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Contents



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

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

REGULATIONS



DECISIONS



EN

[1] Text with EEA relevance

II

*(Non-legislative acts)*

# INTERNATIONAL AGREEMENTS

## COUNCIL DECISION

**of 11 December 2012**

**approving the conclusion, by the European Commission, of the Agreement on scientific and technological cooperation between the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, associating the Swiss Confederation to the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013)**

(2013/4/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The European Commission has, in accordance with the directives from the Council, negotiated an Agreement on scientific and technological cooperation between the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, associating the Swiss Confederation to the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) ('the Agreement').

(2) The conclusion, by the European Commission, of the Agreement should be approved,

HAS ADOPTED THIS DECISION:

*Sole Article*

The conclusion by the European Commission of the Agreement on scientific and technological cooperation between the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, associating the Swiss Confederation to the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) is hereby approved.

The Declaration of the European Commission on behalf of the European Atomic Energy Community, made by the representative of the European Commission upon conclusion of the Agreement, attached in the Annex to this Decision, is hereby approved.

The text of the Agreement is attached to this Decision.

Done at Brussels, 11 December 2012.

*For the Council*

*The President*

A. D. MAVROYIANNIS

*ANNEX*

**Declaration of the European Commission on behalf of the European Atomic Energy Community**

The representatives of the Swiss Confederation have asked the European Commission to confirm that the total amount of contributions expected of the Swiss Confederation for the year 2012 in relation to all Euratom research activities will not exceed CHF 55 million.

The European Commission confirms that on the basis of the relevant statistical data and having regard to the proportionality factors governing the calculation of contributions expected of the Swiss Confederation for the year 2012 in relation to all Euratom research activities, including before the conclusion of this Agreement, the total amount payable by the Swiss Confederation for the year 2012 will not exceed CHF 55 million.

# AGREEMENT

## on scientific and technological cooperation between the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, associating the Swiss Confederation to the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013)

THE EUROPEAN ATOMIC ENERGY COMMUNITY,

(hereinafter referred to as 'Euratom'),

Represented by the European Commission (hereinafter referred to as 'the Commission'),

of the one part,

and

THE SWISS CONFEDERATION,

(hereinafter referred to as 'Switzerland'), represented by the Swiss Federal Council,

of the other part,

hereinafter referred to as 'the Parties',

CONSIDERING that the close relationship between Switzerland and Euratom is of benefit to the Parties;

CONSIDERING the importance of scientific and technological research for the Parties and their mutual interest in cooperating in this matter in order to make better use of resources and to avoid unnecessary duplication;

WHEREAS the Parties are currently implementing research programmes in fields of common interest;

WHEREAS the Parties have an interest in cooperating on these programmes to their mutual benefit;

CONSIDERING the interest of the Parties in encouraging the mutual access of their research entities to research, technological development and training activities;

WHEREAS the European Atomic Energy Community and Switzerland concluded a Cooperation Agreement in 1978 in the field of controlled thermonuclear fusion and plasma physics (hereinafter referred to as 'the Fusion Agreement');

WHEREAS the Parties concluded a Framework Agreement on 8 January 1986 for scientific and technical cooperation (hereinafter referred to as 'the Framework Agreement'), which entered into force on 17 July 1987;

CONSIDERING that Article 6 of the Framework Agreement states that the cooperation aimed at by the Framework Agreement is to be carried out through appropriate agreements;

WHEREAS on 25 June 2007 the European Union and Switzerland signed an Agreement on Scientific and Technological Cooperation, which entered into force on 28 February 2008 and was retroactively applied as of 1 January 2007;

CONSIDERING that Article 9(2) of the abovementioned Agreement provides for renewal or renegotiation of the Agreement with a view to participation in new multi-annual Framework Programmes for research and technological development, under mutually agreed conditions;

WHEREAS the Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2012-2013), also contributing to the creation of the European Research Area was adopted by Council Decision 2012/93/Euratom [1], Regulation (Euratom) No 139/2012 [2] and Council Decisions 2012/94/Euratom [3] and 2012/95/Euratom [4] (hereinafter referred to as the 'Euratom Framework Programme 2012-2013');

WHEREAS subject to the provisions of the Treaty establishing the European Atomic Energy Community, this Agreement and any activities entered into under it will not affect the powers vested in the Member States to undertake bilateral activities with Switzerland in the fields of science, technology, research and development, and to conclude, where appropriate, agreements to that end;

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[1] OJ L 47, 18.2.2012, p. 25.
[2] OJ L 47, 18.2.2012, p. 1.
[3] OJ L 47, 18.2.2012, p. 33.
[4] OJ L 47, 18.2.2012, p. 40.

WHEREAS Euratom concluded the Agreement on the establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER project. Pursuant to its Article 21 and the Agreements in the form of an Exchange of Letters between the European Atomic Energy Community and the Swiss Confederation on the application of the ITER Agreement, the Agreement on Privileges and Immunities for ITER and the Broader Approach Agreement to the territory of Switzerland and on Switzerland's membership in the European Joint Undertaking for ITER and the Development of Fusion Energy of 22 November 2007 the Agreement applies to Switzerland participating in the Euratom fusion programme as fully associated third State;

WHEREAS Euratom is a member of the European Joint Undertaking for ITER and the Development of Fusion Energy established by the Council Decision of 27 March 2007. Pursuant to Article 2 of this Decision and the Agreements in the form of an Exchange of Letters between the European Atomic Energy Community and the Swiss Confederation on the application of the ITER Agreement, the Agreement on Privileges and Immunities for ITER and the Broader Approach Agreement to the territory of Switzerland and on Switzerland's membership in the European Joint Undertaking for ITER and the Development of Fusion Energy of 22 November 2007 Switzerland became a member of the Joint Undertaking as a third State having associated its research programme to the Euratom fusion programme;

WHEREAS Euratom concluded the Agreement between the European Atomic Energy Community and the Government of Japan for the Joint Implementation of the Broader Approach Activities in the Field of Fusion Energy Research. Pursuant to its Article 26 the Agreement applies to Switzerland participating in the Euratom fusion programme as fully associated third State.

HAVE AGREED AS FOLLOWS:

*Article 1*

**Subject matter**

1. The Swiss participation in the implementation of the Euratom Framework Programme 2012-2013 shall be as laid down in this Agreement, without prejudice to the terms of the Fusion Agreement.

Legal entities established in Switzerland may participate in all the specific programmes of the Euratom Framework Programme 2012-2013.

2. Swiss legal entities may participate in the activities of the Joint Research Centre of the European Union, as far as this participation is not covered by paragraph 1.

3. Legal entities established in the European Union, including the Joint Research Centre, may participate in research programmes and/or projects in Switzerland on themes equivalent to those of the programmes of the Euratom Framework Programme 2012-2013.

4. For the purposes of this Agreement 'legal entity' means any natural or any legal person created under the national law at its place of establishment or under European Union law, having legal personality and being entitled to have rights and obligations of any kind in its own name. This shall include, inter alia, universities, research organisations, industrial companies, including small and medium-sized enterprises, and individuals.

*Article 2*

**Forms and means of cooperation**

Cooperation shall take the following forms:

1. Participation of legal entities established in Switzerland in all specific programmes adopted under the Euratom Framework Programme 2012-2013, in accordance with the terms and conditions laid down in the rules for the participation of undertakings, research centres and universities in research and training activities of the European Atomic Energy Community.

2. Financial contribution by Switzerland to the budget of the programmes adopted for the implementation of the Euratom Framework Programme 2012-2013, as defined in Annex B.

3. Participation of legal entities established in the European Union in Swiss research programmes and/or projects decided by the Federal Council on themes equivalent to those of the Euratom Framework Programme 2012-2013, in accordance with the terms and conditions laid down in the relevant Swiss regulations and with the agreement of the partners in the specific project and the management of the corresponding Swiss programme. Unless relevant Swiss regulations foresee otherwise, legal entities established in the European Union and participating in Swiss research programmes and/or projects shall cover their own costs, including their relative share of the project's general management and administrative costs.

4. In addition to timely provision of information and documentation concerning the implementation of the Euratom Framework Programme 2012-2013 and of the Swiss programmes and/or projects, the cooperation between the Parties may include the following forms and means:

   (a) regular exchanges of views on research policy guidelines and priorities and plans in Switzerland and in Euratom;

   (b) exchanges of views on the prospects and development of cooperation;

   (c) timely exchanges of information on the implementation of the research programmes and projects in Switzerland and in Euratom and on the results of the work undertaken under this Agreement;

(d) joint meetings;

(e) visits and exchanges of researchers, engineers and technicians;

(f) regular contacts and follow-up between programme or project leaders in Switzerland and in Euratom;

(g) participation by experts in seminars, symposia and workshops.

*Article 3*

**Adaptation**

Cooperation may be adapted and developed at any time by mutual agreement between the Parties.

*Article 4*

**Intellectual property rights and obligations**

1. Subject to Annex A and applicable law, legal entities established in Switzerland participating in the Euratom Framework Programme 2012-2013 shall, as regards ownership, exploitation and dissemination of information and intellectual property arising from such participation, have the same rights and obligations as legal entities established in the European Union.

2. Subject to Annex A and applicable law, legal entities established in the European Union taking part in Swiss research programmes and/or projects, as provided for in Article 2(3), shall, as regards ownership, exploitation and dissemination of information and intellectual property arising from such participation, have the same rights and obligations as legal entities established in Switzerland participating in the programmes and/or projects in question.

*Article 5*

**Financial provisions**

The rules governing Switzerland's financial contribution are set out in Annex B.

*Article 6*

**Switzerland/Communities Research Committee**

1. The Switzerland/Communities Research Committee set up in the Framework Agreement shall review, evaluate and ensure the proper implementation of this Agreement. Any issues arising from the implementation or interpretation of this Agreement shall be referred to this Committee.

2. The Committee may decide to amend the references to European Union/Euratom acts in Annex C.

*Article 7*

**Participation**

1. Without prejudice to the provisions of Article 4, legal entities established in Switzerland participating in the Euratom Framework Programme 2012-2013 shall have the same contractual rights and obligations as entities established in the European Union.

2. For legal entities established in Switzerland, the terms and conditions applicable for the submission and evaluation of proposals and those for the granting and conclusion of grant agreements and/or contracts under the Euratom Framework Programme 2012-2013 shall be the same as those applicable for grant agreements and/or contracts concluded under the same programmes with legal entities established in the European Union.

3. Switzerland shall be entitled, as an associated State, to propose evaluators under the Euratom Framework Programme 2012-2013, in accordance with the Council Regulation (Euratom) No 139/2012 laying down the rules for participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012-2013).

4. Without prejudice to the provisions of Article 1(3), Article 2(3) and Article 4(2) and to existing regulations and rules of procedure, legal entities established in the European Union may participate under equivalent terms and conditions to Swiss partners in programmes and/or projects of the Swiss research programmes mentioned in Article 2(3). The Swiss authorities may make participation in a project by one or more legal entities established in the European Union subject to joint participation by at least one Swiss entity.

*Article 8*

**Mobility**

Each Party shall undertake, in accordance with existing regulations and agreements in force, to guarantee the entry and stay - as far as indispensable for successful accomplishment of the activity concerned — of a limited number of their researchers participating, in Switzerland and in the European Union, in the activities covered by this Agreement.

*Article 9*

**Revision and future collaboration**

1. Should Euratom revise or extend its research programmes, this Agreement may be revised or extended under mutually agreed conditions. The Parties shall exchange information and views concerning any such revision or extension, as well as on any matters which affect directly or indirectly Switzerland's cooperation in the fields covered by the Euratom Framework Programme 2012-2013. Switzerland shall be notified of the exact content of the revised or extended programmes within two weeks of their adoption by Euratom. In case of such revision or extension of the research programme, Switzerland may terminate this Agreement by giving six months' notice. The Parties shall give notice of any intention to terminate or to extend this Agreement within three months after the adoption of Euratom's decision.

2. Should Euratom adopt a new multi-annual research and training programme, an Agreement may be renewed or renegotiated under conditions agreed mutually between the Parties. The Parties shall exchange information and views on the preparation of such programmes or other current and future research activities through the Switzerland/European Union Research Committee referred to in Article 6.

*Article 10*

**Relation to other international agreements**

1. The provisions of this Agreement shall apply without prejudice to the advantages envisaged by other international agreements binding one of the Parties and reserved only for legal entities established on the territory of that Party.

2. A legal entity established in a State associated to the Euratom Framework Programme 2012-2013 (Associated State) enjoys the same rights and obligations under this Agreement as legal entities that are established in a Member State provided that the Associated State in which the entity is established has agreed to award legal entities from Switzerland the same rights and obligations.

*Article 11*

**Territorial application**

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Atomic Energy Community applies and under the conditions laid down in that Treaty and, on the other, to the territory of Switzerland.

*Article 12*

**Annexes**

Annexes A, B and C shall form an integral part of this Agreement.

*Article 13*

**Entry into force and application**

1. This Agreement shall be ratified or concluded by the Parties in accordance with their respective rules. It shall enter into force on the date of the last notification of completion of the internal procedures necessary to this end.

2. This Agreement shall apply from the beginning of the Euratom Framework programme 2012-2013 until 31 December 2013. Notwithstanding paragraph 5 below, during the period from 1 January 2013 until 30 June 2013 each Party may terminate this Agreement by written notice. In this case the Agreement shall cease to apply on 31 December 2012.

3. If this Agreement ceases to apply on 31 December 2012 pursuant to paragraph 2, Euratom shall honour its commitments to Swiss beneficiaries entered into until the time one of the Parties received the notification pursuant to paragraph 2 from the other Party. In case Switzerland terminates this Agreement pursuant to paragraph 2, Switzerland shall pay Euratom compensation corresponding to the amount of Euratom's 2013 commitments to Swiss beneficiaries until the time Euratom has received the Swiss notification. This compensation shall be paid not later than 45 days after the receipt of the request issued by the Commission. Paragraph II.2 of Annex B shall apply accordingly. The Parties shall settle by common consent any other consequences.

4. This Agreement may be amended only in writing by common consent between the Parties. The procedure for entry into force of amendments shall be the same as the procedure applicable to the entry into force of this Agreement.

5. Each Party may terminate this Agreement at any time, subject to six months' written notice.

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

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

*ANNEX A*

## PRINCIPLES ON THE ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS

### I. **Scope**

For the purposes of this Agreement, 'intellectual property' shall have the meaning defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, signed at Stockholm on 14 July 1967.

For the purposes of this Agreement, 'knowledge' means the results, including information, whether or not they can be protected, as well as copyrights or rights pertaining to such information, following applications for, or the issue of, patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

### II. **Intellectual property rights of the legal entities of the Parties**

1. Each Party shall ensure that the intellectual property rights of the legal entities of the other Party participating in the activities undertaken under this Agreement and the rights and obligations resulting from such participation are treated in a manner compatible with the relevant international conventions applicable to the Parties, notably the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights administered by the World Trade Organisation), the Berne Convention (Paris Act 1971) and the Paris Convention (Stockholm Act 1967).

2. Legal entities established in Switzerland participating in indirect actions under the Euratom Framework Programme 2012-2013 shall have intellectual property rights and obligations under the conditions set out, in Council Regulation (Euratom) No 139/2012 of 19 December 2011 [1] and in the grant agreement and/or contract concluded with the Euratom, in accordance with point 1.

3. Legal entities established in a European Union Member State participating in Swiss research programmes and/or projects shall have the same intellectual property rights and obligations as legal entities established in Switzerland participating in these research programmes or projects, in accordance with point 1.

### III. **Intellectual property rights of the Parties**

1. Unless otherwise agreed between the Parties, the following rules shall apply to the knowledge generated by the Parties in the course of the activities undertaken in accordance with Article 2(4) of this Agreement:

(a) the Party generating the knowledge shall have ownership thereof. Where their respective shares in the work cannot be determined, the Parties shall co-own the knowledge;

(b) the Party holding ownership shall grant the other Party rights of access to the knowledge with a view to the activities referred to in Article 2(4) of this Agreement. No charge shall be made for granting rights of access to the knowledge.

2. Unless otherwise agreed between the Parties, the following rules shall apply to scientific literature from the Parties:

(a) where a Party publishes data, information and technical or scientific results arising from the activities undertaken under this Agreement in journals, articles, reports and books, including audiovisual works and software, a worldwide, non-exclusive, irrevocable royalty-free licence to translate, adapt, transmit and publicly distribute the works in question shall be granted to the other Party;

(b) all copies of copyrighted data and information to be publicly distributed and prepared under this section shall indicate the names of the author or authors, unless an author expressly declines to be named. Copies shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

3. Unless otherwise agreed between the Parties, the following rules shall apply to undisclosed information of the Parties:

(a) at the time of submission to the other Party of information relating to the activities undertaken under this Agreement, each Party shall identify the information which it wishes to remain undisclosed;

(b) for the specific purposes of application of this Agreement, the receiving Party may, on its own responsibility, communicate undisclosed information to bodies or persons under its authority;

(c) with the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such information more widely than otherwise permitted by subparagraph (b). The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for wider dissemination, and each Party shall grant such approval to the extent permitted by its domestic policies, regulations and laws;

[1] OJ L 47, 18.2.2012, p. 1.

(d) non-documentary undisclosed or other confidential information provided in seminars or other meetings of the representatives of the Parties arranged under this Agreement, or information arising from the attachment of staff, use of facilities or indirect actions must remain confidential, where the recipient of such undisclosed or other confidential or privileged information was made aware of the confidential character of the information before it was communicated, in accordance with subparagraph (a);

(e) each Party shall ensure that undisclosed information which it acquires in accordance with subparagraphs (a) and (d) shall be controlled as provided for in this Agreement. If one of the Parties becomes aware that it will be, or may be expected to become, unable to meet the non-dissemination provisions of subparagraphs (a) and (d), it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

*ANNEX B*

## FINANCIAL RULES GOVERNING THE CONTRIBUTION OF SWITZERLAND

### I. **Determination of financial participation**

1. The proportionality factor governing Switzerland's contribution to the Euratom Framework programme 2012-2013, except the Euratom Fusion Programme, shall be obtained by establishing the ratio between Switzerland's gross domestic product, at market prices, and the sum of gross domestic products, at market prices, of the Member States of the European Union. The proportionality factor governing the Swiss contribution to the Fusion Programme shall continue to be governed on the basis of the Fusion Agreement. These ratios shall be calculated on the basis of the latest statistical data from Eurostat, available at the time of publication of the draft budget of the European Union for the same year.

2. The Commission shall communicate as soon as possible to Switzerland together with relevant background material:

(a) the amounts in commitment appropriations in the statement of expenditure of the draft budget of the European Union corresponding to the Euratom Framework Programme 2012-2013 in the year 2013;

(b) the estimated amount of the contributions derived from the draft budget, corresponding to the possible participation of Switzerland in the Euratom Framework Programme 2012-2013 in the year 2013.

3. As soon as the general budget for 2013 has been finally adopted, the Commission shall communicate to Switzerland the above mentioned amounts in the statement of expenditure.

4. Switzerland's financial contribution deriving from participation in the Euratom Framework Programme 2012-2013 shall be established in addition to the amount available each year in the general budget of the European Union for commitment appropriations to meet the Commission's financial obligations stemming from work to be carried out in the forms necessary for the implementation, management and operation of the programmes and activities covered by this Agreement.

### II. **Payment procedures**

1. The Commission shall issue, at the latest on 31 December 2012 a call for funds to Switzerland corresponding to its contribution under this Agreement for 2012. This call for funds shall provide for the payment of Switzerland's contribution not later than 30 days after receipt of the corresponding call for funds. For the purpose of calculating the amount in Swiss francs in 2012 the exchange rate between the Swiss franc and Euro to be used by the Commission shall be the market rate for the penultimate day of the previous month quoted by the European Central Bank or, depending on the availability, provided by the delegations or other appropriate sources close to that date.

Unless this Agreement ceases to apply on 31 December 2012 in accordance with Art.13(2), the Commission shall issue after 1 July and not later than November 2013, a call for funds to Switzerland corresponding to the contribution under this Agreement for 2013 and established on the basis of Point I.1 of this annex. This call for funds shall provide for the payment of the said contribution not later than 30 days after the receipt of the call.

2. The contributions of Switzerland for the year 2012 shall be paid in Swiss francs and for the year 2013 shall be expressed and paid in Euro to the bank account indicated by the Commission in the calls for payments.

3. Switzerland shall pay its contribution under this Agreement according to the schedule in paragraph 1. Any delay in payment shall give rise to the payment of interest at a rate equal to the one-month inter-bank offered rate (EURIBOR) as on page EURIBOR01 of Reuters (Telerate page 248). This rate shall be increased by 1,5 percentage point for each month of delay. The increased rate shall be applied to the entire period of delay. However, the interest shall be due only if the contribution is paid after the scheduled payment dates mentioned in paragraph 1.

4. Travel costs incurred by Swiss representatives and experts for the purposes of taking part in the work of the research committees and those involved in the implementation of the Euratom Framework Programme 2012-2013 shall be reimbursed by the Commission on the same basis as, and in accordance with, the procedures currently in force for the representatives and experts of the Member States of the European Union.

### III. **Conditions for implementation**

1. The financial contribution of Switzerland to the Euratom Framework Programme 2012-2013 in accordance with this Annex shall normally remain unchanged for the financial year in question.

2. The Commission, at the time of the closure of the accounts relating to each financial year (n), within the framework of the establishment of the revenue and expenditure account, shall proceed to the regularisation of the accounts with

respect to the participation of Switzerland, taking into consideration modifications which have taken place, either by transfer, cancellations, carry-overs, or by supplementary and amending budgets during the financial year. This regularisation shall occur at the time of the first payment for the year (n+1). However, the final such regularisation shall occur not later than July of the fourth year following the end of the Euratom Framework Programme 2012-2013. Payment by Switzerland shall be credited to the Euratom programmes as budget receipts allocated to the appropriate budget heading in the statement of revenue of the general budget of the European Union.

IV. **Information**

1. At the time of the payment for the year 2013, the statement of appropriations for the Euratom Framework Programme 2012-2013, related to the year 2012, shall be prepared and transmitted to Switzerland for information, according to the format of the Commission's revenue and expenditure account.

At the latest on 30 April 2014, the statement of appropriations for the Euratom Framework Programme 2012-2013, related to the year 2013, shall be prepared and transmitted to Switzerland for information, according to the format of the Commission's revenue and expenditure account.

2. The Commission shall communicate to Switzerland statistics and all other general financial data relating to the implementation of the Euratom Framework Programme which is made available to the Member States.

*ANNEX C*

**FINANCIAL CONTROL OF SWISS PARTICIPANTS IN THE EURATOM FRAMEWORK PROGRAMME 2012-2013**

I. **Direct communication**

The Commission shall communicate directly with the participants in the Euratom Framework Programme 2012-2013 established in Switzerland and with their subcontractors. They shall submit directly to the Commission all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Agreement and of the grant agreements and/or contracts concluded to implement them.

II. **Audits**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 ([1]), as last amended Regulation (EU, Euratom) No 1081/2010 ([2]) and Commission Regulation (EC, Euratom) No 2342/2002 ([3]), as last amended by Regulation (EC, Euratom) No 478/2007 ([4]) and with the other rules referred to in this Agreement, the grant agreements and/or contracts concluded with participants in the programme established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the participants and of their subcontractors by Commission agents or by other persons mandated by the Commission.

2. Commission agents and other persons mandated by the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the grant agreements and/or contracts concluded to implement the instruments referred to in this Agreement.

3. The European Court of Auditors shall have the same rights as the Commission.

4. The audits may be conducted after the Euratom Framework Programme 2012-2013 or this Agreement expires, on the terms laid down in the grant agreements and/or contracts in question.

5. The Swiss Federal Audit Office shall be informed in advance of the audits conducted on Swiss territory. Such notification shall not be a legal precondition for carrying out such audits.

III. **On-the-spot checks**

1. Within the framework of this Agreement, the Commission (OLAF) shall be authorised to carry out on-the-spot checks and inspections on Swiss territory, in accordance with the terms and conditions laid down in Council Regulation (Euratom, EC) No 2185/96 ([5]) and Regulation (EC) No 1073/1999 ([6]) of the European Parliament and the Council.

2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close collaboration with the Swiss Federal Audit Office or with the other competent Swiss authorities designated by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.

3. If the Swiss authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and them.

4. Where the participants in the Euratom Framework Programme 2012-2013 resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

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

IV. **Information and consultation**

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

([1]) OJ L 248, 16.9.2002, p. 1.
([2]) OJ L 311, 26.11.2010, p. 9.
([3]) OJ L 357, 31.12.2002, p. 1.
([4]) OJ L 111, 28.4.2007, p. 13.
([5]) OJ L 292, 15.11.1996, p. 2.
([6]) OJ L 136, 31.5.1999, p. 1.

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

V. **Confidentiality**

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

VI. **Administrative measures and penalties**

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulations (EC, Euratom) No 1605/2002, as last amended by Regulation (EU, Euratom) No 1081/2010 ([1]) and (EC, Euratom) No 2342/2002 as last amended by Regulation (EC, Euratom) No 478/2007 ([2]) and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ([3]).

VII. **Recovery and enforcement**

Decisions taken by the Commission under the Euratom Framework Programme 2012-2013 within the scope of this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland. The enforcement order shall be issued, without any further control than verification of the authenticity of the act, by the authorities designated by the Swiss government, which shall inform the Commission thereof. Enforcement shall take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision shall be subject to control by the Court of Justice of the European Union. Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause in a contract under the Euratom Framework Programme 2012-2013 shall be enforceable on the same terms.

([1]) OJ L 311, 26.11.2010, p. 9.
([2]) OJ L 111, 28.4.2007, p. 13.
([3]) OJ L 312, 23.12.1995, p. 1.

# COUNCIL DECISION

## of 17 December 2012

## on the accession of the European Union to the Protocol for the Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

(2013/5/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament [1],

Whereas:

(1) The Convention for the Protection of the Mediterranean Sea against Pollution, which was subsequently renamed as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the 'Barcelona Convention'), was concluded on behalf of the European Community by means of Council Decision 77/585/EEC [2] and amendments to the Barcelona Convention were accepted by means of Council Decision 1999/802/EC [3].

(2) In accordance with Article 7 of the Barcelona Convention, the Contracting Parties are to take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.

(3) One of the Protocols to the Barcelona Convention deals with protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil (the 'Offshore Protocol'). It entered into force on 24 March 2011. To date, Albania, Cyprus, Libya, Morocco, Syria and Tunisia have ratified it. In addition to Cyprus, some other Member States that are Contracting Parties to the Barcelona Convention have announced recently their intention to also ratify the Protocol.

(4) It is estimated that there are more than 200 active offshore platforms in the Mediterranean and more installations are under consideration. Hydrocarbon exploration and exploitation activities are expected to increase after the discovery of large fossil fuels reserves in the Mediterranean. Due to the semi-enclosed nature and special hydrodynamics of the Mediterranean Sea, an accident of the kind that occurred in the Gulf of Mexico in 2010 could have immediate adverse transboundary consequences on the Mediterranean economy and fragile marine and coastal ecosystems. It is likely that in the medium term other mineral resources contained in the deep sea, seabed and subsoil will be the subject of exploration and exploitation activities.

(5) Failure to address effectively the risks emanating from such activities could gravely compromise the efforts of all the Member States having the obligation to take the necessary measures to achieve and maintain good environmental status in their marine waters in the Mediterranean, as required by Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) [4]. In addition, taking the necessary action would contribute to meeting the commitments and respecting the obligations into which Greece, Spain, France, Italy, Cyprus, Malta, Slovenia and the Union itself have entered as Contracting Parties of the Barcelona Convention.

(6) The Offshore Protocol covers a broad range of provisions which will need to be implemented by different levels of administration. While it is appropriate for the Union to act in support of safety of offshore exploration and exploitation activities, bearing in mind, inter alia, the high probability of cross-border effects of environmental problems related to such activities, the Member States and their relevant competent authorities should be responsible for certain detailed measures laid down in the Offshore Protocol.

(7) The Commission Communication entitled 'Facing the challenge of the safety of offshore oil and gas activities', adopted on 12 October 2010, identifies the need for international cooperation to promote offshore safety and response capabilities worldwide and one of the related actions is the exploration of the potential of regional conventions. It recommends re-launching in close collaboration with the Member States concerned, the process towards bringing into force the Offshore Protocol.

(8) The Council in its Conclusions on safety of offshore oil and gas activities, adopted on 3 December 2010, stated that the Union and its Member States should continue to play a prominent role in striving for the highest safety standards in the framework of international initiatives and fora and regional cooperation such as in the Mediterranean. The Council also called on the Commission and Member States to make best use of existing international conventions.

[1] Consent of 20 November 2012 (not yet published in the Official Journal).
[2] OJ L 240, 19.9.1977, p. 1.
[3] OJ L 322, 14.12.1999, p. 32.
[4] OJ L 164, 25.6.2008, p. 19.

(9) The European Parliament, in its resolution of 13 September 2011, stressed the importance of bringing fully into force the unratified Offshore Protocol, targeting protection against pollution resulting from exploration and exploitation.

(10) One of the objectives of the environment policy of the Union is promoting measures at international level to deal with regional environmental problems. In relation to the Offshore Protocol, it is particularly important to bear in mind the high probability of transboundary environmental effects in case of accidents in a semi-enclosed sea such as the Mediterranean Sea. It is therefore appropriate for the Union to take all necessary actions in support of safety of offshore exploration and exploitation activities and for the protection of the marine environment in the Mediterranean Sea.

(11) The Commission is also proposing a Regulation on safety of offshore oil and gas prospection, exploration and production activities (the 'proposed Regulation').

(12) The Offshore Protocol concerns a field which is in large measure covered by Union law. This includes, for instance, elements such as the protection of the marine environment, environmental impact assessment and environmental liability. Subject to the final decision of legislators on the proposed Regulation, the Offshore Protocol is furthermore consistent with the objectives thereof, including those concerning authorisation, environmental impact assessment and technical and financial capacity of operators.

(13) It is essential to ensure close cooperation between the Member States and the institutions of the Union, both in the process of negotiation and conclusion and in the fulfilment of the commitments entered into. That obligation to cooperate flows from the requirement of unity in the international representation of the Union. Therefore, those Member States that are Contracting Parties to the Barcelona Convention and that have not yet done so should take the necessary steps to finalise the procedures to ratify or accede to the Offshore Protocol.

(14) The Union should therefore accede to the Offshore Protocol,

HAS ADOPTED THIS DECISION:

*Article 1*

The accession of the European Union to the Protocol for the Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil is hereby approved on behalf of the Union.

The text of the Offshore Protocol is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to proceed, on behalf of the Union, to the deposit of the instrument of approval with the Government of Spain which assumes the functions of Depositary, as provided for in Article 32(2) of the Offshore Protocol, in order to express the consent of the Union to be bound by the Offshore Protocol [1].

*Article 3*

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

Done at Brussels, 17 December 2012.

*For the Council*
*The President*
S. ALETRARIS

[1] The date of entry into force of the Offshore Protocol for the Union will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

# PROTOCOL

## for the Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

PREAMBLE

THE CONTRACTING PARTIES TO THE PRESENT PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,

BEARING IN MIND Article 7 of the said Convention,

BEARING IN MIND the increase in the activities concerning exploration and exploitation of the Mediterranean seabed and its subsoil,

RECOGNISING that the pollution which may result therefrom represents a serious danger to the environment and to human beings,

DESIROUS of protecting and preserving the Mediterranean Sea from pollution resulting from exploration and exploitation activities,

TAKING INTO ACCOUNT the Protocols related to the Convention for the Protection of the Mediterranean Sea against Pollution and, in particular, the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency, adopted at Barcelona on 16 February 1976, and the Protocol concerning Mediterranean Specially Protected Areas, adopted at Geneva on 3 April 1982,

BEARING in mind the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and signed by many Contracting Parties,

RECOGNISING the differences in levels of development among the coastal States, and taking account of the economic and social imperatives of the developing countries,

HAVE AGREED AS FOLLOWS:

SECTION I

### GENERAL PROVISIONS

*Article 1*

### Definitions

For the purposes of this Protocol:

(a) 'Convention' means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;

(b) 'Organisation' means the body referred to in Article 17 of the Convention;

(c) 'Resources' means all mineral resources, whether solid, liquid or gaseous;

(d) 'Activities concerning exploration and/or exploitation of the resources in the Protocol Area' (hereinafter referred to as 'activities') means:

(i) Activities of scientific research concerning the resources of the seabed and its subsoil;

(ii) Exploration activities:

— Seismological activities; surveys of the seabed and its subsoil; sample taking;

— Exploration drilling;

(iii) Exploitation activities:

— Establishment of an installation for the purpose of recovering resources, and activities connected therewith;

— Development drilling;

— Recovery, treatment and storage;

— Transportation to shore by pipeline and loading of ships;

— Maintenance, repair and other ancillary operations;

(e) 'Pollution' is defined as in Article 2, paragraph (a), of the Convention;

(f) 'Installation' means any fixed or floating structure, and any integral part thereof, that is engaged in activities, including, in particular:

(i) Fixed or mobile offshore drilling units;

(ii) Fixed or floating production units including dynamically-positioned units;

(iii) Offshore storage facilities including ships used for this purpose;

(iv) Offshore loading terminals and transport systems for the extracted products, such as submarine pipelines;

(v) Apparatus attached to it and equipment for the reloading, processing, storage and disposal of substances removed from the seabed or its subsoil;

(g) 'Operator' means:

(i) Any natural or juridical person who is authorised by the Party exercising jurisdiction over the area where the activities are undertaken (hereinafter referred to as the 'Contracting Party') in accordance with this Protocol to carry out activities and/or who carries out such activities; or

(ii) Any person who does not hold an authorisation within the meaning of this Protocol but is *de facto* in control of such activities;

(h) 'Safety zone' means a zone established around installations in conformity with the provisions of general international law and technical requirements, with appropriate markings to ensure the safety of both navigation and the installations;

(i) 'Wastes' means substances and materials of any kind, form or description resulting from activities covered by this Protocol which are disposed of or are intended for disposal or are required to be disposed of;

(j) 'Harmful or noxious substances and materials' means substances and materials of any kind, form or description, which might cause pollution, if introduced into the Protocol Area;

(k) 'Chemical Use Plan' means a plan drawn up by the operator of any offshore installation which shows:

(i) The chemicals which the operator intends to use in the operations;

(ii) The purpose or purposes for which the operator intends to use the chemicals;

(iii) The maximum concentrations of the chemicals which the operator intends to use within any other substances, and maximum amounts intended to be used in any specified period;

(iv) The area within which the chemical may escape into the marine environment;

(l) 'Oil' means petroleum in any form including crude oil, fuel oil, oily sludge, oil refuse and refined products and, without limiting the generality of the foregoing, includes the substances listed in the Appendix to this Protocol;

(m) 'Oily mixture' means a mixture with any oil content;

(n) 'Sewage' means:

(i) Drainage and other wastes from any form of toilets, urinals and water-closet scuppers;

(ii) Drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;

(iii) Other waste waters when mixed with the drainages defined above;

(o) 'Garbage' means all kinds of food, domestic and operational waste generated during the normal operation of the installation and liable to be disposed of continuously or periodically, except those substances which are defined or listed elsewhere in this Protocol;

(p) 'Freshwater limit' means the place in water courses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water.

*Article 2*

**Geographical coverage**

1. The area to which this Protocol applies (referred to in this Protocol as the 'Protocol Area') shall be:

(a) The Mediterranean Sea Area as defined in Article 1 of the Convention, including the continental shelf and the seabed and its subsoil;

(b) Waters, including the seabed and its subsoil, on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit.

2. Any of the Contracting Parties to this Protocol (referred to in this Protocol as 'the Parties') may also include in the Protocol area wetlands or coastal areas of their territory.

3. Nothing in this Protocol, nor any act adopted on the basis of this Protocol, shall prejudice the rights of any State concerning the delimitation of the continental shelf.

*Article 3*

**General undertakings**

1. The Parties shall take, individually or through bilateral or multilateral cooperation, all appropriate measures to prevent, abate, combat and control pollution in the Protocol Area resulting from activities, inter alia, by ensuring that the best available techniques, environmentally effective and economically appropriate, are used for this purpose.

2. The Parties shall ensure that all necessary measures are taken so that activities do not cause pollution.

SECTION II

**AUTHORISATION SYSTEM**

*Article 4*

**General principles**

1. All activities in the Protocol Area, including erection on site of installations, shall be subject to the prior written authorisation for exploration or exploitation from the competent authority. Such authority, before granting the authorisation, shall be satisfied that the installation has been constructed according to international standards and practice and that the operator has the technical competence and the financial capacity to carry out the activities. Such authorisation shall be granted in accordance with the appropriate procedure, as defined by the competent authority.

2. Authorisation shall be refused if there are indications that the proposed activities are likely to cause significant adverse effects on the environment that could not be avoided by compliance with the conditions laid down in the authorisation and referred to in Article 6, paragraph 3, of this Protocol.

3. When considering approval of the siting of an installation, the Contracting Party shall ensure that no detrimental effects will be caused to existing facilities by such siting, in particular, to pipelines and cables.

*Article 5*

**Requirements for authorisations**

1. The Contracting Party shall prescribe that any application for authorisation or for the renewal of an authorisation is subject to the submission of the project by the candidate operator to the competent authority and that any such application must include, in particular, the following:

(a) A survey concerning the effects of the proposed activities on the environment; the competent authority may, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area, require that an environmental impact assessment be prepared in accordance with Annex IV to this Protocol;

(b) The precise definition of the geographical areas where the activity is envisaged, including safety zones;

(c) Particulars of the professional and technical qualifications of the candidate operator and personnel on the installation, as well as of the composition of the crew;

(d) The safety measures as specified in Article 15;

(e) The operator's contingency plan as specified in Article 16;

(f) The monitoring procedures as specified in Article 19;

(g) The plans for removal of installations as specified in Article 20;

(h) Precautions for specially protected areas as specified in Article 21;

(i) The insurance or other financial security to cover liability as prescribed in Article 27, paragraph 2 (b).

2. The competent authority may decide, for scientific research and exploration activities, to limit the scope of the requirements laid down in paragraph 1 of this Article, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area.

*Article 6*

**Granting of authorisations**

1. The authorisations referred to in Article 4 shall be granted only after examination by the competent authority of the requirements listed in Article 5 and Annex IV.

2. Each authorisation shall specify the activities and the period of validity of the authorisation, establish the geographical limits of the area subject to the authorisation and specify the technical requirements and the authorised installations. The necessary safety zones shall be established at a later appropriate stage.

3. The authorisation may impose conditions regarding measures, techniques or methods designed to reduce to the minimum risks of and damage due to pollution resulting from the activities.

4. The Parties shall notify the Organisation as soon as possible of authorisations granted or renewed. The Organisation shall keep a register of all the authorised installations in the Protocol Area.

*Article 7*

**Sanctions**

Each Party shall prescribe sanctions to be imposed for breach of obligations arising out of this Protocol, or for non-observance of the national laws or regulations implementing this Protocol, or for non-fulfilment of the specific conditions attached to the authorisation.

SECTION III

**WASTES AND HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS**

*Article 8*

**General obligation**

Without prejudice to other standards or obligations referred to in this Section, the Parties shall impose a general obligation upon operators to use the best available, environmentally effective and economically appropriate techniques and to observe internationally accepted standards regarding wastes, as well as the use, storage and discharge of harmful or noxious substances and materials, with a view to minimising the risk of pollution.

*Article 9*

**Harmful or noxious substances and materials**

1. The use and storage of chemicals for the activities shall be approved by the competent authority, on the basis of the Chemical Use Plan.

2. The Contracting Party may regulate, limit or prohibit the use of chemicals for the activities in accordance with guidelines to be adopted by the Contracting Parties.

3. For the purpose of protecting the environment, the Parties shall ensure that each substance and material used for activities is accompanied by a compound description provided by the entity producing such substance or material.

4. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex I to this Protocol is prohibited.

5. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex II to this Protocol requires, in each case, a prior special permit from the competent authority.

6. The disposal into the Protocol Area of all other harmful or noxious substances and materials resulting from the activities covered by this Protocol and which might cause pollution requires a prior general permit from the competent authority.

7. The permits referred to in paragraphs 5 and 6 above shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol.

*Article 10*

**Oil and oily mixtures and drilling fluids and cuttings**

1. The Parties shall formulate and adopt common standards for the disposal of oil and oily mixtures from installations into the Protocol Area:

(a) Such common standards shall be formulated in accordance with the provisions of Annex V, A;

(b) Such common standards shall not be less restrictive than the following, in particular:

(i) For machinery space drainage, a maximum oil content of 15 mg per litre whilst undiluted;

(ii) For production water, a maximum oil content of 40 mg per litre as an average in any calendar month; the content shall not at any time exceed 100 mg per litre;

(c) The Parties shall determine by common agreement which method will be used to analyze the oil content.

2. The Parties shall formulate and adopt common standards for the use and disposal of drilling fluids and drill cuttings into the Protocol Area. Such common standards shall be formulated in accordance with the provisions of Annex V, B.

3. Each Party shall take appropriate measures to enforce the common standards adopted pursuant to this Article or to enforce more restrictive standards that it may have adopted.

*Article 11*

**Sewage**

1. The Contracting Party shall prohibit the discharge of sewage from installations permanently manned by 10 or more persons into the Protocol Area except in cases where:

(a) The installation is discharging sewage after treatment as approved by the competent authority at a distance of at least four nautical miles from the nearest land or fixed fisheries installation, leaving the Contracting Party to decide on a case by case basis; or

(b) The sewage is not treated, but the discharge is carried out in accordance with international rules and standards; or

(c) The sewage has passed through an approved sewage treatment plant certified by the competent authority.

2. The Contracting Party shall impose stricter provisions, as appropriate, where deemed necessary, inter alia, because of the regime of the currents in the area or proximity to any area referred to in Article 21.

3. The exceptions referred to in paragraph 1 shall not apply if the discharge produces visible floating solids or produces colouration, discolouration or opacity of the surrounding water.

4. If the sewage is mixed with wastes and harmful or noxious substances and materials having different disposal requirements, the more stringent requirements shall apply.

*Article 12*

**Garbage**

1. The Contracting Party shall prohibit the disposal into the Protocol Area of the following products and materials:

(a) All plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags;

(b) All other non-biodegradable garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials.

2. Disposal into the Protocol Area of food wastes shall take place as far away as possible from land, in accordance with international rules and standards.

3. If garbage is mixed with other discharges having different disposal or discharge requirements, the more stringent requirements shall apply.

*Article 13*

**Reception facilities, instructions and sanctions**

The Parties shall ensure that:

(a) Operators dispose satisfactorily of all wastes and harmful or noxious substances and materials in designated onshore reception facilities, except as otherwise authorised by the Protocol;

(b) Instructions are given to all personnel concerning proper means of disposal;

(c) Sanctions are imposed in respect of illegal disposals.

*Article 14*

**Exceptions**

1. The provisions of this Section shall not apply in case of:

(a) *Force majeure* and in particular for disposals:

— to save human life,

— to ensure the safety of installations,

— in case of damage to the installation or its equipment,

on condition that all reasonable precautions have been taken after the damage is discovered or after the disposal has been performed to reduce the negative effects.

(b) The discharge into the sea of substances containing oil or harmful or noxious substances or materials which, subject to the prior approval of the competent authority, are being used for the purpose of combating specific pollution incidents in order to minimise the damage due to the pollution.

2. However, the provisions of this Section shall apply in any case where the operator acted with the intent to cause damage or recklessly and with knowledge that damage will probably result.

3. Disposals carried out in the circumstances referred to in paragraph 1 of this Article shall be reported immediately to the Organisation and, either through the Organisation or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of wastes or harmful or noxious substances or materials discharged.

SECTION IV

**SAFEGUARDS**

*Article 15*

**Safety measures**

1. The Contracting Party within whose jurisdiction activities are envisaged or are being carried out shall ensure that safety measures are taken with regard to the design, construction, placement, equipment, marking, operation and maintenance of installations.

2. The Contracting Party shall ensure that at all times the operator has on the installations adequate equipment and devices, maintained in good working order, for protecting human life, preventing and combating accidental pollution and facilitating prompt response to an emergency, in accordance with the best available environmentally effective and economically appropriate techniques and the provisions of the operator's contingency plan referred to in Article 16.

3. The competent authority shall require a certificate of safety and fitness for the purpose (hereinafter referred to as 'certificate') issued by a recognised body to be submitted in respect of production platforms, mobile offshore drilling units, offshore storage facilities, offshore loading systems and pipelines and in respect of such other installations as may be specified by the Contracting Party.

4. The Parties shall ensure through inspection that the activities are conducted by the operators in accordance with this Article.

*Article 16*

**Contingency planning**

1. In cases of emergency the Contracting Parties shall implement *mutatis mutandis* the provisions of the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency.

2. Each Party shall require operators in charge of installations under its jurisdiction to have a contingency plan to combat accidental pollution, coordinated with the contingency plan of the Contracting Party established in accordance with the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency and approved in conformity with the procedures established by the competent authorities.

3. Each Contracting Party shall establish coordination for the development and implementation of contingency plans. Such plans shall be established in accordance with guidelines adopted by the competent international organisation. They shall, in particular, be in accordance with the provisions of Annex VII to this Protocol.

*Article 17*

**Notification**

Each Party shall require operators in charge of installations under its jurisdiction to report without delay to the competent authority:

(a) Any event on their installation causing or likely to cause pollution in the Protocol Area;

(b) Any observed event at sea causing or likely to cause pollution in the Protocol Area.

*Article 18*

**Mutual assistance in cases of emergency**

In cases of emergency, a Party requiring assistance in order to prevent, abate or combat pollution resulting from activities may request help from the other Parties, either directly or through the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), which shall do their utmost to provide the assistance requested.

For this purpose, a Party which is also a Party to the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency shall apply the pertinent provisions of the said Protocol.

*Article 19*

**Monitoring**

1. The operator shall be required to measure, or to have measured by a qualified entity, expert in the matter, the effects of the activities on the environment in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area and to report on them periodically or upon request by the competent authority for the purpose of an evaluation by such competent authority according to a procedure established by the competent authority in its authorisation system.

2. The competent authority shall establish, where appropriate, a national monitoring system in order to be in a position to monitor regularly the installations and the impact of the activities on the environment, so as to ensure that the conditions attached to the grant of the authorisation are being fulfilled.

*Article 20*

**Removal of installations**

1. The operator shall be required by the competent authority to remove any installation which is abandoned or disused, in order to ensure safety of navigation, taking into account the guidelines and standards adopted by the competent international organisation. Such removal shall also have due regard to other legitimate uses of the sea, in particular fishing, the protection of the marine environment and the rights and duties of other Contracting Parties. Prior to such removal, the operator under its responsibility shall take all necessary measures to prevent spillage or leakage from the site of the activities.

2. The competent authority shall require the operator to remove abandoned or disused pipelines in accordance with paragraph 1 of this Article or to clean them inside and abandon them or to clean them inside and bury them so that they neither cause pollution, endanger navigation, hinder fishing, threaten the marine environment, nor interfere with other legitimate uses of the sea or with the rights and duties of other Contracting Parties. The competent authority shall ensure that appropriate publicity is given to the depth, position and dimensions of any buried pipeline and that such information is indicated on charts and notified to the Organisation and other competent international organisations and the Parties.

3. The provisions of this Article apply also to installations disused or abandoned by any operator whose authorisation may have been withdrawn or suspended in compliance with Article 7.

4. The competent authority may indicate eventual modifications to be made to the level of activities and to the measures for the protection of the marine environment which had initially been provided for.

5. The competent authority may regulate the cession or transfer of authorised activities to other persons.

6. Where the operator fails to comply with the provisions of this Article, the competent authority shall undertake, at the operator's expense, such action or actions as may be necessary to remedy the operator's failure to act.

*Article 21*

**Specially protected areas**

For the protection of the areas defined in the Protocol concerning Mediterranean Specially Protected Areas and any other area established by a Party and in furtherance of the goals stated therein, the Parties shall take special measures in conformity with international law, either individually or through multilateral or bilateral cooperation, to prevent, abate, combat and control pollution arising from activities in these areas.

In addition to the measures referred to in the Protocol concerning Mediterranean Specially Protected Areas for the granting of authorisation, such measures may include, inter alia:

(a) Special restrictions or conditions when granting authorisations for such areas:

  (i) The preparation and evaluation of environmental impact assessments;

  (ii) The elaboration of special provisions in such areas concerning monitoring, removal of installations and prohibition of any discharge.

(b) Intensified exchange of information among operators, the competent authorities, Parties and the Organisation regarding matters which may affect such areas.

SECTION V

**COOPERATION**

*Article 22*

**Studies and research programmes**

In conformity with Article 13 of the Convention, the Parties shall, where appropriate, cooperate in promoting studies and undertaking programmes of scientific and technological research for the purpose of developing new methods of:

(a) Carrying out activities in a way that minimises the risk of pollution;

(b) Preventing, abating, combating and controlling pollution, especially in cases of emergency.

*Article 23*

**International rules, standards and recommended practices and procedures**

1. The Parties shall cooperate, either directly or through the Organisation or other competent international organisations, in order to:

(a) Establish appropriate scientific criteria for the formulation and elaboration of international rules, standards and recommended practices and procedures for achieving the aims of this Protocol;

(b) Formulate and elaborate such international rules, standards and recommended practices and procedures;

(c) Formulate and adopt guidelines in accordance with international practices and procedures to ensure observance of the provisions of Annex VI.

2. The Parties shall, as soon as possible, endeavour to harmonise their laws and regulations with the international rules, standards and recommended practices and procedures referred to in paragraph 1 of this Article.

3. The Parties shall endeavour, as far as possible, to exchange information relevant to their domestic policies, laws and regulations and the harmonisation referred to in paragraph 2 of this Article.

*Article 24*

**Scientific and technical assistance to developing countries**

1. The Parties shall, directly or with the assistance of competent regional or other international organisations, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, law, education and technology, in order to prevent, abate, combat and control pollution due to activities in the Protocol Area.

2. Technical assistance shall include, in particular, the training of scientific, legal and technical personnel, as well as the acquisition, utilisation and production by those countries of appropriate equipment on advantageous terms to be agreed upon among the Parties concerned.

*Article 25*

**Mutual information**

The Parties shall inform one another directly or through the Organisation of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.

*Article 26*

**Transboundary pollution**

1. Each Party shall take all measures necessary to ensure that activities under its jurisdiction are so conducted as not to cause pollution beyond the limits of its jurisdiction.

2. A Party within whose jurisdiction activities are being envisaged or carried out shall take into account any adverse environmental effects, without discrimination as to whether such effects are likely to occur within the limits of its jurisdiction or beyond such limits.

3. If a Party becomes aware of cases in which the marine environment is in imminent danger of being damaged, or has been damaged, by pollution, it shall immediately notify other Parties which in its opinion are likely to be affected by such damage, as well as the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), and provide them with timely information that would enable them, where necessary, to take appropriate measures. REMPEC shall distribute the information immediately to all relevant Parties.

4. The Parties shall endeavour, in accordance with their legal systems and, where appropriate, on the basis of an agreement, to grant equal access to and treatment in administrative proceedings to persons in other States who may be affected by pollution or other adverse effects resulting from proposed or existing operations.

5. Where pollution originates in the territory of a State which is not a Contracting Party to this Protocol, any Contracting Party affected shall endeavour to cooperate with the said State so as to make possible the application of the Protocol.

*Article 27*

**Liability and compensation**

1. The Parties undertake to cooperate as soon as possible in formulating and adopting appropriate rules and procedures for the determination of liability and compensation for damage resulting from the activities dealt with in this Protocol, in conformity with Article 16 of the Convention.

2. Pending development of such procedures, each Party:

(a) Shall take all measures necessary to ensure that liability for damage caused by activities is imposed on operators, and they shall be required to pay prompt and adequate compensation;

(b) Shall take all measures necessary to ensure that operators shall have and maintain insurance cover or other financial security of such type and under such terms as the Contracting Party shall specify in order to ensure compensation for damages caused by the activities covered by this Protocol.

SECTION VI

**FINAL PROVISIONS**

*Article 28*

**Appointment of competent authorities**

Each Contracting Party shall appoint one or more competent authorities to:

(a) Grant, renew and register the authorisations provided for in Section II of this Protocol;

(b) Issue and register the special and general permits referred to in Article 9 of this Protocol;

(c) Issue the permits referred to in Annex V to this Protocol;

(d) Approve the treatment system and certify the sewage treatment plant referred to in Article 11, paragraph 1, of this Protocol;

(e) Give the prior approval for exceptional discharges referred to in Article 14, paragraph 1 (b), of this Protocol;

(f) Carry out the duties regarding safety measures referred to in Article 15, paragraphs 3 and 4, of this Protocol;

(g) Perform the functions relating to contingency planning described in Article 16 and Annex VII to this Protocol;

(h) Establish monitoring procedures as provided in Article 19 of this Protocol;

(i) Supervise the removal operations of the installations as provided in Article 20 of this Protocol.

*Article 29*

**Transitional measures**

Each Party shall elaborate procedures and regulations regarding activities, whether authorised or not, initiated before the entry into force of this Protocol, to ensure their conformity, as far as practicable, with the provisions of this Protocol.

*Article 30*

**Meetings**

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 18 of the Convention.

2. The functions of the meetings of the Parties to this Protocol shall be, inter alia:

(a) To keep under review the implementation of this Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes and appendices;

(b) To revise and amend any annex or appendix to this Protocol;

(c) To consider the information concerning authorisations granted or renewed in accordance with Section II of this Protocol;

(d) To consider the information concerning the permits issued and approvals given in accordance with Section III of this Protocol;

(e) To adopt the guidelines referred to in Article 9, paragraph 2, and Article 23, paragraph 1 (c), of this Protocol;

(f) To consider the records of the contingency plans and means of intervention in emergencies adopted in accordance with Article 16 of this Protocol;

(g) To establish criteria and formulate international rules, standards and recommended practices and procedures in accordance with Article 23, paragraph 1, of this Protocol, in whatever form the Parties may agree;

(h) To facilitate the implementation of the policies and the achievement of the objectives referred to in Section V, in particular the harmonisation of national and European Community legislation in accordance with Article 23, paragraph 2, of this Protocol;

(i) To review progress made in the implementation of Article 27 of this Protocol;

(j) To discharge such other functions as may be appropriate for the application of this Protocol.

*Article 31*

**Relations with the Convention**

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

*Article 32*

**Final clause**

1. This Protocol shall be open for signature at Madrid from 14 October 1994 to 14 October 1995, by any State Party to the Convention invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Seabed and its Subsoil, held at Madrid on 13 and 14 October 1994. It shall also be open until the same dates for signature by the European Community and by any similar regional economic grouping of which at least one member is a coastal State of the Protocol Area and which exercises competence in fields covered by this Protocol in conformity with Article 30 of the Convention.

2. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

3. As from 15 October 1995, this Protocol shall be open for accession by the States referred to in paragraph 1 above, by the European Community and by any grouping referred to in that paragraph.

4. This Protocol shall enter into force on the thirtieth day following the date of deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 1 of this Article.

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

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*ANNEX I*

**Harmful or noxious substances and materials the disposal of which in the protocol area is prohibited**

A. The following substances and materials and compounds thereof are listed for the purposes of Article 9, paragraph 4, of the Protocol. They have been selected mainly on the basis of their toxicity, persistence and bioaccumulation:

1. Mercury and mercury compounds
2. Cadmium and cadmium compounds
3. Organotin compounds and substances which may form such compounds in the marine environment ([1])
4. Organophosphorus compounds and substances which may form such compounds in the marine environment ([1])
5. Organohalogen compounds and substances which may form such compounds in the marine environment ([1])
6. Crude oil, fuel oil, oily sludge, used lubricating oils and refined products
7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea
8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment
9. Radioactive substances, including their wastes, if their discharges do not comply with the principles of radiation protection as defined by the competent international organisations, taking into account the protection of the marine environment

B. The present Annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties and, in relation to oil, below the limits defined in Article 10 of this Protocol.

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([1]) With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

*ANNEX II*

**Harmful or noxious substances and materials the disposal of which in the protocol area is subject to a special permit**

A. The following substances and materials and compounds thereof have been selected for the purpose of Article 9, paragraph 5, of the Protocol.

1. Arsenic
2. Lead
3. Copper
4. Zinc
5. Beryllium
6. Nickel
7. Vanadium
8. Chromium
9. Biocides and their derivatives not covered in Annex I
10. Selenium
11. Antimony
12. Molybdenum
13. Titanium
14. Tin
15. Barium (other than barium sulphate)
16. Boron
17. Uranium
18. Cobalt
19. Thallium
20. Tellurium
21. Silver
22. Cyanides

B. The control and strict limitation of the discharge of substances referred to in section A must be implemented in accordance with Annex III.

*ANNEX III*

**FACTORS TO BE CONSIDERED FOR THE ISSUE OF THE PERMITS**

For the purpose of the issue of a permit required under Article 9, paragraph 7, particular account will be taken, as the case may be, of the following factors:

A. Characteristics and composition of the waste

1. Type and size of waste source (e.g. industrial process);

2. Type of waste (origin, average composition);

3. Form of waste (solid, liquid, sludge, slurry, gaseous);

4. Total amount (volume discharged, e.g. per year);

5. Discharge pattern (continuous, intermittent, seasonally variable, etc.);

6. Concentrations with respect to major constituents, substances listed in Annex I, substances listed in Annex II, and other substances as appropriate;

7. Physical, chemical and biochemical properties of the waste.

B. Characteristics of waste constituents with respect to their harmfulness

1. Persistence (physical, chemical, biological) in the marine environment;

2. Toxicity and other harmful effects;

3. Accumulation in biological materials or sediments;

4. Biochemical transformation producing harmful compounds;

5. Adverse effects on the oxygen content and balance;

6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which may produce harmful biological or other effects on any of the uses listed in Section E below.

C. Characteristics of discharge site and receiving marine environment

1. Hydrographic, meteorological, geological and topographical characteristics of the area;

2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery and fishing areas, shellfish grounds) and other discharges;

3. Initial dilution achieved at the point of discharge into the receiving marine environment;

4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing;

5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area;

6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. Availability of waste technologies

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

(a) Alternative treatment processes;

(b) Reuse or elimination methods;

(c) On-land disposal alternatives;

(d) Appropriate low-waste technologies.

E. Potential impairment of marine ecosystem and sea-water uses

1. Effects on human life through pollution impact on:

(a) Edible marine organisms;

(b) Bathing waters;

(c) Aesthetics.

2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.

3. Effects on other legitimate uses of the sea in conformity with international law.

*ANNEX IV*

**ENVIRONMENTAL IMPACT ASSESSMENT**

1. Each Party shall require that the environmental impact assessment contains at least the following:

   (a) A description of the geographical boundaries of the area within which the activities are to be carried out, including safety zones where applicable;

   (b) A description of the initial state of the environment of the area;

   (c) An indication of the nature, aims, scope and duration of the proposed activities;

   (d) A description of the methods, installations and other means to be used, possible alternatives to such methods and means;

   (e) A description of the foreseeable direct or indirect short and long-term effects of the proposed activities on the environment, including fauna, flora and the ecological balance;

   (f) A statement setting out the measures proposed for reducing to the minimum the risk of damage to the environment as a result of carrying out the proposed activities, including possible alternatives to such measures;

   (g) An indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities;

   (h) A reference to the methodology used for the environmental impact assessment;

   (i) An indication of whether the environment of any other State is likely to be affected by the proposed activities.

2. Each Party shall promulgate standards taking into account the international rules, standards and recommended practices and procedures, adopted in accordance with Article 23 of the Protocol, by which environmental impact assessments are to be evaluated.

*ANNEX V*

## OIL AND OILY MIXTURES AND DRILLING FLUIDS AND CUTTINGS

The following provisions shall be prescribed by the Parties in accordance with Article 10:

A. Oil and Oily Mixtures

1. Spills of high oil content in processing drainage and platform drainage shall be contained, diverted and then treated as part of the product, but the remainder shall be treated to an acceptable level before discharge, in accordance with good oilfield practice;

2. Oily waste and sludges from separation processes shall be transported to shore;

3. All the necessary precautions shall be taken to minimise losses of oil into the sea from oil collected or flared from well testing;

4. All the necessary precautions shall be taken to ensure that any gas resulting from oil activities should be flared or used in an appropriate manner.

B. Drilling Fluids and Drill Cuttings

1. Water-based drilling fluids and drill cuttings shall be subject to the following requirements:

   (a) The use and disposal of such drilling fluids shall be subject to the Chemical Use Plan and the provisions of Article 9 of this Protocol;

   (b) The disposal of the drill cuttings shall either be made on land or into the sea in an appropriate site or area as specified by the competent authority.

2. Oil-based drilling fluids and drill cuttings are subject to the following requirements:

   (a) Such fluids shall only be used if they are of a sufficiently low toxicity and only after the operator has been issued a permit by the competent authority when it has verified such low toxicity;

   (b) The disposal into the sea of such drilling fluids is prohibited;

   (c) The disposal of the drill cuttings into the sea is only permitted on condition that efficient solids control equipment is installed and properly operated, that the discharge point is well below the surface of the water, and that the oil content is less than 100 grams of oil per kilogram dry cuttings;

   (d) The disposal of such drill cuttings in specially protected areas is prohibited;

   (e) In case of production and development drilling, a programme of seabed sampling and analysis relating to the zone of contamination must be undertaken.

3. Diesel-based drilling fluids:

   The use of diesel-based drilling fluids is prohibited. Diesel oil may exceptionally be added to drilling fluids in such circumstances as the Parties may specify.

*ANNEX VI*

**SAFETY MEASURES**

The following provisions shall be prescribed by the Parties in accordance with Article 15:

(a) That the installation must be safe and fit for the purpose for which it is to be used, in particular, that it must be designed and constructed so as to withstand, together with its maximum load, any natural condition, including, more specifically, maximum wind and wave conditions as established by historical weather patterns, earthquake possibilities, seabed conditions and stability, and water depth;

(b) That all phases of the activities, including storage and transport of recovered resources, must be properly prepared, that the whole activity must be open to control for safety reasons and must be conducted in the safest possible way, and that the operator must apply a monitoring system for all activities;

(c) That the most advanced safety systems must be used and periodically tested in order to minimise the dangers of leakages, spillages, accidental discharges, fire, explosions, blow-outs or any other threat to human safety or the environment, that a trained specialised crew to operate and maintain these systems must be present and that this crew must undertake periodic exercises. In the case of authorised not permanently manned installations, the permanent availability of a specialised crew shall be ensured;

(d) That the installation and, where necessary, the established safety zone, must be marked in accordance with international recommendations so as to give adequate warning of its presence and sufficient details for its identification;

(e) That in accordance with international maritime practice, the installations must be indicated on charts and notified to those concerned;

(f) That, in order to secure observance of the foregoing provisions, the person and/or persons having the responsibility for the installation and/or the activities, including the person responsible for the blow-out preventer, must have the qualifications required by the competent authority, and that sufficient qualified staff must be permanently available. Such qualifications shall include, in particular, training, on a continuing basis, in safety and environmental matters.

*ANNEX VII*

**CONTINGENCY PLAN**

A. The operator's contingency plan

1. Operators are obliged to ensure:

(a) That the most appropriate alarm system and communication system are available at the installation and they are in good working order;

(b) That the alarm is immediately raised on the occurrence of an emergency and that any emergency is immediately communicated to the competent authority;

(c) That, in coordination with the competent authority, transmission of the alarm and appropriate assistance and coordination of assistance can be organised and supervised without delay;

(d) That immediate information about the nature and extent of the emergency is given to the crew on the installation and to the competent authority;

(e) That the competent authority is constantly informed about the progress of combating the emergency;

(f) That at all times sufficient and most appropriate materials and equipment, including stand-by boats and aircraft, are available to put into effect the emergency plan;

(g) That the most appropriate methods and techniques are known to the specialised crew referred to in Annex VI, paragraph (c), in order to combat leakages, spillages, accidental discharges, fire, explosions, blow-outs and any other threat to human life or the environment;

(h) That the most appropriate methods and techniques are known to the specialised crew responsible for reducing and preventing long-term adverse effects on the environment;

(i) That the crew is thoroughly familiar with the operator's contingency plan, that periodic emergency exercises are held so that the crew has a thorough working knowledge of the equipment and procedures and that each individual knows exactly his role within the plan.

2. The operator shall cooperate, on an institutional basis, with other operators or entities capable of rendering necessary assistance, so as to ensure that, in cases where the magnitude or nature of an emergency creates a risk for which assistance is or might be required, such assistance can be rendered.

B. National coordination and direction

The competent authority for emergencies of a Contracting Party shall ensure:

(a) The coordination of the national contingency plan and/or procedures and the operator's contingency plan and control of the conduct of actions, especially in case of significant adverse effects of the emergency;

(b) Direction to the operator to take any action it may specify in the course of preventing, abating or combating pollution or in the preparation of further action for that purpose, including placing an order for a relief drilling rig, or to prevent the operator from taking any specified action;

(c) The coordination of actions in the course of preventing, abating or combating pollution or in preparation for further action for that purpose within the national jurisdiction with such actions undertaken within the jurisdiction of other States or by international organisations;

(d) Collection and ready availability of all necessary information concerning the existing activities;

(e) The provision of an up-to-date list of the persons and entities to be alerted and informed about an emergency, its development and the measures taken;

(f) The collection of all necessary information concerning the extent and means of combating contingencies, and the dissemination of this information to interested Parties;

(g) The coordination and supervision of the assistance referred to in Part A above, in cooperation with the operator;

(h) The organisation and if necessary, the coordination of specified actions, including intervention by technical experts and trained personnel with the necessary equipment and materials;

(i) Immediate communication to the competent authorities of other Parties which might be affected by a contingency to enable them to take appropriate measures where necessary;

(j) The provision of technical assistance to other Parties, if necessary;

(k) Immediate communication to the competent international organisations with a view to avoiding danger to shipping and other interests.

*Appendix*

**LIST OF OILS** [1]

**Asphalt solutions**

Blending Stocks

Roofers Flux

Straight Run Residue

**Oils**

Clarified

Crude Oil

Mixtures containing crude oil

Diesel Oil

Fuel Oil No 4

Fuel Oil No 5

Fuel Oil No 6

Residual Fuel Oil

Road Oil

Transformer Oil

Aromatic Oil (excluding vegetable oil)

Lubricating Oils and Blending Stocks

Mineral Oil

Motor Oil

Penetrating Oil

Spindle Oil

Turbine Oil

**Distillates**

Straight Run

Flashed Feed Stocks

**Gas Oil**

Cracked

[1] The list of oils should not necessarily be considered as exhaustive.

**Jet Fuels**

JP-1 (Kerosene)

JP-3

JP-4

JP-5 (Kerosene, Heavy)

Turbo Fuel

Kerosene

Mineral Spirit

**Naphtha**

Solvent

Petroleum

Heartcut Distillate Oil

**Gasoline Blending Stocks**

Alkylates — fuel

Reformates

Polymer — fuel

**Gasolines**

Casinghead (natural)

Automotive

Aviation

Straight Run

Fuel Oil No 1 (Kerosene)

Fuel Oil No 1-D

Fuel Oil No 2

Fuel Oil No 2-D

# REGULATIONS

## COMMISSION REGULATION (EU) No 6/2013

**of 8 January 2013**

**amending Regulation (EC) No 216/2008 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC**

**(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 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC [1], and in particular Article 6(2) thereof,

Whereas:

(1) Article 6(1) of Regulation (EC) No 216/2008, as amended by Commission Regulation (EC) No 690/2009 [2], requires products, parts and appliances to comply with the environmental protection requirements of Annex 16 to the Convention on International Civil Aviation (hereinafter 'Chicago Convention') as applicable on 20 November 2008 for Volumes I and II, except for its Appendices.

(2) Annex 16 to the Chicago Convention has been amended since the adoption of Regulation (EC) No 690/2009 and Regulation (EC) No 216/2008 should therefore be amended accordingly.

(3) The amendments to the environmental protection requirements of Annex 16 to the Chicago Convention introduced $NO_x$ production cut-off requirements and allow Contracting States to lay down transitional measures for their application.

(4) The measures provided for in this Regulation are based on the opinion issued by the European Aviation Safety Agency in accordance with Article 17(2)(b) and Article 19(1) of Regulation (EC) No 216/2008.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65(1) of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendment to Regulation (EC) No 216/2008**

In Article 6 of Regulation (EC) No 216/2008, paragraph 1 is replaced by the following:

'1. Products, parts and appliances shall comply with the environmental protection requirements contained in Amendment 10 of Volume I and in Amendment 7 of Volume II of Annex 16 to the Chicago Convention as applicable on 17 November 2011, except for the Appendices to Annex 16.'.

*Article 2*

**Transitional measures**

1. Until 31 December 2016, Member States may grant exemptions to the emissions production cut-off requirement established in point (d) of Volume II, Part III, Chapter 2, paragraph 2.3.2 of Annex 16 to the Chicago Convention, under the following conditions:

(a) such exemptions shall be granted in consultation with the Agency;

(b) exemptions may only be granted when the economic impact to the organisation responsible for manufacturing the exempted engines outweighs environmental protection interests;

(c) in the case of new engines to be installed on new aircraft, exemptions shall not be granted for more than 75 engines per engine type;

(d) when considering a request for exemption, the Member State shall take into account:

(i) the justification provided by the organisation responsible for manufacturing the exempted engines, including, but not limited to, considerations of technical issues, adverse economic impacts, environmental effects, impact of unforeseen circumstances and equity issues;

(ii) the intended use of the affected engines, namely whether they are spare engines or new engines to be installed on new aircraft;

[1] OJ L 79, 19.3.2008, p. 1.
[2] OJ L 199, 31.7.2009, p. 6.

(iii) the number of new engines affected;

(iv) the number of exemptions granted for that engine type;

(e) when granting the exemption, the Member State shall specify as a minimum:

(i) the engine's type-certificate number;

(ii) the maximum number of engines included in the exemption;

(iii) the intended use of the affected engines and the time limit for their production.

2. Organisations responsible for manufacturing engines under an exemption granted in accordance with this article shall:

(a) ensure that the identification plates on the affected engines are marked 'EXEMPT NEW' or 'EXEMPT SPARE', as relevant;

(b) have a quality control process for maintaining oversight of and managing the production of affected engines;

(c) provide, on a regular basis, to the Member State that granted the exemption and the organisation responsible for the design, details on the exempted engines which have been produced, including model, serial number, use of the engine, and aircraft type on which new engines are installed;

(d) Member States that granted an exemption shall, without undue delay, communicate all data referred to in paragraph 1(d) and paragraph 2(c) to the Agency. The Agency shall establish and maintain a register containing such data and make it publicly available.

*Article 3*

**Entry into force**

This Regulation shall enter into force on the 20th 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, 8 January 2013.

*For the Commission*
*The President*
José Manuel BARROSO

# COMMISSION REGULATION (EU) No 7/2013

## of 8 January 2013

## amending Regulation (EU) No 748/2012 laying down Implementing Rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations

**(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 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC [1], and in particular Article 6(2) thereof,

Whereas:

(1) Article 6(1) of Regulation (EC) No 216/2008 requires products, parts and appliances to comply with the environmental protection requirements of Annex 16 to the Convention on International Civil Aviation (hereinafter 'the Chicago Convention') as applicable on 20 November 2008 for Volumes I and II, except for its Appendices.

(2) The Chicago Convention and its annexes have been amended since the adoption of Regulation (EC) No 216/2008.

(3) Commission Regulation (EU) No 748/2012 [2] should therefore be amended accordingly.

(4) The measures provided for in this Regulation are based on the Opinion issued by the Agency in accordance with Article 17(2)(b) and Article 19(1) of Regulation (EC) No 216/2008.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I (Part 21) to Regulation (EU) No 748/2012 is amended as follows:

(1) Point 21A.4(a) to subpart A of section A is replaced by the following:

'(a) The satisfactory coordination of design and production required by 21A.122, 21A.130(b)(3) and (4), 21A.133 and 21A.165(c)(2) and (3) as appropriate, and';

(2) Point 21A.130(b) to subpart F of section A is replaced by the following:

'(b) A statement of conformity shall include:

1. For each product, part or appliance a statement that the product or appliance, conforms to the approved design data and is in condition for safe operation; and

2. For each aircraft, a statement that the aircraft has been ground and flight checked in accordance with 21A.127(a); and

3. For each engine, or variable pitch propeller, a statement that the engine or propeller has been subjected by the manufacturer to a final functional test in accordance with 21A.128; and

4. Additionally, in the case of engines, a statement that the completed engine is in compliance with the applicable emissions requirements on the date of manufacture of the engine.';

(3) In point 21A.165(c) to subpart G of section A, points 2 and 3 are replaced by the following:

'2. Determine that other products, parts or appliances are complete and conform to the approved design data and are in a condition for safe operation before issuing an EASA Form 1 to certify conformity to approved design data and condition for safe operation;

3. Additionally, in the case of engines, determine that the completed engine is in compliance with the applicable emissions requirements on the date of manufacture of the engine;

4. Determine that other products, parts or appliances conform to the applicable data before issuing an EASA Form 1 as a conformity certificate.'

[1] OJ L 79, 19.3.2008, p. 1.
[2] OJ L 224, 21.8.2012, p. 1.

*Article 2*

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

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

Done at Brussels, 8 January 2013.

*For the Commission*
*The President*
José Manuel BARROSO

# COMMISSION IMPLEMENTING REGULATION (EU) No 8/2013

## of 8 January 2013

## 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:

(1) 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.

(2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

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 to this Regulation.

*Article 2*

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

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

Done at Brussels, 8 January 2013.

*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 | IL | 51,1 |
| | MA | 59,2 |
| | TN | 81,0 |
| | TR | 102,6 |
| | ZZ | 73,5 |
| 0707 00 05 | EG | 191,6 |
| | TR | 129,7 |
| | ZZ | 160,7 |
| 0709 93 10 | MA | 84,0 |
| | TR | 133,7 |
| | ZZ | 108,9 |
| 0805 10 20 | EG | 68,6 |
| | MA | 60,9 |
| | TR | 68,9 |
| | ZA | 50,5 |
| | ZZ | 62,2 |
| 0805 20 10 | MA | 78,5 |
| | ZZ | 78,5 |
| 0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90 | IL | 79,1 |
| | MA | 101,4 |
| | TR | 83,8 |
| | ZZ | 88,1 |
| 0805 50 10 | TR | 78,8 |
| | ZZ | 78,8 |
| 0808 10 80 | CA | 164,3 |
| | CN | 86,7 |
| | MK | 31,3 |
| | US | 200,2 |
| | ZZ | 120,6 |
| 0808 30 90 | CN | 60,7 |
| | US | 144,2 |
| | ZZ | 102,5 |

(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'.

# DECISIONS

## COUNCIL DECISION

**of 4 December 2012**

**amending Decision 2011/734/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit**

(2013/6/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(9) and Article 136 thereof,

Having regard to the recommendation from the European Commission,

Whereas:

(1) Article 136(1)(a) of the Treaty on the Functioning of the European Union (TFEU) provides for the possibility of adopting measures specific to the Member States whose currency is the euro with a view to strengthening the coordination and surveillance of their budgetary discipline.

(2) Article 126 TFEU establishes that Member States are to avoid excessive government deficits and sets out the excessive deficit procedure to that effect. The Stability and Growth Pact, which in its corrective arm implements the excessive deficit procedure, provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

(3) On 27 April 2009, the Council decided, in accordance with Article 104(6) of the Treaty establishing the European Community, that an excessive deficit existed in Greece.

(4) On 10 May 2010, the Council adopted Decision 2010/320/EU [1] addressed to Greece under Article 126(9) and Article 136 TFEU with a view to reinforcing and deepening Greece's fiscal surveillance and giving it notice to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit at the latest by 2014. The Council also set annual targets for the government deficit.

(5) Decision 2010/320/EU was substantially amended several times. Since further amendments were to be made, it was recast, in the interest of clarity, on 12 July 2011, by Council Decision 2011/734/EU [2]. This decision was amended for the first time on 8 November 2011 [3].

(6) On 13 March 2012 [4], following a recommendation from the Commission, Decision 2011/734/EU was again amended in a number of respects, including the fiscal adjustment path, while the deadline for remedying the excessive deficit was kept unchanged. That Decision confirmed the recommendation that Greece would have to take measures to correct the situation of excessive deficit by 2014 at the latest, by ensuring an improvement in the structural balance of at least 10 percentage points of GDP over the 2009-2014 period.

(7) In accordance with Article 5(2) of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure [5], if effective action has been taken in compliance with Article 126(9) TFEU and unexpected adverse economic events with major unfavourable consequences for government finances occur after the adoption of that notice, the Council may decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) TFEU.

(8) Economic activity is currently projected to be much weaker than what was expected when the latest amendment to Decision 2011/734/EU was adopted in March 2012. Both real and nominal GDP are expected to be at much lower levels in 2012 and 2013. The recent revision of the Greek national accounts in October 2012 revealed a steeper contraction of real GDP, as compared to the underlying figures in Decision 2011/734/EU. According to the Commission services' 2012 Autumn Forecast, real GDP is projected to contract in 2012 by 6,0 % and by a further 4,2 % in 2013 (against a contraction of 4,7 % and a stagnation at 0,0 % in Decision 2011/734/EU, for 2012 and 2013, respectively), before growing by 0,6 % in 2014. This marked worsening of the economic scenario implies a corresponding deterioration of the outlook for public finances given unchanged policies.

[1] OJ L 145, 11.6.2010, p. 6.

[2] OJ L 296, 15.11.2011, p. 38.

[3] Council Decision 2011/791/EU (OJ L 320, 3.12.2011, p. 28).

[4] Council Decision 2012/211/EU (OJ L 113, 25.4.2012, p. 8).

[5] OJ L 209, 2.8.1997, p. 6.

(9) In 2012, the general government deficit is expected to have reached 6,9 % of GDP, well within the ceiling of a government deficit (based on the European System of Accounts 1995, set up by Regulation (EC) No 2223/96 ([1])) of 7,3 % of GDP for 2012 established by Decision 2011/734/EU. In nominal terms, the 2012 general government deficit is expected to have reached EUR 13,4 billion, compared with a EUR 14,8 billion deficit ceiling prescribed in Decision 2011/734/EU. The primary deficit, however, is expected to be slightly higher than the targeted 1,0 % of GDP, largely because of the deeper-than-expected recession. Greece is estimated to have improved its structural deficit by 13,4 percentage points of GDP from a 14,7 % deficit in 2009 to an estimated 1,3 % deficit in 2012. Greece has thus ensured an improvement in the structural balance in the 2009-2012 period which is already larger than the at least 10 percentage points of GDP over the 2009-2014 period recommended by the Council. On 11 November 2012, the budget for 2013 was adopted by the Greek Parliament that is expected to bring savings of more than EUR 9,2 billion, over 5 % of GDP. The 2013 budget forms part of the 2013-2016 medium-term fiscal strategy ('MTFS') that was adopted by the Greek Parliament a few days earlier on 7 November 2012. The MTFS and the relevant legislation to implement it set out a very sizeable and front-loaded fiscal consolidation amounting to over 7 % of GDP by 2016, with a comprehensive set of structural measures underlying a substantial fiscal consolidation. Taking into account these developments, the policy conditionality in the Memorandum of Understanding on the economic adjustment programme of Greece needs to be updated. The commitment undertaken by Greece concerns not only the fiscal consolidation measures, but also those measures needed to enhance growth and to minimise any negative social impact. Overall, therefore, Greece has taken effective action in 2012 to reduce its deficit in compliance with Decision 2011/734/EU.

(10) The general government consolidated debt was expected in the Commission Autumn 2012 forecast to decline by EUR 11,1 billion in 2012, against EUR 26,95 billion set in Decision 2011/734/EU. This is due to lower-than-expected privatisation receipts, a lower-than-expected consolidation of government debt and worse-than-expected cash-accruals and other interest adjustments. Owing to a lower nominal GDP following the statistical data revision and in light of worse macroeconomic prospects, the debt-to-GDP ratio would rise to 176,7 %, before agreed initiatives by Member States whose currency is the euro and certain debt-reducing measures considered by Greece are implemented in December 2012, which would reduce the debt to slightly above 160 % of GDP by the end of 2012. These measures should improve the sustainability of debt, and certain debt-reducing measures considered by Greece should improve the sustainability of the debt trajectory, without altering the fiscal path for the primary surplus. Taking also into account a narrowing of the budget deficit and stronger nominal GDP growth resulting from structural policy measures, the debt-to-GDP ratio is expected to peak in 2013. The debt-to-GDP ratio would start declining from 2014 onwards to reach below 160 % of GDP in 2016.

(11) Despite the effective action undertaken, the marked worsening of the economic scenario implies a corresponding deterioration of the outlook for public finances given unchanged policies and makes it difficult to complete the correction of the excessive deficit by 2014, as requested by the Council in Decision 2011/734/EU. Given the adverse economic events, an extension of the deadline for the adjustment period is warranted. In particular, the deadline that was set in the Council Decision needs to be extended by two years to 2016. Under a revised Economic Adjustment Programme path, the primary balance targets should be set at 0 %, 1,5 %, 3 % and 4,5 % of GDP respectively for the 2013-2016 period. The revised path means that the general government budget deficit will fall below 3 % of GDP in 2016. The debt-reducing measures to be implemented in December 2012 could reduce interest payments by up to 1 % of GDP, making it possible to bring the budget deficit below 3 % of GDP already in 2015. These numbers could be estimated to translate into an improvement in the cyclically-adjusted primary balance to GDP ratio from 4,1 % in 2012 to 6,2 % in 2013 and at least 6,4 % of GDP in 2014, 2015 and 2016 and into a cyclically-adjusted government deficit to GDP ratio at − 1,3 % in 2012, 0,7 % in 2013, 0,4 % in 2014, 0,0 % in 2015 and − 0,4 % in 2016, reflecting the original profile of interest payments. Notwithstanding the extension of the deadline for remedying the excessive deficit, however, the fiscal effort needed to achieve the target remains very large in 2013-2014, and heavily frontloaded. This revision of the deadline will therefore maintain the credibility of the economic adjustment programme, while considering the economic and social impact of the consolidation and the need to maintain confidence in the capacity of the Greek Government to address the fiscal challenge.

(12) Each measure required by this Decision is instrumental in achieving the required budgetary adjustment. Some measures have a direct impact on the budgetary situation of Greece, while the others are structural measures that will result in improved fiscal governance and a sounder budgetary situation in the medium term.

([1]) Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1).

(13) The very severe deterioration of the financial situation of the Greek Government has led the Member States whose currency is the euro to decide to provide stability support to Greece, with a view to safeguarding the financial stability of the euro area as a whole, in conjunction with multilateral assistance provided by the International Monetary Fund. Since March 2012, support provided by the Member States whose currency is the euro takes the form of both a bilateral Greek loan facility and a loan from the European Financial Stability Facility. The lenders have decided that their support shall be conditional on Greece complying with Decision 2011/734/EU, as amended by this Decision. In particular, Greece is expected to carry out the measures specified in this Decision in accordance with the calendar set out herein,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2011/734/EU is hereby amended as follows:

(1) Article 1 is replaced by the following:

'*Article 1*

1. Greece shall put an end to the present excessive deficit situation as rapidly as possible and, at the latest, by the deadline of 2016.

2. The adjustment path towards the correction of the excessive deficit shall aim to achieve a general government primary deficit (deficit excluding interest expenditure) not exceeding EUR 2 925 million (1,5 % of GDP) in 2012, and general government primary surpluses of at least EUR 0 million (0,0 % of GDP) in 2013, EUR 2 775 million (1,5 % of GDP) in 2014, EUR 5 700 million (3,0 % of GDP) in 2015 and EUR 9 000 million (4,5 % of GDP) in 2016. These targets for the primary deficit/surplus imply an overall ESA-government deficit of 6,9 % of GDP in 2012, 5,4 % of GDP in 2013, 4,5 % of GDP in 2014, 3,4 % of GDP in 2015 and 2,0 % of GDP in 2016. The debt-reducing measures to be implemented in December 2012 could reduce interest payments by up to 1 % of GDP. These numbers could be estimated to translate into an improvement in the cyclically-adjusted primary balance to GDP ratio from 4,1 % in 2012 to 6,2 % in 2013 and at least 6,4 % of GDP in 2014, 2015 and 2016 and into a cyclically-adjusted government deficit to GDP ratio at – 1,3 % in 2012, 0,7 % in 2013, 0,4 % in 2014, 0,0 % in 2015 and – 0,4 % in 2016, reflecting the original profile of interest payments. Proceeds from the privatisation of financial and non-financial assets, transactions relating to bank recapitalisations, as well as all transfers related to the Eurogroup decision of 21 February 2012 with regard to income of euro zone national central banks, including the Bank of Greece, stemming from their investment portfolio holdings of Greek Government bonds shall not reduce the required fiscal consolidation effort and shall not be counted in the assessment of these targets. The same applies to any payments from loss-making banks beyond those which would accrue from the ELA guarantee fee structure existing on 30 September 2012.

3. The adjustment path referred to in paragraph 2, taking into account the impact of debt-reducing measures to be implemented in December 2012, would be consistent with a general government consolidated debt ratio to GDP of below 160 % in 2016.';

(2) in Article 2, the following paragraph is inserted:

'10a. Greece shall have adopted the following measures by 4 December 2012:

(a) the budget for 2013 and the MTFS through 2016, as well as the measures as described in Annex IA to this Decision and the respective implementing legislation. The MTFS shall elaborate on the permanent fiscal consolidation measures which ensure that the deficit ceilings for 2012-2016, as established by this Decision, are not exceeded and that the debt-to-GDP ratio is put on a sustainable downward path;

(b) the presentation of an updated Privatisation Plan to the Greek Parliament and the publication of a semi-annual update of the Asset Development Plan;

(c) the transfer to the portfolio of privatisation assets of the HRADF of the full and direct ownership (shares or concession rights) of Egnatia Motorway and the regional ports of Elefsina, Lavrio, Igoumenitsa, Alexandroupolis, Volos, Kavala, Corfu, Patras, Heraklion, and Rafina;

(d) ensuring the line Ministries and other relevant entities provide the General Secretariat for Public Property with full access to the inventory of all real estate assets owned by the State;

(e) the amendment and/or the repeal of statutory provisions of State-owned enterprises (PPC, OLP and OLTH port authorities, HELPE, EYATH and EYDAP, ports, etc.) that diverge from private company law regarding any restrictions on voting rights of private shareholders;

(f) legislation to define the role and qualifications of the Secretary-General of the Tax Administration and for the Minister of Finance to delegate decision-making powers to the Secretary-General of the Tax Administration;

(g) the deployment of experienced tax auditors towards activities serving the immediate revenue imperatives, by strengthening and making fully operational key enforcement areas such as the large taxpayer unit by transferring 100 auditors from other duties, and by establishing a single functional unit for high-wealth individuals and high-income self-employed persons and staffing this unit with 50 experienced tax auditors directly accountable to the Secretary-General of the Tax Administration;

(h) a Council of Ministers act (replacing the Council of Ministers act adopted on 29 October 2012), aiming at strengthening budget execution and enhancing sound fiscal management, and including, beyond the provisions in the original Council of Ministers act, additional provisions: (i) establishing that Memoranda of Cooperation are signed by end-December of each year between the Ministry of Finance and the other Ministries or between the Ministries and managers of the supervised entities (thus covering the entire general government); (ii) strengthening the current balanced budget constraints for local governments in order for them to be more effective, including corrective and sanctioning mechanisms; (iii) strengthening the current monitoring system for State-owned enterprises (SOEs) and introducing an enforcement mechanism in case of deviations from the specific targets identified for each SOE; and (iv) setting the framework for defining specific targets for the coverage of operational commitment registers for local governments and SOEs to be established by December of each year. That Council of Ministers act shall also include mechanisms for correcting transfers from central government to address deviations from targets within the year and possibly in the following years, while ensuring that arrears are not increasing; it shall make explicit that the proceeds from the privatisation of government assets are paid directly into a segregated account to monitor cash flows, avoid diversion of official financing and secure a timely debt servicing; and it shall set automatic cuts in expenditure to be applied as a rule when targets are missed, while ensuring that arrears do not increase;

(i) a set of measures to improve the current financial situation of the National Organisation for Healthcare Provision (EOPYY) and ensure that budgetary execution is closer to a balanced budget in 2012 and 2013, including: (i) streamlining the benefit package; (ii) increasing cost-sharing for healthcare delivered by private providers; (iii) negotiating price-volume agreements and revising case-mix agreements with private providers; (iv) revising the fees for, and number of, diagnostic and physiotherapy services contracted by EOPYY to private providers with the aim of reducing related costs by at least EUR 80 million in 2013; (v) introducing a reference price system for the reimbursement of medical devices; and (vi) progressively increasing the contributions paid by OGA members to the average of those paid by other members of EOPYY;

(j) the following measures relating to the reimbursement of medicines: (i) legislation to control pharmaceutical spending that activates contingency measures (including e.g. an across-the-board cut in prices), if for any reason the existing automatic claw-back mechanism is not sufficient to achieve the target; such measures shall produce an equivalent amount of savings; (ii) a ministerial decree, setting the new claw-back threshold for 2013 (EUR 2,44 billion for outpatients); (iii) updating the price list and the positive list of reimbursable medicines, particularly by establishing the reimbursement of only cost effective packages for chronic diseases, by moving medicines from the positive to the negative and over-the-counter lists and by introducing the reference price system developed by the National Organisation for Medicines (EOF). These lists must be updated at least twice a year in line with Council Directive 89/105/EEC; and (iv) the substitution of prescribed medicines by the lowest–priced product of the same active substance in the reference category by pharmacies (compulsory "generic substitution").';

(3) in Article 2, paragraph 11 is replaced by the following:

'11. Greece shall adopt the following measures by the end of December 2012:

(a) a tax reform of personal income tax and corporate income tax that aims at simplifying the tax system, broadening the tax base and eliminating exemptions and preferential regimes;

(b) the necessary primary and secondary legislation to ensure the swift implementation of the Privatisation Plan;

(c) the establishment of a regulatory framework for water companies;

(d) measures to improve the tax administration, introducing performance assessments, improving the use of risk assessment techniques, and establishing and reinforcing specialist debt management units;

(e) the preparation and publication of a plan for the clearance of arrears owed to suppliers by public entities and of tax refunds;

(f) the finalisation of the implementation of the reform of the functioning of secondary/supplementary public pension funds; and the unification of all existing funds in the public sector;

(g) legislation to extend the application of the 5 % rebate on pharmaceutical companies (which exists for hospital-priced medicines) to all products sold in EOPYY pharmacies;

(h) an increase of the share of generic medicines to 35 % of the overall volume of medicines sold by pharmacies;

(i) the assignment of internal controllers to all hospitals and the adoption by all hospitals of commitment registers.';

(4) the following paragraphs are added to Article 2:

'12. Greece shall adopt the following measures by the end of March 2013:

(a) issue a Ministerial Decree for the adjustment of end-user prices for low-voltage customers;

(b) update the MTFS, including by setting binding 3-year expenditure ceilings for government subsectors;

(c) adopt staffing plans for line Ministries;

(d) establish a significantly more autonomous tax administration and specify the degree of autonomy, governance framework, accountability, legal powers of the head of the tax administration and the initial staffing of the organisation;

(e) issue and make public a new fully-fledged anti-corruption plan for the civil service, including special provisions for the tax and customs administration;

(f) make fully operational a standard procedure for revision of legal values of real estate to better align them with market prices under the responsibility of the Directorate of Capital Taxation;

(g) transfer 40 new real estate assets (identified as "real estate assets lots 2 and 3" in the Privatisation Plan) to the HRADF.

13. Greece shall adopt the following measures by the end of June 2013:

(a) achieve the target of making 2 000 tax auditors fully operational;

(b) adopt a new Tax Procedures Code;

(c) ensure the e-procurement platform is ready for use by all central purchasing bodies.

14. Greece shall adopt, by the end of September 2013, the necessary legislation with a view to introducing a structural balanced budget rule with an automatic correction mechanism.';

(5) the text appearing in the Annex to this Decision is inserted as Annex IA.

*Article 2*

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

*Article 3*

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 4 December 2012.

*For the Council*
*The President*
V. SHIARLY

*ANNEX*

*'ANNEX IA*

*MEDIUM-TERM FISCAL STRATEGY 2013-16 MEASURES*

The additional measures included in the medium-term fiscal strategy (MTFS) through 2016 are the following:

1. Rationalisations in the wage bill by at least EUR 1 110 million in 2013 and by an additional EUR 259 million in 2014.

2. Savings in pensions of at least EUR 4 800 million in 2013 and of an additional EUR 423 million in 2014.

3. Cuts in the State's operational expenditure by at least EUR 239 million in 2013 and by an additional EUR 285 million in 2014.

4. Savings from rationalisation and efficiency improvements in education-related expenses of at least EUR 86 million in 2013 and of an additional EUR 37 million in 2014.

5. Savings in State-owned enterprises of at least EUR 249 million in 2013 and of an additional EUR 123 million in 2014.

6. Cuts in operational defence-related expenditure producing savings by at least EUR 303 million in 2013 and by an additional EUR 100 million in 2014.

7. Savings in healthcare and pharmaceutical expenditure of at least EUR 455 million in 2013 and of an additional EUR 620 million in 2014.

8. Savings from the rationalisation of social benefits of at least EUR 217 million in 2013 and of an additional EUR 78 million in 2014.

9. Cuts in State transfers to local governments by at least EUR 50 million in 2013 and by an additional EUR 160 million in 2014.

10. Cuts in expenditure by the public investment budget (domestically-financed public investment) by EUR 150 million in 2013 and by an additional 150 million in 2014.

11. An increase in revenues of at least EUR 1 689 million in 2013 and of an additional EUR 1 799 million in 2014.'.

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