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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

I

(Legislative acts)

DIRECTIVES

DIRECTIVE 2011/88/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 November 2011

amending Directive 97/68/EC as regards the provisions for engines placed on the market under the flexibility scheme

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

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

Whereas:

- (1) Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery ⁽³⁾ concerns exhaust emissions and emission limits of air pollutants from engines installed in non-road mobile machinery and contributes to the protection of human health and the environment. Directive 97/68/EC provided that emission limits applicable to type-approval of the majority of compression ignition engines under Stage III A were to be replaced by the more stringent limits under Stage III B. Those limits apply from 1 January 2010 as regards the type-approval for those engines and from 1 January 2011 with regard to the placing on the market of those engines.

- (2) The revision of Directive 97/68/EC is currently being prepared by the Commission in line with the requirements of Article 2 of Directive 2004/26/EC of the European Parliament and of the Council of 21 April 2004 amending Directive 97/68/EC ⁽⁴⁾. In order to ensure that the revised Directive is in line with Union standards for good air quality, and in the light of experience, scientific findings and available technologies, the Commission should, in the upcoming revision of Directive 97/68/EC and subject to impact assessment, consider:

- establishing a new emission stage – Stage V – that should be based, subject to technical feasibility, on the requirements of Euro VI standards for heavy-duty vehicles,
- introducing new requirements for the reduction of particulate matter, namely a particulate number limit that applies for all compression ignition engine categories, where technically feasible, so as to ensure an effective reduction of ultra-fine particles,
- taking a comprehensive approach to promoting emission-reducing provisions and retrofitting of after-treatment systems on the existing fleet of non-road mobile machinery on the basis of the currently ongoing discussions under the auspices of the United Nations Economic Commission for Europe regarding harmonised requirements for retrofit emission control devices; this approach should support Member States' efforts to improve air quality and to promote the protection of workers,
- establishing a method providing for the periodic testing of non-road mobile machinery and vehicles, in particular to establish whether their emissions performance complies with the values given at registration,

⁽¹⁾ OJ C 48, 15.2.2011, p. 134.

⁽²⁾ Position of the European Parliament of 25 October 2011 (not yet published in the Official Journal) and decision of the Council of 8 November 2011.

⁽³⁾ OJ L 59, 27.2.1998, p. 1.

⁽⁴⁾ OJ L 146, 30.4.2004, p. 1.

- the possibility of authorising, under certain conditions, replacement engines that do not comply with Stage III A requirements for railcars and locomotives,
 - the possibility of harmonising the specific emission standards for rail with relevant standards at international level so as to ensure the availability of affordable engines that comply with the emission limits set.
- (3) The transition to Stage III B involves a step change in technology requiring significant implementation costs for redesigning the engines and for developing advanced technical solutions. However, the current global financial and economic crisis or any conjunctural economic fluctuations should not lead to a lowering of environmental standards. This revision of Directive 97/68/EC should therefore be considered to be exceptional. Furthermore, investments in environmentally friendly technologies are important for the promotion of future growth, jobs and health security.
- (4) Directive 97/68/EC provides for a flexibility scheme to allow equipment manufacturers to purchase, in the period between two emission stages, a limited number of engines that do not comply with the emission limits applicable during that period, but which are approved in accordance with the requirements of the stage immediately preceding the applicable one.
- (5) Point (b) of Article 2 of Directive 2004/26/EC provides for the evaluation of the possible need for additional flexibilities.
- (6) During Stage III B, the maximum number of engines used for applications other than the propulsion of railcars, locomotives and inland waterways vessels that may be placed on the market under the flexibility scheme should be increased, in each engine category, from 20 % to 37,5 % of the annual quantity of equipment with engines in that category that is placed on the market by the equipment manufacturer. An optional alternative of placing a fixed number of engines on the market under the flexibility scheme should be available. That fixed number of engines should also be revised and should not exceed the ceilings laid down in Section 1.2.2 of Annex XIII to Directive 97/68/EC.
- (7) The rules applicable to the flexibility scheme should be adapted to extend the application of that scheme to engines for use in the propulsion of locomotives for a strictly limited period of time.
- (8) Improving air quality is a major Union goal pursued through Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe⁽¹⁾. Tackling emissions at source is essential for meeting that goal, including reducing emissions from the non-road mobile machinery sector.
- (9) Enterprises operating with machines that fall within the scope of this Directive should benefit from European financial support programmes or any relevant support programmes provided by Member States. Those support programmes should be aimed at favouring the early introduction of the highest emission standards.
- (10) Directive 97/68/EC provides for an exemption for replacement engines, which does not apply to railcars and locomotives. However, considering weight and dimensional constraints, it is necessary to provide for a limited exemption also for replacement engines in railcars and locomotives.
- (11) The measures set out in this Directive reflect a temporary difficulty faced by the manufacturing sector, resulting in no permanent adaptation, and as such, the application of those measures should be restricted to the duration of Stage III B or, where no subsequent stage exists, to 3 years.
- (12) Taking into account the special infrastructure of the United Kingdom rail network, which results in a different structural gauge and consequently weight and dimensional constraints, and therefore requires a longer adaptation period for the new emission limits, it is appropriate to provide for more flexibility for this particular market in engines for use in locomotives.
- (13) Directive 97/68/EC should therefore be amended accordingly,
- HAVE ADOPTED THIS DIRECTIVE:
- Article 1*
- Amendments to Directive 97/68/EC**
- Directive 97/68/EC is hereby amended as follows:
- (1) Article 4(6) is replaced by the following:
- ‘6. Compression ignition engines for use other than in the propulsion of railcars and inland waterway vessels may be placed on the market under a flexibility scheme in accordance with the procedure referred to in Annex XIII in addition to paragraphs 1 to 5;’
- ⁽¹⁾ OJ L 152, 11.6.2008, p. 1.

(2) Article 10 is amended as follows:

(a) in paragraph 1a, the second subparagraph is deleted;

(b) the following paragraphs are inserted:

‘1b. By way of derogation from Article 9(3g), (3i) and (4a), Member States may authorise the placing on the market of the following engines for railcars and locomotives:

(a) replacement engines that meet the Stage III A limits, where they are to replace engines for railcars and locomotives that:

(i) do not meet the Stage III A standard; or

(ii) meet the Stage III A standard but do not meet the Stage III B standard;

(b) replacement engines that do not meet Stage III A limits, where they are to replace engines for railcars without driving control and not capable of independent movement, so long as such replacement engines meet a standard no lower than the standard met by engines fitted to existing railcars of the same type.

Authorisations under this paragraph may be granted only in cases where the approval authority of the Member State is satisfied that the use of a replacement engine that meets the requirements of the latest applicable emissions stage in the railcar or locomotive in question will involve significant technical difficulties.

1c. A label bearing the text “REPLACEMENT ENGINE” and bearing the unique reference of the associated derogation shall be affixed to engines covered by paragraph 1a or 1b.

1d. The Commission shall assess the environmental impacts of, and possible technical difficulties in respect of compliance with, paragraph 1b. In the light of that assessment, the Commission shall, by 31 December 2016, submit to the European Parliament and the Council a report reviewing paragraph 1b accompanied, if appropriate, by a legislative proposal including an end date for the application of that paragraph.’;

(c) paragraph 7 is replaced by the following:

‘7. Member States shall permit the placing on the market of engines, as defined in points A(i), A(ii) and A(v) of Section 1 of Annex I, under the flexibility scheme in accordance with the provisions set out in Annex XIII.’;

(3) Annex XIII is amended in accordance with the Annex to this Directive.

Article 2

Transposition

1. Member States shall adopt and publish, by 24 November 2012 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those measures.

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

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

Article 3

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 16 November 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
W. SZCZUKA

ANNEX

Section 1 of Annex XIII is replaced by the following:

1. ACTIONS BY THE OEM

- 1.1. Except during Stage III B, an OEM that wishes to make use of the flexibility scheme, with the exception of engines for the propulsion of railcars and locomotives, shall request permission from any approval authority for the OEM's engine manufacturers to place on the market engines intended for the OEM's exclusive use. The number of engines that do not comply with the current emission limits, but are approved to the most recent previous stage of emission limits, shall not exceed the ceilings set out in Sections 1.1.1 and 1.1.2.

- 1.1.1. The number of engines placed on the market under the flexibility scheme shall, in each engine category, not exceed 20 % of the annual quantity of equipment with engines in that category that is placed on the market by the OEM (calculated as an average of the latest 5 years' sales on the Union market). Where an OEM has placed equipment on the Union market for less than 5 years, the average shall be calculated based on the period for which the OEM has placed equipment on the Union market.

- 1.1.2. As an optional alternative to Section 1.1.1 and with the exception of engines for the propulsion of railcars and locomotives, the OEM may seek permission for the OEM's engine manufacturers to place on the market a fixed number of engines for the OEM's exclusive use. The number of engines in each engine category shall not exceed the following ceilings:

Engine category P (kW)	Number of engines
$19 \leq P < 37$	200
$37 \leq P < 75$	150
$75 \leq P < 130$	100
$130 \leq P \leq 560$	50

- 1.2. During Stage III B, but for a period no longer than 3 years from the beginning of that stage, with the exception of engines for use in the propulsion of railcars and locomotives, an OEM that wishes to make use of the flexibility scheme shall request permission from any approval authority for the OEM's engine manufacturers to place on the market engines intended for the OEM's exclusive use. The quantities of engines that do not comply with the current emission limits, but are approved to the most recent previous stage of emission limits, shall not exceed the ceilings set out in Sections 1.2.1 and 1.2.2.

- 1.2.1. The number of engines placed on the market under the flexibility scheme shall, in each engine category, not exceed 37,5 % of the annual quantity of equipment with engines in that category that is placed on the market by the OEM (calculated as an average of the latest 5 years' sales on the Union market). Where an OEM has placed equipment on the Union market for less than 5 years, the average shall be calculated based on the period for which the OEM has placed equipment on the Union market.

- 1.2.2. As an optional alternative to Section 1.2.1, the OEM may seek permission for the OEM's engine manufacturers to place on the market a fixed number of engines for the OEM's exclusive use. The number of engines in each engine category shall not exceed the following ceilings:

Engine category P (kW)	Number of engines
$37 \leq P < 56$	200
$56 \leq P < 75$	175
$75 \leq P < 130$	250
$130 \leq P \leq 560$	125

- 1.3. As regards engines for use in the propulsion of locomotives, during Stage III B, but for a period no longer than 3 years from the beginning of that stage, an OEM may seek permission for the OEM's engine manufacturers to place on the market a maximum of 16 engines for the OEM's exclusive use. The OEM may also seek permission for his engine manufacturers to place on the market a maximum of 10 additional engines with rated powers greater than 1 800 kW to be installed in locomotives designed exclusively for use on the United Kingdom network. Locomotives will be considered to meet this requirement only if they have, or are able to be issued with, a safety certificate for operation on the United Kingdom network.

Such permission shall be granted only where there are technical grounds for not being able to comply with the Stage III B emission limits.

- 1.4. The OEM shall include in the application to an approval authority the following information:
- (a) a sample of the labels to be affixed to each piece of non-road mobile machinery in which an engine placed on the market under the flexibility scheme will be installed. The labels shall bear the following text: "MACHINE No ... (sequence of machines) OF ... (total number of machines in respective power band) WITH ENGINE No ... WITH TYPE-APPROVAL (Dir. 97/68/EC) No ...";
 - (b) a sample of the supplementary label to be affixed on the engine bearing the text referred to in Section 2.2.
- 1.5. The OEM shall provide the approval authority with any necessary information connected with the implementation of the flexibility scheme that the approval authority may request in order to make a decision.
- 1.6. The OEM shall provide any requesting approval authority in the Member States with any information that the approval authority requires in order to confirm that engines claimed to be, or labelled as being, placed on the market under the flexibility scheme are properly so claimed or labelled.'
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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 1200/2011

of 18 November 2011

concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.

(2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.

(3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

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

Done at Brussels, 18 November 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A hand-operated mechanical apparatus for dispensing a liquid into a container for titrimetric analyses (so-called "digital titrator").</p> <p>The apparatus comprises an adjustable mechanical feeder with a space for a cartridge, a delivery knob, a mechanical counter, a counter reset knob and a hand grip.</p> <p>The titrator is a precision dispensing apparatus which, by each turning step of the delivery knob, releases a drop of the titrant being used into the liquid to be analysed (the analyte). The drop contains a specific volume of the titrant. The number of drops dispensed by the titrator is displayed on the counter.</p> <p>The analytic result is determined by the reaction of the analyte to the quantity of titrant dispensed. The quantity of titrant is determined by multiplying the number of drops with the specific volume of the titrant used.</p>	8479 89 97	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8479, 8479 89 and 8479 89 97.</p> <p>As the apparatus does not continuously displace volumes of liquid, classification as a pump under heading 8413 is excluded.</p> <p>The apparatus does not perform a chemical analysis of the titrant or the analyte. Therefore, classification as apparatus for chemical analysis under heading 9027 is excluded.</p> <p>Even though the apparatus contributes to the process of a chemical analysis, it cannot be considered as a part or an accessory of such apparatus by virtue of Note 2(a) to Chapter 90.</p> <p>The apparatus is not used to measure in volumetric units the amount of fluid passing through a pipe. Therefore, classification as an apparatus under heading 9028 is excluded.</p> <p>The apparatus counts the number of drops but does not measure the quantity dispensed. Therefore, classification as an apparatus under heading 9031 is excluded.</p> <p>As the apparatus not only counts a total number of units (drops) but primarily distributes a specific volume of liquid, it functions as a burette with a mechanical counter.</p> <p>It is therefore to be classified under CN code 8479 89 97 as other mechanical appliances having individual functions, not specified or included elsewhere in Chapter 84.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 1201/2011
of 18 November 2011
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 18 November 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (TARIC code)	Reasons
(1)	(2)	(3)
<p>A liquid crystal display (LCD) panel (so-called "LCD module"), with a diagonal measurement of approximately 66 cm (26 inches), consisting of an active matrix liquid crystal layer sandwiched between two sheets of glass, fitted with connectors.</p> <p>Between the first sheet of glass and the layer of liquid crystal there is a thin film transistor (TFT) matrix that provides the appropriate voltage to the pixels.</p> <p>Between the layer of liquid crystal and the second sheet of glass there is an RGB filter that controls the colours of the picture displayed.</p> <p>Several connectors in the form of straps are attached to the panel. Each connector consists of miniature integrated circuits (so-called "source drivers IC") on flexible printed circuits. Printed circuit boards (PCBs) are connected to the "source drivers IC". The "source drivers IC" allow power and control signals to pass through, as well as convert and transmit data from the PCBs to the individual pixels of the active liquid crystal matrix.</p> <p>The module is used in the manufacture of monitors or reception apparatus for television of heading 8528.</p>	8529 90 92 44	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(b) to Section XVI and by the wording of CN codes 8529, 8529 90 and 8529 90 92 and TARIC code 8529 90 92 44.</p> <p>As the LCD module is equipped with "source drivers IC" which are more than electrical connections (i.e. for the supply of power), classification under heading 9013 as active matrix liquid crystal devices is excluded (see also the HS Explanatory Notes to heading 9013 (1)).</p> <p>As the module consists of a TFT liquid crystal layer sandwiched between two sheets of glass and equipped with control electronics for pixel addressing used in the manufacture of monitors or reception apparatus for television of heading 8528, it is considered to be a part for use solely or principally with apparatus of heading 8528 under CN code 8529 90 92.</p> <p>The product is therefore to be classified under TARIC code 8529 90 92 44 as an LCD module solely consisting of one or more TFT glass or plastic cells, not combined with touch screen facilities, with or without backlight unit, with or without inverters and one or more printed circuit boards with control electronics for pixel addressing only.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 1202/2011
of 18 November 2011
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information which has been issued by the customs

authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 18 November 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (TARIC code)	Reasons
(1)	(2)	(3)
<p>A liquid crystal display (LCD) panel (so-called "LCD module"), with a diagonal measurement of approximately 66 cm (26 inches), consisting of an active matrix liquid crystal layer sandwiched between two sheets of glass, fitted with connectors.</p> <p>Between the first sheet of glass and the layer of liquid crystal there is a thin film transistor (TFT) matrix that provides the appropriate voltage to the pixels.</p> <p>Between the layer of liquid crystal and the second sheet of glass there is an RGB filter that controls the colours of the picture displayed.</p> <p>Several connectors in the form of straps are attached to the panel. Each connector consists of miniature integrated circuits (so-called "source drivers IC") on flexible printed circuits. The "source drivers IC" allow power and control signals to pass through, as well as convert and transmit data from the printed circuit boards (connected after importation) to the individual pixels of the active liquid crystal matrix.</p> <p>The module is used in the manufacture of monitors or reception apparatus for television of heading 8528.</p>	8529 90 92 44	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(b) to Section XVI and by the wording of CN codes 8529, 8529 90 and 8529 90 92 and TARIC code 8529 90 92 44.</p> <p>As the LCD module is equipped with "source drivers IC" which are more than electrical connections (i.e. for the supply of power), classification under heading 9013 as active matrix liquid crystal devices is excluded (see also the HS Explanatory Notes to heading 9013 (1)).</p> <p>As the module consists of a TFT liquid crystal layer sandwiched between two sheets of glass and equipped with control electronics for pixel addressing used in the manufacture of monitors or reception apparatus for television of heading 8528, it is considered to be a part for use solely or principally with apparatus of heading 8528 under CN code 8529 90 92.</p> <p>The product is therefore to be classified under TARIC code 8529 90 92 44 as an LCD module solely consisting of one or more TFT glass or plastic cells, not combined with touch screen facilities, with or without backlight unit, with or without inverters and one or more printed circuit boards with control electronics for pixel addressing only.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 1203/2011
of 18 November 2011
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 18 November 2011.

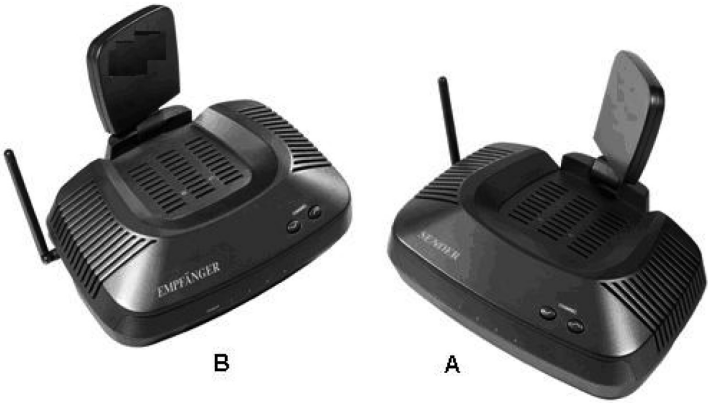
*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A set put up for retail sale consisting of:</p> <ul style="list-style-type: none">— apparatus A: a wireless transmitter for audio/video signals (television) with a built-in wireless receiver for radio remote control signals incorporating an infrared transmitter and two separate antennas, and— apparatus B: a wireless receiver for audio/video signals (television) with a built-in wireless transmitter for radio remote control signals incorporating an infrared receiver and two separate antennas. <p>The set is designed for transmission of an audio/video signal from an external source such as a satellite receiver or a DVD player connected to apparatus A, to another audio/video apparatus such as a monitor or a television set connected to apparatus B, within a range of 400 m.</p> <p>The audio/video signals transmitted from apparatus A to apparatus B at a frequency of 2,4 GHz are in the form of television signals.</p> <p>The signals transmitted from apparatus B to apparatus A at a frequency of 433 MHz are initiated by an infrared remote control device. These signals function independently of the signals for audio/video transmission.</p> <p>The remote control device is used for controlling the external source connected to the audio/video transmitter (apparatus A).</p> <p>(*) See image</p>	8528 71 99	<p>Classification is determined by General Rules 1, 3(c) and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and by the wording of CN codes 8528, 8528 71 and 8528 71 99.</p> <p>The principal function of apparatus A is the transmission of audio/video signals (television) as described in heading 8525 (see Note 3 to Section XVI).</p> <p>The principal function of apparatus B is the reception of television signals, as described in heading 8528. The transmission of signals coming from the remote control device is of a secondary nature (see Note 3 to Section XVI).</p> <p>Given the functions performed by apparatus A and apparatus B, the intended use of the set is the transmission and reception of television.</p> <p>The product is a set within the meaning of General Interpretative Rule (GIR) 3(b), consisting of a transmission apparatus of heading 8525 and a television reception apparatus of heading 8528. Given that neither component gives the set its essential character, classification by virtue of GIR 3(b) is excluded.</p> <p>Since the set cannot be classified by application of GIR 3(a) or 3(b), it is to be classified, by application of GIR 3(c), under CN code 8528 71 99 as other reception apparatus for television not designed to incorporate a video display or screen.</p>
(*) The image is purely for information.		



COMMISSION IMPLEMENTING REGULATION (EU) No 1204/2011
of 18 November 2011
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

- (4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

- (5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 18 November 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. A handheld, interchangeable device comprising a flash lamp, a lens, a trigger button and an indicator light (so-called "intense pulse light (IPL) handpiece").</p> <p>The device generates intense pulsed light at different pulse widths of up to 100 ms, a wavelength of 650-1 200 nm, a spot size of 16 x 46 mm and a maximum fluence of 45 J/cm².</p> <p>It works only in conjunction with a machine (the "base unit") from which it receives power, control signals and cooling fluid. The "base unit" comprises a power supply, a control unit with a display and a cooling unit and it is also able to work with "laser handpieces".</p> <p>When connected to the "base unit", the device is used for specific cosmetic treatments, for example, permanent hair removal.</p>	8543 90 00	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(b) to Section XVI and by the wording of CN codes 8543 and 8543 90 00.</p> <p>As the intense pulse light generated by the flash lamp is not a laser beam, classification under heading 9013 as a laser is excluded.</p> <p>Given its characteristics and objective properties, namely its construction of an electronic nature, the device is not similar to an interchangeable tool (see note 1(o) to Section XVI). The device when working in conjunction with the "base unit" is identifiable as a working machine which performs an individual function not specified or included elsewhere in Chapter 85.</p> <p>The device is essential for the functioning of the machine as the machine cannot function without it.</p> <p>The device is therefore to be classified under CN code 8543 90 00 as a part of other electrical machines and apparatus, having individual functions, not specified or included elsewhere in Chapter 85.</p>
<p>2. A handheld, interchangeable device comprising a solid state laser, a lens, a spot size selection switch and a trigger button (so-called "laser handpiece").</p> <p>The device generates laser light at different pulse widths of up to 100 ms, a wavelength of 1 064 nm, adjustable spot sizes with a diameter of 1,5, 3, 6 and 9 mm and a maximum fluence of 700 J/cm².</p> <p>It works only in conjunction with a machine (the "base unit") from which it receives power, control signals and cooling fluid. The "base unit" comprises a power supply, a control unit with a display and a cooling unit and it is also able to work with "intense pulse light (IPL) handpieces".</p> <p>When connected to the "base unit", the device is specifically used for cosmetic treatment of leg veins.</p>	8543 90 00	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(b) to Section XVI and by the wording of CN codes 8543 and 8543 90 00.</p> <p>As the laser is specifically designed for generating laser light with certain pulse widths and spot sizes, the device is adapted to perform a specific function. When working in conjunction with the "base unit", the device is identifiable as a working machine which performs an individual function not specified or included elsewhere in Chapter 85.</p> <p>Classification under heading 9013 as a laser is therefore excluded (see also HS Explanatory Note to heading 9013 (2), fourth paragraph).</p> <p>Given its characteristics and objective properties, namely its construction of electronic nature, the device is not similar to an interchangeable tool (see note 1(o) to Section XVI).</p> <p>The device is essential for the functioning of the machine as the machine cannot function without it.</p> <p>The device is therefore to be classified under CN code 8543 90 00 as a part of other electrical machines and apparatus, having individual functions, not specified or included elsewhere in Chapter 85.</p>

COMMISSION REGULATION (EU) No 1205/2011

of 22 November 2011

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard (IFRS) 7

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 ⁽²⁾ certain international standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 7 October 2010, the International Accounting Standards Board (IASB) published Amendments to IFRS 7 *Financial Instruments: Disclosures – Transfers of Financial Assets*, hereinafter "the Amendments". The Amendments aim to help users of financial statements better evaluate the risk exposures relating to transfers of financial assets and the effect of those risks on an entity's financial position. Their objective is to promote transparency in the reporting of transfer transactions, particularly those that involve securitisation of financial assets.
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the Amendments meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006

setting up a Standards Advice Review Group to advise the Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions ⁽³⁾, the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.

- (4) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

- (1) International Financial Reporting Standard (IFRS) 7 *Financial Instruments: Disclosures* is amended as set out in the Annex to this Regulation;
- (2) IFRS 1 *First-time Adoption of International Financial Reporting Standards* is amended in accordance with the amendments to IFRS 7 as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendments referred to in Article 1 as from the commencement date of its first financial year starting after 30 June 2011.

Article 3

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

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

Done at Brussels, 22 November 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 243, 11.9.2002, p. 1.

⁽²⁾ OJ L 320, 29.11.2008, p. 1.

⁽³⁾ OJ L 199, 21.7.2006, p. 33.

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IFRS 7	Amendments to IFRS 7 <i>Financial Instruments: Disclosures – Transfers of Financial Assets</i>
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AMENDMENTS TO IFRS 7**Financial Instruments: Disclosures****TRANSFERS OF FINANCIAL ASSETS**

42A The disclosure requirements in paragraphs 42B–42H relating to transfers of financial assets supplement the other disclosure requirements of this IFRS. An entity shall present the disclosures required by paragraphs 42B–42H in a single note in its financial statements. An entity shall provide the required disclosures for all transferred financial assets that are not derecognised and for any continuing involvement in a transferred asset, existing at the reporting date, irrespective of when the related transfer transaction occurred. For the purposes of applying the disclosure requirements in those paragraphs, an entity transfers all or a part of a financial asset (the transferred financial asset), if, and only if, it either:

- (a) transfers the contractual rights to receive the cash flows of that financial asset; or
- (b) retains the contractual rights to receive the cash flows of that financial asset, but assumes a contractual obligation to pay the cash flows to one or more recipients in an arrangement.

42B An entity shall disclose information that enables users of its financial statements:

- (a) to understand the relationship between transferred financial assets that are not derecognised in their entirety and the associated liabilities; and
- (b) to evaluate the nature of, and risks associated with, the entity's continuing involvement in derecognised financial assets.

42C For the purposes of applying the disclosure requirements in paragraphs 42E–42H, an entity has continuing involvement in a transferred financial asset if, as part of the transfer, the entity retains any of the contractual rights or obligations inherent in the transferred financial asset or obtains any new contractual rights or obligations relating to the transferred financial asset. For the purposes of applying the disclosure requirements in paragraphs 42E–42H, the following do not constitute continuing involvement:

- (a) normal representations and warranties relating to fraudulent transfer and concepts of reasonableness, good faith and fair dealings that could invalidate a transfer as a result of legal action;
- (b) forward, option and other contracts to reacquire the transferred financial asset for which the contract price (or exercise price) is the fair value of the transferred financial asset; or
- (c) an arrangement whereby an entity retains the contractual rights to receive the cash flows of a financial asset but assumes a contractual obligation to pay the cash flows to one or more entities and the conditions in paragraph 19(a)–(c) of IAS 39 are met.

Transferred financial assets that are not derecognised in their entirety

42D An entity may have transferred financial assets in such a way that part or all of the transferred financial assets do not qualify for derecognition. To meet the objectives set out in paragraph 42B(a), the entity shall disclose at each reporting date for each class of transferred financial assets that are not derecognised in their entirety:

- (a) the nature of the transferred assets;
- (b) the nature of the risks and rewards of ownership to which the entity is exposed;
- (c) a description of the nature of the relationship between the transferred assets and the associated liabilities, including restrictions arising from the transfer on the reporting entity's use of the transferred assets;

- (d) when the counterparty (counterparties) to the associated liabilities has (have) recourse only to the transferred assets, a schedule that sets out the fair value of the transferred assets, the fair value of the associated liabilities and the net position (the difference between the fair value of the transferred assets and the associated liabilities);
- (e) when the entity continues to recognise all of the transferred assets, the carrying amounts of the transferred assets and the associated liabilities;
- (f) when the entity continues to recognise the assets to the extent of its continuing involvement (see paragraphs 20(c)(ii) and 30 of IAS 39), the total carrying amount of the original assets before the transfer, the carrying amount of the assets that the entity continues to recognise, and the carrying amount of the associated liabilities.

Transferred financial assets that are derecognised in their entirety

42E To meet the objectives set out in paragraph 42B(b), when an entity derecognises transferred financial assets in their entirety (see paragraph 20(a) and (c)(i) of IAS 39) but has continuing involvement in them, the entity shall disclose, as a minimum, for each type of continuing involvement at each reporting date:

- (a) the carrying amount of the assets and liabilities that are recognised in the entity's statement of financial position and represent the entity's continuing involvement in the derecognised financial assets, and the line items in which the carrying amount of those assets and liabilities are recognised;
- (b) the fair value of the assets and liabilities that represent the entity's continuing involvement in the derecognised financial assets;
- (c) the amount that best represents the entity's maximum exposure to loss from its continuing involvement in the derecognised financial assets, and information showing how the maximum exposure to loss is determined;
- (d) the undiscounted cash outflows that would or may be required to repurchase derecognised financial assets (eg the strike price in an option agreement) or other amounts payable to the transferee in respect of the transferred assets. If the cash outflow is variable then the amount disclosed should be based on the conditions that exist at each reporting date;
- (e) a maturity analysis of the undiscounted cash outflows that would or may be required to repurchase the derecognised financial assets or other amounts payable to the transferee in respect of the transferred assets, showing the remaining contractual maturities of the entity's continuing involvement;
- (f) qualitative information that explains and supports the quantitative disclosures required in (a)–(e).

42F An entity may aggregate the information required by paragraph 42E in respect of a particular asset if the entity has more than one type of continuing involvement in that derecognised financial asset, and report it under one type of continuing involvement.

42G In addition, an entity shall disclose for each type of continuing involvement:

- (a) the gain or loss recognised at the date of transfer of the assets;
- (b) income and expenses recognised, both in the reporting period and cumulatively, from the entity's continuing involvement in the derecognised financial assets (eg fair value changes in derivative instruments);
- (c) if the total amount of proceeds from transfer activity (that qualifies for derecognition) in a reporting period is not evenly distributed throughout the reporting period (eg if a substantial proportion of the total amount of transfer activity takes place in the closing days of a reporting period):

- (i) when the greatest transfer activity took place within that reporting period (eg the last five days before the end of the reporting period);
- (ii) the amount (eg related gains or losses) recognised from transfer activity in that part of the reporting period; and
- (iii) the total amount of proceeds from transfer activity in that part of the reporting period.

An entity shall provide this information for each period for which a statement of comprehensive income is presented.

Supplementary information

- 42H An entity shall disclose any additional information that it considers necessary to meet the disclosure objectives in paragraph 42B.

EFFECTIVE DATE AND TRANSITION

Paragraph 44M is added.

- 44M *Disclosures—Transfers of Financial Assets* (Amendments to IFRS 7), issued in October 2010, deleted paragraph 13 and added paragraphs 42A–42H and B29–B39. An entity shall apply those amendments for annual periods beginning on or after 1 July 2011. Earlier application is permitted. If an entity applies the amendments from an earlier date, it shall disclose that fact. An entity need not provide the disclosures required by those amendments for any period presented that begins before the date of initial application of the amendments.

Appendix B

Application guidance

After paragraph B28, headings and paragraphs B29–B39 are added.

DERECOGNITION (PARAGRAPHS 42C–42H)

Continuing involvement (paragraph 42C)

- B29 The assessment of continuing involvement in a transferred financial asset for the purposes of the disclosure requirements in paragraphs 42E–42H is made at the level of the reporting entity. For example, if a subsidiary transfers to an unrelated third party a financial asset in which the parent of the subsidiary has continuing involvement, the subsidiary does not include the parent's involvement in the assessment of whether it has continuing involvement in the transferred asset in its stand-alone financial statements (ie when the subsidiary is the reporting entity). However, a parent would include its continuing involvement (or that of another member of the group) in a financial asset transferred by its subsidiary in determining whether it has continuing involvement in the transferred asset in its consolidated financial statements (ie when the reporting entity is the group).
- B30 An entity does not have a continuing involvement in a transferred financial asset if, as part of the transfer, it neither retains any of the contractual rights or obligations inherent in the transferred financial asset nor acquires any new contractual rights or obligations relating to the transferred financial asset. An entity does not have continuing involvement in a transferred financial asset if it has neither an interest in the future performance of the transferred financial asset nor a responsibility under any circumstances to make payments in respect of the transferred financial asset in the future.
- B31 Continuing involvement in a transferred financial asset may result from contractual provisions in the transfer agreement or in a separate agreement with the transferee or a third party entered into in connection with the transfer.

Transferred financial assets that are not derecognised in their entirety

- B32 Paragraph 42D requires disclosures when part or all of the transferred financial assets do not qualify for derecognition. Those disclosures are required at each reporting date at which the entity continues to recognise the transferred financial assets, regardless of when the transfers occurred.

Types of continuing involvement (paragraphs 42E–42H)

- B33 Paragraphs 42E–42H require qualitative and quantitative disclosures for each type of continuing involvement in derecognised financial assets. An entity shall aggregate its continuing involvement into types that are representative of the entity's exposure to risks. For example, an entity may aggregate its continuing involvement by type of financial instrument (eg guarantees or call options) or by type of transfer (eg factoring of receivables, securitisations and securities lending).

Maturity analysis for undiscounted cash outflows to repurchase transferred assets (paragraph 42E(e))

- B34 Paragraph 42E(e) requires an entity to disclose a maturity analysis of the undiscounted cash outflows to repurchase derecognised financial assets or other amounts payable to the transferee in respect of the derecognised financial assets, showing the remaining contractual maturities of the entity's continuing involvement. This analysis distinguishes cash flows that are required to be paid (eg forward contracts), cash flows that the entity may be required to pay (eg written put options) and cash flows that the entity might choose to pay (eg purchased call options).

- B35 An entity shall use its judgement to determine an appropriate number of time bands in preparing the maturity analysis required by paragraph 42E(e). For example, an entity might determine that the following maturity time bands are appropriate:

- (a) not later than one month;
- (b) later than one month and not later than three months;
- (c) later than three months and not later than six months;
- (d) later than six months and not later than one year;
- (e) later than one year and not later than three years;
- (f) later than three years and not later than five years; and
- (g) more than five years.

- B36 If there is a range of possible maturities, the cash flows are included on the basis of the earliest date on which the entity can be required or is permitted to pay.

Qualitative information (paragraph 42E(f))

- B37 The qualitative information required by paragraph 42E(f) includes a description of the derecognised financial assets and the nature and purpose of the continuing involvement retained after transferring those assets. It also includes a description of the risks to which an entity is exposed, including:

- (a) a description of how the entity manages the risk inherent in its continuing involvement in the derecognised financial assets;
- (b) whether the entity is required to bear losses before other parties, and the ranking and amounts of losses borne by parties whose interests rank lower than the entity's interest in the asset (ie its continuing involvement in the asset);
- (c) a description of any triggers associated with obligations to provide financial support or to repurchase a transferred financial asset.

Gain or loss on derecognition (paragraph 42G(a))

B38 Paragraph 42G(a) requires an entity to disclose the gain or loss on derecognition relating to financial assets in which the entity has continuing involvement. The entity shall disclose if a gain or loss on derecognition arose because the fair values of the components of the previously recognised asset (ie the interest in the asset derecognised and the interest retained by the entity) were different from the fair value of the previously recognised asset as a whole. In that situation, the entity also shall disclose whether the fair value measurements included significant inputs that were not based on observable market data, as described in paragraph 27A.

Supplementary information (paragraph 42H)

B39 The disclosures required in paragraphs 42D–42G may not be sufficient to meet the disclosure objectives in paragraph 42B. If this is the case, the entity shall disclose whatever additional information is necessary to meet the disclosure objectives. The entity shall decide, in the light of its circumstances, how much additional information it needs to provide to satisfy the information needs of users and how much emphasis it places on different aspects of the additional information. It is necessary to strike a balance between burdening financial statements with excessive detail that may not assist users of financial statements and obscuring information as a result of too much aggregation.

AMENDMENT TO IFRS 1**First-time Adoption of International Financial Reporting Standards**

Paragraph 39F is added.

EFFECTIVE DATE

39F *Disclosures—Transfers of Financial Assets* (Amendments to IFRS 7), issued in October 2010, added paragraph E4. An entity shall apply that amendment for annual periods beginning on or after 1 July 2011. Earlier application is permitted. If an entity applies the amendment for an earlier period, it shall disclose that fact.

*Appendix E***Short-term exemptions from IFRSs**

Paragraph E4 and a footnote are added.

Disclosures about financial instruments

E4 A first-time adopter may apply the transitional provisions in paragraph 44M of IFRS 7 (*).

(*) Paragraph E4 was added as a consequence of *Disclosures—Transfers of Financial Assets* (Amendments to IFRS 7) issued in October 2010. To avoid the potential use of hindsight and to ensure that first-time adopters are not disadvantaged as compared with current IFRS preparers, the Board decided that first-time adopters should be permitted to use the same transition provisions permitted for existing preparers of financial statements prepared in accordance with IFRSs that are included in *Disclosures—Transfers of Financial Assets* (Amendments to IFRS 7).

COMMISSION IMPLEMENTING REGULATION (EU) No 1206/2011**of 22 November 2011****laying down requirements on aircraft identification for surveillance for the single European sky****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air traffic Management Network (the interoperability Regulation)⁽¹⁾ and in particular Article 3(5) thereof,

Whereas:

- (1) The Commission has issued a mandate to Eurocontrol in accordance with Article 8(1) of Regulation (EC) No 549/2004 of the European Parliament and the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation)⁽²⁾ to develop requirements for the performance and the interoperability of surveillance within the European air traffic management network (EATMN). This Regulation is based on the resulting mandate report of 9 July 2010.
- (2) Individual aircraft identification should be established in accordance with the International Civil Aviation Organisation (ICAO) procedures before air traffic services using a surveillance system are provided for the aircraft.
- (3) Seamless operations depend on the unambiguous and continuous identification of individual aircraft operating as general air traffic under instrument flight rules throughout the airspace of the single European sky.
- (4) The current method for identifying individual aircraft uses discrete secondary surveillance radar transponder codes ("SSR codes" –), assigned in accordance with ICAO procedures and the air navigation plan for the European region.
- (5) Traffic growth over the last decade has resulted in a routine lack of available discrete SSR codes to meet demand during peak periods, and so individual aircraft identification in European airspace cannot currently be guaranteed.
- (6) An initial operational capability to use the downlinked aircraft identification feature should be deployed in a harmonised manner within a defined volume of airspace of the single European sky in order to reduce the overall demand for discrete SSR code assignments to achieve individual aircraft identification.
- (7) In order to optimise the availability of discrete SSR codes, improved and harmonised capabilities for the automatic assignment of SSR codes to aircraft should be deployed by those air navigation service providers that will not have a capability to use the downlinked aircraft identification feature.
- (8) A capability to use the downlinked aircraft identification feature throughout the airspace of the single European sky should be deployed in order to overcome the need for discrete SSR codes to identify general air traffic operating under instrument flight rules.
- (9) A reduction in the requirement for discrete SSR code assignments when using the downlinked aircraft identification feature - can best be achieved by the integrated initial flight plan processing system identifying those flights that are eligible for the assignment of an agreed conspicuity code and on air navigation service providers assigning the agreed conspicuity code to those eligible flights when identification using the downlinked aircraft identification feature is successful.
- (10) The downlinked aircraft identification feature can only be used to achieve individual aircraft identification where air navigation service providers deploy appropriate surveillance sensors, surveillance data processing and distribution system functionality, flight data processing system functionality, air-to-ground and ground-to-ground communications, controller display functionality, and provide for procedures and personnel training.
- (11) The degree to which air navigation service providers can actually employ the capability to use the downlinked aircraft identification feature to reduce the requirement for the assignment of discrete SSR codes is dependent on the level of equipment of aircraft with the downlinked aircraft identification feature, on the extent that the routes of those aircraft are within contiguous coverage

⁽¹⁾ OJ L 96, 31.3.2004, p. 26.

⁽²⁾ OJ L 96, 31.3.2004, p. 1.

of systems providing the capability, and on the overarching requirement to ensure efficient and safe operations.

- (12) Warnings of the unintentional duplication of SSR code assignments to more than one aircraft should be provided to controllers in order to prevent the potential misidentification of aircraft.
- (13) The uniform application of specific procedures within the airspace of the single European sky is critical for the achievement of interoperability and seamless operations.
- (14) All changes to facilities and services that are made as a result of the implementation of this Regulation should be reflected by Member States in the ICAO European Air Navigation Plan through the normal procedure for amendment.
- (15) This Regulation should not cover military operations and training as referred in Article 1(2) of Regulation (EC) No 549/2004.
- (16) With a view to maintaining or enhancing existing safety levels of operations, Member States should be required to ensure that the parties concerned conduct a safety assessment including hazard identification, risk assessment and mitigation processes. Harmonised implementation of these processes to the systems covered by this Regulation requires the identification of specific safety requirements for all interoperability and performance requirements.
- (17) In accordance with Regulation (EC) No 552/2004, implementing rules for interoperability should describe the specific conformity assessment procedures to be used to assess either the conformity or the suitability for use of constituents as well as the verification of systems.
- (18) In the case of air traffic services provided primarily to aircraft flying as general air traffic under military supervision, procurement constraints could prevent compliance with this Regulation.
- (19) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down requirements for the systems contributing to the provision of surveillance information, their constituents and associated procedures in order to ensure the unambiguous and continuous individual identification of aircraft within the EATMN.

Article 2

Scope

1. This Regulation shall apply to the surveillance chain constituted of:

- (a) airborne constituents of surveillance systems and their associated procedures;
- (b) ground-based surveillance systems, their constituents and associated procedures;
- (c) systems and procedures for air traffic services, in particular flight data processing systems, surveillance data processing systems and human machine interface systems;
- (d) ground-to-ground and air-to-ground communication systems, their constituents and associated procedures used for the distribution of surveillance data.

2. This Regulation shall apply to all flights operating as general air traffic in accordance with instrument flight rules within the airspace defined in Article 1(3) of Regulation (EC) No 551/2004 of the European Parliament and of the Council ⁽¹⁾.

Article 3

Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 shall apply.

The following definitions shall also apply:

- (1) 'aircraft identification' means a group of letters, figures or a combination thereof which is either identical to, or the coded equivalent of, the aircraft call sign to be used in air-ground communications, and which is used to identify the aircraft in ground-ground air traffic services communications;
- (2) 'SSR code' means one of the 4 096 secondary surveillance radar identity codes that can be transmitted by airborne constituents of surveillance systems;
- (3) 'discrete SSR code' means a four-digit secondary surveillance radar identity code with the last two digits not being "00";
- (4) 'downlinked aircraft identification' means the aircraft identification transmitted by airborne constituents of surveillance systems via an air-to-ground surveillance system;
- (5) 'conspicuity code' means an individual SSR code designated for special purposes;
- (6) 'over-flight' means a flight that enters defined airspace from an adjacent sector, then transits across the defined airspace and exits the defined airspace into an adjacent sector outside;

⁽¹⁾ OJ L 96, 31.3.2004, p. 20.

- (7) 'arriving flight' means a flight that enters defined airspace from an adjacent sector, then transits across the defined airspace and lands at a destination within the defined airspace;
- (8) 'departing flight' means a flight that originates at an aerodrome within defined airspace, then transits across the defined airspace and either lands at an aerodrome within the defined airspace or exits the defined airspace into an adjacent sector outside;
- (9) 'operator' means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;
- (10) 'code allocation list' means a document specifying the overall distribution of SSR codes to Member States and air traffic service (ATS) units that has been agreed by Member States and published in the air navigation plan for the ICAO European Region;
- (11) 'co-operative surveillance chain' means a surveillance chain requiring both ground and airborne components to determine surveillance data items;
- (12) 'integrated initial flight plan processing system' means a system within the European Air Traffic Management Network through which a centralised flight planning processing and distribution service, dealing with the reception, validation and distribution of flight plans, is provided within the airspace covered by this Regulation.
4. Air navigation service providers establishing individual aircraft identification using discrete SSR codes outside of the airspace defined in Annex I shall ensure that they comply with the requirements laid down in Annex III.
5. Air navigation service providers shall ensure that:
- (a) systems referred to in points (b), (c) and (d) of Article 2(1) are deployed as necessary to support the requirements laid down in paragraphs 3 and 4 of this Article;
- (b) systems or procedures referred to in points (b), (c) and (d) of Article 2(1) are deployed as necessary to inform controllers when SSR code assignments are unintentionally duplicated.
6. Member States shall ensure that:
- (a) volumes of airspace are declared to the centralised flight planning processing and distribution service referred to in point (1) of Annex II to support the requirements of paragraphs 1 and 2 of this Article and point (b) of this paragraph;
- (b) the integrated initial flight plan processing system communicates to all affected air navigation service providers those flights that are eligible for the use of the conspicuity code referred to in point (c);
- (c) a single conspicuity code is agreed by all Member States and coordinated with European third countries for assignment solely to aircraft where individual aircraft identification is established by using the downlinked aircraft identification feature.

Article 4

Performance requirements

1. Member States responsible for the provision of air traffic services in the airspace defined in Annex I shall ensure that a capability is implemented to be able to establish individual aircraft identification using downlinked aircraft identification for:

- (a) at least 50 % of all over-flights of the defined airspace of the individual Member State and;
- (b) at least 50 % of the combined total number of all arriving flights and departing flights within the defined airspace of the individual Member State.

2. Air navigation service providers shall ensure that, at the latest, by 2 January 2020, the cooperative surveillance chain has the necessary capability to allow them to establish individual aircraft identification using the downlinked aircraft identification feature.

3. Air navigation service providers establishing individual aircraft identification using the downlinked aircraft identification feature shall ensure that they comply with the requirements laid down in Annex II.

Article 5

Safety requirements

1. Member States shall ensure that any changes to the existing systems referred to in points (b), (c) and (d) of Article 2(1) or the introduction of new systems are preceded by a safety assessment, including hazard identification, risk assessment and mitigation, conducted by the parties concerned.

2. During the assessments identified in paragraph 1, the requirements set out in Annex IV shall be taken into consideration as a minimum.

Article 6

Conformity or suitability for use of constituents

Before issuing an EC declaration of conformity or suitability for use provided for in Article 5 of Regulation (EC) No 552/2004, manufacturers of constituents of the systems referred to in Article 2(1) of this Regulation or their authorised representatives established in the Union, shall assess the conformity or suitability for use of those constituents in compliance with the requirements set out in Annex V.

However, certification processes complying with Regulation (EC) No 216/2008 of the European Parliament and of the Council ⁽¹⁾, shall be considered as acceptable procedures for the conformity assessment of constituents if they include the demonstration of compliance with the applicable performance and safety requirements of this Regulation.

Article 7

Verification of systems

1. Air navigation service providers which can demonstrate or have demonstrated that they fulfil the conditions set out in Annex VI shall conduct a verification of the systems referred to in points (b), (c) and (d) of Article 2(1) in compliance with the requirements set out in Part A of Annex VII.

2. Air navigation service providers which cannot demonstrate that they fulfil the conditions set out in Annex VI shall sub-contract to a notified body a verification of the systems referred to in points (b), (c) and (d) of Article 2(1). This verification shall be conducted in compliance with the requirements set out in Part B of Annex VII.

3. Certification processes complying with Regulation (EC) No 216/2008 shall be considered as acceptable procedures for the verification of systems if they include the demonstration of compliance with the applicable performance and safety requirements of this Regulation.

Article 8

Additional requirements for air navigation service providers

1. Air navigation service providers shall ensure that all personnel concerned are made duly aware of the requirements laid down in this Regulation and that they are adequately trained for their job functions.

2. Air navigation service providers shall:

- (a) develop and maintain operations manuals containing the necessary instructions and information to enable all related personnel to apply this Regulation;
- (b) ensure that the manuals referred to in point (a) are accessible and kept up-to-date and that their update and distribution are subject to appropriate quality and documentation configuration management;
- (c) ensure that the working methods and operating procedures comply with this Regulation.

Article 9

Additional requirements for operators

1. Operators shall take the necessary measures to ensure that the personnel operating and maintaining surveillance equipment

are made aware of the relevant provisions of this Regulation and that they are adequately trained for their job functions, and that instructions about how to use that equipment are available in the cockpit.

2. Operators shall take the necessary measures to ensure that the downlinked aircraft identification feature is provided on aircraft when operationally required as set out in Article 4(1) and (2).

3. Operators shall ensure that the setting of the downlinked aircraft identification feature referred to in paragraph 4 complies with item 7 'aircraft identification' of the flight plan referred to in point 2 of the Annex to Commission Regulation (EC) No 1033/2006 ⁽²⁾.

4. Operators of those aircraft having the capability to change the downlinked aircraft identification feature referred to in paragraph 2 when airborne shall ensure that the downlinked aircraft identification feature is not changed during the flight unless requested by the air navigation service provider.

Article 10

Additional requirements for Member States

Member States shall ensure compliance with this Regulation including the publication of relevant information in the national aeronautical information publications.

Article 11

Exemptions

1. For the specific case of approach areas where air traffic services are provided by military units or under military supervision and when procurement constraints prevent compliance with Article 4(2), Member States shall communicate to the Commission by 31 December 2017 at the latest, the date of compliance with downlinked aircraft identification that shall not be later than 2 January 2025.

2. Following consultation with the Network Manager and not later than 31 December 2018, the Commission may review the exemptions communicated under paragraph 1 that could have a significant impact on the EATMN.

Article 12

Entry into force and application

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

It shall apply from 9 February 2012.

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

⁽²⁾ OJ L 186, 7.7.2006, p. 46.

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

Done at Brussels, 22 November 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Airspace referred to in Article 4(1) and (4)

The airspace referred to in Article 4(1) and (4) shall include the following Flight Information Regions (FIR) and Upper Flight information Regions (UIR):

- 1) Wien FIR;
 - 2) Praha FIR;
 - 3) Brussels FIR/UIR;
 - 4) Bordeaux, Brest, Marseille, Paris and Reims FIRs, and the France UIR;
 - 5) Bremen, Langen and Munchen FIRs, and Hannover and Rhein UIRs;
 - 6) Athinai FIR and Hellas UIR;
 - 7) Budapest FIR;
 - 8) Brindisi FIR/UIR, Milano FIR/UIR and Roma FIR/UIR;
 - 9) Amsterdam FIR;
 - 10) Bucharest FIR.
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ANNEX II

Performance requirements referred to in Article 4(3)

1. Airspace volumes where individual aircraft identification is established using the downlinked aircraft identification feature shall be declared to the centralised flight planning processing and distribution service for input into the integrated initial flight plan processing system.
 2. Except when one of the conditions set out in point (3) apply, the conspicuity code established in accordance with point (c) of Article 4(6) shall be assigned to departing aircraft or to aircraft for which, in accordance with point 6, a code change is required, where the following conditions apply:
 - (a) the downlinked aircraft identification matches the corresponding entry in the flight plan for that aircraft;
 - (b) the integrated initial flight plan processing system has communicated that the aircraft is eligible for the assignment of the conspicuity code.
 3. The conspicuity code shall not be assigned to aircraft referred to in point (2) if any of the following conditions apply:
 - (a) contingency measures that require the assignment of discrete SSR codes to aircraft have been put in place by an air navigation service provider experiencing unplanned ground surveillance sensor outages;
 - (b) exceptional military contingency measures require air navigation service providers to assign discrete SSR codes to aircraft;
 - (c) an aircraft which is eligible for the assignment of the conspicuity code established in accordance with point (c) of Article 4(6) exits or is otherwise diverted outside the airspace volume referred to in point (1).
 4. Aircraft that are not assigned the conspicuity code established in accordance with point (c) of Article 4(6) shall be assigned an SSR code that is in compliance with a code allocation list agreed by Member States and coordinated with European third countries.
 5. When an SSR code has been assigned to an aircraft, a check shall be made at the earliest opportunity to confirm that the SSR code set by the pilot is identical to that assigned to the flight.
 6. SSR codes assigned to aircraft being transferred from air navigation service providers in neighbouring States shall be automatically checked to see if the assignments can be retained in compliance with a code allocation list agreed by Member States and coordinated with European third countries.
 7. Formal arrangements with the following minimum content shall be established with neighbouring air navigation service providers that are establishing individual aircraft identification by using discrete SSR codes:
 - (a) an obligation on the neighbouring air navigation service providers to transfer aircraft with verified discrete SSR codes assigned in compliance with a code allocation list agreed by Member States and coordinated with European third countries;
 - (b) an obligation to notify accepting units about any observed irregularity in the operation of airborne constituents of surveillance systems.
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*ANNEX III***Performance requirements referred to in Article 4(4)**

Individual systems used for the assignment of SSR codes shall have the following functional capabilities:

- (a) SSR codes shall be automatically assigned to aircraft in compliance with a code allocation list agreed by Member States and coordinated with European third countries;
 - (b) SSR codes assigned to aircraft being transferred from air navigation service providers in neighbouring States shall be checked to see if the assignments can be retained in compliance with a code allocation list agreed by Member States and coordinated with European third countries;
 - (c) SSR codes shall be classified into different categories to allow for differentiated code assignment;
 - (d) SSR codes from the different categories referred to in point (c) shall be assigned according to the directions of flights;
 - (e) multiple simultaneous assignments of the same SSR code shall be made to flights operating in conflict-free directions.
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*ANNEX IV***Requirements referred to in Article 5**

1. The performance requirements specified in Article 4(3), (4), (5)(b) and (6).
 2. The additional requirements specified in Article 9(1), (2), (3) and (4).
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ANNEX V

Requirements for the assessment of the conformity or suitability for use of constituents referred to in Article 6

1. The verification of compliance activities shall demonstrate the conformity or suitability for use of constituents with the applicable requirements of this Regulation whilst these constituents are in operation in the test environment.
 2. The manufacturer shall manage the conformity assessment activities and shall in particular:
 - (a) determine the appropriate test environment;
 - (b) verify that the test plan describes the constituents in the test environment;
 - (c) verify that the test plan provides full coverage of applicable requirements;
 - (d) ensure the consistency and quality of the technical documentation and the test plan;
 - (e) plan the test organisation, staff, installation and configuration of the test platform;
 - (f) perform the inspections and tests in accordance with the test plan;
 - (g) write the report presenting the results of inspections and tests.
 3. The manufacturer shall ensure that the constituents referred to in Article 6, integrated in the test environment meet the applicable requirements of this Regulation.
 4. Upon satisfying completion of verification of conformity or suitability for use, the manufacturer shall under its responsibility draw up the EC declaration of conformity or suitability for use, specifying notably the applicable requirements of this Regulation met by the constituent and its associated conditions of use in accordance with point (3) of Annex III to Regulation (EC) No 552/2004.
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ANNEX VI

Conditions referred to in Article 7(1) and (2)

1. The air navigation service provider must have in place reporting methods within the organisation which ensure and demonstrate impartiality and independence of judgement in relation to the verification activities.
 2. The air navigation service provider must ensure that the personnel involved in verification processes, carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and are free of any pressure and incentive, in particular of a financial type, which could affect their judgment or the results of their checks, in particular from persons or groups of persons affected by the results of the checks.
 3. The air navigation service provider must ensure that the personnel involved in verification processes, have access to the equipment that enables them to properly perform the required checks.
 4. The air navigation service provider must ensure that the personnel involved in verification processes, have sound technical and vocational training, satisfactory knowledge of the requirements of the verifications they have to carry out, adequate experience of such operations, and the ability required to draw up the declarations, records and reports to demonstrate that the verifications have been carried out.
 5. The air navigation service provider must ensure that the personnel involved in verification processes, are able to perform their checks with impartiality. Their remuneration shall not depend on the number of checks carried out, or on the results of such checks.
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ANNEX VII

PART A

Requirements for the verification of systems referred to in Article 7(1)

1. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall demonstrate the compliance of those systems with the performance and safety requirements of this Regulation in an assessment environment that reflects the operational context of those systems.
2. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall be conducted in accordance with appropriate and recognised testing practices.
3. Test tools used for the verification of systems identified in points (b), (c) and (d) of Article 2(1) shall have appropriate functionalities.
4. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall produce the elements of the technical file required by point (3) of Annex IV to Regulation (EC) No 552/2004 including the following elements:
 - (a) description of the implementation;
 - (b) the report of inspections and tests achieved before putting the system into service.
5. The air navigation service provider shall manage the verification activities and shall in particular:
 - (a) determine the appropriate operational and technical assessment environment reflecting the operational environment;
 - (b) verify that the test plan describes the integration of systems identified in points (b), (c) and (d) of Article 2(1) in an operational and technical assessment environment;
 - (c) verify that the test plan provides full coverage of the applicable performance and safety requirements of this Regulation;
 - (d) ensure the consistency and quality of the technical documentation and the test plan;
 - (e) plan the test organisation, staff, installation and configuration of the test platform;
 - (f) perform the inspections and tests as specified in the test plan;
 - (g) write the report presenting the results of inspections and tests.
6. The air navigation service provider shall ensure that the systems identified in points (b), (c) and (d) of Article 2(1) operated in an operational assessment environment meet the performance and safety requirements of this Regulation.
7. Upon satisfying completion of verification of compliance, air navigation service providers shall draw up the EC declaration of verification of systems and submit it to the national supervisory authority together with the technical file as required by Article 6 of Regulation (EC) No 552/2004.

PART B

Requirements for the verification of systems referred to in Article 7(2)

1. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall demonstrate the compliance of those systems with the performance and safety requirements of this Regulation in an assessment environment that reflects the operational context of these systems.
2. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall be conducted in accordance with appropriate and recognised testing practices.

3. Test tools used for the verification of systems identified in points (b), (c) and (d) of Article 2(1) shall have appropriate functionalities.
 4. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall produce the elements of the technical file required by point (3) of Annex IV to Regulation (EC) No 552/2004 including the following elements:
 - (a) description of the implementation;
 - (b) the report of inspections and tests achieved before putting the system into service.
 5. The air navigation service provider shall determine the appropriate operational and technical assessment environment reflecting the operational environment and shall have verification activities performed by a notified body.
 6. The notified body shall manage the verification activities and shall in particular:
 - (a) verify that the test plan describes the integration of systems identified in points (b), (c) and (d) of Article 2(1) in an operational and technical assessment environment;
 - (b) verify that the test plan provides full coverage of the applicable performance and safety requirements of this Regulation;
 - (c) ensure the consistency and quality of the technical documentation and the test plan;
 - (d) plan the test organisation, staff, installation and configuration of the test platform;
 - (e) perform the inspections and tests as specified in the test plan;
 - (f) write the report presenting the results of inspections and tests.
 7. The notified body shall ensure that the systems identified in points (b), (c) and (d) of Article 2(1) operated in an operational assessment environment meet the performance and safety requirements of this Regulation.
 8. Upon satisfying completion of verification tasks, the notified body shall draw up a certificate of conformity in relation to the tasks it carried out.
 9. Then, the air navigation service provider shall draw up the EC declaration of verification of system and submit it to the national supervisory authority together with the technical file as required by Article 6 of Regulation (EC) No 552/2004.
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COMMISSION IMPLEMENTING REGULATION (EU) No 1207/2011**of 22 November 2011****laying down requirements for the performance and the interoperability of surveillance for the single European sky****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation) ⁽¹⁾, and in particular Article 3(5) thereof,

Whereas:

- (1) The Commission has issued a mandate to Eurocontrol in accordance with Article 8(1) of Regulation (EC) No 549/2004 of the European Parliament and the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ⁽²⁾ to develop requirements for the performance and the interoperability of surveillance within the European air traffic management network (EATMN). This Regulation is based on the resulting mandate report of 9 July 2010.
- (2) Seamless operations are dependent on the coherence of the minimum requirements for the separation of aircraft applied within the airspace of the single European sky.
- (3) In order to ensure interoperability, common principles should be applied when surveillance data are exchanged between systems. In addition, minimal capabilities and performance applicable to airborne constituents of surveillance systems should be identified.
- (4) The capabilities of the airborne constituents of surveillance systems should give the flexibility to the air navigation service providers to choose the most appropriate ground based surveillance solutions for their particular environments.
- (5) The implementation of this Regulation should be without prejudice to the deployment of other surveillance applications and technologies bringing benefits in specific environments.
- (6) Operators need sufficient notice to equip new aircraft and existing fleets with new capabilities. This should be taken into account when defining dates for mandatory equipage.
- (7) Criteria for possible exemptions, based in particular on economic or compelling technical consideration, should be identified allowing operators exceptionally not to equip specific types of aircraft with some of the required capabilities. Appropriate procedures should be established to allow the Commission to take decisions in this respect.
- (8) The 24-bit ICAO aircraft address should be assigned and operated in compliance with the International Civil Aviation Organisation (ICAO) requirements in order to ensure the interoperability of the air and ground surveillance systems.
- (9) The foundation established through the implementation of ADS-B 'Out' capabilities by aircraft operators should enable the deployment of ground applications and should also facilitate the deployment of future airborne applications.
- (10) The EATMN systems should support the implementation of advanced, agreed and validated concepts of operation for all phases of flight, in particular as envisaged in the ATM Master Plan for the development of the new generation European air traffic management system (SESAR).
- (11) The performance of the systems within the scope of this Regulation and of their constituents should be regularly assessed taking into account the local environment in which they operate.
- (12) The uniform application of specific procedures within the airspace of the single European sky is critical for the achievement of interoperability and seamless operations.
- (13) Spectrum used by surveillance systems should be protected to prevent harmful interferences. Member States should take the necessary measures in this respect.

⁽¹⁾ OJ L 96, 31.3.2004, p. 26.

⁽²⁾ OJ L 96, 31.3.2004, p. 1.

- (14) This Regulation should not cover military operations and training as referred in Article 1(2) of Regulation (EC) No 549/2004.
- (15) With a view to maintaining or enhancing existing safety levels of operations, Member States should be required to ensure that the parties concerned carry out a safety assessment including hazard identification, risk assessment and mitigation processes. Harmonised implementation of these processes to the systems covered by this Regulation requires the identification of specific safety requirements for all interoperability and performance requirements.
- (16) In accordance with Regulation (EC) No 552/2004, implementing rules for interoperability should describe the specific conformity assessment procedures to be used to assess either the conformity or the suitability for use of constituents as well as the verification of systems.
- (17) In the case of air traffic services provided primarily to aircraft flying as general air traffic under military supervision, procurement constraints could prevent compliance with this Regulation.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down requirements on the systems contributing to the provision of surveillance data, their constituents and associated procedures in order to ensure the harmonisation of performance, the interoperability and the efficiency of these systems within the European air traffic management network (EATMN) and for the purpose of civil-military coordination.

Article 2

Scope

1. This Regulation shall apply to the surveillance chain constituted of:

- (a) airborne surveillance systems, their constituents and associated procedures;
- (b) ground-based surveillance systems, their constituents and associated procedures;

(c) surveillance data processing systems, their constituents and associated procedures;

(d) ground-to-ground communications systems used for distribution of surveillance data, their constituents and associated procedures.

2. This Regulation shall apply to all flights operating as general air traffic in accordance with instrument flight rules within the airspace provided for in Article 1(3) of Regulation (EC) No 551/2004 of the European Parliament and of the Council⁽¹⁾ with the exception of Articles 7(3) and 7(4) which shall apply to all flights operating as general air traffic.

3. This Regulation shall apply to air traffic service providers which provide air traffic control services based on surveillance data, and to communication, navigation or surveillance service providers which operate systems laid down in paragraph 1.

Article 3

Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 shall apply.

The following definitions shall also apply:

(1) 'surveillance data' means any data item, time stamped or not, within the surveillance system that pertains to:

- (a) aircraft 2D position;
- (b) aircraft vertical position;
- (c) aircraft attitude;
- (d) aircraft identity;
- (e) 24-bit ICAO aircraft address;
- (f) aircraft intent;
- (g) aircraft velocity;
- (h) aircraft acceleration;

(2) 'operator' means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

⁽¹⁾ OJ L 96, 31.3.2004, p. 20.

- (3) 'ADS-B' means automatic dependent surveillance — broadcast, a surveillance technique in which aircraft automatically provide, via a data link, data derived from on-board navigation and position-fixing systems;
- (4) 'ADS-B Out' means the provision of ADS-B surveillance data from an aircraft transmit perspective;
- (5) 'harmful interference' means interference that prevents the achievement of the performance requirements;
- (6) 'surveillance chain' means a system composed of the aggregation of airborne and ground-based constituents used to determine the respective surveillance data items of aircraft, including the surveillance data processing system, if deployed;
- (7) 'cooperative surveillance chain' means a surveillance chain requiring both ground and airborne components to determine surveillance data items;
- (8) 'surveillance data processing system' means a system that processes all surveillance inputs received to form a best estimate of the current aircraft surveillance data;
- (9) 'aircraft identification' means a group of letters, figures or a combination thereof which is either identical to, or the coded equivalent of, the aircraft call sign to be used in air-to-ground communications, and which is used to identify the aircraft in ground-to-ground air traffic services communications;
- (10) 'State aircraft' means any aircraft used for military, customs and police purposes;
- (11) 'transport type State aircraft' means fixed wing State aircraft that are designed for the purpose of transporting persons and/or cargo;
- (12) 'extrapolate' means to project, predict or extend known data based upon values within an already observed time interval;
- (13) 'coasted' means extrapolated for a period longer than the ground surveillance systems update period;
- (14) 'time of applicability' means the time at which the data item has been measured by the surveillance chain or the time for which it has been calculated by the surveillance chain;
- (15) 'accuracy' means the degree of conformity of the provided value of a data item with its actual value at the time when the data item is output from the surveillance chain;
- (16) 'availability' means the degree to which a system or component is operational and accessible when required for use;
- (17) 'integrity' means the degree of undetected (at system level) non-conformity of the input value of the data item with its output value;
- (18) 'continuity' means the probability that a system will perform its required function without unscheduled interruption, assuming that the system is available at the initiation of the intended operation;
- (19) 'timeliness' means the difference between the time of output of a data item and the time of applicability of that data item.

Article 4

Performance requirements

1. Air navigation service providers shall ensure seamless operations within the airspace under their responsibility and at the boundary with adjacent airspaces by applying appropriate minimum requirements for the separation of aircraft.
2. Air navigation service providers shall ensure that systems referred to in points (b), (c) and (d) of Article 2(1) are deployed as necessary to support the minimum requirements for the separation of aircraft applied in accordance with paragraph 1.
3. Air navigation service providers shall ensure that the output of the surveillance chain referred to in Article 2(1) complies with the performance requirements set out in Annex I provided that the airborne constituent functions used are compliant with the requirements set out in Annex II.
4. If an air navigation service provider identifies an aircraft whose avionics exhibit a functional anomaly, he shall inform the operator of the flight of the deviation from the performance requirements. The operator shall investigate the matter before the next flight is initiated and any rectification necessary shall be introduced in line with normal maintenance and corrective procedures for the aircraft and its avionics.

*Article 5***Interoperability requirements**

1. Air navigation service providers shall ensure that all surveillance data transferred from their systems identified in points (b) and (c) of Article 2(1) to other navigation service providers complies with the requirements set out in Annex III.

2. Air navigation service providers when transferring surveillance data from their systems identified in points (b) and (c) of Article 2(1) to other air navigation service providers, shall establish formal arrangements with them for the exchange of the data in accordance with the requirements set out in Annex IV.

3. Air navigation service providers shall ensure that, by 2 January 2020 at the latest, the cooperative surveillance chain has the necessary capability to allow them to establish individual aircraft identification using downlinked aircraft identification made available by aircraft equipped in accordance with Annex II.

4. Operators shall ensure that:

(a) aircraft operating flights referred to in Article 2(2) with an individual certificate of airworthiness first issued on or after 8 January 2015 are equipped with secondary surveillance radar transponders having the capabilities set out in Part A of Annex II;

(b) aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 8 January 2015 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part B of that Annex;

(c) fixed wing aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 8 January 2015 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part C of that Annex.

5. Operators shall ensure that by 7 December 2017 at the latest:

(a) aircraft operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued before

8 January 2015, are equipped with secondary surveillance radar transponders having the capabilities set out in Part A of Annex II;

(b) aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued before 8 January 2015 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part B of that Annex;

(c) fixed wing aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued before 8 January 2015 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part C of that Annex.

6. Operators shall ensure that aircraft equipped in accordance with paragraphs 4 and 5 and having a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots operate with antenna diversity as prescribed in paragraph 3.1.2.10.4 of Annex 10 to the Chicago Convention, Volume IV, Fourth Edition including all amendments up to No 85.

7. Member States may impose carriage requirements in accordance with point (b) of paragraph 4 and point (b) of paragraph 5 to all aircraft operating flights referred to in Article 2(2) in areas where surveillance services using the surveillance data identified in Part B of Annex II are provided by air navigation service providers.

8. Air navigation service providers shall ensure that, before putting into service the systems referred to in points (b), (c) and (d) of Article 2(1), they are implementing the most efficient deployment solutions taking into account the local operating environments, constraints and needs as well as airspace users capabilities.

*Article 6***Spectrum protection**

1. By 5 February 2015 at the latest Member States shall ensure that a secondary surveillance radar transponder on board any aircraft flying over a Member State is not subject to excessive interrogations that are transmitted by ground-based surveillance interrogators and which either elicit replies or whilst not eliciting a reply are of sufficient power to exceed the minimum threshold level of the receiver of the secondary surveillance radar transponder.

2. For the purpose of paragraph 1, the sum of such inter-rogations shall not cause the secondary surveillance radar transponder to exceed the rates of reply per second, excluding any squitter transmissions, specified in paragraph 3.1.1.7.9.1 for Mode A/C replies and in paragraph 3.1.2.10.3.7.3 for Mode S replies of Annex 10 to the Chicago Convention, Volume IV, Fourth Edition.

3. By 5 February 2015 at the latest Member States shall ensure that the use of a ground based transmitter operated in a Member State does not produce harmful interference on other surveillance systems.

4. In the event of disagreement between Member States regarding the measures detailed in paragraphs 1 and 3 the Member States concerned shall bring the matter to the Commission for action.

Article 7

Associated procedures

1. Air navigation service providers shall assess the level of performance of ground based surveillance chain before putting them into service as well as regularly during the service, in accordance with the requirements set out in Annex V.

2. Operators shall ensure that a check is performed at least every two years, and, whenever an anomaly is detected on a specific aircraft, so that the data items set out in point 3 of Part A of Annex II, in point 3 of Part B of Annex II and in point 2 of Part C of Annex II, if applicable, are correctly provided at the output of secondary surveillance radar transponders installed on board their aircraft. If any of the data items are not correctly provided then the operator shall investigate the matter before the next flight is initiated and any rectification necessary shall be introduced in line with normal maintenance and corrective procedures for the aircraft and its avionics.

3. Member States shall ensure that the assignment of 24-bit ICAO aircraft addresses to aircraft equipped with a Mode S transponder complies with Chapter 9 and its appendix of Annex 10 to the Chicago Convention, Volume III, Second Edition including all amendments up to No 85.

4. Operators shall ensure that on board the aircraft they are operating, any Mode S transponder operates with a 24-bit ICAO aircraft address that corresponds to the registration that has been assigned by the State in which the aircraft is registered.

Article 8

State aircraft

1. Member States shall ensure that, by 7 December 2017 at the latest, State aircraft operating in accordance with

Article 2(2) are equipped with secondary surveillance radar transponders having the capability set out in Part A of Annex II.

2. Member States shall ensure that, by 1 January 2019 at the latest, transport-type State aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating in accordance with Article 2(2) are equipped with secondary surveillance radar transponders having in addition to the capability set out in Part A of Annex II, the capability set out in Part B and Part C of that Annex.

3. Member States shall communicate to the Commission by 1 July 2016 at the latest the list of State aircraft that cannot be equipped with secondary surveillance radar transponders that comply with the requirements set out in Part A of Annex II, together with the justification for non-equipage.

Member States shall communicate to the Commission by 1 July 2018 at the latest the list of transport-type State aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, that cannot be equipped with secondary surveillance radar transponders that comply with the requirements set out in Part B and Part C of Annex II, together with the justification for non-equipage.

The justification for non-equipage shall be one of the following:

- (a) compelling technical reasons;
- (b) State aircraft operating in accordance with Article 2(2) that will be out of operational service by 1 January 2020 at the latest;
- (c) procurement constraints.

4. Where State aircraft cannot be equipped with secondary surveillance radar transponders as specified by paragraphs 1 or 2 for the reason set out in point (c) of paragraph 3 Member States shall include in the justification their procurement plans regarding these aircraft.

5. Air traffic service providers shall ensure that the State aircraft identified in paragraph 3 can be accommodated, provided that they can be safely handled within the capacity of the air traffic management system.

6. Member States shall publish the procedures for the handling of State aircraft which are not equipped in accordance with paragraphs 1 or 2 in national aeronautical information publications.

7. Air traffic service providers shall communicate on an annual basis to the Member State that has designated them their plans for the handling of State aircraft which are not equipped according with paragraphs 1 or 2. Those plans shall be defined by taking into account the capacity limits associated with the procedures referred to in paragraph 6.

Article 9

Safety requirements

1. Member States shall ensure that, by 5 February 2015 at the latest, a safety assessment is conducted by the parties concerned for all existing systems referred to in points (b), (c) and (d) of Article 2(1).

2. Member States shall ensure that any changes to the existing systems referred to in points (b), (c) and (d) of Article 2(1) or the introduction of new systems are preceded by a safety assessment, including hazard identification, risk assessment and mitigation, conducted by the parties concerned.

3. During the assessments identified in paragraphs 1 and 2, the requirements set out in Annex VI shall be taken into consideration as a minimum.

Article 10

Conformity or suitability for use of constituents

Before issuing an EC declaration of conformity or suitability for use provided in Article 5 of Regulation (EC) No 552/2004, manufacturers of constituents of the systems referred to in Article 2(1) of this Regulation or their authorised representatives established in the Union, shall assess the conformity or suitability for use of those constituents in compliance with the requirements set out in Annex VII.

However, certification processes complying with Regulation (EC) No 216/2008 of the European Parliament and of the Council⁽¹⁾, shall be considered as acceptable procedures for the conformity assessment of constituents if they include the demonstration of compliance with the applicable interoperability, performance and safety requirements of this Regulation.

Article 11

Verification of systems

1. Air navigation service providers which can demonstrate or have demonstrated that they fulfil the conditions set out in

Annex VIII shall conduct a verification of the systems referred to in points (b), (c) and (d) of Article 2(1) in compliance with the requirements set out in Part A of Annex IX.

2. Air navigation service providers which cannot demonstrate that they fulfil the conditions set out in Annex VIII shall subcontract to a notified body a verification of the systems referred to in points (b), (c) and (d) of Article 2(1). This verification shall be conducted in compliance with the requirements set out in Part B of Annex IX.

3. Certification processes complying with Regulation (EC) No 216/2008 shall be considered as acceptable procedures for the verification of systems if they include the demonstration of compliance with the applicable interoperability, performance and safety requirements of this Regulation.

Article 12

Additional requirements

1. Air navigation service providers shall ensure that all personnel concerned are made duly aware of the requirements laid down in this Regulation and that they are adequately trained for their job functions.

2. Air navigation service providers shall:

(a) develop and maintain operations manuals containing the necessary instructions and information to enable all personnel concerned to apply this Regulation;

(b) ensure that the manuals referred to in point (a) are accessible and kept up to date and that their update and distribution are subject to appropriate quality and documentation configuration management;

(c) ensure that the working methods and operating procedures comply with this Regulation.

3. Operators shall take the necessary measures to ensure that the personnel operating and maintaining surveillance equipment are made duly aware of the relevant provisions of this Regulation, that they are adequately trained for their job functions, and that instructions about how to use this equipment are available in the cockpit where feasible.

4. Member States shall ensure compliance with this Regulation including the publication of the relevant information on surveillance equipment in the national aeronautical information publications.

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

*Article 13***Exemptions on the cooperative surveillance chain**

1. For the specific case of approach areas where air traffic services are provided by military units or under military supervision and when procurement constraints prevent compliance with Article 5(3), Member States shall communicate to the Commission by 31 December 2017 at the latest, the date of compliance of the cooperative surveillance chain that shall not be later than 2 January 2025.

2. Following consultation with the Network Manager and not later than 31 December 2018, the Commission may review the exemptions communicated under paragraph 1 that could have a significant impact on the EATMN.

*Article 14***Exemptions on aircraft**

1. Aircraft of specific types with a first certificate of airworthiness issued before 8 January 2015 that have a maximum take off mass exceeding 5 700 kg or a maximum cruising true airspeed greater than 250 knots that do not have the complete set of parameters detailed in Part C of Annex II available on a digital bus on-board the aircraft may be exempted from complying with the requirements of point (c) of Article 5(5).

2. Aircraft of specific types with a first certificate of airworthiness issued before 1 January 1990 that have a maximum take off mass exceeding 5 700 kg or a maximum cruising true airspeed greater than 250 knots may be exempted from complying with the requirements of Article 5(6).

3. The Member States concerned shall communicate to the Commission by 1 July 2017 at the latest, detailed information justifying the need for granting exemptions to these specific aircraft types based on the criteria of paragraph 5.

4. The Commission shall examine the requests for exemption referred to in paragraph 3, and, following consultation with the parties concerned, shall adopt a decision.

5. The criteria referred to in paragraph 3 shall include the following:

- (a) specific aircraft types reaching the end of their production life;
- (b) specific aircraft types being produced in limited numbers;
- (c) disproportionate re-engineering costs.

*Article 15***Entry into force and application**

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

Article 4, Article 5(1) and (2) and Article 7(1) shall apply from 13 December 2013.

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

Done at Brussels, 22 November 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX I

Performance requirements referred to in Article 4(3)**1. Surveillance data requirements**

1.1. All surveillance chains referred to in Article 4(3) shall provide as a minimum the following surveillance data:

- (a) 2D positional data (aircraft horizontal position);
- (b) surveillance data status:
 - cooperative/non-cooperative/combined;
 - coasted or not;
 - time of applicability of 2D positional data.

1.2. In addition, all cooperative surveillance chains referred to in Article 4(3) shall provide as a minimum the following surveillance data:

- (a) vertical positional data (based upon pressure altitude received from the aircraft);
- (b) operational identification data (aircraft identity received from the aircraft like aircraft identification and/or Mode A code);
- (c) supplemental indicators:
 - emergency indicators (i.e. unlawful interference, radio failure and general emergency);
 - special position indicator;
- (d) surveillance data status (time of applicability of vertical position data).

2. Surveillance data performance requirements

- 2.1. The air navigation service providers shall define performance requirements for the accuracy, availability, integrity, continuity and timeliness of the surveillance data provided by the systems referred to in Article 4(3) and used to enable the surveillance applications conducted.
 - 2.2. The evaluation of the accuracy of the horizontal position provided by the systems referred to in Article 4(3) shall include, as a minimum, the assessment of horizontal position error.
 - 2.3. The air navigation service providers shall verify compliance with the performance requirements defined in accordance with points 2.1 and 2.2.
 - 2.4. Verification of compliance shall be performed on the basis of the surveillance data provided at the output of the surveillance chain, to the surveillance data user.
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ANNEX II

Part A: Secondary surveillance radar transponder capabilities referred to in Article 4(3), Article 5(4)(a) and (5)(a), Article 7(2), Article 8(1) and (2)

1. The minimum capability for the secondary surveillance transponder shall be Mode S Level 2 certified in accordance with paragraphs 2.1.5.1.2, 2.1.5.1.7 and 3.1.2.10 of Annex 10 to the Chicago Convention, Volume IV, Fourth Edition including all amendments up to No 85.
2. Each implemented transponder register shall be compliant with the corresponding section of ICAO document 9871 (2nd edition).
3. The following data items shall be made available to the transponder and be transmitted by the transponder via the Mode S protocol and in accordance with the formats specified in ICAO document 9871 (2nd edition):
 - (a) 24-bit ICAO aircraft address;
 - (b) Mode A code;
 - (c) pressure altitude;
 - (d) flight status (on the ground or airborne);
 - (e) data link capability report;
 - airborne collision avoidance system (ACAS) capability,
 - Mode S specific services capability,
 - aircraft identification capability,
 - squitter capability,
 - surveillance identifier capability,
 - common usage Ground Initiated Comms.-B (GICB) capability report (indication of change),
 - Mode S subnetwork version number;
 - (f) common usage GICB capability report;
 - (g) aircraft identification;
 - (h) special position indication (SPI);
 - (i) emergency status (general emergency, no communications, unlawful interference) including the use of specific Mode A codes to indicate different emergency states;
 - (j) ACAS active resolution advisories when the aircraft is equipped with Traffic alert and collision avoidance system II (TCAS II).
4. Other data items may be made available to the transponder.
5. The data items referred to in point 4 shall only be transmitted by the transponder via the Mode S protocol if the aircraft and equipment certification process covers the transmission of these data items via the Mode S protocol.
6. The continuity of transponder functionality supporting the Mode S protocol shall be equal to or less than $2 \cdot 10^{-4}$ per flight hour (i.e. mean time between failure equal to or greater than 5 000 flight hours).

Part B: Secondary surveillance radar transponder capabilities referred to in Article 4(3), Article 5(4)(b), (5)(b) and (7), Article 7(2) and Article 8(3)

1. The minimum capability for the secondary surveillance transponder shall be Mode S Level 2 certified in accordance with paragraphs 2.1.5.1.2, 2.1.5.1.6, 2.1.5.1.7 and 3.1.2.10 of Annex 10 to the Chicago Convention, Volume IV, Fourth Edition including all amendments up to No 85.
2. Each implemented transponder register shall be compliant with the corresponding section of ICAO document 9871 (2nd edition).
3. The following data items shall be made available to the transponder and be transmitted by the transponder via Version 2 of the extended squitter (ES) ADS-B protocol in accordance with the formats specified in ICAO document 9871 (2nd edition):
 - (a) 24-bit ICAO aircraft address;
 - (b) aircraft identification;
 - (c) Mode A code;
 - (d) special position indication (SPI) using the same source as for the same parameter specified in Part A;
 - (e) emergency status (general emergency, no communications, unlawful interference) using the same source as for the same parameter specified in Part A;
 - (f) ADS-B version number (equal to 2);
 - (g) ADS-B emitter category;
 - (h) geodetic horizontal position in accordance with the world geodetic system revision 1984 (WGS84) latitude and longitude, both while airborne or on the ground;
 - (i) geodetic horizontal position quality indicators (corresponding to the integrity containment bound (NIC), 95 % navigation accuracy category for position (NAC_p), source integrity level (SIL) and system design assurance level (SDA));
 - (j) pressure altitude using the same source as for the same parameter specified in Part A;
 - (k) geometric altitude in accordance with the world geodetic system revision 1984 (WGS84), provided in addition and encoded as a difference to pressure altitude;
 - (l) geometric vertical accuracy (GVA);
 - (m) velocity over ground, both while airborne (east/west and north/south airborne velocity over ground) or on the ground (surface heading/ground track and movement);
 - (n) velocity quality indicator corresponding to navigation accuracy category for velocity (NAC_v);
 - (o) coded aircraft length and width;
 - (p) global navigation satellite system (GNSS) antenna offset;
 - (q) vertical rate: barometric vertical rate using the same source as for the same parameter specified in the data item in point 2 (g) of Part C when the aircraft is required and capable to transmit this data item via the Mode S protocol, or Global Navigation Satellite System (GNSS) vertical rate;
 - (r) mode control panel/flight control unit (MCP/FCU) selected altitude using the same source as for the same parameter specified in Part C when the aircraft is required and capable to transmit this data item via the Mode S protocol;

- (s) barometric pressure setting (minus 800 hectoPascals) using the same source as for the same parameter specified in Part C when the aircraft is required and capable to transmit this data item via the Mode S protocol;
 - (t) ACAS active resolution advisories when the aircraft is equipped with TCAS II using the same source as for the same parameter specified in Part A.
4. Surveillance data items (the data items in point 3(h), (k) and (m)) and their quality indicator data items (the data items in point 3(i), (l) and (n)) shall be provided to the transponders on the same physical interface.
 5. The data source connected to the transponder and providing the data items in point 3(h) and (i) shall meet the following data integrity requirements:
 - (a) horizontal position (data item in point 3(h)) source integrity level (SIL, expressed with respect to NIC) shall be equal to or less than 10^{-7} per flight-hour;
 - (b) horizontal position (data item in point 3(h)) integrity time to alert (leading to a change of the NIC quality indicator), if on-board monitoring is required to meet the horizontal position source integrity level, shall be equal to or less than 10 seconds.
 6. The primary data source providing the data items in point 3(h) and (i) shall be at least compatible with GNSS receivers that perform receiver autonomous integrity monitoring (RAIM) and fault detection and exclusion (FDE), along with the output of corresponding measurement status information, as well as integrity containment bound and 95 % accuracy bound indications.
 7. The system integrity level of the data sources providing the data items in point 3(f), (g), (k) to (p) shall be equal to or less than 10^{-5} per flight-hour.
 8. The quality indicator information (NIC, NACp, SIL, SDA, NACv and GVA) (the data items in point 3(i), (l) and (n)) shall express the actual performance of the selected data source as valid at the time of applicability of the measurement of the data items in point 3(h), (k) and (m)).
 9. With respect to the processing of the data items in point 3(a) to (t), the transponder system integrity level for the extended squitter ADS-B protocol, including any interconnecting avionics to the transponder, shall be equal to or less than 10^{-5} per flight-hour.
 10. The total latency of the horizontal position data (the data items in point 3(h) and (i)) shall be equal to or less than 1,5 second in 95 % of all transmissions.
 11. The uncompensated latency of the horizontal position data (data item in point 3(h)) shall be equal to or less than 0,6 second in 95 % of the cases and shall be equal to or less than 1,0 second in 99,9 % of all transmissions.
 12. The total latency of the ground speed data items (the data items in point 3(m) and (n)) shall be equal to or less than 1,5 second in 95 % of all transmissions.
 13. If the transponder is set to use a Mode A conspicuity code of 1000 then the broadcast of Mode A code information via the extended squitter ADS-B protocol shall be inhibited.
 14. Other data items may be made available to the transponder.
 15. Except for military reserved formats, the data items referred to in point 14 shall only be transmitted by the transponder via the extended squitter ADS-B protocol if the aircraft and equipment certification process covers the transmission of these data items via the extended squitter ADS-B protocol.
 16. The continuity of transponder functionality supporting the ADS-B protocol shall be equal to or less than $2 \cdot 10^{-4}$ per flight hour (i.e. mean time between failure equal to or greater than 5 000 flight hours).

Part C: Secondary surveillance radar transponder additional surveillance data capability referred to in Article 4(3), Article 5(4)(c) and (5)(c), Article 7(2), Article 8(3) and Article 14(1)

1. Each transponder register that is implemented shall be compliant with the corresponding section of ICAO document 9871 (2nd edition).

2. The following data items shall be made available to the transponder and be transmitted by the transponder as requested by the ground-based surveillance chain, via the Mode S protocol and in accordance with the formats specified in ICAO document 9871 (2nd edition):
 - (a) MCP/FCU selected altitude;
 - (b) roll angle;
 - (c) true track angle;
 - (d) ground speed;
 - (e) magnetic heading;
 - (f) indicated airspeed (IAS) or mach number;
 - (g) vertical rate (barometric or baro-inertial);
 - (h) barometric pressure setting (minus 800 hectoPascals);
 - (i) track angle rate or true airspeed if track angle rate is not available.
 3. Other data items may be made available to the transponder.
 4. The data items referred to in point 3 shall only be transmitted by the transponder via the Mode S protocol if the aircraft and equipment certification process covers the transmission of these data items via the Mode S protocol.
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*ANNEX III***Surveillance data exchange requirements referred to in Article 5(1)**

1. Surveillance data exchanged between the systems referred to in points (b) and (c) of Article 2(1), shall be subject to a data format that is agreed between the parties concerned.
 2. The surveillance data transferred outside the systems referred to in points (b) and (c) of Article 2(1) to other air navigation service providers shall allow:
 - (a) identification of the data source;
 - (b) identification of the type of data.
 3. Surveillance data transferred outside the systems referred to in points (b) and (c) of Article 2(1) to other air navigation service providers shall be time stamped and expressed as coordinated universal time (UTC).
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ANNEX IV

Requirements for the establishment of formal arrangements referred to in Article 5(2)

Formal arrangements between air navigation service providers for the exchange of surveillance data shall include the following minimum content:

- (a) the parties to the arrangements;
 - (b) the period of validity of the arrangements;
 - (c) the scope of the surveillance data;
 - (d) the sources of the surveillance data;
 - (e) the exchange format of the surveillance data;
 - (f) the communications means used to exchange the surveillance data;
 - (g) the service delivery point of the surveillance data;
 - (h) quality requirements for the surveillance data in terms of the following:
 - performance indicators or parameters used to monitor the quality of the surveillance data,
 - the methods and tools to be applied to the measurement of the quality of the surveillance data,
 - the frequency of measurement of the quality of the surveillance data,
 - data quality reporting procedures,
 - for each performance indicator the acceptable range of values shall be defined together with a procedure to be applied if the value falls outside that defined range,
 - identification of the party responsible for checking and ensuring quality requirements are met;
 - (i) agreed service levels in terms of the following:
 - hours of availability,
 - continuity,
 - integrity,
 - mean time between failures,
 - reaction times for outages,
 - procedures for planning and conducting preventative maintenance;
 - (j) change management procedures;
 - (k) reporting arrangements with respect to performance and availability including unforeseen outages;
 - (l) management and coordination arrangements;
 - (m) ground-based surveillance chain safeguarding and notification arrangements.
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ANNEX V

Requirements for the assessment of the level of performance of surveillance chains referred to in Article 7(1)

1. The assessment of the level of the ongoing performance of the systems referred to in points (b), (c) and (d) of Article 2(1) shall be performed in the volume of airspace where the corresponding provision of surveillance services utilising the systems is undertaken.
 2. Air navigation service providers shall periodically check the system and its components and develop and enforce a performance validation regime. The periodicity shall be agreed with the national supervisory authority taking into account the specificities of the system and its components.
 3. Before the implementation of airspace design modification the systems referred to in points (b), (c) and (d) of Article 2(1) shall be verified in order to check that they still meet the required performance in the new volume of operation.
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ANNEX VI

Requirements referred to in Article 9

1. The performance requirements specified in Article 4.
 2. The interoperability requirements specified in Article 5(2), (3) and (7).
 3. The spectrum protection requirements specified in Article 6.
 4. The associated procedures requirements specified in Article 7.
 5. The State aircraft requirement specified in Article 8(5).
 6. The additional requirements specified in Article 12(3).
 7. The surveillance data exchange requirements set out in point 3 of Annex III.
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ANNEX VII

Requirements for the assessment of the conformity or suitability for use of constituents referred to in Article 10

1. The verification of compliance activities shall demonstrate the conformity or suitability for use of constituents with the applicable requirements of this Regulation whilst these constituents are in operation in the test environment.
2. The manufacturer shall manage the conformity assessment activities and shall in particular:
 - (a) determine the appropriate test environment;
 - (b) verify that the test plan describes the constituents in the test environment;
 - (c) verify that the test plan provides full coverage of applicable requirements;
 - (d) ensure the consistency and quality of the technical documentation and the test plan;
 - (e) plan the test organisation, staff, installation and configuration of test platform;
 - (f) perform the inspections and tests as specified in the test plan;
 - (g) write the report presenting the results of inspections and tests.
3. The manufacturer shall ensure that the constituents referred to in Article 10, integrated in the test environment meet the applicable requirements of this Regulation.
4. Upon satisfying completion of verification of conformity or suitability for use, the manufacturer shall under its responsibility draw up the EC declaration of conformity or suitability for use, specifying notably the applicable requirements of this Regulation met by the constituent and its associated conditions of use in accordance with point 3 of Annex III to Regulation (EC) No 552/2004.

ANNEX VIII

Conditions referred to in Article 11(1) and (2)

1. The air navigation service provider must have in place reporting methods within the organisation which ensure and demonstrate impartiality and independence of judgement in relation to the verification activities.
2. The air navigation service provider must ensure that the personnel involved in verification processes, carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and are free of any pressure and incentive, in particular of a financial type, which could affect their judgment or the results of their checks, in particular from persons or groups of persons affected by the results of the checks.
3. The air navigation service provider must ensure that the personnel involved in verification processes, have access to the equipment that enables them to properly perform the required checks.
4. The air navigation service provider must ensure that the personnel involved in verification processes, have sound technical and vocational training, satisfactory knowledge of the requirements of the verifications they have to carry out, adequate experience of such operations, and the ability required to draw up the declarations, records and reports to demonstrate that the verifications have been carried out.
5. The air navigation service provider must ensure that the personnel involved in verification processes, are able to perform their checks with impartiality. Their remuneration shall not depend on the number of checks carried out, or on the results of such checks.

ANNEX IX

Part A: Requirements for the verification of systems referred to in Article 11(1)

1. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall demonstrate the compliance of these systems with the interoperability, performance and safety requirements of this Regulation in an assessment environment that reflects the operational context of these systems.
2. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall be conducted in accordance with appropriate and recognised testing practices.
3. Test tools used for the verification of systems identified in points (b), (c) and (d) of Article 2(1) shall have appropriate functionalities.
4. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall produce the elements of the technical file required by point 3 of Annex IV to Regulation (EC) No 552/2004 including the following elements:
 - (a) description of the implementation;
 - (b) the report of inspections and tests achieved before putting the system into service.
5. The air navigation service provider shall manage the verification activities and shall in particular:
 - (a) determine the appropriate operational and technical assessment environment reflecting the operational environment;
 - (b) verify that the test plan describes the integration of systems identified in points (b), (c) and (d) of Article 2(1) in an operational and technical assessment environment;
 - (c) verify that the test plan provides full coverage of the applicable interoperability, performance and safety requirements of this Regulation;
 - (d) ensure the consistency and quality of the technical documentation and the test plan;
 - (e) plan the test organisation, staff, installation and configuration of the test platform;
 - (f) perform the inspections and tests as specified in the test plan;
 - (g) write the report presenting the results of inspections and tests.
6. The air navigation service provider shall ensure that the systems identified in points (b), (c) and (d) of Article 2(1) operated in an operational assessment environment meet the interoperability, performance and safety requirements of this Regulation.
7. Upon satisfying completion of verification of compliance, air navigation service providers shall draw up the EC declaration of verification of system and submit it to the national supervisory authority together with the technical file as required by Article 6 of Regulation (EC) No 552/2004.

Part B: Requirements for the verification of systems referred to in Article 11(2)

1. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall demonstrate the compliance of these systems with the interoperability, performance and safety requirements of this Regulation in an assessment environment that reflects the operational context of these systems.
2. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall be conducted in accordance with appropriate and recognised testing practices.
3. Test tools used for the verification of systems identified in points (b), (c) and (d) of Article 2(1) shall have appropriate functionalities.
4. The verification of systems identified in points (b), (c) and (d) of Article 2(1) shall produce the elements of the technical file required by point 3 of Annex IV to Regulation (EC) No 552/2004 including the following elements:
 - (a) description of the implementation;
 - (b) the report of inspections and tests achieved before putting the system into service.

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5. The air navigation service provider shall determine the appropriate operational and technical assessment environment reflecting the operational environment and shall have verification activities performed by a notified body.
 6. The notified body shall manage the verification activities and shall in particular:
 - (a) verify that the test plan describes the integration of systems identified in points (b), (c) and (d) of Article 2(1) in an operational and technical assessment environment;
 - (b) verify that the test plan provides full coverage of the applicable interoperability, performance and safety requirements of this Regulation;
 - (c) ensure the consistency and quality of the technical documentation and the test plan;
 - (d) plan the test organisation, staff, installation and configuration of the test platform;
 - (e) perform the inspections and tests as specified in the test plan;
 - (f) write the report presenting the results of inspections and tests.
 7. The notified body shall ensure that the systems identified in points (b), (c) and (d) of Article 2(1) operated in an operational assessment environment meet the interoperability, performance and safety requirements of this Regulation.
 8. Upon satisfying completion of verification tasks, the notified body shall draw up a certificate of conformity in relation to the tasks it carried out.
 9. Then, the air navigation service provider shall draw up the EC declaration of verification of system and submit it to the national supervisory authority together with the technical file as required by Article 6 of Regulation (EC) No 552/2004.
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COMMISSION IMPLEMENTING REGULATION (EU) No 1208/2011**of 22 November 2011****amending and correcting Regulation (EC) No 288/2009 laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards the Community aid for supplying fruit and vegetables, processed fruit and vegetables and banana products to children in educational establishments, in the framework of a School Fruit Scheme**

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 103h(f) in conjunction with Article 4 thereof,

Whereas:

- (1) In the light of the experience acquired in the management of the School Fruit Scheme established by Article 103ga of Regulation (EC) No 1234/2007 and in order to facilitate its implementation, it is necessary to clarify and simplify a number of provisions of Commission Regulation (EC) No 288/2009 ⁽²⁾.
- (2) Article 103ga(2) of Regulation (EC) No 1234/2007 requires Member States to adopt the accompanying measures necessary to make their scheme effective. Accompanying measures do not benefit from Union aid for the School Fruit Scheme. It is therefore necessary to distinguish such measures with more precision from the communication measures which are eligible for Union aid.
- (3) Article 5(1) of Regulation (EC) No 288/2009 provides for a list of costs which are eligible for Union aid. In order to ensure proper financial management and control of expenditure, it is necessary to set out more clearly which costs are eligible for Union aid. To ensure the effectiveness of the scheme, it is appropriate to provide that personnel costs should not benefit from Union aid, with the exception of certain personnel costs which are directly linked to the implementation of the scheme.
- (4) Experience has shown that the detailed rules on aid applications and the payment of aid provided in Regulation (EC) No 288/2009 are difficult to apply in respect of entities that could execute monitoring, evaluation and communication tasks in the framework of the School Fruit Scheme when such entities are not involved in

the delivery of products. Therefore, it is necessary to clarify the conditions under which aid should be granted in respect of monitoring, evaluation and communication activities.

- (5) In order to limit the control requirements in respect of aid applicants that are solely responsible for dealing with monitoring, evaluation and communication tasks, rules on controls and checks should be simplified. By reason of the specific nature of those tasks, it is appropriate to exempt them from on-the-spot checks and to subject them only to full administrative checks.
- (6) In the second sentence of Article 3(5) of Regulation (EC) No 288/2009, there is an inconsistency in the language versions as regards the implementation of the School Fruit Scheme by Member States. It should be clarified in some language versions that if Member States choose to implement more than one scheme, they have to draw up a strategy for each scheme.
- (7) Regulation (EC) No 288/2009 should therefore be amended and corrected accordingly.
- (8) For programming purposes and in order to ensure that the rules do not change during the applicable period, it is necessary to apply the amendments introduced by this Regulation from the beginning of the current implementation period of the School Fruit Scheme, i.e. 1 August 2011.
- (9) 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***Amendment of Regulation (EC) No 288/2009**

Regulation (EC) No 288/2009 is amended as follows:

- (1) In Article 3, paragraph 4 is replaced by the following:

'4. Member States shall describe in their strategy which accompanying measures they adopt in order to ensure the successful implementation of their scheme. Those

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 94, 8.4.2009, p. 38.

measures shall be educational and shall focus on improving the target group's knowledge of the fruit and vegetable sector or healthy eating habits and may involve teachers and parents.'

(2) Article 5 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) the first subparagraph is replaced by the following:

'The following costs are eligible for the Union aid provided for in Article 103ga of Regulation (EC) No 1234/2007:

(a) costs for fruits and vegetables, processed fruit and vegetables and banana products covered by the School Fruit Scheme and delivered to an educational establishment;

(b) related costs, which are costs that are directly linked to the implementation of a School Fruit Scheme and shall only include:

(i) costs for purchasing, renting, hiring and leasing of equipment, if provided for in the strategy;

(ii) costs for the monitoring and evaluation activities referred to in Article 12, which shall be directly linked to the School Fruit Scheme;

(iii) costs for communication, which shall be directly linked to informing the wider public about the School Fruit Scheme and which shall include the poster referred to in Article 14(1); those costs may also include one or more of the following communication measures and activities:

— information campaigns by means of broadcasting, electronic communications, newspapers and similar communication means;

— information sessions, conferences, seminars and workshops dedicated to informing the wider public about the scheme and similar events;

— information and promotion material such as letters, leaflets, brochures, gadgets and similar;'

(ii) the following new subparagraph is added:

'Value added tax (VAT) and expenditure relating to personnel costs are not eligible for the Union aid provided for in Article 103ga of Regulation (EC) No 1234/2007, with the exception of personnel costs that form part of the costs related to the activities referred to in the first subparagraph of this paragraph, where those activities have been outsourced.'

(b) Paragraph 2 is replaced by the following:

'2. The total amount for costs under point (b)(iii) of the first subparagraph of paragraph 1 shall represent a fixed amount and be subject to a ceiling not exceeding 5% of the annual amount of the Union aid allocated to the Member State concerned, following the definitive allocation referred to in Article 4(4).'

The total amount for costs under points (b)(i) and (ii) of the first subparagraph of paragraph 1 shall not exceed 10% of the annual amount of the Union aid allocated to the Member State concerned, following the definitive allocation referred to in Article 4(4).'

(3) Article 7 is replaced by the following:

'Article 7

Conditions for approval of aid applicants

1. The competent authority shall make the approval of aid applicants conditional on the following written commitments by the applicant:

(a) to use products financed under a School Fruit Scheme complying with this Regulation for consumption by the children of its educational establishment or of the establishments in respect of which it will apply for aid;

(b) to use the aid for monitoring and evaluation of the School Fruit Scheme or for communication in accordance with purpose of the Scheme;

(c) to reimburse any aid unduly paid for the quantities concerned, if it has been found that these products have not been distributed to the children referred to in Article 2 or have been paid for products that are not eligible under this Regulation;

(d) in case of fraud or serious negligence, to pay an amount equal to the difference between the amount initially paid and the amount to which the applicant is entitled;

(e) to make supporting documents available to the competent authorities at their request;

(f) to undergo any check decided on by the competent authority of the Member State, in particular the scrutiny of records and physical inspection.

2. In the case of aid applicants referred to in point (e)(ii) of Article 6(2), only points (b), (d) and (e) of paragraph 1 of this Article shall apply.

3. Aid applicants referred to in points (c), (d) and (e)(i) of Article 6(2) shall make an additional written commitment to keep records of the names and addresses of the educational establishments or, where appropriate, educational authorities and the products and quantities sold or supplied to these establishments or authorities.

4. Member States may require additional written commitments by the applicant.'

(4) Article 8 is deleted.

(5) Article 10 is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. Aid applications shall be made in a manner which shall be specified by the competent authority of the Member State.

Aid applications lodged by the applicants referred to in points (a) to (d) and in point (e)(i) of Article 6(2) shall include at least the following information:

(a) the quantities distributed;

(b) the name and address or identification number of the educational establishment or educational authority to which the information referred to in point (a) of this paragraph relates;

(c) the number of children in the respective educational establishment of the target group as identified in the strategy of the Member State;

(d) the supporting documents to be defined by the Member States.;

(b) In paragraph 3, the following sentence is added:

'In the case of aid applications for the evaluation report carried out in accordance with Article 12, the deadline shall be the last day of the first month following the end of the evaluation deadline referred to in Article 12(2).'

(c) In paragraph 4, the first sentence is replaced by the following:

'The amounts claimed in the application shall be supported by documentary evidence held available to the competent authorities.'

(6) Article 11 is amended as follows:

(a) In paragraph 1, the introductory phrase is replaced by the following:

'As regards aid applicants referred to in points (a) to (d) and in point (e)(i) of Article 6(2), aid shall only be paid:'

(b) The following new paragraph 1a is inserted:

'1a. As regards aid applicants referred to in point (e)(ii) of Article 6(2), aid shall only be paid upon the delivery of the goods or services concerned and upon submission of related documentary evidence as required by the competent authorities of the Member States.'

(c) In paragraph 3, the second subparagraph is replaced by following:

'Once the time limit referred to in Article 10(3) is overrun by two months, the aid shall be further reduced by 1% per additional day.'

(7) In Article 12, paragraph 2 is replaced by the following:

'2. Member States shall evaluate the implementation of their School Fruit Scheme and assess its effectiveness. For the implementation period running from 1 August 2010 to 31 July 2011, Member States shall notify the Commission of the results of their evaluation exercise by 29 February 2012. For subsequent implementation periods, Member States shall, by the end of February of every fifth year following 29 February 2012, submit to the Commission an evaluation report covering the preceding five-year implementation period.'

(8) Article 13 is amended as follows:

(a) Paragraphs 1 and 2 are replaced by the following:

'1. Member States shall take all necessary measures to ensure compliance with this Regulation. These measures shall include full administrative checking of all aid applications.'

2. In cases where an aid applicant referred to in points (a) to (d) and in point (e)(i) of Article 6(2) applies for the aid, the administrative checks shall include checking of supporting documents as defined by Member States, relating to product delivery. The administrative checks shall be supplemented by on-the-spot checks carried out in particular on:

- (a) the records referred to in Article 7, including financial records such as purchase and sales invoices and bank extracts;
- (b) use of the subsidised products in accordance with this Regulation, particularly if there are grounds for suspecting any irregularity.;

(b) The following new paragraph 2a is inserted:

'2a. In cases where an applicant referred to in point (e)(ii) of Article 6(2) applies for the aid, the administrative checks shall include checking of the delivery of the goods and services and the veracity of the claimed expenditure.;

(c) In paragraph 3, the first subparagraph is replaced by following:

'The total number of on-the-spot checks carried out in respect of each period running from 1 August to 31 July shall cover at least 5% of the aid distributed at national level and at least 5% of all the applicants referred to in points (a) to (d) and in point (e)(i) of Article 6(2).;

(d) In the first sentence of paragraph 6, the reference to point (e) is replaced by the reference to point (e)(i) of Article 6(2).

(9) Article 14 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. Where Member States decide not to make use of the poster referred to in paragraph 1, they shall clearly explain in their strategy how they will inform the public about the European Union's financial contribution to their scheme.;

(b) The following new paragraph 2a is inserted:

'2a. Websites or any other instrument of communication referred to in point (b)(iii) of Article 5(1) on a Member State's School Fruit Scheme shall in any event exhibit the European flag and mention the European 'School Fruit Scheme' and the financial support of the European Union.'.

(10) In the second subparagraph of Article 15(1), points (a) and (b) are replaced by the following:

'(a) the results of the monitoring exercise, as provided for in Article 12(1) to e-mail AGRI-HORT-SCHOOLFRUIT@ec.europa.eu;

(b) the details and findings of the on-the-spot checks carried out pursuant to Articles 13 and 16 to e-mail AGRI-J2@ec.europa.eu.'.

Article 2

Correction of Regulation (EC) No 288/2009

In Article 3(5) the second sentence is replaced by the following:

"If they choose to implement more than one scheme, they shall draw up a strategy for each scheme."

Article 3

Entry into force and application

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

It shall apply from 1 August 2011.

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

Done at Brussels, 22 November 2011.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 1209/2011**of 22 November 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 23 November 2011.

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

Done at Brussels, 22 November 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	51,9
	MA	44,2
	MK	57,4
	TR	87,5
	ZZ	60,3
0707 00 05	AL	64,0
	EG	188,1
	TR	93,5
	ZZ	115,2
0709 90 70	MA	42,4
	TR	132,9
	ZZ	87,7
0805 20 10	MA	73,5
	ZA	65,5
	ZZ	69,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	HR	41,7
	IL	72,8
	JM	134,1
	MA	53,5
	TR	80,2
	UY	42,7
	ZA	62,9
	ZZ	69,7
0805 50 10	TR	57,4
	ZZ	57,4
0808 10 80	CA	110,8
	CL	90,0
	CN	67,2
	MK	41,0
	NZ	64,9
	US	71,3
	ZA	108,1
	ZZ	79,0
0808 20 50	AR	43,9
	CN	60,4
	ZA	73,2
	ZZ	59,2

⁽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'.

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