

Official Journal

of the European Union

L 283



English edition

Legislation

Volume 54

29 October 2011

Contents

II *Non-legislative acts*

INTERNATIONAL AGREEMENTS

2011/708/EU:

- ★ **Decision of the Council and of the Representatives of the Governments of the Member States of the European Union, meeting within the Council of 16 June 2011 on the signing, on behalf of the Union, and provisional application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part; and on the signing, on behalf of the Union, and provisional application of the Ancillary Agreement between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part** 1

Air Transport Agreement 3

Ancillary Agreement between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part 16

2011/709/EU:

- ★ **Council Decision of 20 October 2011 on the conclusion of the Agreement on certain aspects of air services between the European Union and the United Mexican States** 25

Price: EUR 3

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

2011/710/EU:

- ★ **Council Decision of 20 October 2011 on the conclusion of the Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union** 26

REGULATIONS

- ★ **Commission Implementing Regulation (EU) No 1093/2011 of 28 October 2011 on the application of derogations from the rules of origin laid down in the Protocol on the definition of originating products attached to the Free Trade Agreement between the European Union and its Member States and Korea** 27
- ★ **Commission Implementing Regulation (EU) No 1094/2011 of 28 October 2011 fixing the coefficients applicable to cereals exported in the form of Scotch whisky for the period 2011/2012** 30
- ★ **Commission Implementing Regulation (EU) No 1095/2011 of 28 October 2011 amending Implementing Regulation (EU) No 543/2011 as regards the trigger levels for additional duties on cucumbers, artichokes, clementines, mandarins and oranges** 32
- Commission Implementing Regulation (EU) No 1096/2011 of 28 October 2011 establishing the standard import values for determining the entry price of certain fruit and vegetables 34

DIRECTIVES

- ★ **Council Directive 2011/84/EU of 20 September 2011 amending Directive 76/768/EEC, concerning cosmetic products, for the purpose of adapting Annex III thereto to technical progress ⁽¹⁾** 36

RECOMMENDATIONS

2011/711/EU:

- ★ **Commission Recommendation of 27 October 2011 on the digitisation and online accessibility of cultural material and digital preservation** 39



⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

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

of 16 June 2011

on the signing, on behalf of the Union, and provisional application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part; and on the signing, on behalf of the Union, and provisional application of the Ancillary Agreement between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part

(2011/708/EU)

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

Having regard to the Treaty on the Functioning of the European Union and in particular Article 100(2), in conjunction with Article 218(5) and the first subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand⁽¹⁾ ('the Air Transport Agreement'), signed by the United States of America and the Member States of the European Community and the European Community on 25 and 30 April 2007, as amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on 25 and 30 April 2007⁽²⁾ ('the Protocol'), signed by the United States of America, the Member States of the European Union and the European Union on 24 June 2010, explicitly provides for the accession of third countries to the Air Transport Agreement.
- (2) In accordance with Article 18(5) of the Air Transport Agreement, as amended by the Protocol, the Joint Committee established thereunder has developed a proposal for the accession of Iceland and the Kingdom of Norway to the Air Transport Agreement, as amended by the Protocol.

- (3) On 16 November 2010 the Joint Committee proposed an Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part ('the Accession Agreement').
- (4) The Commission has negotiated an Ancillary Agreement between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part ('the Ancillary Agreement').
- (5) The Accession Agreement and the Ancillary Agreement should be signed and applied on a provisional basis, pending the completion of the procedures for their conclusion,

HAVE ADOPTED THIS DECISION:

Article 1

The signing of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part and of the Ancillary Agreement between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part,

⁽¹⁾ OJ L 134, 25.5.2007, p. 4.

⁽²⁾ OJ L 223, 25.8.2010, p. 3.

and the Kingdom of Norway, of the fourth part, is hereby authorised on behalf of the Union, subject to the conclusion of the said Agreements.

The texts of the Accession Agreement and of the Ancillary Agreement are attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Accession Agreement and the Ancillary Agreement on behalf of the Union.

Article 3

The Accession Agreement and the Ancillary Agreement shall be applied on a provisional basis as from the date of signature (*)

by the Union and, to the extent permitted under applicable national law, by its Member States and by the relevant Parties, pending the completion of the procedures for their conclusion.

Article 4

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

Done at Luxembourg, 16 June 2011.

The President
VÖLNER P.

(*) The date of signature of the Accession Agreement and the Ancillary Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AIR TRANSPORT AGREEMENT

THE UNITED STATES OF AMERICA (hereinafter, 'the United States'),

of the first part;

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

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,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

being parties to the Treaty on European Union and the Treaty on the Functioning of the European Union and being Member States of the European Union (hereinafter, 'the Member States'),

and

THE EUROPEAN UNION,

of the second part;

ICELAND,

of the third part; and

THE KINGDOM OF NORWAY (hereinafter, 'Norway'),

of the fourth part;

DESIRING to promote an international aviation system based on competition among airlines 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 transportation networks to meet the needs of passengers and shippers for convenient air transportation services;

DESIRING to make it possible for airlines 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 airline 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 about acts or threats against the security of aircraft, which jeopardise the safety of persons or property, adversely affect the operation of air transportation, and undermine public confidence in the safety of civil aviation;

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

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

AFFIRMING the importance of protecting the environment in developing and implementing international aviation policy;

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 May 28, 1999;

INTENDING to build upon the framework of existing agreements with the goal of opening access to markets and maximising benefits for consumers, airlines, labour, and communities on both sides of the Atlantic;

RECOGNISING the importance of enhancing the access of their airlines to global capital markets in order to strengthen competition and promote the objectives of this Agreement;

INTENDING to establish a precedent of global significance to promote the benefits of liberalisation in this crucial economic sector;

RECOGNISING that the European Union replaced and succeeded the European Community as a consequence of the entry into force on December 1, 2009 of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, and that as of that date, all the rights and obligations of, and all the references to the European Community in the Air Transport Agreement signed by the United States of America and the European Community and its Member States on April 25 and 30, 2007, apply to the European Union;

HAVE AGREED AS FOLLOWS:

Article 1

Definition

'Party' means the United States, the European Union and its Member States, Iceland, or Norway.

Article 2

Application of the Air Transport Agreement as amended by the Protocol and the Annex to this Agreement

The provisions of the Air Transport Agreement signed by the United States of America and the European Community and its Member States on April 25 and 30, 2007 (hereinafter, 'the Air Transport Agreement'), as amended by the Protocol to Amend the Air Transport Agreement signed by the United States of America and the European Union and its Member States on June 24, 2010 (hereinafter, 'the Protocol'), which are hereby incorporated by reference, shall apply to all Parties to this Agreement, subject to the Annex to this Agreement. The provisions of the Air Transport Agreement, as amended by the Protocol, shall apply to Iceland and Norway as though they were Member States of the European Union, so that Iceland and Norway shall have all of the rights and obligations of Member States under that agreement. The provisions of the Annex to this Agreement form an integral part of this Agreement.

Article 3

Termination or cessation of provisional application

1. Either the United States or the European Union and its Member States may, at any time, give notice in writing through diplomatic channels to the other three Parties of its decision to terminate this Agreement or to end this Agreement's provisional application under Article 5.

A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization (ICAO). This Agreement shall terminate, or provisional application of this Agreement shall end, at midnight GMT at the end of the International Air Transport Association (IATA) traffic season in effect one year following the date of the written notification, unless the notice is withdrawn by agreement of all of the Parties before the end of this period.

2. Either Iceland or Norway may, at any time, give notice in writing through diplomatic channels to the other Parties of its decision to withdraw from this Agreement or to end its provisional application of this Agreement under Article 5. A copy of the notice shall be sent simultaneously to ICAO. Such withdrawal or cessation of provisional application shall be effective at midnight GMT at the end of the IATA traffic season in effect one year following the date of written notification, unless the notice is withdrawn by agreement of the Party giving written notice, the United States, and the European Union and its Member States before the end of this period.

3. Either the United States or the European Union and its Member States may, at any time, give notice in writing through diplomatic channels to Iceland or Norway of its decision to terminate this Agreement or to end this Agreement's provisional application, with respect to Iceland or Norway. Copies of the notice shall be sent simultaneously to the other two Parties to this Agreement and to ICAO. Termination or cessation of provisional application with respect to Iceland or Norway shall be effective at midnight GMT at the end of the IATA traffic season in effect one year following the date of written notification, unless the notice is withdrawn by agreement of the United States, the European Union and its Member States, and the Party receiving the notice, before the end of this period.

4. For purposes of the diplomatic notes contemplated by this Article, diplomatic notes to or from the European Union and its Member States shall be delivered to or from, as the case may be, the European Union.

5. Notwithstanding any other provision of this Article, if the Air Transport Agreement, as amended by the Protocol, is terminated, this Agreement shall terminate simultaneously.

Article 4

Registration with ICAO

This Agreement and all amendments thereto shall be registered with ICAO by the General Secretariat of the Council of the European Union.

*Article 5***Provisional Application**

Pending its entry into force, the Parties agree to provisionally apply this Agreement, to the extent permitted under applicable domestic law, from the date of signature. If the Air Transport Agreement, as amended by the Protocol, is terminated in accordance with Article 23 thereof, or its provisional application ceases in accordance with Article 25 of that agreement, or provisional application of the Protocol ceases in accordance with Article 9 of the Protocol, provisional application of this Agreement shall cease simultaneously.

*Article 6***Entry into force**

This Agreement shall enter into force on the later of:

1. the date of entry into force of the Air Transport Agreement;
2. the date of entry into force of the Protocol; and

3. one month after the date of the last note of the exchanges of diplomatic notes among the Parties confirming that all necessary procedures for entry into force of this Agreement have been completed.

For the purposes of this exchange of diplomatic notes, diplomatic notes to or from the European Union and its Member States shall be delivered to or from, as the case may be, the European Union. The diplomatic note or notes from the European Union 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.

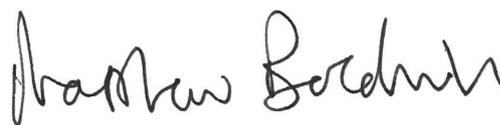
IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Agreement.

Done at Luxembourg and Oslo, in quadruplicate, on the sixteenth and twenty-first of June 2011 respectively.



For the United States of America

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

Fyrir Ísland



For Kongeriket Norge

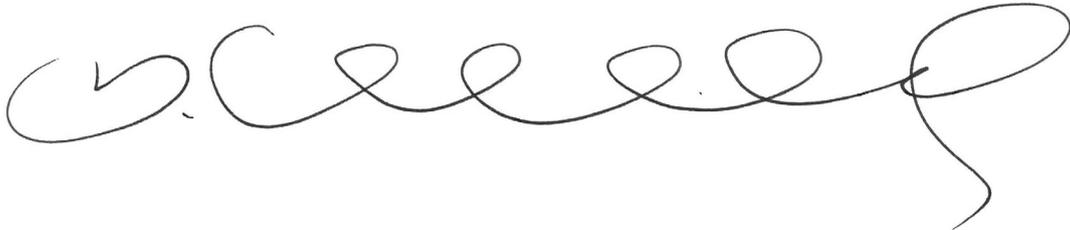


Voor het Koninkrijk België
 Pour le Royaume de Belgique
 Für das Königreich Belgien



Deze handtekening verbindt eveneens het Vlaamse Gewest, het Waalse Gewest en het Brussels Hoofdstedelijk Gewest.
Cette signature engage également la Région wallonne, la Région flamande et la Région de Bruxelles-Capitale.
Diese Unterschrift bindet zugleich die Wallonische Region, die Flämische Region und die Region Brüssel-Hauptstadt.

За Република България

A highly stylized, cursive handwritten signature in black ink, consisting of several large, overlapping loops and a long, sweeping tail.

Za Českou republiku

A handwritten signature in black ink, featuring a prominent, stylized initial 'E' followed by several loops and a short tail.

For Kongeriget Danmark

A handwritten signature in black ink, starting with a large, stylized 'H' followed by several loops and a long, sweeping tail.

Für die Bundesrepublik Deutschland

A handwritten signature in black ink, featuring a large, stylized initial 'U' followed by several loops and a long, sweeping tail.

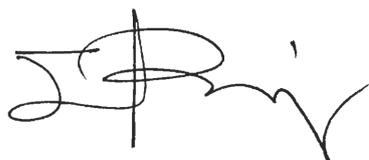
Eesti Vabariigi nimel

A handwritten signature in black ink, consisting of several large, overlapping loops and a long, sweeping tail.

Thar cheann Na hÉireann
For Ireland

A handwritten signature in black ink, featuring a large, stylized initial 'J' followed by several loops and a long, sweeping tail.

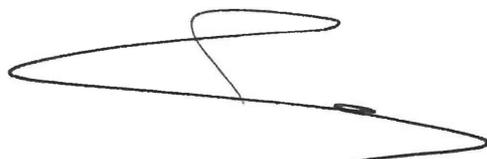
Για την Ελληνική Δημοκρατία



Por el Reino de España



Pour la République française



Per la Repubblica italiana



Για την Κυπριακή Δημοκρατία



Latvijas Republikas vārdā –



Lietuvos Respublikos vardu



Pour le Grand-Duché de Luxembourg



A Magyar Köztársaság részéről



Għal Malta



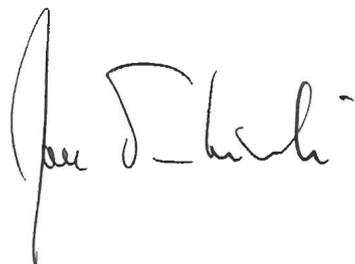
Voor het Koninkrijk der Nederlanden



Für die Republik Österreich



W imieniu Rzeczypospolitej Polskiej



Pela República Portuguesa



Pentru România



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



A handwritten signature in black ink, appearing to read "Philip Hammond". The signature is written in a cursive style. Below the signature, there are two horizontal lines: one shorter line under the first part of the signature and one longer line under the second part.

JOINT DECLARATION

Representatives of the United States of America, the European Union and its Member States, Iceland, and the Kingdom of Norway confirmed that the text of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part ("the Agreement"), is to be authenticated in other languages, as provided either, before signature of the Agreement, by Exchanges of Letters or, after signature of the Agreement, by decision of the Joint Committee.

This Joint Declaration is an integral part of the Agreement.

For the United States of America



For the European Union
and its Member States



For Iceland



For the Kingdom of Norway



ANNEX

Specific provisions with respect to Iceland and Norway

The provisions of the Air Transport Agreement, as amended by the Protocol, modified as follows, shall apply to all Parties to this Agreement. The provisions of the Air Transport Agreement, as amended by the Protocol, shall apply to Iceland and Norway as though they were Member States of the European Union, so that Iceland and Norway shall have all of the rights and obligations of Member States under that agreement, subject to the following:

1. Paragraph 9 of Article 1 of the Air Transport Agreement, as amended by the Protocol, shall read as follows:

‘“Territory” means, for the United States, the land areas (mainland and islands), internal waters and territorial sea under its sovereignty or jurisdiction, and, for the European Union and its Member States, the land areas (mainland and islands), internal waters and territorial sea in which the Agreement on the European Economic Area is applied and under the conditions laid down in that agreement and any successor instrument, with the exception of the land areas and internal waters under the sovereignty or jurisdiction of the Principality of Liechtenstein; 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 the dispute over sovereignty over the territory in which the airport is situated, and to the continuing suspension of Gibraltar Airport from European Union aviation measures existing as at 18 September 2006 as between Member States, in accordance with the Ministerial statement on Gibraltar Airport agreed in Córdoba on 18 September 2006; and’.

2. Articles 23 to 26 of the Air Transport Agreement, as amended by the Protocol, shall not apply to Iceland and Norway.

3. Articles 9 and 10 of the Protocol shall not apply to Iceland and Norway.

4. The following shall be added to Section 1 of Annex 1 of the Air Transport Agreement, as amended by the Protocol:

w. Iceland: Air Transport Agreement, signed at Washington June 14, 1995; amended March 1, 2002 by exchange of notes; amended August 14, 2006 and March 9, 2007 by exchange of notes.

x. The Kingdom of Norway: Agreement relating to Air Transport Services effected by exchange of notes at Washington, October 6, 1945; amended August 6, 1954 by exchange of notes; amended June 16, 1995 by exchange of notes.’.

5. The text of Section 2 of Annex 1 of the Air Transport Agreement, as amended by the Protocol, shall read as follows:

‘Notwithstanding Section 1 of this Annex, for areas that are not encompassed within the definition of ‘territory’ in Article 1 of this Agreement, the agreements in paragraphs (e) (Denmark-United States), (g) (France-United States), (v) (United Kingdom-United States), and (x) (Norway-United States) of that section shall continue to apply, according to their terms.’.

6. The text of Section 3 of Annex 1 of the Air Transport Agreement, as amended by the Protocol, shall read as follows:

‘Notwithstanding Article 3 of this Agreement, U.S. airlines shall not have the right to provide all-cargo services, that are not part of a service that serves the United States, to or from points in the Member States, except to or from points in the Czech Republic, the French Republic, the Federal Republic of Germany, the Grand Duchy of Luxembourg, Malta, the Republic of Poland, the Portuguese Republic, the Slovak Republic, Iceland, and the Kingdom of Norway.’.

7. The following sentence shall be added at the end of Article 3 of Annex 2 of the Air Transport Agreement, as amended by the Protocol:

‘For Iceland and Norway, this includes, but is not limited to, Articles 53, 54, and 55 of the Agreement on the European Economic Area and the European Union Regulations implementing Articles 101, 102 and 105 of the Treaty on the Functioning of the European Union as incorporated into the Agreement on the European Economic Area, as well as any amendments thereto.’.

8. Paragraph 4 of Article 21 of the Air Transport Agreement, as amended by the Protocol, shall apply to Iceland and Norway to the extent that the relevant laws and regulations of the European Union are incorporated into the Agreement on the European Economic Area, in accordance with any adaptations thereby stipulated. The rights provided for in subparagraphs 4(a) and 4(b) of Article 21 of the Air Transport Agreement, as amended by the Protocol, shall only be available to Iceland or Norway if, with respect to the imposition of noise-based operating restrictions, Iceland or Norway, respectively, is subject, under the relevant laws and regulations of the European Union as incorporated into the Agreement on the European Economic Area, to oversight that is comparable to that provided for in paragraph 4 of Article 21 of the Air Transport Agreement, as amended by the Protocol.
-

ANCILLARY AGREEMENT

between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

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,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

being parties to the Treaty on European Union and to the Treaty on the Functioning of the European Union and being Member States of the European Union (hereinafter, 'the Member States'),

and

THE EUROPEAN UNION,

of the first part;

ICELAND,

of the second part;

and

THE KINGDOM OF NORWAY (hereinafter, 'Norway'),

of the third part;

NOTING that the European Commission has negotiated, on behalf of the European Union and of the Member States, an Agreement on Air Transport with the United States of America in accordance with the Council Decision authorising the Commission to open negotiations,

NOTING that the Air Transport Agreement between the United States of America and the European Community and its Member States (hereinafter, 'the Air Transport Agreement') was initialled on 2 March 2007, signed at Brussels on 25 April 2007 and at Washington, D.C. on 30 April 2007 and provisionally applied from 30 March 2008,

NOTING that the Air Transport Agreement was amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Union and its Member States (hereinafter, 'the Protocol'), initialled on 25 March 2010, and signed at Luxembourg on 24 June 2010,

NOTING that Iceland and Norway, being fully integrated members of the single European Aviation Market through the Agreement on the European Economic Area, have adhered to the Air Transport Agreement as amended by the Protocol through an Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part (hereinafter 'the Agreement'), of even date, which incorporates the Air Transport Agreement as amended by the Protocol,

RECOGNISING that it is necessary to lay down procedural arrangements for deciding, if appropriate, how to take measures pursuant to Article 21, paragraph 5 of the Air Transport Agreement as amended by the Protocol,

RECOGNISING that it is furthermore necessary to lay down procedural arrangements for the participation of Iceland and Norway in the Joint Committee set up under Article 18 of the Air Transport Agreement as amended by the Protocol and in the arbitration procedures provided for in Article 19 of the Air Transport Agreement as amended by the Protocol. These procedural arrangements should ensure the necessary cooperation, flow of information and consultation before Joint Committee meetings, as well as the implementation of certain provisions of the Air Transport Agreement as amended by the Protocol, including those concerning security, safety, the granting and revocation of traffic rights and government support,

HAVE AGREED AS FOLLOWS:

Article 1

Notification

Should the European Union and its Member States decide to terminate the Agreement in accordance with Article 3 of the Agreement or to discontinue its provisional application, or to withdraw notices to that effect, the Commission shall, before giving notice through diplomatic channels to the United States of America, immediately notify Iceland and Norway thereof. Iceland and/or Norway shall likewise immediately notify the Commission of any such decision.

Article 2

Suspension of Traffic Rights

A decision not to allow airlines of the other Party to operate additional frequencies or enter new markets under the Agreement and give notice thereof to the United States of America, or to agree to lift any such decision, taken in accordance with Article 21, paragraph 5 of the Air Transport Agreement as amended by the Protocol, shall be adopted by the Council, on behalf of the European Union and of the Member States, acting unanimously in accordance with the relevant

Treaty provisions, and by Iceland and Norway. The President of the Council, acting on behalf of the European Union and of the Member States, Iceland and Norway shall then give notice to the United States of America of any such decision.

Article 3

Joint Committee

1. The European Union, the Member States, Iceland and Norway shall be represented in the Joint Committee established under Article 18 of the Air Transport Agreement as amended by the Protocol by representatives of the Commission, the Member States, Iceland and Norway.

2. The position of the European Union, the Member States, Iceland and Norway within the Joint Committee shall be presented by the Commission, except in areas within the EU that fall exclusively within Member States' competence, in which case it shall be presented by the Presidency of the Council or by the Commission, Iceland and Norway as appropriate.

3. The position to be taken by Iceland and Norway within the Joint Committee as regards matters that fall within Articles 14 or 20 of the Air Transport Agreement as amended by the Protocol, or matters that do not require the adoption of a decision having legal effects shall be adopted by the Commission in agreement with Iceland and Norway.

4. For other Joint Committee decisions concerning matters that fall within regulations and directives that are incorporated in the Agreement on the European Economic Area, the position to be taken by Iceland and Norway shall be adopted by Iceland and Norway on a proposal from the Commission.

5. For other Joint Committee decisions concerning matters that fall outside regulations and directives that are incorporated in the Agreement on the European Economic Area, the position to be taken by Iceland and Norway, shall be adopted by Iceland and Norway in agreement with the Commission.

6. The Commission shall take adequate measures to ensure full participation of Iceland and Norway in any coordination, consultation or decision shaping meetings with the Member States and access to the relevant information in preparation to Joint Committee meetings to be held.

Article 4

Arbitration

1. The Commission shall represent the European Union, the Member States, Iceland and Norway in arbitration proceedings under Article 19 of the Air Transport Agreement as amended by the Protocol.

2. The Commission shall, as appropriate, take measures to ensure the involvement of Iceland and Norway in the preparation and coordination of arbitration proceedings.

3. If the Council decides to suspend benefits in accordance with Article 19, paragraph 7 of the Air Transport Agreement as amended by the Protocol that decision shall be notified to Iceland and Norway. Iceland and/or Norway shall likewise inform the Commission of any such decision made.

4. Any other appropriate action to be taken under Article 19 of the Air Transport Agreement as amended by the Protocol on matters which within the EU fall within the Union competence shall be decided upon by the Commission, with assistance of a Special Committee of representatives of the Member States appointed by the Council, of Iceland and of Norway.

Article 5

Exchange of Information

1. Iceland and Norway shall promptly inform the Commission of any decision to refuse, revoke, suspend or limit the authorisations of an airline of the United States of America that they have adopted under Article 4 or 5 of the Air Transport Agreement as amended by the Protocol. The Commission shall likewise promptly inform Iceland and Norway of any such decision taken by Member States.

2. Iceland and Norway shall inform the Commission immediately of any requests or notifications made or received by them under Article 8 of the Air Transport Agreement as amended by the Protocol. The Commission shall likewise immediately inform Iceland and Norway of any such requests or notifications made or received by Member States.

3. Iceland and Norway shall inform the Commission immediately of any requests or notifications made or received by them under Article 9 of the Air Transport Agreement as amended by the Protocol. The Commission shall likewise immediately inform Iceland and Norway of any such requests or notifications made or received by Member States.

Article 6

Government subsidies and support

1. Should Iceland or Norway believe that a subsidy or support being considered or provided by a governmental entity in the territory of the United States of America will have the adverse competitive effects referred to in Article 14, paragraph 2 of the Air Transport Agreement as amended by the Protocol, it shall bring the matter to the attention of the Commission. Should a Member State have brought a similar matter to the attention of the Commission, the Commission shall likewise bring the matter to the attention of Iceland and Norway.

2. The Commission, Iceland and Norway may approach such entity or request a meeting of the Joint Committee established under Article 18 of the Air Transport Agreement as amended by the Protocol.

3. The Commission, Iceland and Norway shall inform each other immediately when they are contacted by the United States of America under Article 14, paragraph 3 of the Air Transport Agreement as amended by the Protocol.

Article 7

Termination or cessation of provisional application

1. A Party may, at any time, give notice in writing through diplomatic channels to the other Parties of its decision to terminate this Ancillary Agreement or to end its provisional application. This Ancillary Agreement shall terminate or shall cease to be provisionally applied at midnight GMT six months following the date of the written notification of termination or of cessation of provisional application, unless the notice is withdrawn by agreement of the Parties before the end of this period.

2. Notwithstanding any other provision of this Article, if the Agreement is terminated or its provisional application is ended, this Ancillary Agreement shall simultaneously terminate or cease to be provisionally applied.

Article 8

Provisional application

Pending entry into force pursuant to Article 9, the Parties agree to provisionally apply this Ancillary Agreement, to the extent permitted under applicable domestic law, from the later of the date of the signature of this Ancillary Agreement or of the date specified in Article 5 of the Agreement.

Article 9

Entry into force

This Ancillary Agreement shall enter into force either (a) one month after the date of the latest note in exchange of diplomatic notes between the Parties confirming that all necessary procedures for entry into force of this Ancillary Agreement have been completed, or (b) on the date of entry into force of the Agreement, whichever is the later.

IN WITNESS WHEREOF, the undersigned, duly authorised to that effect, have signed this Ancillary Agreement.

Done at Luxembourg and Oslo, in triplicate, on the 16th and 21st of June 2011 respectively, in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Icelandic, Italian, Latvian, Lithuanian, Maltese, Norwegian, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, all texts being authentic.

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



Fyrir Ísland



For Kongeriket Norge

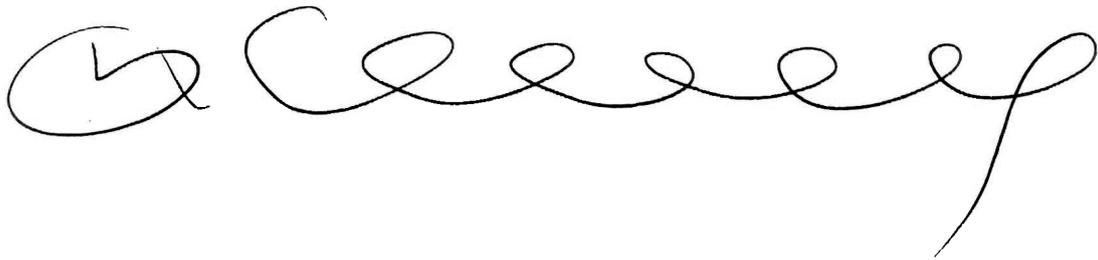


Voor het Koninkrijk België
 Pour le Royaume de Belgique
 Für das Königreich Belgien



Deze handtekening verbindt eveneens het Vlaamse Gewest, het Waalse Gewest en het Brussels Hoofdstedelijk Gewest.
 Cette signature engage également la Région wallonne, la Région flamande et la Région de Bruxelles-Capitale.
 Diese Unterschrift bindet zugleich die Wallonische Region, die Flämische Region und die Region Brüssel-Hauptstadt.

За Република България

A large, stylized handwritten signature in black ink, consisting of a large initial 'G' followed by a long, flowing cursive line.

Za Českou republiku

A handwritten signature in black ink, appearing to be 'Emil R.' followed by a flourish.

For Kongeriget Danmark

A handwritten signature in black ink, appearing to be 'Lars L.' followed by a flourish.

Für die Bundesrepublik Deutschland

A handwritten signature in black ink, appearing to be 'Udo L.' followed by a flourish.

Eesti Vabariigi nimel

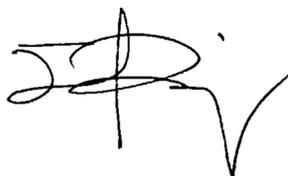
A handwritten signature in black ink, appearing to be 'Kalle L.' followed by a flourish.

Thar cheann Na hÉireann

For Ireland

A handwritten signature in black ink, appearing to be 'Joe L.' followed by a flourish.

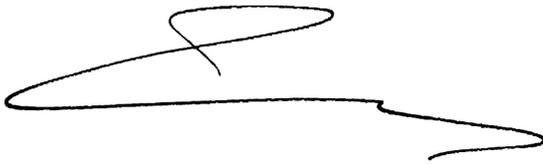
Για την Ελληνική Δημοκρατία

A handwritten signature in black ink, appearing to be 'J. L.' followed by a flourish.

Por el Reino de España

A handwritten signature in black ink, consisting of several vertical strokes and loops, representing the signature of the Spanish representative.

Pour la République française

A handwritten signature in black ink, featuring a long horizontal stroke with a loop at the end and a smaller loop above it.

Per la Repubblica italiana

A handwritten signature in black ink, appearing as a stylized 'M' followed by a vertical line and a small flourish.

Για την Κυπριακή Δημοκρατία

A handwritten signature in black ink, written in Greek characters, appearing as 'Γιλλοκρατία'.

Latvijas Republikas vārdā –

A handwritten signature in black ink, consisting of a few simple, sweeping strokes.

Lietuvos Respublikos vardu

A handwritten signature in black ink, appearing as 'A. S. L.' with a horizontal line underneath.

Pour le Grand-Duché de Luxembourg



A Magyar Köztársaság részéről



Għal Malta



Voor het Koninkrijk der Nederlanden



Für die Republik Österreich



W imieniu Rzeczypospolitej Polskiej



Pela República Portuguesa



Pentru România



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



COUNCIL DECISION**of 20 October 2011****on the conclusion of the Agreement on certain aspects of air services between the European Union and the United Mexican States**

(2011/709/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) in conjunction with Article 218(6)(a) and the first subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) By its Decision of 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 an agreement at Union level.
- (2) On behalf of the Union, the Commission has negotiated an Agreement on certain aspects of air services with the United Mexican States (the Agreement) in accordance with the mechanisms and directives in the Annex to the Council Decision of 5 June 2003.
- (3) The Agreement was signed on behalf of the Union on 15 December 2010, subject to its conclusion at a later date, in accordance with Council Decision 2011/94/EU ⁽¹⁾.

(4) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement on certain aspects of air services between the European Union and the United Mexican States (the Agreement) is hereby approved on behalf of the Union ⁽²⁾.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to make the notification provided for in Article 7(1) of the Agreement.

Article 3

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

Done at Luxembourg, 20 October 2011.

For the Council
The President
M. SAWICKI

⁽¹⁾ OJ L 38, 12.2.2011, p. 33.

⁽²⁾ The Agreement has been published in OJ L 38, 12.2.2011, p. 34 together with the decision on signature.

COUNCIL DECISION

of 20 October 2011

on the conclusion of the Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union

(2011/710/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Article 4

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with point (a) of Article 218(6), Article 218(7) and the first subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The Commission has negotiated on behalf of the Union the Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union (hereinafter the 'Memorandum') in civil aviation research and development.
- (2) The Memorandum was signed on 3 March 2011.
- (3) The Memorandum should be approved by the Union.
- (4) It is necessary to lay down procedural arrangements for the participation of the Union in the Joint Committee established by the Memorandum, and the resolution of disagreements,

1. The Commission, after consultation with the Special Committee appointed by the Council, shall determine the position to be taken by the Union in the Joint Committee, including with respect to the adoption of:

— additional Annexes to the Memorandum and Appendices thereto as referred to in Article III(E), paragraph 2 of the Memorandum,

— amendments to Annexes to the Memorandum and Appendices thereto, as referred to in Article III(E), paragraph 3 of the Memorandum.

2. The Commission shall determine the position to be taken by the Union in the Joint Committee for the development and adoption of the internal governing procedures of the Joint Committee as provided for in Article III(C) of the Memorandum.

3. The Commission may take any appropriate action under Articles II(B), IV, V, VII and VIII of the Memorandum.

4. The Commission shall represent the Union in consultations under Article XI of the Memorandum.

HAS ADOPTED THIS DECISION:

Article 1

The Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union (hereinafter the 'Memorandum') is hereby approved on behalf of the Union ⁽¹⁾.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to give the notification provided for in Article XII(B) of the Memorandum ⁽²⁾.

Article 3

The Union shall be represented in the Joint Committee established under Article III of the Memorandum by the Commission, assisted by representatives of the Member States.

Article 5

The Commission shall regularly inform the Council of the implementation of the Memorandum.

Article 6

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

Done at Luxembourg, 20 October 2011.

For the Council

The President

M. SAWICKI

⁽¹⁾ The Memorandum has been published in the *Official Journal of the European Union* together with the decision on signature (OJ L 89, 5.4.2011, p. 3).

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

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 1093/2011

of 28 October 2011

on the application of derogations from the rules of origin laid down in the Protocol on the definition of originating products attached to the Free Trade Agreement between the European Union and its Member States and Korea

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision 2011/265/EU of 16 September 2010 on the signing and provisional application of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea ⁽¹⁾, of the other part, and in particular Article 7 thereof,

Whereas:

(1) By Decision 2011/265/EU, the Council authorised the signature of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part ⁽²⁾ ('the Agreement') on behalf of the European Union. Decision 2011/265/EU confirmed the provisional application of the Agreement, subject to its conclusion at a later stage, as provided for in Article 15.10.5 of the Agreement. The date from which the Agreement applies on a provisional basis was set at 1 July 2011.

(2) For a number of specific products, Annex II(a) to the Protocol attached to the Agreement concerning the definition of 'originating products' and methods of administrative cooperation ⁽³⁾ ('the Protocol') provides for derogations from the rules of origin set out in Annex II to the Protocol. However, the derogations are limited by annual quotas. It is therefore necessary to lay down the conditions for the application of those derogations.

(3) In accordance with Annex II(a) to the Protocol, the proof of origin for surimi preparations (CN code 1604 20 05) should be accompanied by documentary evidence that the surimi preparation contains at least 40 per cent fish by weight and that the Alaska Pollack (*Theragra chalcogramma*) species has been used as the primary ingredient of the surimi base.

(4) In accordance with Annex II(a) to the Protocol, the proof of origin for dyed woven fabrics of CN codes 5408 22

and 5408 32 should be accompanied by documentary evidence that the undyed fabric used does not exceed 50 per cent of the ex-works price of the product.

(5) Since the quotas set out in Annex II(a) to the Protocol are to be managed by the Commission on a first-come, first-served basis, they should be managed in accordance with Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁴⁾.

(6) Since the Agreement takes effect on 1 July 2011, this Regulation should apply from the same date.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The rules of origin set out in Annex II(a) to the Protocol concerning the definition of 'originating products' and methods of administrative cooperation attached to the Free Trade Agreement between the European Union and its Member States and the Republic of Korea ('the Protocol') shall apply for the products set out in the Annex to this Regulation.

2. The rules of origin referred to in paragraph 1 shall apply by derogation from the rules of origin set out in Annex II to the Protocol, subject to the quotas set out in the Annex.

Article 2

The rules of origin provided for in this Regulation shall apply under the following conditions:

(a) a declaration signed by the approved exporter certifying that the products concerned satisfy the conditions of the derogation shall be provided upon the release of the products for free circulation within the Union;

⁽¹⁾ OJ L 127, 14.5.2011, p. 1.

⁽²⁾ OJ L 127, 14.5.2011, p. 6.

⁽³⁾ OJ L 127, 14.5.2011, p. 1344.

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1.

(b) the declaration referred to in point (a) shall contain the following statement in English: 'Derogation — Annex II(a) of the Protocol concerning the definition of originating products and methods of administrative cooperation'.

Article 3

1. Where a proof of origin is provided for surimi preparations of CN code 1604 20 05, it shall be accompanied by documentary evidence that the surimi preparation contains at least 40 per cent fish by weight and that the Alaska Pollack (*Theragra chalcogramma*) species has been used as the primary ingredient of the surimi base.

2. Where necessary, the meaning of 'primary ingredient' as referred to in paragraph 1 shall be interpreted by the Customs Committee in accordance with Article 28 of the Protocol.

Article 4

1. The documentary evidence referred to in Article 3 shall consist of at least a signed statement in English by the approved exporter that:

- (a) the surimi preparation contains at least 40 per cent fish by weight;
- (b) the Alaska Pollack (*Theragra chalcogramma*) species has been used as the primary ingredient of the surimi base.

2. The statement referred to in paragraph 1 shall also include the following:

- (a) the amount used of the Alaska Pollack (*Theragra chalcogramma*) species as a percentage of the fish used for producing the surimi;

(b) the country of origin of the Alaska Pollack.

Article 5

Where a proof of origin is provided for dyed woven fabrics of CN codes 5408 22 and 5408 32, it shall be accompanied by documentary evidence that the undyed fabric used does not exceed 50 per cent of the ex-works price of the product.

Article 6

The documentary evidence referred to in Article 5 shall consist of at least a signed statement in English by the approved exporter that the undyed fabric used does not exceed 50 per cent of the ex-works price of the product. The statement shall also include the following:

- (a) the price in euro of the non-originating undyed fabrics used to make the dyed woven fabrics (CN codes 5408 22 and 5408 32);
- (b) the ex-works price in euro of the dyed woven fabrics (CN codes 5408 22 and 5408 32).

Article 7

The quotas listed in the Annex to this Regulation shall be managed by the Commission in accordance with the provisions of Articles 308a to 308c of Regulation (EEC) No 2454/93.

Article 8

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

It shall apply from 1 July 2011.

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

Done at Brussels, 28 October 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of this Regulation.

Order No	CN code	TARIC subdivision	Description of products	Quota period	Quota volume (in tonnes net weight unless otherwise specified)
09.2450	1604 20 05		Preparations of surimi	1.7.2011-30.6.2012	2 000
				1.7.2012-30.6.2013	2 500
				From 1.7.2013 onwards: 1.7-30.6	3 500
09.2451	1905 90 45		Biscuits	1.7-30.6	270
09.2452	2402 20		Cigarettes containing tobacco	1.7-30.6	250
09.2453	5204		Cotton sewing thread, whether or not put up for retail sale	1.7-30.6	86
09.2454	5205		Cotton yarn (other than sewing thread), containing 85 % or more by weight of cotton, not put up for retail sale	1.7-30.6	2 310
09.2455	5206		Cotton yarn (other than sewing thread), containing less than 85 % by weight of cotton, not put up for retail sale	1.7-30.6	377
09.2456	5207		Cotton yarn (other than sewing thread), put for retail sale	1.7-30.6	92
09.2457	5408		Woven fabrics of artificial filament yarn, including woven fabrics obtained from materials of heading 5405	1.7-30.6	17 805 290 m ²
09.2458	5508		Sewing thread of man-made staple fibres, whether or not put up for retail sale	1.7-30.6	286
09.2459	5509		Yarn (other than sewing thread) of synthetic staple fibres, not put up for retail sale	1.7-30.6	3 437
09.2460	5510		Yarn (other than sewing thread) of artificial staple fibres, not put up for retail sale	1.7-30.6	1 718
09.2461	5511		Yarn (other than sewing thread) of man-made staple fibres, put up for retail sale	1.7-30.6	203

COMMISSION IMPLEMENTING REGULATION (EU) No 1094/2011**of 28 October 2011****fixing the coefficients applicable to cereals exported in the form of Scotch whisky for the period 2011/2012**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1670/2006 of 10 November 2006 laying down certain detailed rules for the application of Council Regulation (EC) No 1784/2003 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 4(1) of Regulation (EC) No 1670/2006 lays down that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. The coefficient is to express the average ratio between the total quantities exported and the total quantities marketed of the spirit drink concerned, on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirit drink in question.
- (2) According to the information provided by the United Kingdom in respect of the period 1 January to 31 December 2010, the average ageing period for Scotch whisky in 2010 was eight years.

(3) Commission Regulation (EC) No 1113/2010 of 1 December 2010 fixing the coefficients applicable to cereals exported in the form of Scotch whisky for the period 2010/2011 ⁽³⁾ has exhausted its effects, as it concerns the coefficients applicable for the year 2010/2011. The coefficients for the period 1 October 2011 to 30 September 2012 should therefore be fixed accordingly.

(4) Article 10 of Protocol 3 to the Agreement on the European Economic Area excludes the grant of refunds in respect of exports to Liechtenstein, Iceland and Norway. Moreover, the Union has concluded agreements abolishing export refunds with certain third countries. Under the terms of Article 7(2) of Regulation (EC) No 1670/2006, this should be taken into account in calculating the coefficients for 2011/2012,

HAS ADOPTED THIS REGULATION:

Article 1

For the period 1 October 2011 to 30 September 2012, the coefficients provided for in Article 4 of Regulation (EC) No 1670/2006 applying to cereals used in the United Kingdom for manufacturing Scotch whisky shall be as set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 October 2011 to 30 September 2012.

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

Done at Brussels, 28 October 2011.

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 312, 11.11.2006, p. 33.

⁽³⁾ OJ L 316, 2.12.2010, p. 2.

ANNEX

Coefficients applicable in the United Kingdom

Period of application	Coefficient applicable	
	to malted barley used in the production of malt whisky	to cereals used in the production of grain whisky
From 1 October 2011 to 30 September 2012	0,296	0,229

COMMISSION IMPLEMENTING REGULATION (EU) No 1095/2011**of 28 October 2011****amending Implementing Regulation (EU) No 543/2011 as regards the trigger levels for additional duties on cucumbers, artichokes, clementines, mandarins and oranges**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 143(b) in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾ provides for the surveillance of the imports of the products listed in Annex XVIII thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾.
- (2) For the purposes of Article 5(4) of the Agreement on Agriculture ⁽⁴⁾ concluded during the Uruguay Round of

multilateral trade negotiations and in the light of the latest data available for 2008, 2009 and 2010, the trigger levels for additional duties on cucumbers, artichokes, clementines, mandarins and oranges should be adjusted.

- (3) Implementing Regulation (EU) No 543/2011 should therefore be amended accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVIII to Regulation (EU) No 543/2011 is replaced by the text set out in the Annex to this Regulation.

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

It shall apply from 1 November 2011.

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

Done at Brussels, 28 October 2011.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 157, 15.6.2011, p. 1.⁽³⁾ OJ L 253, 11.10.1993, p. 1.⁽⁴⁾ OJ L 336, 23.12.1994, p. 22.

ANNEX

'ANNEX XVIII

ADDITIONAL IMPORT DUTIES: TITLE IV, CHAPTER I, SECTION 2

Without prejudice to the rules governing the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they stand at the time of the adoption of this Regulation.

Order number	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015	0702 00 00	Tomatoes	From 1 October to 31 May	481 762
78.0020			From 1 June to 30 September	44 251
78.0065	0707 00 05	Cucumbers	From 1 May to 31 October	92 229
78.0075			From 1 November to 30 April	55 270
78.0085	0709 90 80	Artichokes	From 1 November to 30 June	11 620
78.0100	0709 90 70	Courgettes	From 1 January to 31 December	57 955
78.0110	0805 10 20	Oranges	From 1 December to 31 May	292 760
78.0120	0805 20 10	Clementines	From 1 November to end of February	85 392
78.0130	0805 20 30 0805 20 50 0805 20 70 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	From 1 November to end of February	99 128
78.0155	0805 50 10	Lemons	From 1 June to 31 December	346 366
78.0160			From 1 January to 31 May	88 090
78.0170	0806 10 10	Table grapes	From 21 July to 20 November	80 588
78.0175	0808 10 80	Apples	From 1 January to 31 August	700 556
78.0180			From 1 September to 31 December	65 039
78.0220	0808 20 50	Pears	From 1 January to 30 April	229 646
78.0235			From 1 July to 31 December	35 541
78.0250	0809 10 00	Apricots	From 1 June to 31 July	5 794
78.0265	0809 20 95	Cherries, other than sour cherries	From 21 May to 10 August	30 783
78.0270	0809 30	Peaches, including nectarines	From 11 June to 30 September	5 613
78.0280	0809 40 05	Plums	From 11 June to 30 September	10 293'

COMMISSION IMPLEMENTING REGULATION (EU) No 1096/2011**of 28 October 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 29 October 2011.

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

Done at Brussels, 28 October 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	AL	82,9
	MA	43,8
	MK	71,7
	ZZ	66,1
0707 00 05	AL	45,6
	EG	151,1
	JO	191,6
	MK	62,2
	TR	150,5
	ZZ	120,2
0709 90 70	AR	33,4
	TR	140,0
	ZZ	86,7
0805 50 10	AR	62,1
	CL	76,5
	TR	66,9
	ZA	79,0
	ZZ	71,1
0806 10 10	BR	224,9
	CL	71,4
	TR	127,6
	US	252,5
	ZA	67,9
	ZZ	148,9
0808 10 80	AR	48,0
	BR	86,4
	CA	92,8
	CL	90,0
	CN	82,6
	NZ	126,9
	US	99,9
	ZA	122,3
	ZZ	93,6
0808 20 50	CN	52,9
	TR	130,3
	ZZ	91,6

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

DIRECTIVES

COUNCIL DIRECTIVE 2011/84/EU

of 20 September 2011

amending Directive 76/768/EEC, concerning cosmetic products, for the purpose of adapting Annex III thereto to technical progress

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products⁽¹⁾, and in particular Article 8(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The use of hydrogen peroxide is already subject to restrictions and conditions laid down in Annex III, Part 1 to Directive 76/768/EEC.
- (2) The Scientific Committee on Consumer Products, which has been replaced by the Scientific Committee on Consumer Safety (hereinafter SCCS) pursuant to Commission Decision 2008/721/EC of 5 August 2008 setting up an advisory structure of Scientific Committees and experts in the field of consumer safety, public health and the environment and repealing Decision 2004/210/EC⁽²⁾, has confirmed that a maximum concentration of 0,1 % of hydrogen peroxide present in oral products or released from other compounds or mixtures in those products is safe. It should therefore be possible to continue to use hydrogen peroxide in that concentration in oral products, including tooth whitening or bleaching products.
- (3) The SCCS considers that the use of tooth whitening or bleaching products containing more than 0,1 % and up

to 6 % of hydrogen peroxide present or released from other compounds or mixtures in these products may be safe if the following conditions are satisfied: an appropriate clinical examination is carried out in order to ensure there are no risk factors or any other oral pathology of concern and that exposure to these products is limited so as to ensure that the products are used only as intended in terms of frequency and duration of application. These conditions should be fulfilled in order to avoid reasonably foreseeable misuse.

- (4) Those products should therefore be regulated in a way that ensures that they are not directly available to the consumer. For each cycle of use of those products, the first use should be limited to dental practitioners, as defined under Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications⁽³⁾ or under their direct supervision if an equivalent level of safety is ensured. Dental practitioners should then provide access to those products for the rest of the cycle of use.
- (5) An appropriate labelling regarding the concentration in hydrogen peroxide of the tooth whitening or bleaching products containing more than 0,1 % of this substance should be provided for in order to ensure the appropriate use of these products. For this purpose, the exact concentration in percentage of hydrogen peroxide present or released from other compounds and mixtures in those products should be clearly indicated on the label.
- (6) Directive 76/768/EEC should therefore be amended accordingly.
- (7) The Standing Committee on Cosmetic Products has not delivered an opinion within the time limit laid down by its Chairman,

⁽¹⁾ OJ L 262, 27.9.1976, p. 169.

⁽²⁾ OJ L 241, 10.9.2008, p. 21.

⁽³⁾ OJ L 255, 30.9.2005, p. 22.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex III to Directive 76/768/EEC is amended in accordance with the Annex to this Directive.

Article 2

1. Before 30 October 2012 Member States shall adopt and publish the provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

They shall apply these provisions from 31 October 2012.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 20 September 2011.

For the Council
The President
M. SAWICKI

ANNEX

In Part 1 of Annex III to Directive 76/768/EEC, reference number 12 is replaced by the following:

Reference number	Substance	Restrictions			Conditions of use and warnings which must be printed on the label
		Field of application and/or use	Maximum authorised concentration in the finished cosmetic product	Other limitations and requirements	
'12	Hydrogen peroxide and other compounds or mixtures that release hydrogen peroxide, including carbamide peroxide and zinc peroxide	<p>(a) Hair care mixtures</p> <p>(b) Skin care mixtures</p> <p>(c) Nail hardening mixtures</p> <p>(d) Oral products, including mouth rinse, tooth paste and tooth whitening or bleaching products</p> <p>(e) Tooth whitening or bleaching products</p>	<p>(a) 12 % of H₂O₂ (40 volumes), present or released</p> <p>(b) 4 % of H₂O₂, present or released</p> <p>(c) 2 % of H₂O₂, present or released</p> <p>(d) ≤ 0,1 % of H₂O₂, present or released</p> <p>(e) > 0,1 % ≤ 6 % of H₂O₂, present or released</p>	<p>(e) To be only sold to dental practitioners. For each cycle of use, first use by dental practitioners as defined under Directive 2005/36/EC (*) or under their direct supervision if an equivalent level of safety is ensured. Afterwards to be provided to the consumer to complete the cycle of use.</p> <p>Not to be used on a person under 18 years of age.</p>	<p>(a) Wear suitable gloves</p> <p>(a) (b) (c) (e)</p> <p>Contains hydrogen peroxide</p> <p>Avoid contact with eyes</p> <p>Rinse immediately if product comes into contact with them.</p> <p>(e) Concentration of H₂O₂ present or released indicated in percentage.</p> <p>Not to be used on a person under 18 years of age.</p> <p>To be only sold to dental practitioners. For each cycle of use, the first use to be only done by dental practitioners or under their direct supervision if an equivalent level of safety is ensured. Afterwards to be provided to the consumer to complete the cycle of use.</p>

(*) OJ L 255, 30.9.2005, p. 22.'

RECOMMENDATIONS

COMMISSION RECOMMENDATION

of 27 October 2011

on the digitisation and online accessibility of cultural material and digital preservation

(2011/711/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) The Digital Agenda for Europe seeks to optimise the benefits of information technologies for economic growth, job creation and the quality of life of European citizens, as part of the Europe 2020 strategy. The digitisation and preservation of Europe's cultural memory which includes print (books, journals and newspapers), photographs, museum objects, archival documents, sound and audiovisual material, monuments and archaeological sites (hereinafter 'cultural material') is one of the key areas tackled by the Digital Agenda.
- (2) The EU's strategy for digitisation and preservation builds on the work done over the last few years in the digital libraries initiative. The European actions in this area, including the development of Europeana, Europe's digital library archive and museum, were supported by the European Parliament and the Council, most recently in a Parliament resolution of 5 May 2010 and the Council Conclusions of 10 May 2010. The Workplan for Culture 2011-14, established by the Council at its meeting of 18 and 19 November 2010, highlights the need for a coordinated effort in the area of digitisation.
- (3) On 28 August 2006, the Commission issued a Recommendation to the Member States with a view to optimising, by means of the Internet, the economic and cultural potential of Europe's cultural heritage. The Member States' reports on the implementation of the Recommendation of 2008 and 2010 show that progress has been made. However, progress is not consistent across the Member States and is uneven for the different points of the Recommendation.
- (4) Moreover the context for digitisation efforts and for collaboration at European level has changed considerably over the last few years. New elements include the launch of Europeana in November 2008, the publication of the report 'The New Renaissance' by the 'Comité des Sages on bringing Europe's cultural heritage online' of 10 January 2011 and the Commission's proposal for an Orphan Works Directive of 24 May 2011.
- (5) Therefore, an updated set of measures for digitising and bringing cultural heritage online and for digital preservation should be recommended to the Member States. In that context, the development of digitised material from libraries, archives and museums should be further encouraged in order to ensure that Europe maintains its place as a leading international player in the field of culture and creative content and uses its wealth of cultural material in the best possible way. As underlined by the 'Comité des Sages on bringing Europe's cultural heritage online', Europe needs to act now to reap the benefits of digitisation and digital preservation. If Member States do not step up their investments in this area, there is a risk that the cultural and economic benefits of the digital shift will materialise in other continents and not in Europe.
- (6) The online accessibility of cultural material will make it possible for citizens throughout Europe to access and use it for leisure, studies or work. It will give Europe's diverse and multilingual heritage a clear profile on the Internet, and the digitisation of their assets will help Europe's cultural institutions to continue carrying out their mission of giving access to and preserving our heritage in the digital environment.
- (7) Moreover, the digitised material can be reused – for both commercial and non-commercial purposes – for uses such as developing learning and educational content,

documentaries, tourism applications, games, animations and design tools, provided that this is done with full respect for copyright and related rights. This will give an important input to the creative industries, which account for 3,3 % of EU GDP and 3 % of employment. These industries are faced with a digital transition that is shaking up traditional models, transforming value chains and calling for new business models. Digitising and providing wider access to cultural resources offers enormous economic opportunities and is an essential condition for the further development of Europe's cultural and creative capacities and of its industrial presence in this field.

- (8) Digitisation is an important means for ensuring greater access to and use of cultural material. Concerted action by the Member States to digitise their cultural heritage would lend greater coherence to the selection of material and would avoid overlap in digitisation. It would also lead to a more secure climate for companies investing in digitisation technologies. Overviews of current and planned digitisation activities and quantitative targets for digitisation would contribute to achieving those objectives.
- (9) The cost of digitising the whole of Europe's cultural heritage is high and cannot be covered by public funding alone. Private sector sponsoring of digitisation or partnerships between the public and private sectors can involve private entities in digitisation efforts and should be further encouraged. In order to be fair and balanced, these partnerships should comply with a number of key principles. In particular it is necessary to set time limits for the preferential use of the digitised material. The 'Comité des Sages on bringing Europe's cultural heritage online' indicated that the maximum time for preferential use of the material digitised in public-private partnerships should not be longer than 7 years.
- (10) The EU Structural Funds can be and are being used to co-fund digitisation activities as part of projects having an impact on the regional economy. However, such use could be more widespread and systematic. Mass digitisation processes can gain in efficiency due to scale. Therefore, the efficient use of digitisation capacity and, where possible, the sharing of digitisation equipment between cultural institutions and countries should be encouraged.
- (11) Only part of the material held by libraries, archives and museums is in the public domain, in the sense that it is not or is no longer covered by intellectual property rights, while the rest is protected by intellectual property rights. Since intellectual property rights are a key tool to stimulate creativity, Europe's cultural material should be digitised, made available and preserved in full respect of copyright and related rights.
- (12) On 24 May 2011 the Commission made a proposal for a Directive for orphan works. In order to have its full effect it should be rapidly adopted and implemented to ensure a harmonised approach to the issue of orphan works throughout the EU. For the large-scale digitisation of out-of-commerce works, legislative backing for licensing solutions voluntarily developed by stakeholders may be needed in the Member States, taking into account the need to ensure a cross-border effect. In this context, the approach followed in the stakeholders' dialogue, sponsored by the Commission, on out-of-commerce books and learned journals, which resulted in a Memorandum of Understanding signed in Brussels on 20 September 2011, should be seen as a model for further dialogues to facilitate agreements for the digitisation of as much of the out-of-commerce material as possible. Rights information databases connected at European level can bring down transaction costs for rights clearance. Such mechanisms should therefore be encouraged in close cooperation with all stakeholders.
- (13) In order to allow wide access to and use of public domain content, it is necessary to ensure that public domain content remains in the public domain once digitised. The use of intrusive watermarks or other visual protection measures on copies of public domain material as a sign of ownership or provenance should be avoided.
- (14) Europeana, Europe's digital library, archive and museum, was launched on 20 November 2008. The further development of the Europeana platform will depend to a large extent on the way the Member States and their cultural institutions feed it with content, and make it visible to citizens. Measures to achieve this effect should be encouraged.
- (15) Currently, Europeana gives direct access to more than 19 million digitised objects. Only 2 % of these objects are sound or audiovisual material. Increasing the content accessible through Europeana, including types of material that are currently underrepresented, will make the site more interesting for the users, and should therefore be encouraged. The overall target of 30 million objects by 2015 is in line with Europeana's strategic plan, and a stepping stone for getting Europe's entire cultural heritage digitised by 2025. The availability of all public domain masterpieces (key cultural or historical works and objects, as determined and selected by the Member States) through Europeana will enrich the

content of the site, in line with the expectations of the users. Provisions in the Member States ensuring that all material digitised with public funding is made available through Europeana would boost the development of the platform and create a clear framework for the content contribution by cultural institutions, and the introduction of such provisions should therefore be encouraged.

(16) Digital material has to be managed and maintained, otherwise files may be unreadable when the hardware and software used to store them becomes obsolete, material may be lost when storage devices deteriorate over time, and storage devices could be overwhelmed by the sheer volume of new and changing content. In spite of progress made across the EU on the preservation of digital material, in several Member States no clear and comprehensive policies are in place on the preservation of digital content. The absence of such policies poses a threat to the survival of digitised material and may also result in the loss of material produced in digital format (born digital material). The development of effective means of digital preservation has far-reaching implications that go beyond cultural institutions. Questions of digital preservation are relevant for any private or public organisation, which is obliged or which wishes to preserve digital material.

(17) Digital preservation poses challenges of a financial, organisational, and technical nature and sometimes requires an update of legislative provisions. Several Member States have introduced or are considering legal obligations requiring producers of digital material to make one or more copies of their material available to a mandated deposit body. Efficient provisions and practices for legal deposit can minimise the administrative burden on content holders and deposit institutions alike, and should therefore be recommended. Effective collaboration between Member States is necessary to avoid a wide variation in the rules governing the deposit of digital material and should be encouraged. Web-harvesting is a new technique for collecting material from the Internet for preservation purposes. It involves mandated institutions actively collecting material instead of waiting for it to be deposited, thus minimising the administrative burden on producers of digital material, and national legislation should therefore make provision for it.

(18) In as far as cinematographic works are concerned the present Recommendation complements the Parliament and Council Recommendation of 16 November 2005 on film heritage and the competitiveness of related industrial activities ⁽¹⁾ on a number of aspects,

HEREBY RECOMMENDS THAT MEMBER STATES:

Digitisation: organisation and funding

1. further develop their planning and monitoring of the digitisation of books, journals, newspapers, photographs, museum objects, archival documents, sound and audiovisual material, monuments and archaeological sites (hereinafter 'cultural material') by:
 - (a) setting clear quantitative targets for the digitisation of cultural material, in line with the overall targets mentioned under point 7, indicating the expected increase in digitised material which could form part of Europeana, and the budgets allocated by public authorities;
 - (b) creating overviews of digitised cultural material and contributing to collaborative efforts to establish an overview at European level with comparable figures;
2. encourage partnerships between cultural institutions and the private sector in order to create new ways of funding digitisation of cultural material and to stimulate innovative uses of the material, while ensuring that public private partnerships for digitisation are fair and balanced, and in line with the conditions indicated in the Annex;
3. make use of the EU's Structural Funds, where possible, to co-finance digitisation activities in the framework of regional innovation strategies for smart specialisation;
4. consider ways to optimise the use of digitisation capacity and achieve economies of scale, which may imply the pooling of digitisation efforts by cultural institutions and cross-border collaboration, building on competence centres for digitisation in Europe;

Digitisation and online accessibility of public domain material

5. improve access to and use of digitised cultural material that is in the public domain by:
 - (a) ensuring that material in the public domain remains in the public domain after digitisation;

⁽¹⁾ OJ L 323, 9.12.2005, p. 57.

- (b) promoting the widest possible access to digitised public domain material as well as the widest possible reuse of the material for non-commercial and commercial purposes;
- (c) taking measures to limit the use of intrusive watermarks or other visual protection measures that reduce the usability of the digitised public domain material;

Digitisation and online accessibility of in-copyright material

6. improve conditions for the digitisation and online accessibility of in-copyright material by:
 - (a) rapid and correct transposition and implementation of the provisions of the Directive on orphan works, once it is adopted, with consultation of interested parties ahead of adoption in order to facilitate a rapid implementation; a close monitoring of the Directive's application once it is adopted;
 - (b) creating the legal framework conditions to underpin licensing mechanisms identified and agreed by stakeholders for the large-scale digitisation and cross-border accessibility of works that are out-of-commerce;
 - (c) contributing to and promoting the availability of databases with rights information, connected at the European level, such as ARROW;

Europeana

7. contribute to the further development of Europeana by:
 - (a) encouraging cultural institutions as well as publishers and other rightholders to make their digitised material accessible through Europeana, thus helping the platform to give direct access to 30 million digitised objects by 2015, including two million sound or audio-visual objects;
 - (b) making all public funding for future digitisation projects conditional on the accessibility of the digitised material through Europeana;
 - (c) ensuring that all their public domain masterpieces will be accessible through Europeana by 2015;

- (d) setting up or reinforcing national aggregators bringing content from different domains into Europeana, and contributing to cross-border aggregators in specific domains or for specific topics, which may bring about economies of scale;
- (e) ensuring the use of common digitisation standards defined by Europeana in collaboration with the cultural institutions in order to achieve interoperability of the digitised material at European level, as well as the systematic use of permanent identifiers;
- (f) ensuring the wide and free availability of existing metadata (descriptions of digital objects) produced by cultural institutions, for reuse through services such as Europeana and for innovative applications;
- (g) establishing a communication plan to raise awareness of Europeana among the general public and notably in schools, in collaboration with the cultural institutions contributing content to the site;

Digital preservation

8. reinforce national strategies for the long-term preservation of digital material, update action plans implementing the strategies, and exchange information with each other on the strategies and action plans;
9. make explicit and clear provision in their legislation so as to allow multiple copying and migration of digital cultural material by public institutions for preservation purposes, in full respect of European Union and international legislation on intellectual property rights;
10. make the necessary arrangements for the deposit of material created in digital format in order to guarantee its long-term preservation, and improve the efficiency of existing deposit arrangements for material created in digital format by:
 - (a) ensuring that rightholders deliver works to legal deposit libraries without technical protection measures, or that, alternatively, they make available to legal deposit libraries the means to ensure that the technical protection measures do not impede the acts that libraries have to undertake for preservation purposes, in full respect of European Union and international legislation on intellectual property rights;

- (b) where relevant, making legal provision to allow the transfer of digital legal deposit works from one legal deposit library to other deposit libraries that also have the right to these works;
 - (c) allowing the preservation of web-content by mandated institutions using techniques for collecting material from the Internet such as web-harvesting, in full respect of European Union and international legislation on intellectual property rights;
11. taking into account developments in other Member States, when establishing or updating policies and procedures for the deposit of material originally created in digital format, in order to prevent a wide variation in depositing arrangements;

Follow-up to this Recommendation

12. inform the Commission 24 months from the publication of this Recommendation in the *Official Journal of the European Union*, and every 2 years thereafter, of action taken in response to this Recommendation.

Done at Brussels, 27 October 2011.

For the Commission
Neelie KROES
Vice-President

ANNEX I

PUBLIC-PRIVATE PARTNERSHIPS FOR DIGITISATION

In order to make rapid progress on the digitisation of our cultural heritage, public funding for digitisation needs to be complemented by private investment. Therefore, the Commission encourages public-private partnerships for the digitisation of cultural material.

It calls on the Member States to stimulate such partnerships, which should comply with the following key principles:

1. Respect for intellectual property rights

Public-private partnerships for the digitisation of collections in cultural institutions should fully respect the European Union and international legislation on intellectual property rights.

2. Non-exclusivity

The agreements for digitising public domain material should be non-exclusive in the sense that any other private partner should have the possibility to digitise the same material under comparable conditions.

A period of preferential commercial use or preferential commercial exploitation may be necessary in order to give the private partner the possibility to recoup its investment. This period should be limited in time and as short as possible, in order to respect the principle that public domain material should stay in the public domain once it is digitised. The period of preferential use should not be longer than 7 years.

Agreements should be fully compliant with EU competition rules.

3. Transparency of the process

Agreements for the digitisation of collections held by cultural institutions should be awarded after an **open competition** between potential private partners.

4. Transparency of agreements

The content of agreements between cultural institutions and private partners for the digitisation of cultural collections should be made public.

5. Accessibility through Europeana

The conclusion of a public-private partnership should be conditional on the accessibility of the digitised material through Europeana.

6. Key criteria

Key criteria for assessing proposals for a public-private partnership are the following:

- The total investment to be made by the private partner, taking into account the effort required by the public partner.
 - The accessibility of the digitised material for the general public, including through Europeana. Partnerships models where the end-user has free access to the digitised material should be encouraged over models where the end-user has to pay for accessing the material.
 - Cross-border access. Partnership agreements must result in cross-border access for all.
 - The length of any period of preferential commercial use of the digitised material by the private partner. This period should be as short as possible.
 - The envisaged digitisation quality, and the quality of the files that will be given to the cultural institutions. The private partner should provide cultural institutions with digitised files of the same quality as the ones it uses itself.
 - The use that the cultural institutions can make of the digitised material in non-commercial contexts. This use should be as wide as possible, and not limited by technical or contractual restrictions.
 - The time-scale of the digitisation project.
-

ANNEX II

INDICATIVE TARGETS FOR MINIMUM CONTENT CONTRIBUTION TO EUROPEANA PER MEMBER STATE

	Number of objects in Europeana per MS (*)	Indicative Target 2015 (**)
BELGIUM	338 098	759 000
BULGARIA	38 263	267 000
CZECH REPUBLIC	35 490	492 000
DENMARK	67 235	453 000
GERMANY	3 160 416	5 496 000
ESTONIA	68 943	90 000
IRELAND	950 554	1 236 000
GREECE	211 532	618 000
SPAIN	1 647 539	2 676 000
FRANCE	2 745 833	4 308 000
ITALY	1 946 040	3 705 000
CYPRUS	53	45 000
LATVIA	30 576	90 000
LITHUANIA	8 824	129 000
LUXEMBOURG	47 965	66 000
HUNGARY	115 621	417 000
MALTA	56 233	73 000
NETHERLANDS	1 208 713	1 571 000
AUSTRIA	282 039	600 000
POLAND	639 099	1 575 000
PORTUGAL	28 808	528 000
ROMANIA	35 852	789 000
SLOVENIA	244 652	318 000
SLOVAKIA	84 858	243 000
FINLAND	795 810	1 035 000
SWEDEN	1 489 488	1 936 000
UNITED KINGDOM	944 234	3 939 000

(*) October 2011. Further objects are contributed by a number of non-EU countries (in particular Norway and Switzerland), or come from EU-wide projects and are therefore not attributed to a particular Member State.

(**) The indicative targets per Member State are calculated on the basis of (a) the size of the population and (b) GDP, in line with the overall target of making 30 million digitised objects available through Europeana by 2015. For Member States which would already have reached or would be close to reaching the indicative target now, the calculation is based on the current number of objects they contribute to Europeana plus 30 %. All Member States are invited to look also at the qualitative aspects, taking into account the need to make all public domain masterpieces available through Europeana by 2015.

2011 SUBSCRIPTION PRICES (excluding VAT, including normal transport charges)

EU Official Journal, L + C series, paper edition only	22 official EU languages	EUR 1 100 per year
EU Official Journal, L + C series, paper + annual DVD	22 official EU languages	EUR 1 200 per year
EU Official Journal, L series, paper edition only	22 official EU languages	EUR 770 per year
EU Official Journal, L + C series, monthly DVD (cumulative)	22 official EU languages	EUR 400 per year
Supplement to the Official Journal (S series), tendering procedures for public contracts, DVD, one edition per week	multilingual: 23 official EU languages	EUR 300 per year
EU Official Journal, C series — recruitment competitions	Language(s) according to competition(s)	EUR 50 per year

Subscriptions to the *Official Journal of the European Union*, which is published in the official languages of the European Union, are available for 22 language versions. The Official Journal comprises two series, L (Legislation) and C (Information and Notices).

A separate subscription must be taken out for each language version.

In accordance with Council Regulation (EC) No 920/2005, published in Official Journal L 156 of 18 June 2005, the institutions of the European Union are temporarily not bound by the obligation to draft all acts in Irish and publish them in that language. Irish editions of the Official Journal are therefore sold separately.

Subscriptions to the Supplement to the Official Journal (S Series — tendering procedures for public contracts) cover all 23 official language versions on a single multilingual DVD.

On request, subscribers to the *Official Journal of the European Union* can receive the various Annexes to the Official Journal. Subscribers are informed of the publication of Annexes by notices inserted in the *Official Journal of the European Union*.

Sales and subscriptions

Subscriptions to various priced periodicals, such as the subscription to the *Official Journal of the European Union*, are available from our sales agents. The list of sales agents is available at:

http://publications.europa.eu/others/agents/index_en.htm

EUR-Lex (<http://eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.

For further information on the European Union, see: <http://europa.eu>

