⁽²⁾ on the signing on behalf of the European Community and on the provisional application of certain provisions of that Agreement, and with Article 4(1) of Decision 2004/849/EC ⁽³⁾ on the signing on behalf of the European Union, and on the provisional application of certain provisions of that Agreement,

HAS ADOPTED THIS FRAMEWORK DECISION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Objective and scope

1. The purpose of this Framework Decision is to establish the rules under which Member States' law enforcement authorities may exchange existing information and intelligence effectively and expeditiously for the purpose of conducting criminal investigations or criminal intelligence operations.

2. This Framework Decision shall be without prejudice to bilateral or multilateral agreements or arrangements between Member States and third countries and to instruments of the European Union on mutual legal assistance or mutual recognition of decisions regarding criminal matters, including any conditions set by third countries concerning the use of information once supplied.

3. This Framework Decision covers all information and/or intelligence as defined in Article 2(d). It does not impose any obligation on the part of the Member States to gather and store information and intelligence for the purpose of providing it to the competent law enforcement authorities of other Member States.

4. This Framework Decision does not impose any obligation on the part of the Member States to provide information and intelligence to be used as evidence before a judicial authority nor does it give any right to use such information or intelligence for that purpose. Where a Member State has obtained information or intelligence in accordance with this Framework Decision, and wishes to use it as evidence before a judicial authority, it has to obtain consent of the Member State that provided the information or intelligence, where necessary under the national law of the Member State that provided the information or intelligence, through the use of instruments regarding judicial cooperation in force between the Member States. Such consent is not required where the requested Member State has already given its consent for the use of information or intelligence as evidence at the time of transmittal of the information or intelligence.

5. This Framework Decision does not impose any obligation to obtain any information or intelligence by means of coercive measures, defined in accordance with national law, in the Member State receiving the request for information or intelligence.

⁽¹⁾ OJ L 176, 10.7.1999, p. 31.

⁽²⁾ OJ L 370, 17.12.2004, p. 78.

⁽³⁾ OJ L 368, 15.12.2004, p. 26.

6. Member States shall, where permitted by and in accordance with their national law, provide information or intelligence previously obtained by means of coercive measures.

7. This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union and any obligations incumbent on law enforcement authorities in this respect shall remain unaffected.

Article 2

Definitions

For the purposes of this Framework Decision:

- (a) 'competent law enforcement authority': a national police, customs or other authority that is authorised by national law to detect, prevent and investigate offences or criminal activities and to exercise authority and take coercive measures in the context of such activities. Agencies or units dealing especially with national security issues are not covered by the concept of competent law enforcement authority. Every Member State shall, by 18 December 2007, state in a declaration deposited with the General Secretariat of the Council which authorities are covered by the concept of 'competent law enforcement authority'. Such a declaration may be modified at any time.
- (b) 'criminal investigation': a procedural stage within which measures are taken by competent law enforcement or judicial authorities, including public prosecutors, with a view to establishing and identifying facts, suspects and circumstances regarding one or several identified concrete criminal acts;
- (c) 'criminal intelligence operation': a procedural stage, not yet having reached the stage of a criminal investigation, within which a competent law enforcement authority is entitled by national law to collect, process and analyse information about crime or criminal activities with a view to establishing whether concrete criminal acts have been committed or may be committed in the future;
- (d) 'information and/or intelligence':
 - (i) any type of information or data which is held by law enforcement authorities;

and

- (ii) any type of information or data which is held by public authorities or by private entities and which is available to law enforcement authorities without the taking of coercive measures, in accordance with Article 1(5).

- (e) 'offences referred to in Article 2(2) of the Framework Decision 2002/584/JHA on the European arrest warrant ⁽¹⁾ (hereinafter referred to as 'offences referred to in Article 2(2) of the Framework Decision 2002/584/JHA')': offences under national law which correspond to or are equivalent to those referred to in that provision.

TITLE II

EXCHANGE OF INFORMATION AND INTELLIGENCE

Article 3

Provision of information and intelligence

1. Member States shall ensure that information and intelligence can be provided to the competent law enforcement authorities of other Member States in accordance with this Framework Decision.
2. Information and intelligence shall be provided at the request of a competent law enforcement authority, acting in accordance with the powers conferred upon it by national law, conducting a criminal investigation or a criminal intelligence operation.
3. Member States shall ensure that conditions not stricter than those applicable at national level for providing and requesting information and intelligence are applied for providing information and intelligence to competent law enforcement authorities of other Member States. In particular, a Member State shall not subject the exchange, by its competent law enforcement authority with a competent law enforcement authority of another Member State, of information or intelligence which in an internal procedure may be accessed by the requested competent law enforcement authority without a judicial agreement or authorisation, to such an agreement or authorisation.
4. Where the information or intelligence sought may, under the national law of the requested Member State, be accessed by the requested competent law enforcement authority only pursuant to an agreement or authorisation of a judicial authority, the requested competent law enforcement authority shall be obliged to ask the competent judicial authority for an agreement or authorisation to access and exchange the information sought. The competent judicial authority of the requested Member State shall apply the same rules for its decision, without prejudice to Article 10(1) and (2), as in a purely internal case.

⁽¹⁾ OJ L 190, 18.7.2002, p. 1.

5. Where the information or intelligence sought has been obtained from another Member State or from a third country and is subject to the rule of speciality, its transmission to the competent law enforcement authority of another Member State may only take place with the consent of the Member State or third country that provided the information or intelligence.

Article 4

Time limits for provision of information and intelligence

1. Member States shall ensure that they have procedures in place so that they can respond within at most eight hours to urgent requests for information and intelligence regarding offences referred to in Article 2(2) of Framework Decision 2002/584/JHA, when the requested information or intelligence is held in a database directly accessible by a law enforcement authority.

2. If the requested competent law enforcement authority is unable to respond within eight hours, it shall provide reasons for that on the form set out in Annex A. Where the provision of the information or intelligence requested within the period of eight hours would put a disproportionate burden on the requested law enforcement authority, it may postpone the provision of the information or intelligence. In that case the requested law enforcement authority shall immediately inform the requesting law enforcement authority of this postponement and shall provide the requested information or intelligence as soon as possible, but not later than within three days. The use made of the provisions under this paragraph shall be reviewed by 19 December 2009.

3. Member States shall ensure that for non-urgent cases, requests for information and intelligence regarding offences referred to in Article 2(2) of Framework Decision 2002/584/JHA should be responded to within one week if the requested information or intelligence is held in a database directly accessible by a law enforcement authority. If the requested competent law enforcement authority is unable to respond within one week, it shall provide reasons for that on the form set out in Annex A.

4. In all other cases, Member States shall ensure that the information sought is communicated to the requesting competent law enforcement authority within 14 days. If the requested competent law enforcement authority is unable to respond within 14 days, it shall provide reasons for that on the form set out in Annex A.

Article 5

Requests for information and intelligence

1. Information and intelligence may be requested for the purpose of detection, prevention or investigation of an offence where there are factual reasons to believe that relevant information and intelligence is available in another Member State. The request shall set out those factual reasons and explain the purpose for which the information and intelligence is sought and the connection between the purpose and the person who is the subject of the information and intelligence.

2. The requesting competent law enforcement authority shall refrain from requesting more information or intelligence or setting narrower time frames than necessary for the purpose of the request.

3. Requests for information or intelligence shall contain at least the information set out in Annex B.

Article 6

Communication channels and language

1. Exchange of information and intelligence under this Framework Decision may take place via any existing channels for international law enforcement cooperation. The language used for the request and the exchange of information shall be the one applicable for the channel used. Member States shall, when making their declarations in accordance with Article 2(a), also provide the General Secretariat of the Council with details of the contacts to which requests may be sent in cases of urgency. These details may be modified at any time. The General Secretariat of the Council shall communicate to the Member States and the Commission the declarations received.

2. Information or intelligence shall also be exchanged with Europol in accordance with the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention) ⁽¹⁾ and with Eurojust in accordance with the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime ⁽²⁾, insofar as the exchange refers to an offence or criminal activity within their mandate.

⁽¹⁾ OJ C 316, 27.11.1995, p. 2. Convention as last amended by the Protocol drawn up on the basis of Article 43(1) of the Europol Convention (OJ C 2, 6.1.2004, p. 3).

⁽²⁾ OJ L 63, 6.3.2002, p. 1. Decision as last amended by Decision 2003/659/JHA (OJ L 245, 29.9.2003, p. 44).

*Article 7***Spontaneous exchange of information and intelligence**

1. Without prejudice to Article 10, the competent law enforcement authorities shall, without any prior request being necessary, provide to the competent law enforcement authorities of other Member States concerned information and intelligence in cases where there are factual reasons to believe that the information and intelligence could assist in the detection, prevention or investigation of offences referred to in Article 2(2) of Framework Decision 2002/584/JHA. The modalities of such spontaneous exchange shall be regulated by the national law of the Member States providing the information.

2. The provision of information and intelligence shall be limited to what is deemed relevant and necessary for the successful detection, prevention or investigation of the crime or criminal activity in question.

*Article 8***Data protection**

1. Each Member State shall ensure that the established rules on data protection provided for when using the communication channels referred to in Article 6(1) are applied also within the procedure on exchange of information and intelligence provided for by this Framework Decision.

2. The use of information and intelligence which has been exchanged directly or bilaterally under this Framework Decision shall be subject to the national data protection provisions of the receiving Member State, where the information and intelligence shall be subject to the same data protection rules as if they had been gathered in the receiving Member State. The personal data processed in the context of the implementation of this Framework Decision shall be protected in accordance with the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, and, for those Member States which have ratified it, the Additional Protocol of 8 November 2001 to that Convention, regarding Supervisory Authorities and Transborder Data Flows. The principles of Recommendation No. R(87) 15 of the Council of Europe Regulating the Use of Personal Data in the Police Sector should also be taken into account when law enforcement authorities handle personal data obtained under this Framework Decision.

3. Information and intelligence provided under this Framework Decision may be used by the competent law enforcement authorities of the Member State to which it has been provided solely for the purposes for which it has been supplied in accordance with this Framework Decision or for preventing an immediate and serious threat to public security; processing for other purposes shall be permitted solely with the prior authorisation of the communicating Member State and subject to the national law of the receiving Member State. The authorisation may be granted insofar as the national law of the communicating Member State permits.

4. When providing information and intelligence in accordance with this Framework Decision, the providing competent law enforcement authority may pursuant to its national law impose conditions on the use of the information and intelligence by the receiving competent law enforcement authority. Conditions may also be imposed on reporting the result of the criminal investigation or criminal intelligence operation within which the exchange of information and intelligence has taken place. The receiving competent law enforcement authority shall be bound by such conditions, except in the specific case where national law lays down that the restrictions on use be waived for judicial authorities, legislative bodies or any other independent body set up under the law and made responsible for supervising the competent law enforcement authorities. In such cases, the information and intelligence may only be used after prior consultation with the communicating Member State whose interests and opinions must be taken into account as far as possible. The receiving Member State may, in specific cases, be requested by the communicating Member State to give information about the use and further processing of the transmitted information and intelligence.

*Article 9***Confidentiality**

The competent law enforcement authorities shall take due account, in each specific case of exchange of information or intelligence, of the requirements of investigation secrecy. To that end the competent law enforcement authorities shall, in accordance with their national law, guarantee the confidentiality of all provided information and intelligence determined as confidential.

*Article 10***Reasons to withhold information or intelligence**

1. Without prejudice to Article 3(3), a competent law enforcement authority may refuse to provide information or intelligence only if there are factual reasons to assume that the provision of the information or intelligence would:

(a) harm essential national security interests of the requested Member State;

or

(b) jeopardise the success of a current investigation or a criminal intelligence operation or the safety of individuals;

or

(c) clearly be disproportionate or irrelevant with regard to the purposes for which it has been requested.

2. Where the request pertains to an offence punishable by a term of imprisonment of one year or less under the law of the requested Member State, the competent law enforcement authority may refuse to provide the requested information or intelligence.

3. The competent law enforcement authority shall refuse to provide information or intelligence if the competent judicial authority has not authorised the access and exchange of the information requested pursuant to Article 3(4).

TITLE III

FINAL PROVISIONS

Article 11

Implementation

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision before 19 December 2006.

2. Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national laws the obligations imposed on them under this Framework Decision. On the basis of this and other information provided by the Member States on request, the Commission shall, before 19 December 2006, submit a report to the Council on the operation of this Framework Decision. The Council shall before 19 December 2006 assess the extent to which Member States have complied with the provisions of this Framework Decision.

Article 12

Relation to other instruments

1. The provisions of Article 39(1), (2) and (3) and of Article 46 of the Convention Implementing the Schengen Agreement ⁽¹⁾, in as far as they relate to exchange of information and intelligence for the purpose of conducting criminal investigations or criminal intelligence operations as provided for by this Framework Decision, shall be replaced by the provisions of this Framework Decision.

2. The Decision of the Schengen Executive Committee of 16 December 1998 on cross-border police cooperation in the area of crime prevention and detection (SCH/Com-ex (98) 51 rev 3) ⁽²⁾ and the Decision of the Schengen Executive Committee of 28 April 1999 on the improvement of police cooperation in preventing and detecting criminal offences (SCH/Com-ex (99) 18) ⁽³⁾ are hereby repealed.

3. Member States may continue to apply bilateral or multilateral agreements or arrangements in force when this Framework Decision is adopted in so far as such agreements or arrangements allow the objectives of this Framework Decision to be extended and help to simplify or facilitate further the procedures for exchanging information and intelligence falling within the scope of this Framework Decision.

4. Member States may conclude or bring into force bilateral or multilateral agreements or arrangements after this Framework Decision has come into force in so far as such agreements or arrangements allow the objectives of this Framework Decision to be extended and help to simplify or facilitate further the procedures for exchanging information and intelligence falling within the scope of this Framework Decision.

5. The agreements and arrangements referred to in paragraphs 3 and 4 may in no case affect relations with Member States which are not parties to them.

⁽¹⁾ OJ L 239, 22.9.2000, p. 19. Convention as last amended by Regulation (EC) No 1160/2005 of the European Parliament and of the Council (OJ L 191, 22.7.2005, p. 18).

⁽²⁾ OJ L 239, 22.9.2000, p. 407.

⁽³⁾ OJ L 239, 22.9.2000, p. 421.

6. Member States shall no later than 19 December 2006, notify the Council and the Commission of the existing agreements and arrangements referred to in paragraph 3 which they wish to continue applying.

7. Member States shall also notify the Council and the Commission of any new agreement or arrangement as referred to in paragraph 4, within three months of their signature or, for those instruments which had already been signed before the adoption of this Framework Decision, their entry into force.

Article 13

Entry into force

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

Done at Brussels, 18 December 2006.

For the Council
The President
J.-E. ENESTAM

ANNEX A

INFORMATION EXCHANGE UNDER COUNCIL FRAMEWORK DECISION 2006/960/JHA FORM TO BE USED BY THE REQUESTED MEMBER STATE IN CASE OF TRANSMISSION/DELAY/REFUSAL OF INFORMATION

This form shall be used to transmit the requested information and/or intelligence, to inform the requesting authority of the impossibility of meeting the normal deadline, of the necessity of submitting the request to a judicial authority for an authorisation, or of the refusal to transmit the information.

This form may be used more than once during the procedure (e.g. if the request has first to be submitted to a judicial authority and it later transpires that the execution of the request has to be refused).

Requested authority (name, address, telephone, fax, e-mail, Member State)	
Details of the handling agent (optional):	
Reference number of this answer	
Date and reference number of previous answer	
Answering to the following requesting authority	
Date and time of the request	
Reference number of the request	

Normal time limit under Article 4 of Framework Decision 2006/960/JHA	
The offence falls under Article 2(2) of Framework Decision 2002/584/JHA and the requested information or intelligence is held in a database directly accessible by a law enforcement authority in the requested Member State	Urgency requested → <input type="checkbox"/> 8 hours
	Urgency not requested → <input type="checkbox"/> 1 week
Other cases	→ <input type="checkbox"/> 14 days

Information transmitted under Framework Decision 2006/960/JHA: information and intelligence provided
<p>1. Use of transmitted information or intelligence</p> <p><input type="checkbox"/> may be used solely for the purposes for which it has been supplied or for preventing an immediate and serious threat to public security;</p> <p><input type="checkbox"/> is authorised also for other purposes, subject to the following conditions (optional):</p>
<p>2. Reliability of the source</p> <p><input type="checkbox"/> Reliable</p> <p><input type="checkbox"/> Mostly reliable</p> <p><input type="checkbox"/> Not reliable</p> <p><input type="checkbox"/> Cannot be assessed</p>
<p>3. Accuracy of the information or intelligence</p> <p><input type="checkbox"/> Certain</p> <p><input type="checkbox"/> Established by the source</p> <p><input type="checkbox"/> Hearsay-confirmed</p> <p><input type="checkbox"/> Hearsay- not confirmed</p>

<p>4. The result of the criminal investigation or criminal intelligence operation within which the exchange of information has taken place has to be reported to the transmitting authority</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes</p>
<p>5. In case of spontaneous exchange, reasons for believing that the information or intelligence could assist in the detection, prevention or investigation of offences referred to in Article 2(2) of Framework Decision 2002/584/JHA:</p>

<p>DELAY – It is not possible to respond within the applicable time limit under Article 4 of Framework Decision 2006/960/JHA</p>
<p>The information or intelligence cannot be provided within the given time-limit for the following reasons:</p> <p>It is likely to be given within:</p> <p><input type="checkbox"/> 1 day <input type="checkbox"/> 2 days <input type="checkbox"/> 3 days <input type="checkbox"/> weeks <input type="checkbox"/> 1 month</p> <p><input type="checkbox"/> The authorisation of a judicial authority has been requested. The procedure leading up to the granting/refusal of the authorisation is expected to last ... weeks</p>

<p>REFUSAL — The information or intelligence: <input type="checkbox"/> could not be provided and requested at national level; or <input type="checkbox"/> cannot be provided, for one or more of the following reasons:</p>
<p>A — Reason related to judicial control which prevents the transmission or requires the use of mutual legal assistance</p> <p><input type="checkbox"/> the competent judicial authority has not authorised the access and exchange of the information or intelligence</p> <p><input type="checkbox"/> the requested information or intelligence has previously been obtained by means of coercive measures and its provision is not permitted under the national law</p> <p><input type="checkbox"/> the information or intelligence is not held</p> <ul style="list-style-type: none"> ▪ by law enforcement authorities; or ▪ by public authorities or by private entities in a way which makes it available to law enforcement authorities without the taking of coercive measures <p><input type="checkbox"/> B — The provision of the requested information or intelligence would harm essential national security interests or would jeopardise the success of a current investigation or a criminal intelligence operation or the safety of individuals or would clearly be disproportionate or irrelevant with regard to the purposes for which it has been requested.</p> <p>If case A or B is used, provide, if deemed necessary, additional information or reasons for refusal (optional):</p>
<p><input type="checkbox"/> D — The requested authority decides to refuse execution because the request pertains, under the law of the requested Member State, to the following offence (nature of the offence and its legal qualification to be specified) which is punishable by one year or less of imprisonment</p>
<p><input type="checkbox"/> E — The requested information or intelligence is not available</p>
<p><input type="checkbox"/> F — The requested information or intelligence has been obtained from another Member State or from a third country and is subject to the rule of speciality and that Member State or third country has not given its consent to the transmission of the information or intelligence.</p>

ANNEX B

INFORMATION EXCHANGE UNDER COUNCIL FRAMEWORK DECISION 2006/960/JHA REQUEST FORM FOR INFORMATION AND INTELLIGENCE TO BE USED BY THE REQUESTING MEMBER STATE

This form shall be used when requesting information and intelligence under Framework Decision 2006/960/JHA

I — Administrative information

Requesting authority (name, address, telephone, fax, e-mail, Member State):	
Details of the handling agent (optional):	
To the following Member State:	
Date and time of this request:	
Reference number of this request:	

Previous requests				
<input type="checkbox"/> This is the first request on this case				
<input type="checkbox"/> This request follows previous requests in the same case				
Previous request(s)			Answer(s)	
	Date	Reference number (in the requesting Member State)	Date	Reference number (in the requested Member State)
1.				
2.				
3.				
4.				

If the request is sent to more than one authority in the requested Member State, please specify each of the channels used:	
<input type="checkbox"/> ENU/Europol Liaison Officer	<input type="checkbox"/> For information <input type="checkbox"/> For execution
<input type="checkbox"/> Interpol NCB	<input type="checkbox"/> For information <input type="checkbox"/> For execution
<input type="checkbox"/> Sirene	<input type="checkbox"/> For information <input type="checkbox"/> For execution
<input type="checkbox"/> Liaison Officer	<input type="checkbox"/> For information <input type="checkbox"/> For execution
<input type="checkbox"/> Other (please specify):	<input type="checkbox"/> For information <input type="checkbox"/> For execution
If the same request is sent to other Member States, please specify the other Member States and the channel used (optional)	

II — Time limits

Reminder: time limits under Article 4 of Framework Decision 2006/960/JHA

A — The offence falls under Article 2(2) of Framework Decision 2002/584/JHA

and

the requested information or intelligence is held in a database directly accessible by a law enforcement authority

→ The request is urgent → Time limit: 8 hours with possibility to postpone

→ The request is not urgent → Time limit: 1 week

B — Other cases: time limit: 14 days

Urgency IS requested

Urgency is NOT requested

Grounds for urgency (e.g.: suspects are being held in custody, the case has to go to court before a specific date):

Information or intelligence requested

Type of crime(s) or criminal activity(ies) being investigated

Description of the circumstances in which the offence(s) was (were) committed, including the time, place and degree of participation in the offence(s) by the person who is the subject of the request for information or intelligence:

Nature of the offence(s)

A — Application of Article 4(1) or 4(3) of the Framework Decision 2006/960/JHA

A.1. The offence is punishable by a maximum term of imprisonment of at least three years in the requesting Member State
AND

A.2. The offence is one (or more) of the following:

- | | |
|--|--|
| <input type="checkbox"/> Participation in a criminal organisation | <input type="checkbox"/> Laundering of the proceeds of crime |
| <input type="checkbox"/> Terrorism | <input type="checkbox"/> Counterfeiting of currency, including the euro |
| <input type="checkbox"/> Trafficking in human beings | <input type="checkbox"/> Computer-related crime |
| <input type="checkbox"/> Sexual exploitation of children and child pornography | <input type="checkbox"/> Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties |
| <input type="checkbox"/> Illicit trafficking in narcotic drugs and psychotropic substances | <input type="checkbox"/> Facilitation of unauthorised entry and residence |
| <input type="checkbox"/> Illicit trafficking in weapons, munitions and explosives | <input type="checkbox"/> Murder, grievous bodily injury |
| <input type="checkbox"/> Corruption | <input type="checkbox"/> Illicit trade in human organs and tissue |
| <input type="checkbox"/> Fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests | <input type="checkbox"/> Kidnapping, illegal restraint and hostage-taking |
| <input type="checkbox"/> Organised or armed robbery | <input type="checkbox"/> Racism and xenophobia |
| <input type="checkbox"/> Illicit trafficking in cultural goods, including antiques and works of art | <input type="checkbox"/> Illicit trafficking in nuclear or radioactive materials |
| <input type="checkbox"/> Swindling | <input type="checkbox"/> Trafficking in stolen vehicles |
| <input type="checkbox"/> Racketeering and extortion | <input type="checkbox"/> Rape |
| <input type="checkbox"/> Counterfeiting and piracy of products | <input type="checkbox"/> Arson |
| <input type="checkbox"/> Forgery of administrative documents and trafficking therein | <input type="checkbox"/> Crimes within the jurisdiction of the International Criminal Court |
| <input type="checkbox"/> Forgery of means of payment | <input type="checkbox"/> Unlawful seizure of aircraft/ships |
| <input type="checkbox"/> Illicit trafficking in hormonal substances and other growth promoters | <input type="checkbox"/> Sabotage |

→ The offence therefore falls under Article 2(2) of Framework Decision 2002/584/JHA → Article 4(1) (urgent cases) and 4(3) (non urgent cases) of Framework Decision 2006/960/JHA are therefore applicable as regards time limits for responding to this request

Or

- B — The offence(s) is(are) not covered under A.
In this case, description of the offence(s):

Purpose for which the information or intelligence is requested**Connection between the purpose for which the information or intelligence is requested and the person who is the subject of the information or intelligence****Identity(ies) (as far as known) of the person(s) being the main subject(s) of the criminal investigation or criminal intelligence operation underlying the request for information or intelligence****Reasons for believing that the information or intelligence is in the requested Member State****Restrictions on the use of information contained in this request for purposes other than those for which it has been supplied or for preventing an immediate and serious threat to public security**

- use granted
 use granted, but do not mention the information provider
 do not use without authorisation of the information provider
 do not use