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## Legislation

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## II

*(Non-legislative acts)*

## INTERNATIONAL AGREEMENTS

**Notice concerning the entry into force of the Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part**

The Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, signed in Rome on 15 December 2003, will enter into force on 1 May 2014.

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**COUNCIL DECISION****of 14 April 2014****on the conclusion on behalf of the European Union of the Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, as regards Article 49(3) thereof**

(2014/210/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(3), 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,

Whereas:

- (1) The Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part ('the Agreement'), was signed on 15 December 2003, subject to its conclusion at a later date.
- (2) In accordance with Article 54(1) of the Agreement, the Agreement is to enter into force on the first day of the month following that in which the Contracting Parties notify each other of the completion of the procedures necessary for that purpose.
- (3) All Contracting Parties to the Agreement, including all the Member States of the Union at the time of the signing of the Agreement, have by now deposited their instruments of ratification, with the exception of the Union.
- (4) Article 49(3) of the Agreement sets out the obligations for the Contracting Parties on readmission of illegal migrants. As a consequence, that provision falls within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU), and in particular Article 79(3) thereof.
- (5) In accordance with Articles 1 and 2 of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application.
- (6) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (7) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community.
- (8) The Agreement should be approved as regards Article 49(3) thereof. A separate decision on the conclusion of the Agreement with the exception of Article 49(3) thereof, will be adopted in parallel to this Decision <sup>(1)</sup>,

HAS ADOPTED THIS DECISION:

*Article 1*

The Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, is hereby approved on behalf of the Union, as regards Article 49(3) thereof <sup>(2)</sup>.

<sup>(1)</sup> Council Decision 2014/211/EU (see page 4 of this Official Journal).

<sup>(2)</sup> The Agreement has been published in OJ L 111, 15.4.2014, p. 6 together with Decision 2014/211/EU.

*Article 2*

The President of the Council shall, on behalf of the Union, give the notifications provided for in Article 54 of the Agreement <sup>(1)</sup> and give the following notifications:

- ‘As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to “the European Community” or to “the Community” in the text of the Agreement are, where appropriate, to be read as to “the European Union” or to “the Union”.’;
- ‘The provisions of the Agreement that fall within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Union, unless the European Union together with the United Kingdom and/or Ireland have notified the Central American Party that the United Kingdom and/or Ireland are bound as part of the European Union in accordance with the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. If the United Kingdom and/or Ireland cease to be bound as part of the European Union in accordance with Article 4a of Protocol No 21, the European Union together with the United Kingdom and/or Ireland shall immediately inform the Central American Party of any change in their position in which case they shall remain bound by the provisions of the Agreement in their own right. The same applies to Denmark in accordance with the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.’.

*Article 3*

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

Done at Luxembourg, 14 April 2014.

*For the Council*  
*The President*  
C. ASHTON

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

**COUNCIL DECISION****of 14 April 2014****on the conclusion on behalf of the European Union of the Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, with the exception of Article 49(3) thereof**

(2014/211/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 209(2), 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,

Whereas:

- (1) The Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part ('the Agreement'), was signed on 15 December 2003, subject to its conclusion at a later date.
- (2) In accordance with Article 54(1) of the Agreement, the Agreement is to enter into force on the first day of the month following that in which the Contracting Parties notify each other of the completion of the procedures necessary for that purpose.
- (3) All Contracting Parties to the Agreement, including all the Member States of the Union at the time of the signing of the Agreement, have by now deposited their instruments of ratification, with the exception of the Union.
- (4) Article 49(3) of the Agreement sets out the obligations for the Contracting Parties on readmission of illegal migrants. As a consequence, that provision falls within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU), and in particular Article 79(3) thereof, as well as Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice and Protocol (No 22) on the position of Denmark, both annexed to the Treaty on European Union and to the TFEU, apply.
- (5) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community.
- (6) The Agreement should be approved with the exception of Article 49(3) thereof. A separate decision <sup>(1)</sup> on the conclusion of Article 49(3) of the Agreement, will be adopted in parallel to this Decision,

HAS ADOPTED THIS DECISION:

*Article 1*

The Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, is hereby approved on behalf of the Union, with the exception of Article 49(3) thereof.

The text of the Agreement is attached to this Decision.

<sup>(1)</sup> Council Decision 2014/210/EU (see page 2 of this Official Journal).

*Article 2*

The President of the Council shall, on behalf of the Union, give the notifications provided for in Article 54 of the Agreement <sup>(1)</sup> and give the following notifications:

‘As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to “the European Community” or to “the Community” in the text of the Agreement are, where appropriate, to be read as to “the European Union” or to “the Union”.’.

‘The provisions of the Agreement that fall within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Union, unless the European Union together with the United Kingdom and/or Ireland have notified the Central American Party that the United Kingdom and/or Ireland are/is bound as part of the European Union in accordance with the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. If the United Kingdom and/or Ireland ceases to be bound as part of the European Union in accordance with Article 4a of Protocol No 21, the European Union together with the United Kingdom and/or Ireland shall immediately inform the Central American Party of any change in their position in which case they shall remain bound by the provisions of the Agreement in their own right. The same applies to Denmark in accordance with the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.’.

*Article 3*

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

Done at Luxembourg, 14 April 2014.

*For the Council*  
*The President*  
C. ASHTON

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

**POLITICAL DIALOGUE AND COOPERATION AGREEMENT**

**between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part**

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

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

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

of the one part, and

THE REPUBLIC OF COSTA RICA,

THE REPUBLIC OF EL SALVADOR,

THE REPUBLIC OF GUATEMALA,

THE REPUBLIC OF HONDURAS,

THE REPUBLIC OF NICARAGUA,

THE REPUBLIC OF PANAMA,

of the other part,

CONSIDERING the traditional historical and cultural links between the Parties and the desire to strengthen their relations, building on the existing mechanisms that govern relations between the Parties;

CONSIDERING the positive development in both regions during the last decade, which has enabled the promotion of common goals and interests to enter into a new stage of relations, deeper and more modern and permanent, in order to respond to current internal challenges and to international events;

REAFFIRMING their respect for democratic principles and fundamental human rights as set out in the Universal Declaration of Human Rights;

RECALLING their commitment to the principles of the rule of law and good governance;

BASED on the principles of shared responsibilities and convinced of the importance of the prevention of the use of illicit drugs and reducing their harmful effects as well as tackling the illicit cultivation, production, processing and trafficking of drugs and their precursors;

HIGHLIGHTING their commitment to work together in pursuit of the objectives of poverty eradication, equitable and sustainable development, including aspects of vulnerability to natural disasters, environmental conservation and protection and biodiversity, and the progressive integration of Central American countries into the world economy;

EMPHASIZING the importance the Parties attach to the consolidation of the political dialogue and economic cooperation process built up between the Parties under the San Jose Dialogue initiated in 1984 and renewed in Florence in 1996 and in Madrid in 2002;

HIGHLIGHTING the need to strengthen the programme of cooperation governed by the Framework Cooperation Agreement between the European Economic Community and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama signed in 1993 (hereinafter referred to as the '1993 Framework Cooperation Agreement');

RECOGNIZING the advances in the Central American economic integration process, such as for example, the efforts towards a prompt establishment of a Central American Customs Union, the entry into effect of the Trade Dispute Settlement Mechanism, the signing of the Central American Treaty on Investment and Trade in Services; as well as the need to deepen the process of regional integration, regional trade liberalization and economic reform within the Central American region;

AWARE of the need to promote sustainable development in both regions through a development partnership involving all relevant stakeholders, including civil society and the private sector, in line with the principles set out in the Monterrey Consensus and the Johannesburg Declaration, and its Plan for Implementation;

MINDFUL of the need to establish cooperation on migration issues;

RECOGNIZING that no provision in this Agreement shall in any way refer to, nor shall be interpreted or construed in any way such as defining the position of the Parties in ongoing or future bilateral or multilateral trade negotiations;

EMPHASIZING the will to cooperate in international fora on issues of mutual interest;

BEARING IN MIND the strategic partnership developed between the European Union and Latin America and the Caribbean in the context of the 1999 Rio Summit and reaffirmed at the 2002 Madrid Summit; and

TAKING INTO ACCOUNT the Madrid Declaration of May 2002;

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

#### TITLE I

### PRINCIPLES, OBJECTIVES, AND SCOPE OF THE AGREEMENT

#### *Article 1*

#### **Principles**

1. Respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, as well as for the principle of the rule of law, underpins the internal and international policies of the Parties and constitutes an essential element of this Agreement.
2. The Parties confirm their commitment to the promotion of sustainable development and to contribute to reaching the Millennium Development Goals.
3. The Parties reaffirm their attachment to the principles of good governance and the fight against corruption.

#### *Article 2*

#### **Objectives and Scope**

1. The Parties confirm their joint objective of strengthening their relations by developing their political dialogue and reinforcing their cooperation.

2. The Parties likewise reaffirm their decision to strengthen cooperation on trade, on investments, and on economic relations.
3. The Parties confirm their joint objective of working towards creating conditions under which, building on the outcome of the Doha Work Programme, which the Parties have committed themselves to complete by the end of 2004, a feasible and mutually beneficial Association Agreement, including a Free Trade Agreement, could be negotiated between them.
4. Implementation of this Agreement should help to create these conditions by striving for political and social stability, deepening the regional integration process and reducing poverty within a sustainable development framework in Central America.
5. This Agreement governs the political dialogue and cooperation between the Parties and contains the necessary institutional arrangements for its application. No provision of this Agreement shall define the position of the Parties in ongoing or future bilateral or multilateral trade negotiations.
6. The Parties undertake to assess progress periodically, taking account of progress achieved before the entry into force of the Agreement.

## TITLE II

### POLITICAL DIALOGUE

#### *Article 3*

#### **Objectives**

1. The Parties agree to reinforce their regular political dialogue on the basis of the principles set out in the Joint Declarations of the San Jose Dialogue process, in particular the Declarations of San Jose (28/29 September 1984), Florence (21 March 1996) and Madrid (18 May 2002).
2. The Parties agree that political dialogue shall cover all aspects of mutual interest and any other international issue. It shall prepare the way for new initiatives for pursuing common goals and establishing common ground in areas such as regional integration, poverty reduction and social cohesion, sustainable development, regional security and stability, conflict prevention and resolution, human rights, democracy, good governance, migration, and the fight against corruption, counter-terrorism, drugs, and small arms and light weapons. It shall also provide a basis for initiatives to be taken and support efforts to develop initiatives, including cooperation, and actions throughout the Latin American region.
3. The Parties agree that a strengthened political dialogue shall enable a broad exchange of information and shall provide a forum for joint initiatives at international level.

#### *Article 4*

#### **Mechanisms**

The Parties agree that their political dialogue shall be conducted:

- (a) where appropriate and agreed by both Parties, at Head of State and Government level;
- (b) at ministerial level, in particular in the framework of the Ministerial Meeting of the San Jose Dialogue;
- (c) at senior official level;
- (d) at working level;

and shall make maximum use of diplomatic channels.

#### *Article 5*

#### **Cooperation in the field of foreign and security policy**

The Parties shall, as far as possible and in accordance with their interests, coordinate their positions and take joint initiatives in the appropriate international fora and cooperate in the field of foreign and security policy.

## TITLE III

**COOPERATION***Article 6***Objectives**

1. The Parties agree that the cooperation provided for in the 1993 Framework Cooperation Agreement shall be strengthened and extended to other areas. It shall focus on the following objectives:
  - (a) promotion of political and social stability through democracy, respect for human rights and good governance;
  - (b) deepening of the process of regional integration among the countries of Central America to contribute to higher economic growth and gradual improvement of quality of life for their peoples;
  - (c) poverty reduction and promotion of more equitable access to social services and the rewards of economic growth, ensuring an appropriate balance between economic, social and environmental components in a sustainable development context.
2. The Parties agree that cooperation shall take account of cross-cutting aspects relating to economic and social development, including issues such as gender, respect for indigenous peoples and other Central American ethnic groups, natural disaster prevention and response, environmental conservation and protection, biodiversity, cultural diversity, research and technological development. Regional integration shall also be considered as a cross-cutting theme and in that regard cooperation actions at national level should be compatible with the process of regional integration.
3. The Parties agree that measures aimed at contributing to regional integration in Central America and strengthening inter-regional relations between the Parties shall be encouraged.

*Article 7***Methodology**

The Parties agree that cooperation shall be implemented by means of technical and financial assistance, studies, training, exchanges of information and expertise, meetings, seminars, research projects or any other means agreed by the Parties in the context of the area of cooperation, the objectives pursued and the means available, in conformity with the norms and regulations that apply to this cooperation. All entities involved in cooperation will be subject to a transparent and accountable management of resources.

*Article 8***Cooperation in the field of human rights, democracy and good governance**

The Parties agree that cooperation in this field shall actively support governments and representatives of civil society through actions, in particular in the following areas:

- (a) promotion and protection of human rights and consolidation of the process of democratisation, including the management of electoral processes;
- (b) strengthening the rule of law and the good and transparent management of public affairs, including the fight against corruption at local, regional and national levels; and
- (c) reinforcing the independence and efficiency of judicial systems.

*Article 9***Cooperation in the field of conflict prevention**

1. The Parties agree that cooperation in this field shall promote and sustain a comprehensive peace policy which encourages dialogue among democratic nations in the face of present challenges including the prevention and resolution of conflicts, peace restoration and justice in the context of human rights. This policy shall be based on the principle of ownership and shall focus primarily on developing regional, sub-regional and national capacities. In order to prevent conflicts, and as required, it shall ensure equal political, economic, social and cultural opportunity for all segments of society, reinforce democratic legitimacy, promote social cohesion and the effective management of public affairs, establish effective mechanisms for peaceful conciliation of interests of different groups, and encourage an active and organized civil society, in particular making use of existing regional institutions.

2. Cooperation activities may include, as appropriate, among others, support for country specific mediation, negotiation and reconciliation processes, efforts developed to help children, women and elder people and for actions in the fight against anti-personnel mines.

3. The Parties shall also cooperate in the field of prevention and combat of illegal traffic of small arms and light weapons with the aim of developing, among others, coordination in actions to strengthen legal, institutional and police cooperation, as well as the collection and destruction of illicit small arms and light weapons in civilian hands.

#### *Article 10*

### **Cooperation to strengthen modernization of the state and public administration**

1. The Parties agree that the objective of cooperation in this field shall be to strengthen modernization and professionalisation of public administration in Central American countries, including supporting the process of decentralization and organizational changes resulting from the process of Central American integration. In general, the aim shall be to improve organizational efficiency, to ensure transparent management of public resources and accountability, as well as to improve the legal and institutional framework based, among others, on best practices of the Parties and taking advantage of the experience gained through the development of policies and instruments in the European Union.

2. This cooperation may include, among other things, programmes aimed at building capacities for policy design and implementation in all areas of mutual interest, inter alia, public service delivery, budget composition and execution, prevention of and fight against corruption and reinforcing judiciary systems.

#### *Article 11*

### **Cooperation in the field of regional integration**

1. The Parties agree that cooperation in this field shall reinforce the process of regional integration within the Central American region, in particular the development and implementation of its common market.

2. Cooperation shall support the development and strengthening of common institutions in the Central American region and shall promote closer cooperation between the institutions concerned.

3. Cooperation shall also promote the development of common policies and the harmonization of the legal framework, only and exclusively to the extent that they are covered by the Central American integration instruments and as agreed by the Parties, including sectorial policies in areas such as trade, customs, energy, transport, communications, environment and competition, as well as the coordination of macroeconomic policies in areas such as monetary policy, fiscal policy and public finance.

4. More specifically, it may include, among others through the provision of trade related technical assistance:

- (a) the provision of assistance to strengthen the process of consolidation and implementation of a functioning Central American customs union;
- (b) the provision of assistance in reducing and eliminating obstacles to the development of intra-regional trade;
- (c) cooperation in the simplification, modernization, harmonization and integration of customs and transit regimes and provision of support in terms of development of legislation, norms and professional training; and
- (d) the provision of assistance to deepen the process towards the consolidation and functioning of an intra-regional common market.

#### *Article 12*

### **Regional cooperation**

The Parties agree to use all existing cooperation instruments to promote activities aimed at developing active and reciprocal cooperation between the European Union and Central America and, without undermining cooperation between the Parties, between Central America and other countries/regions in Latin America and the Caribbean in areas such as trade and investment promotion, environment, natural disaster prevention and response, scientific, technical and technological research, energy, transport, communications infrastructure, culture, regional development and land use planning, among others.

*Article 13***Trade cooperation**

1. The Parties agree that cooperation in trade shall promote the integration of the countries of Central America into the world economy. It shall also aim to foster, through the provision of trade related technical assistance, the development and diversification of intra-regional trade as well as trade with the European Union to the highest possible degree.
2. The Parties agree to implement an integrated trade cooperation agenda to best tap the opportunities that trade implies, broadening the productive base that will benefit from trade, including the development of mechanisms to face the challenges of greater market competition, and building those skills, instruments and techniques required to accelerate the enjoyment of all benefits of trade.
3. In order to implement the cooperation agenda, and to maximize the opportunities of bilateral, regional, or multi-lateral trade negotiations and agreements, the Parties agree to strengthen regional technical capacity building.

*Article 14***Cooperation in the field of services**

1. The Parties agree to strengthen their cooperation in the field of services, in conformity with the rules of the General Agreement on Trade in Services (GATS), reflecting the increasing importance of services for the development and diversification of their economies. Increased cooperation shall be aimed at improving the competitiveness of the Central American services sector in a manner consistent with sustainable development.
2. The Parties shall identify the services sectors on which cooperation will centre. Activities shall be geared, among other things, to the regulatory environment with due regard to domestic legislation, as well as to access to sources of capital and technology.

*Article 15***Cooperation on intellectual property**

The Parties agree that cooperation in this field shall be aimed at promoting investment, technology transfer, dissemination of information, cultural and creative activities and related economic activities as well as access and benefits sharing in the areas identified by the Parties. Cooperation shall be aimed at improving the laws, regulations and policies, with a view to promoting levels of protection and enforcement of intellectual property rights in accordance with the highest international standards.

*Article 16***Cooperation on public procurement**

The Parties agree that cooperation in this field shall aim to promote reciprocal, non-discriminatory, transparent and, if the Parties so agree, open <sup>(1)</sup> procedures for respective government and public sector procurement, and where appropriate, at all levels.

*Article 17***Cooperation in the field of competition policy**

The Parties agree that cooperation in the field of competition policy shall promote the effective establishment and application of competition rules as well as the dissemination of information in order to foster transparency and legal certainty for enterprises operating in the Central American and European Union markets.

*Article 18***Customs cooperation**

1. The Parties agree that cooperation in this field shall be aimed at developing measures related to customs and trade facilitation and promote the exchange of information concerning the customs systems of the Parties, in order to facilitate trade between the Parties.

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<sup>(1)</sup> As provided in the second sentence of Article 2(5), 'open' shall not be construed to mean 'access'.

2. As agreed by the Parties, cooperation may include, among others:
  - (a) simplification and harmonization of import and export documentation based on international standards, including use of simplified declarations;
  - (b) improvement of customs procedures, through methods such as risk assessment, simplified procedures for entry and release of goods, granting of authorized trader status, using electronic data interchange (EDI) and automated systems;
  - (c) measures to improve transparency and appeal procedures against customs decisions and rulings;
  - (d) mechanisms to promote regular consultation with the trade community on import and export regulations and procedures.
3. Consideration may be given, within the institutional framework established by this Agreement, to the conclusion of a Mutual Assistance Protocol on customs matters.

#### *Article 19*

### **Cooperation on technical regulations and conformity assessment**

1. The Parties agree that cooperation on standards, technical regulations and on conformity assessments is a key objective for the development of trade in particular with regard to intra-regional trade.
2. As agreed by the Parties, cooperation shall promote:
  - (a) provision of technical assistance programmes in Central America to ensure that systems and structures for standards, accreditation, certification and metrology are compatible with:
    - international standards;
    - essential requirements concerning health and safety, conservation of plants and animals, consumer protection and environmental protection.
  - (b) the objective of cooperation in this area to facilitate market access.
3. In practice, cooperation shall:
  - (a) provide organisational and technical support to foster the establishment of regional networks and bodies, and increase coordination of policies to promote a common approach to the use of international and regional standards with regard to technical regulations and conformity assessment procedures;
  - (b) encourage any measure aimed at bridging the gap between the Parties in the areas of conformity assessment and standardisation; and
  - (c) encourage any measures designed to improve transparency, good regulatory practices and the promotion of quality standards for products and business practices.

#### *Article 20*

### **Industrial cooperation**

1. The Parties agree that industrial cooperation shall promote the modernisation and restructuring of Central American industry and individual sectors, as well as industrial cooperation between economic operators, with the objective of strengthening the private sector under conditions which promote environmental protection.
2. Industrial cooperation initiatives shall reflect the priorities determined by the Parties. They shall take into account the regional aspects of industrial development, promoting trans-national partnerships where relevant. Initiatives shall seek in particular to establish a suitable framework for improving management know-how and promoting transparency as regards markets and conditions for business undertakings.

*Article 21***Cooperation in the field of small and medium-sized and micro-enterprise development**

The Parties agree to promote a favourable environment for the development of small and medium-sized and micro-enterprises, including those in rural areas, in particular by:

- (a) promoting contacts between economic operators, encouraging joint investments and joint ventures and information networks through existing horizontal programmes;
- (b) facilitating access to channels of finance, providing information and stimulating innovation.

*Article 22***Cooperation on agriculture and rural sector, forestry and sanitary and phytosanitary measures**

1. The Parties agree to mutual cooperation in agriculture in order to promote sustainable agriculture, agricultural and rural development, forestry, sustainable social and economic development and food security for the countries of Central America.

2. The cooperation shall focus on promoting capacity-building, infrastructure and technology transfer, addressing matters such as:

- (a) sanitary, phytosanitary, environmental and food quality measures, taking into account the legislation in force for both Parties, in compliance with WTO rules and other competent international organisations;
- (b) diversification and restructuring of agricultural sectors;
- (c) the mutual exchange of information, including that concerning the development of the Parties' agricultural policies;
- (d) technical assistance for the improvement of productivity and the exchange of alternative crop technologies;
- (e) scientific and technological experiments;
- (f) measures aimed at enhancing the quality of agricultural products, capacity building measures for producer associations and supporting trade promotion activities;
- (g) enhanced capacity for the implementation of sanitary and phytosanitary measures to facilitate market access as well as ensuring an appropriate level of health protection in accordance with the provisions of the WTO/SPS agreement.

*Article 23***Fisheries and aquaculture cooperation**

The Parties agree to develop economic and technical cooperation in the fisheries and aquaculture sector, especially in aspects such as the sustainable exploitation, management and conservation of fisheries resources, including environmental impact assessment. Cooperation should also include areas such as the processing industry and facilitation of trade. Cooperation in the fisheries sector could lead to the conclusion of bilateral fisheries agreements between the Parties or between the European Community and one or more Central American countries and/or to the conclusion of multilateral fisheries agreements between the Parties.

*Article 24***Cooperation on mining**

The Parties agree that cooperation in the field of mining, taking into account aspects of environmental conservation, shall focus principally on the following:

- (a) promoting the participation of enterprises from the Parties in the exploration, exploitation and sustainable use of minerals in accordance with their legislation;
- (b) promoting exchanges of information, experience and technology relating to mining exploration and exploitation;
- (c) promoting exchanges of experts and performing joint research to increase opportunities for technological development;

- (d) developing measures to promote investment in this field, in accordance with the legislation of each Central American country and of the European Union and its Member States;
- (e) developing measures to promote environmental integrity and corporate environmental responsibility in this sector.

#### *Article 25*

### **Energy cooperation**

1. The Parties agree that their joint objective will be to foster cooperation in the field of energy, in key sectors such as hydroelectricity, electricity, oil and gas, renewable energy, energy saving technology, rural electrification and regional integration of energy markets, among others as identified by the Parties, and in compliance with domestic legislation.
2. Cooperation may include, among others, the following:
  - (a) formulation and planning of energy policy, including inter-connected infrastructures of regional importance, improvement and diversification of energy supply and improvement of energy markets, including facilitation of transit, transmission and distribution within the Central American countries;
  - (b) management and training for the energy sector and transfer of technology and know-how;
  - (c) promotion of energy saving, energy efficiency, renewable energy and studying of the environmental impact of energy production and consumption;
  - (d) promote the application of clean development mechanism to support the climate change initiatives and its variability;
  - (e) the issue of clean and peaceful uses of nuclear energy.

#### *Article 26*

### **Transport cooperation**

1. The Parties agree that cooperation in this field shall focus on restructuring and modernizing transport and related infrastructure systems, improving the movement of passengers and goods and providing better access to urban, air, maritime, rail and road transport markets by refining the management of transport from the operational and administrative points of view and by promoting high operating standards.
2. Cooperation may include the following:
  - (a) exchanges of information on the Parties' policies, especially regarding urban transport and the interconnection and interoperability of multimodal transport networks and other issues of mutual interest;
  - (b) the management of railways, ports and airports, including appropriate cooperation between the relevant authorities;
  - (c) cooperation projects for transfer of European technology in the Global Navigation Satellite System and urban public transport centres;
  - (d) improvement of safety and pollution prevention standards including cooperation in the appropriate international forums aiming to ensure better enforcement of international standards.

#### *Article 27*

### **Cooperation on information society, information technology and telecommunications**

1. The Parties agree that information technology and communications are key sectors in a modern society and are of vital importance to economic and social development and the smooth transition to the information society. Cooperation in this field shall contribute to the reduction of the digital divide and development of human resources.
2. Cooperation in this area shall aim to promote:
  - (a) dialogue on all aspects of information society;
  - (b) in compliance with domestic legislation of the Parties, dialogue on regulatory and policy aspects of information technology and communications, including standards;
  - (c) exchanges of information on standards, conformity assessment and type-approval;
  - (d) dissemination of new information and communications technologies;

- (e) joint research projects on information and communications technologies and pilot projects in the fields of information society applications;
- (f) interconnection and interoperability of telematic networks and services;
- (g) exchanges and training of specialists;
- (h) development of e-government applications;

*Article 28*

**Audiovisual cooperation**

The Parties agree to promote cooperation in the audiovisual sector and in the media sector in general, through joint initiatives in training as well as audiovisual development, production and distribution activities, including the educational and cultural field. Cooperation shall take place in accordance with the relevant national copyright provisions and applicable international agreements.

*Article 29*

**Cooperation on tourism**

The Parties agree that cooperation in this field shall aim to consolidate best practices in order to ensure balanced and sustainable development of tourism in the Central American region. Cooperation should aim to develop strategies better to position and promote the region in Europe as a competitive tourist multi-destination.

*Article 30*

**Cooperation between financial institutions**

The Parties agree to foster, according to their needs and within the framework of their respective programmes and legislation, cooperation between financial institutions.

*Article 31*

**Cooperation in the field of investment promotion**

1. The Parties agree to promote, within the scope of their respective competences, an attractive and stable reciprocal investment climate.
2. Cooperation may include:
  - (a) encouraging mechanisms for the exchange and dissemination of information on investment legislation and opportunities;
  - (b) developing a legal framework favourable to investment in both regions, where appropriate, through the conclusion of bilateral agreements promoting and protecting investment between the Member States and the Central American countries;
  - (c) promoting simplified administrative procedures;
  - (d) developing joint venture mechanisms.

*Article 32*

**Macroeconomic dialogue**

1. The Parties agree that cooperation shall aim to promote the exchange of information on respective macroeconomic trends and policies, as well as the sharing of experiences in the coordination of macroeconomic policies in the context of a common market.
2. The Parties shall also aim to deepen the dialogue between their authorities on macroeconomic matters and, as agreed by the Parties, may include areas such as monetary policy, fiscal policy, public finance, and macroeconomic stabilization and external debt.

*Article 33***Statistics cooperation**

1. The Parties agree that the main objective shall be to develop better statistical methods and programmes including gathering and dissemination of statistics, aimed at generating indicators with enhanced comparability between the Parties, thus enabling the Parties to use each other's statistics on trade in goods and services and, more generally, any field covered by this Agreement, for which statistics can be drawn up.
2. This cooperation could include, among others: technical exchanges between statistical institutes in Central America and in European Union Member States and Eurostat; development of improved, and where relevant, consistent methods of data collection, analysis and interpretation; and organization of seminars, working groups or statistical training programmes.

*Article 34***Cooperation on consumer protection**

The Parties agree that cooperation in this field may involve, amongst others and to the extent possible:

- (a) improved mutual understanding of consumer legislation in order to avoid barriers to trade while ensuring a high level of consumer protection;
- (b) promoting exchange of information on consumer protection systems.

*Article 35***Cooperation on data protection**

1. The Parties agree to cooperate on the protection in the processing of personal data and other data, with a view to promoting the highest international standards.
2. The Parties also agree to cooperate on the protection of personal data in order to improve the level of protection and to work towards the free movement of personal data between the Parties, with due regard to domestic legislation of the Parties.

*Article 36***Scientific and technological cooperation**

1. The Parties agree that cooperation in science and technology shall be carried out in their mutual interest and in compliance with their policies, and shall aim to:
  - (a) exchange scientific and technological information and experience at regional level, especially on the implementation of policies and programmes;
  - (b) promote human resources development;
  - (c) foster relations between the Parties' scientific communities;
  - (d) encourage the participation of the business sector of the Parties in scientific and technological cooperation, in particular the promotion of innovation;
  - (e) promote innovation and technology transfer between the Parties, including e-government and cleaner technologies.
2. The Parties agree to promote and strengthen scientific research, technological development and innovation processes, involving higher-education institutions, research centres; productive sectors, especially small and medium-sized enterprises shall be encouraged on both sides.
3. The Parties agree to foster scientific and technological cooperation among universities, research institutes and productive sectors of both regions, including scholarships, student and specialists exchange programmes.
4. The Parties agree to strengthen the links of cooperation between scientific, technological and innovation entities for the promotion, dissemination and transfer of technology.

*Article 37***Cooperation on education and training**

1. The Parties agree that cooperation in this field shall aim to determine how to improve education and vocational training. To this end, access by young people, women, senior citizens, indigenous peoples and other Central American ethnic groups, to education, including technical courses, higher education and vocational training, shall receive special attention, as shall achieving the Millennium Development Goals in this context.
2. The Parties agree to cooperate more closely on education and vocational training and promote cooperation between universities and between businesses in order to develop the level of expertise of senior staff.
3. The Parties also agree to pay special attention to decentralized operations and programmes (ALFA, ALBAN, URB-AL, etc.), forging permanent links between specialized bodies in both Parties, which will encourage the pooling and exchange of experience and technical resources. In this context, cooperation may also support actions and programmes of education and training to address the specific needs of the Central American countries.
4. The Parties will promote education of the indigenous peoples, also in their own languages.

*Article 38***Environmental and biodiversity cooperation**

1. The Parties agree that cooperation in this field shall promote the protection of the environment in pursuit of sustainable development. In this connection, the relationship between poverty and the environment and the environmental impact of economic activities are considered important. Cooperation should also promote effective participation in international environmental agreements in areas such as climate change, biodiversity, desertification and chemicals management.
2. Cooperation may focus among others on:
  - (a) preventing degradation of the environment; for that purpose, cooperation should include the issue of the transfer of environmentally sustainable and/or clean technologies;
  - (b) promoting the conservation and sustainable management of natural resources (including biodiversity and genetic resources);
  - (c) encouraging national and regional monitoring of biodiversity;
  - (d) exchanging information and experience on environmental legislation and on common environmental problems occurring in both sides;
  - (e) promoting harmonisation of environmental legislation in Central America;
  - (f) strengthening environmental management in all sectors at all levels of government;
  - (g) promoting environmental education, creation of capacity and strengthening of citizen's participation;
  - (h) encouraging joint regional research programmes.

*Article 39***Cooperation in the field of natural disasters**

The Parties agree that cooperation in this field shall aim to reduce the vulnerability of the Central American region to natural disasters through strengthening regional research, planning, monitoring prevention, response and rehabilitation capacities, harmonizing the legal framework and improving institutional coordination and government support.

*Article 40***Cultural cooperation**

1. The Parties agree that cooperation in this sphere, cultural ties and contacts between cultural agents in both regions shall be expanded.
2. The objective shall be to promote cultural cooperation between the Parties, taking into account and favouring synergies with bilateral schemes of the Member States of the European Union.
3. Cooperation shall take place in accordance with the relevant national copyright provisions and international agreements.

4. This cooperation may cover all cultural fields, including, among others, the following areas:
  - (a) translation of literary works;
  - (b) conservation, restoration, recovery and revitalization of cultural heritage;
  - (c) cultural events and related activities, as well as exchanges of artists and professionals in the cultural area;
  - (d) promotion of cultural diversity, particularly that of the indigenous peoples and other Central American ethnic groups;
  - (e) youth exchanges;
  - (f) combat and prevention of illicit traffic of cultural patrimony;
  - (g) promotion of handicraft and cultural industries.

#### *Article 41*

### **Cooperation in the field of health**

1. The Parties agree to cooperate in the health sector with the aim of supporting sectorial reforms that make health service delivery pro-poor and equitable as well as in promoting fair financing mechanisms that improve access to health care and nutritional security for the poor.
2. The Parties agree that primary prevention also requires involving other sectors such as education and water and sanitation. In this regard, the Parties aim to strengthen and develop partnerships beyond the health sector to achieve the Millennium Development Goals, such as the fight against AIDS, malaria, tuberculosis and other epidemics. Partnerships with civil society, NGOs and the private sector are also needed to address sexual health and rights in a gender sensitive approach and to work with young people to prevent sexually transmitted diseases and unwanted pregnancies, provided that these objectives do not contravene the legal framework and cultural sensitivity of the countries.

#### *Article 42*

### **Social cooperation**

1. The Parties agree to cooperate in fostering the participation of the social partners in a dialogue on living and working conditions, social protection and integration into society. Particular account shall be taken of the need to avoid discrimination in the treatment of nationals of either Party residing legally in the territories of the other Party.
2. The Parties acknowledge the importance of social development, which must go hand in hand with economic development and agree to give priority to employment, housing and human settlements in accordance with their respective policies and constitutional provisions, as well as the promotion of the fundamental principles and rights at work identified by the International Labour Organization's conventions, the so-called Core Labour Standards.
3. The Parties may cooperate in any area of mutual interest in the above fields.
4. Where appropriate, and in accordance with their respective procedures, the Parties may conduct this dialogue in coordination with the European Economic and Social Committee and its Central American counterpart, respectively.

#### *Article 43*

### **Participation of civil society in cooperation**

1. The Parties recognize the role and potential contribution of civil society in the cooperation process and agree to promote effective dialogue with civil society.
2. Subject to the legal and administrative provisions of each Party, civil society may:
  - (a) be consulted during the policy making process at country level according to democratic principles;
  - (b) be informed of and participate in consultations on development and cooperation strategies and sectorial policies, particularly in areas concerning them, including all stages of the development process;

- (c) receive financial resources, insofar as the internal rules of each Party so allow, and capacity building support in critical areas;
- (d) participate in the implementation of cooperation programmes in the areas that concern it.

#### *Article 44*

### **Cooperation in the field of gender**

The Parties agree that cooperation in this field shall help to strengthen policies, programmes, and mechanisms aimed at ensuring, improving and expanding the equal participation and opportunities for men and women in all sectors of political, economic, social and cultural life, including where necessary, through the adoption of positive measures in support of women. It shall also help to facilitate the access of women to all the resources needed to fully exercise their fundamental rights.

#### *Article 45*

### **Cooperation on indigenous peoples and other Central American ethnic groups**

1. The Parties agree that cooperation in this field shall contribute to promote the establishment of organizations for indigenous peoples and other Central American ethnic groups as well as strengthening the existing ones, in the context of promoting the goals of poverty eradication, sustainable management of natural resources, respect for human rights, democracy and cultural diversity.

2. In addition to taking systematic account of the situation of indigenous peoples and other Central American ethnic groups at all levels of development cooperation, the Parties shall integrate their particular situation in the development of policies and strengthen the capacity of their organizations in order to increase the positive effects of development cooperation on these groups, in accordance with national and international obligations of the Parties.

#### *Article 46*

### **Cooperation on uprooted peoples and demobilized combatants**

1. The Parties agree that cooperation in support of uprooted peoples and demobilized combatants shall help to meet their essential requirements from the time humanitarian aid ceases to the adoption of a longer-term solution to resolve their status.

2. This cooperation may include, among others, the following activities:

- (a) self-sufficiency and reintegration into the socioeconomic fabric of uprooted peoples and demobilized combatants;
- (b) aid to local host communities and resettlement areas to foster acceptance and integration of uprooted peoples and demobilized combatants;
- (c) helping those people to voluntarily return to and settle in their countries of origin or third countries, if conditions permit;
- (d) operations to help people recover their belongings or property rights as well as aid for the legal settlement of human rights violations against the people in question;
- (e) strengthening the institutional capacity of countries faced with these issues;
- (f) support for the reinsertion into political, social and productive life, including, where applicable, as part of a reconciliation process.

#### *Article 47*

### **Cooperation in combating illicit drugs and related crime**

1. On the basis of the principle of co-responsibility, the Parties agree that cooperation in this field shall aim to coordinate and increase joint efforts to prevent and reduce the production, trafficking and consumption of illicit drugs. The Parties also agree to endeavour to combat crime relating to this traffic, among others, through the intermediary of international organizations and bodies. Without prejudice to other cooperation mechanisms, the Parties agree that the Coordination and Cooperation Mechanism on Drugs between the European Union and Latin America and the Caribbean shall also be used for this purpose.

2. The Parties shall cooperate in this area to implement in particular:
  - (a) programmes to prevent drug abuse, especially in vulnerable and high risk groups;
  - (b) projects to train, educate, treat and rehabilitate drug addicts and their reintegration into society;
  - (c) projects favouring harmonization of legislation and action in this field in Central America;
  - (d) joint research programmes;
  - (e) measures and cooperation activities aimed at encouraging alternative development, in particular, the promotion of legal crops of small producers;
  - (f) measures to control trade in precursor and essential products equivalent to those adopted by the European Community and the competent international bodies;
  - (g) measures to reduce illicit drug supply, including training in administrative control systems to avoid the deviation of chemical precursors, and control of related crimes.

#### *Article 48*

### **Cooperation in combating money laundering and related crime**

1. The Parties agree to cooperate in preventing the use of their financial systems for laundering proceeds arising from criminal activities in general and drug trafficking in particular.
2. This cooperation shall include administrative and technical assistance aimed at the development and implementation of regulations and the efficient functioning of suitable standards and mechanisms. In particular, cooperation shall allow exchanges of relevant information and the adoption of appropriate standards to combat money laundering comparable to those adopted by the European Community and the international bodies active in this area, such as the Financial Action Task Force (FATF), and the United Nations. Cooperation at regional level shall be encouraged.

#### *Article 49*

### **Cooperation on migration**

1. The Parties reaffirm the importance of joint management of migration flows between their territories. With a view to strengthening cooperation, the Parties shall establish a comprehensive dialogue on all migration-related issues, including illegal migration, smuggling and trafficking of human beings, and refugee flows. Migration concerns should be included in the national strategies for economic and social development of the countries of origin, transit and destination of migrants.
2. Cooperation shall acknowledge that migration is a phenomenon and that different perspectives should be analysed and discussed in order to address this fact in accordance with relevant applicable international, Community, and national legislation. It will, in particular, focus on:
  - (a) the root causes of migration;
  - (b) the development and implementation of national legislation and practices as regards international protection, with a view to satisfying the provisions of the Geneva Convention of 1951 on the status of refugees, and of the Protocol of 1967, and other relevant regional and international instruments to ensure the respect of the principle of 'non-refoulement';
  - (c) the admission rules, as well as rights and status of persons admitted, fair treatment and integration policies for all legally residing non-nationals, education and training and measures against racism and xenophobia and all applicable provisions regarding human rights of migrants;
  - (d) the establishment of an effective and preventive policy against illegal immigration. It shall also focus on smuggling of migrants and trafficking of human beings including the issue of ways to combat networks and criminal organizations of smugglers and traffickers and to protect the victims of such trafficking;
  - (e) the return, under humane and dignified conditions, of persons residing illegally and their readmission, in accordance with paragraph 3;

- (f) the field of visas, on issues identified as being of mutual interest;
  - (g) the field of border controls, on issues related to organization, training, best practices and other operational measures on the ground and where relevant, equipment, while being aware of the potential dual use of such equipment.
3. In the framework of the cooperation to prevent and control illegal immigration, the Parties also agree to readmit their illegal migrants. To this end:
- Each Central American country shall, upon request and without further formalities, readmit any of its nationals illegally present on the territory of a Member State of the European Union, provide their nationals with appropriate identity documents and extend to them the administrative facilities necessary for such purposes;
  - Each Member State of the European Union shall, upon request and without further formalities, readmit any of its nationals illegally present on the territory of a Central American Country, provide their nationals with appropriate identity documents and extend to them the administrative facilities necessary for such purposes;

The Parties agree to conclude, upon request and as soon as possible, an agreement regulating specific obligations for Member States of the European Union and the Central American countries on readmission. This agreement will also address the issue of readmission of nationals of other countries and stateless persons.

For this purpose, the term 'Parties' shall mean the Community, any of its Member States and any Central American Country.

#### *Article 50*

### **Cooperation in the field of counter-terrorism**

The Parties reaffirm the importance of the fight against terrorism and, in accordance with international conventions, relevant UN resolutions and with their respective legislation and regulations, agree to cooperate in the prevention and suppression of acts of terrorism. They shall do so in particular:

- (a) in the framework of the full implementation of Resolution 1373 of the UN Security Council and other relevant UN resolutions, international conventions and instruments;
- (b) by exchange of information on terrorist groups and their support networks in accordance with international and national law; and
- (c) by exchange of views on the means and methods used to counter terrorism, including in technical fields and training and by exchange of experience in terrorism prevention.

#### TITLE IV

### **GENERAL AND FINAL PROVISIONS**

#### *Article 51*

### **Means**

1. With the aim of contributing to fulfilling the cooperation objectives set out in this Agreement, the Parties commit themselves to providing, within the limits of their capacities and through their own channels, the appropriate resources, including financial resources. In this context, the Parties shall approve, to the extent possible, a pluriannual programme and establish priorities, taking into consideration the needs and level of development of the Central American countries.
2. The Parties shall take all appropriate measures to promote and facilitate the European Investment Bank's activities in Central America in accordance with its own procedures and financing criteria and with their laws and regulations, and without prejudice to the powers of their competent authorities.
3. The Central American Countries shall grant facilities and guarantees to European Community experts and exoneration of taxes on imports for cooperation activities in accordance with the Framework Conventions signed between the European Community and each Central American Country.

#### *Article 52*

### **Institutional Framework**

1. The Parties agree to retain the Joint Committee, established pursuant to the 1985 Central America-EC Cooperation Agreement and retained by the 1993 Framework Cooperation Agreement.

2. The Joint Committee shall be responsible for the general implementation of the Agreement. It shall also discuss any question affecting economic relations between the Parties, including with individual Member Countries of Central America.
3. The agendas for Joint Committee meetings shall be set by mutual agreement. The Committee shall itself establish provisions concerning the frequency and location of its meetings, chairmanship, and other issues that may arise, and shall, where necessary, set up sub-committees.
4. A Joint Consultative Committee, consisting of representatives of the Consultative Committee of the Central American Integration System (CC-SICA) and the European Economic and Social Committee (EESC), shall be established in order to assist the Joint Committee to promote dialogue with economic and social organizations of civil society.
5. The Parties encourage the European Parliament and the Central American Parliament (Parlacen) to establish an Inter-parliamentarian Committee, in the framework of this Agreement, in accordance with their constitutional laws.

#### *Article 53*

### **Definition of the Parties**

For the purposes of this Agreement, 'the Parties' shall mean the Community, its Member States or the Community and its Member States, within their respective areas of competence, as derived from the Treaty establishing the European Community, on the one hand, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, on the other, in accordance with their respective spheres of competence. The Agreement shall also apply to measures taken by any state, regional or local authorities within the territories of the Parties.

#### *Article 54*

### **Entry into force**

1. This Agreement shall enter into force on the first day of the month following that in which the Parties notify each other of completion of the procedures necessary for this purpose.
2. Notifications shall be sent to the Secretary-General of the Council of the European Union, who shall be the depositary of this Agreement.
3. From the date of its entry into force in accordance with paragraph 1, this Agreement shall replace the Framework Cooperation Agreement of 1993.

#### *Article 55*

### **Duration**

1. This Agreement shall be valid indefinitely. In this context, and as stated in Article 2(3) of this Agreement, the Parties recall the Madrid Declaration of 17 May 2002.
2. Either Party may give written notice to the other of its intention to denounce this Agreement. Denunciation shall take effect six months after notification to the other Party.

#### *Article 56*

### **Fulfilment of the obligations**

1. The Parties shall adopt any general or specific measures required for them to fulfil their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement.
2. If one of the Parties considers that the other Party has failed to fulfil an obligation under this Agreement it may take appropriate measures. Before doing so, it must supply the Joint Committee within 30 days with all the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In this selection of measures, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified immediately to the Joint Committee and shall be the subject of consultations in the Committee if the other Party so requests.

3. By way of derogation from paragraph 2, any Party may immediately take appropriate measures in accordance with international law in case of:

- (a) denunciation of this Agreement not sanctioned by the general rules of international law;
- (b) violation by the other Party of the essential elements of this Agreement referred to in Article 1(1).

The other Party may ask that an urgent meeting be called to bring the Parties together within 15 days for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

#### Article 57

### Future developments

1. The Parties may mutually agree to extend this Agreement with the aim of broadening and supplementing its scope in accordance with their respective legislation, by concluding agreements on specific sectors or activities in the light of the experience gained during its implementation.
2. No opportunities for cooperation shall be ruled out in advance. The Parties may use the Joint Committee to explore practical possibilities for cooperation in their mutual interest.
3. As regards the implementation of this Agreement, either Party may make suggestions designed to expand cooperation in all areas, taking into account the experience acquired during the implementation thereof.

#### Article 58

### Data protection

For the purposes of the present Agreement, the Parties agree to accord a high level of protection to the processing of personal and other data, compatible with the highest international standards.

#### Article 59

### Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, and, on the other hand, to the territories of the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

#### Article 60

### Authentic texts

This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each of these texts being equally authentic.

Hecho en Roma, el quince de diciembre del dos mil tres.

Udfærdiget i Rom den femtende december to tusind og tre.

Geschehen zu Rom am fünfzehnten Dezember zweitausendunddrei.

Έγινε στη Ρώμη, στις δέκα πέντε Δεκεμβρίου δύο χιλιάδες τρία.

Done in Rome on the fifteenth day of December in the year two thousand and three.

Fait à Rome, le quinze décembre deux mille trois.

Fatto a Roma, addì' quindici dicembre duemilatre.

Gedaan te Rome, de vijftiende december tweeduizenddrie.

Feito em Roma, em quinze de Dezembro de dois mil e três.

Tehty Roomassa viidentenätoista päivänä joulukuuta vuonna kaksituhattakolme.

Som skedde i Rom den femtonde december tjugohundratre.

Pour le Royaume de Belgique

Voor het Koninkrijk België

Für das Königreich Belgien



Cette signature engage également la Communauté française, la Communauté flamande, la Communauté germanophone, la Région wallonne, la Région flamande et la Région de Bruxelles-Capitale.

Deze handtekening verbindt eveneens de Vlaamse Gemeenschap, de Franse Gemeenschap, de Duitstalige Gemeenschap, het Vlaamse Gewest, het Waalse Gewest en het Brussels Hoofdstedelijk Gewest.

Diese Unterschrift bindet zugleich die Deutschsprachige Gemeinschaft, die Flämische Gemeinschaft, die Französische Gemeinschaft, die Wallonische Region, die Flämische Region und die Region Brüssel-Hauptstadt.

På Kongeriget Danmarks vegne



Für die Bundesrepublik Deutschland



Για την Ελληνική Δημοκρατία



Por el Reino de España

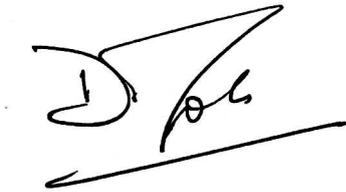


Pour la République française



Thar cheann Na hÉireann

For Ireland

A handwritten signature in black ink, appearing to be 'Enda Kenny', written over a horizontal line.

Per la Repubblica italiana

A handwritten signature in black ink, appearing to be 'Massimo D'Alema', written over a horizontal line.

Pour le Grand-Duché de Luxembourg

A handwritten signature in black ink, appearing to be 'Jean-Claude Juncker', written over a horizontal line.

Voor het Koninkrijk der Nederlanden

A handwritten signature in black ink, appearing to be 'R. Lourenço', written over a horizontal line.

Für die Republik Österreich

A handwritten signature in black ink, appearing to be 'Michael Spindelegger', written over a horizontal line.

Pela República Portuguesa

A handwritten signature in black ink, appearing to be 'António Costa', written over a horizontal line.

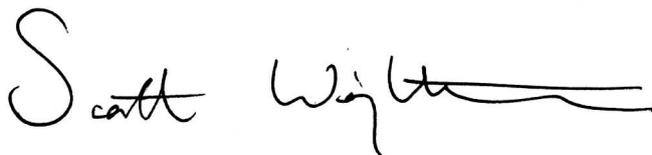
Suomen tasavallan puolesta



För Konungariket Sverige



For the United Kingdom of Great Britain and Northern Ireland



Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

Per la Comunità europea

Voor de Europese Gemeenschap

Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar



Por la República de Costa Rica



Por la República de El Salvador



Por la República de Guatemala

A handwritten signature in black ink, consisting of a large, stylized initial 'G' followed by several loops and a long horizontal stroke at the bottom.

Por la República de Honduras

A handwritten signature in black ink, featuring a large, sweeping initial 'H' with multiple loops and a long, diagonal stroke extending upwards and to the right.

Por la República de Nicaragua

A handwritten signature in black ink, showing a large, cursive initial 'N' with several loops and a long, sweeping stroke at the end.

Por la República de Panamá

A handwritten signature in black ink, with a large, stylized initial 'P' and several loops, ending in a long, diagonal stroke.

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## ANNEX

## EU UNILATERAL DECLARATIONS

**Declaration of the Commission and the Council of the European Union on the clause concerning the return and readmission of illegal migrants (article 49)**

Article 49 shall be without prejudice to the internal division of powers between the European Community and its Member States for the conclusion of readmission agreements.

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**Declaration of the Commission and the Council of the European Union on the clause concerning the definition of the parties (article 53)**

The provisions of this Agreement that fall within the scope of Part III, Title IV of the Treaty establishing the European Community bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Community, until the United Kingdom or Ireland (as the case may be) notifies the Central American Party that it has become bound as part of the European Community in accordance with the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community. The same applies to Denmark, in accordance with the Protocol annexed to those Treaties on the position of Denmark.

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**Joint declaration concerning Title II on Political Dialogue**

The Parties agree that Belize, in its capacity as a full member of the Central American Integration System (SICA), shall participate in the Political Dialogue.

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# REGULATIONS

## COUNCIL REGULATION (EU) No 380/2014

of 14 April 2014

### amending Regulation (EU) No 1284/2009 imposing certain specific restrictive measures in respect of the Republic of Guinea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215(1) thereof,

Having regard to Council Decision 2010/638/CFSP of 25 October 2010 concerning restrictive measures against the Republic of Guinea <sup>(1)</sup>,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission,

Whereas:

- (1) Council Regulation (EU) No 1284/2009 <sup>(2)</sup> imposed certain restrictive measures in respect of the Republic of Guinea, in accordance with Council Common Position 2009/788/CFSP <sup>(3)</sup> (replaced by Decision 2010/638/CFSP). Those measures included a prohibition on the provision of technical and financial assistance and other services related to military equipment and an embargo on the sale, supply, transfer or export of equipment which might be used for internal repression.
- (2) On 14 April 2014, the Council adopted Decision 2014/213/CFSP <sup>(4)</sup> amending Decision 2010/638/CFSP lifting the arms embargo and the embargo concerning equipment which might be used for internal repression.
- (3) Certain aspects of the lifting of those measures fall within the scope of the Treaty on the Functioning of the European Union and, therefore, in particular with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.
- (4) Regulation (EU) No 1284/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EU) No 1284/2009 is amended as follows:

- (1) In Article 1, points (a), (b) and (c) are deleted.
- (2) Articles 2, 3, 4 and 5 are deleted.
- (3) Article 7 is replaced by the following:

#### 'Article 7

The prohibition set out in Article 6(2) shall not give rise to any liability of any kind on the part of the natural and legal persons, entities or bodies who made funds or economic resources available if they did not know, and had no reasonable cause to suspect, that their actions would infringe the prohibition in question.'

<sup>(1)</sup> OJ L 280, 26.10.2010, p. 10.

<sup>(2)</sup> Council Regulation (EU) No 1284/2009 of 22 December 2009 imposing certain specific restrictive measures in respect of the Republic of Guinea (OJ L 346, 23.12.2009, p. 26).

<sup>(3)</sup> Council Common Position 2009/788/CFSP of 27 October 2009 concerning restrictive measures against the Republic of Guinea (OJ L 281, 28.10.2009, p. 7).

<sup>(4)</sup> Council Decision 2014/213/CFSP of 14 April 2014 amending Decision 2010/638/CFSP concerning restrictive measures against the Republic of Guinea, see page 83 of this Official Journal).

(4) Annex I is deleted.

(5) Annex III is replaced by the text set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the day following 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 Luxembourg, 14 April 2014.

*For the Council*  
*The President*  
C. ASHTON

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## ANNEX

## ANNEX III

**Websites for information on the competent authorities and address for notification to the European Commission**

## BELGIUM

<http://www.diplomatie.be/eusanctions>

## BULGARIA

<http://www.mfa.bg/en/pages/135/index.html>

## CZECH REPUBLIC

<http://www.mfcr.cz/mezinarodnisankce>

## DENMARK

<http://um.dk/da/politik-og-diplomati/retsorden/sanktioner/>

## GERMANY

<http://www.bmwi.de/DE/Themen/Aussenwirtschaft/aussenwirtschaftsrecht,did=404888.html>

## ESTONIA

[http://www.vm.ee/est/kat\\_622/](http://www.vm.ee/est/kat_622/)

## IRELAND

<http://www.dfa.ie/home/index.aspx?id=28519>

## GREECE

<http://www.mfa.gr/en/foreign-policy/global-issues/international-sanctions.html>

## SPAIN

<http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/GlobalizacionOportunidadesRiesgos/Documents/ORGANISMOS%20COMPETENTES%20SANCIONES%20INTERNACIONALES.pdf>

## FRANCE

<http://www.diplomatie.gouv.fr/autorites-sanctions/>

## CROATIA

<http://www.mvep.hr/sankcije>

## ITALY

[http://www.esteri.it/MAE/IT/Politica\\_Europea/Deroghe.htm](http://www.esteri.it/MAE/IT/Politica_Europea/Deroghe.htm)

## CYPRUS

<http://www.mfa.gov.cy/sanctions>

## LATVIA

<http://www.mfa.gov.lv/en/security/4539>

## LITHUANIA

<http://www.urm.lt/sanctions>

## LUXEMBOURG

<http://www.mae.lu/sanctions>

## HUNGARY

[http://www.kulugyminiszterium.hu/kum/hu/bal/Kulpolitikank/nemzetkozi\\_szankciok/](http://www.kulugyminiszterium.hu/kum/hu/bal/Kulpolitikank/nemzetkozi_szankciok/)

## MALTA

<https://www.gov.mt/en/Government/Government%20of%20Malta/Ministries%20and%20Entities/Officially%20Appointed%20Bodies/Pages/Boards/Sanctions-Monitoring-Board-.aspx>

## NETHERLANDS

[www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/sancties](http://www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/sancties)

## AUSTRIA

[http://www.bmeia.gv.at/view.php3?f\\_id=12750&LNG=en&version=](http://www.bmeia.gv.at/view.php3?f_id=12750&LNG=en&version=)

## POLAND

<http://www.msz.gov.pl>

## PORTUGAL

<http://www.portugal.gov.pt/pt/os-ministerios/ministerio-dos-negocios-estrangeiros/quero-saber-mais/sobre-o-ministerio/medidas-restritivas/medidas-restritivas.aspx>

## ROMANIA

<http://www.mae.ro/node/1548>

## SLOVENIA

[http://www.mzz.gov.si/si/zunanja\\_politika\\_in\\_mednarodno\\_pravo/zunanja\\_politika/mednarodna\\_varnost/omejevalni\\_ukrepi/](http://www.mzz.gov.si/si/zunanja_politika_in_mednarodno_pravo/zunanja_politika/mednarodna_varnost/omejevalni_ukrepi/)

## SLOVAKIA

[http://www.mzv.sk/sk/europske\\_zalezitosti/europske\\_politiky-sankcie\\_eu](http://www.mzv.sk/sk/europske_zalezitosti/europske_politiky-sankcie_eu)

## FINLAND

<http://formin.finland.fi/kvyhteisty/pakotteet>

## SWEDEN

<http://www.ud.se/sanktioner>

## UNITED KINGDOM

<https://www.gov.uk/sanctions-embargoes-and-restrictions>

**Address for notifications to the European Commission:**

European Commission  
Service for Foreign Policy Instruments (FPI)  
EEAS 02/309  
B-1049 Brussels  
Belgium

E-mail: [relex-sanctions@ec.europa.eu](mailto:relex-sanctions@ec.europa.eu)

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**COUNCIL IMPLEMENTING REGULATION (EU) No 381/2014****of 14 April 2014****implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine <sup>(1)</sup>, and in particular Article 14(1) thereof,

Whereas:

- (1) On 5 March 2014, the Council adopted Regulation (EU) No 208/2014.
- (2) Additional persons should be included in the list of persons, entities and bodies subject to restrictive measures as set out in Annex I to Regulation (EU) No 208/2014.
- (3) In addition, the identifying information for three persons listed in Annex I to Regulation (EU) No 208/2014 should be amended.
- (4) Annex I to Regulation (EU) No 208/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

The persons listed in Annex I to this Regulation shall be added to the list set out in Annex I to Regulation (EU) No 208/2014.

*Article 2*

Annex I to Regulation (EU) No 208/2014 is hereby amended as set out in Annex II to this Regulation.

*Article 3*

This Regulation shall enter into force on the date 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 Luxembourg, 14 April 2014.

*For the Council*

*The President*

C. ASHTON

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<sup>(1)</sup> OJ L 66, 6.3.2014, p. 1.

## ANNEX I

## Persons referred to in Article 1

	Name	Identifying information	Statement of reasons	Date of listing
19.	Serhiy Arbuzov	Born on 24 March 1976, former Prime Minister of Ukraine.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014
20.	Yuriy Ivanyushchenko	Born on 21 February 1959, Party of Regions MP.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014
21.	Oleksandr Klymenko	Born on 16 November 1980, former Minister of Revenues and Charges.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014
22.	Edward Stavvytskyi	Born on 4 October 1972, former Minister of Fuel and Energy of Ukraine.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014

## ANNEX II

The entries for the following persons listed in Annex I to Regulation (EU) No 208/2014 are replaced by the entries below:

	Name	Identifying information	Statement of reasons	Date of listing
9.	Oleksandr Viktorovych Yanukovych	Born on 10 July 1973, son of former President, businessman.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	6.3.2014
12.	Serhii Petrovych Kliuiev	Born on 19 August 1969, brother of Mr Andrii Kliuiev, businessman.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	6.3.2014
14.	Oleksii Mykolayovych Azarov	Born on 13 July 1971, son of former Prime Minister Azarov.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	6.3.2014

**COMMISSION DELEGATED REGULATION (EU) No 382/2014****of 7 March 2014****supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for publication of supplements to the prospectus****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC <sup>(1)</sup>, and in particular Article 16(3) thereof,

Whereas:

- (1) Directive 2003/71/EC harmonises requirements for the drawing up, approval and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market situated or operating within a Member State.
- (2) Directive 2003/71/EC also requires publication of supplements to the prospectus mentioning every significant new factor, material mistake or inaccuracy relating to the information included in the prospectus which is capable of affecting the assessment of the securities and which arises or is noted between the time when the prospectus is approved and the final closing of the offer to the public or, as the case may be, the time when trading on a regulated market begins, whichever occurs later.
- (3) The provision of full information concerning the securities and the issuers of securities promotes the protection of investors. A supplement should therefore include all material information relating to the specific situations that triggered the supplement and that must be included in the prospectus in accordance with Directive 2003/71/EC and Commission Regulation (EC) No 809/2004 <sup>(2)</sup>.
- (4) In order to ensure consistent harmonisation, to specify the requirements laid down in Directive 2003/71/EC and to take account of technical developments on financial markets, it is necessary to specify situations where publication of supplements to the prospectus is required.
- (5) It is not possible to identify all the situations in which a supplement to the prospectus is required as this may depend on the issuer and securities involved. Therefore, it is appropriate to specify the minimum situations where a supplement is required.
- (6) Annual audited financial statements play a crucial role for investors when making investment decisions. In order to ensure that investors base their investment decisions on the most recent financial information, it is necessary to publish a supplement incorporating new annual audited financial statements of issuers of equity securities and issuers of underlying shares in the case of depository receipts published after the approval of the prospectus.
- (7) In order to take account of the ability of profit forecasts and profit estimates to influence an investment decision, issuers of equity securities and issuers of underlying shares in the case of depository receipts should publish a supplement containing any amendments to implicit or explicit figures constituting profit forecasts or profit estimates already included in the prospectus.

<sup>(1)</sup> OJ L 345, 31.12.2003, p. 64.

<sup>(2)</sup> Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (OJ L 149, 30.4.2004, p. 1).

- (8) Information concerning the identity of the main shareholders or any controlling entity of the issuer is vital for an informed assessment of the issuer, in case of any type of security. However, a situation of a change of control of the issuer is particularly significant where the offer refers to equity securities and depository receipts as these types of securities are, in general, more price sensitive to this situation. Therefore, a supplement should be published where there is a change of control of an issuer of equity securities or an issuer of underlying shares in the case of depository receipts.
- (9) It is essential that potential investors assessing an outstanding offer of equity securities or depository receipts are in a position to compare the terms and conditions of such an offer with the price or exchange terms attached to any public takeover bid announced during the offer period. Moreover, the result of a public takeover bid is also significant for the investment decision as investors need to know whether it implies or not a change in control of the issuer. In those cases, therefore, a supplement is necessary.
- (10) Where the working capital statement is not valid anymore investors are unable to make a fully informed investment decision about the issuer's financial situation in the immediate future. Investors should be in a position to reassess their investment decisions in light of the new information on the issuer's ability to access cash and other available liquid resources to meet its liabilities. In those cases, therefore, a supplement is necessary.
- (11) There are situations where, after the approval of a prospectus, an issuer or offeror decides to offer the securities in Member States other than those referred to in the prospectus, or to apply for admission to trading of the securities on regulated markets in additional Member States other than those provided for in the prospectus. Information about those offers in other Member States or admission to trading on regulated markets therein is important for the investor's assessment of certain aspects of the issuer's securities and therefore would necessitate a supplement.
- (12) The financial position or the business of the entity is likely to be affected by a significant financial commitment. Therefore, investors should be entitled to receive additional information on the consequences of that commitment in a supplement to the prospectus.
- (13) An increase of the aggregate nominal amount of an offering programme provides information on issuers' necessity for financing or an increase in demands for the issuers' securities. Therefore, where there is an increase in the aggregate nominal amount of an offering programme included in the prospectus, a supplement to the prospectus should be published.
- (14) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (15) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(1)</sup>,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Subject matter**

This Regulation establishes regulatory technical standards specifying situations in which the publication of a supplement to the prospectus is mandatory.

<sup>(1)</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*Article 2***Obligation to publish a supplement**

A supplement to the prospectus shall be published in the following situations:

- (a) where new annual audited financial statements are published by any of the following:
  - (1) an issuer where a prospectus relates to shares and other transferable securities equivalent to shares referred to in Article 4(2)(1) of Regulation (EC) No 809/2004;
  - (2) an issuer of the underlying shares or other transferable securities equivalent to shares in case of equity securities complying with the conditions set out in Article 17(2) of Regulation (EC) No 809/2004;
  - (3) an issuer of the underlying shares where the prospectus is drawn up in accordance with the depository receipt schedule, set out in Annex X or XXVIII to Regulation (EC) No 809/2004;
- (b) where an amendment to a profit forecast or a profit estimate already included in the prospectus is published by any of the following:
  - (1) an issuer where a prospectus relates to shares and other transferable securities equivalent to shares referred to in Article 4(2)(1) of Regulation (EC) No 809/2004;
  - (2) an issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to equity securities complying with the conditions set out in Article 17(2) of Regulation (EC) No 809/2004;
  - (3) an issuer of the underlying shares where the prospectus is drawn up in accordance with the depository receipt schedule, set out in Annex X or XXVIII to Regulation (EC) No 809/2004;
- (c) where there is a change in control in respect of any of the following:
  - (1) an issuer where a prospectus relates to shares and other transferable securities equivalent to shares referred to in Article 4(2)(1) of Regulation (EC) No 809/2004;
  - (2) an issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to equity securities complying with the conditions set out in Article 17(2) of Regulation (EC) No 809/2004;
  - (3) an issuer of the underlying shares where a prospectus is drawn up in accordance with a depository receipt schedule, set out in Annex X or XXVIII to Regulation (EC) No 809/2004;
- (d) where there is any new public takeover bid by third parties, as defined in Article 2(1)(a) of Directive 2004/25/EC of the European Parliament and of the Council <sup>(1)</sup> and the outcome of any public takeover bid in respect of any of the following:
  - (1) the equity of the issuer where a prospectus relates to shares and other transferable securities equivalent to shares referred to in Article 4(2)(1) of Regulation (EC) No 809/2004;
  - (2) the equity of the issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to equity securities complying with the conditions set out in Article 17(2) of Regulation (EC) No 809/2004;
  - (3) the equity of the issuer of the underlying shares where a prospectus is drawn up in accordance with the depository receipt schedule, set out in Annex X or XXVIII to Regulation (EC) No 809/2004;
- (e) where in relation to shares and other transferable securities equivalent to shares referred to in Article 4(2)(1) of Regulation (EC) No 809/2004 and convertible or exchangeable debt securities which are equity securities complying with the conditions set out in Article 17(2) of that Regulation there is a change in the working capital statement included in a prospectus when the working capital becomes sufficient or insufficient for the issuer's present requirements;

<sup>(1)</sup> Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (OJ L 142 30.4.2004 p. 12).

- (f) where an issuer is seeking admission to trading on (an) additional regulated market(s) in (an) additional Member State(s) or is intending to make an offer to the public in (an) additional Member State(s) other than the one(s) provided for in the prospectus;
- (g) where a new significant financial commitment is undertaken which is likely to give rise to a significant gross change within the meaning of Article 4a(6) of Regulation (EC) No 809/2004 and the prospectus relates to shares and other transferable securities equivalent to shares referred to in Article 4(2)(1) of that Regulation and other equity securities complying with the conditions set out in Article 17(2) of that Regulation;
- (h) where the aggregate nominal amount of the offering programme is increased.

*Article 3*

**Entry into force**

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, 7 March 2014.

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

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**COMMISSION IMPLEMENTING REGULATION (EU) No 383/2014****of 2 April 2014****entering a name in the register of protected designations of origin and protected geographical indications (Beurre de Bresse (PDO))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, France's application to register the name 'Beurre de Bresse' was published in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Beurre de Bresse' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name contained in the Annex to this Regulation is hereby entered in the register.

*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, 2 April 2014.

*For the Commission,  
On behalf of the President,  
Dacian CIOLOȘ  
Member of the Commission*

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<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> OJ C 335, 16.11.2013, p. 22.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.5. Oils and fats (butter, margarine, oils, etc.)**

FRANCE

Beurre de Bresse (PDO)

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**COMMISSION IMPLEMENTING REGULATION (EU) No 384/2014****of 3 April 2014****entering a name in the register of protected designations of origin and protected geographical indications (Crème de Bresse (PDO))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, France's application to register the name 'Crème de Bresse' was published in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Crème de Bresse' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name contained in the Annex to this Regulation is hereby entered in the register.

*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, 3 April 2014.

*For the Commission*  
*On behalf of the President,*  
Dacian CIOLOŞ  
*Member of the Commission*

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<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> OJ C 335, 16.11.2013, p. 16.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.4. Other products of animal origin (eggs, honey, various dairy products except butter, etc.)**

FRANCE

Crème de Bresse (PDO)

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**COMMISSION IMPLEMENTING REGULATION (EU) No 385/2014****of 3 April 2014****entering a name in the register of protected designations of origin and protected geographical indications (Elbe-Saale Hopfen (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Germany's application to register the name 'Elbe-Saale Hopfen' was published in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) As no objection under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Elbe-Saale Hopfen' should be entered in the register,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name contained in the Annex to this Regulation is hereby entered in the register.

*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, 3 April 2014.

*For the Commission,  
On behalf of the President,  
Dacian CIOLOȘ  
Member of the Commission*

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<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> OJ C 345, 26.11.2013, p. 24.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.8. other products listed in Annex I to the Treaty (spices, etc.)**

GERMANY

Elbe-Saale Hopfen (PGI)

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**COMMISSION IMPLEMENTING REGULATION (EU) No 386/2014****of 14 April 2014****amending Council Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People's Republic of Korea <sup>(1)</sup>, and in particular Article 13(1)(d) and (e) thereof,

Whereas:

- (1) Annex IV to Regulation (EC) No 329/2007 lists persons, entities and bodies on the basis of determinations made by the Sanctions Committee of the UN Security Council.
- (2) Annex V to Regulation (EC) No 329/2007 lists persons, entities and bodies who, having been designated by the Council, are covered by the freezing of funds and economic resources under that Regulation.
- (3) On 14 April 2014, on the basis of a determination by the Sanctions Committee, the Council decided <sup>(2)</sup> to amend the information relating to one entity in the list of persons, entities and bodies to whom the freezing of funds and economic resources should apply and delete an entity from Annex IV. Annex IV should therefore be amended accordingly.
- (4) On 14 April 2014, the Council also decided to delete a person listed in Annex V. Annex V should therefore be amended.
- (5) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 329/2007 is amended as follows:

- (1) Annex IV is amended in accordance with Annex I to this Regulation;
- (2) Annex V is amended in accordance with Annex II 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, 14 April 2014.

*For the Commission,  
On behalf of the President,  
Head of the Service for Foreign Policy Instrument*

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<sup>(1)</sup> OJ L 88, 29.3.2007, p. 1.

<sup>(2)</sup> Council Decision 2014/212/CFSP of 14 April 2014 amending Decision 2013/183/CFSP concerning restrictive measures against the Democratic People's Republic of Korea (see page 79 of this Official Journal).

## ANNEX I

In Annex IV to Regulation (EC) No 329/2007, under the heading 'B. Legal persons, entities and bodies', the entry for 'Korea Ryonha Machinery Joint Venture Corporation' is replaced by the following:

'(16) **Korea Ryonha Machinery Joint Venture Corporation** (aka (a) Chosun Yunha Machinery Joint Operation Company; (b) Korea Ryenha Machinery J/V Corporation; (c) Ryonha Machinery Joint Venture Corporation; (d) Ryonha Machinery Corporation; (e) Ryonha Machinery; (f) Ryonha Machine Tool; (g) Ryonha Machine Tool Corporation; (h) Ryonha Machinery Corp; (i) Ryonhwa Machinery Joint Venture Corporation; (j) Ryonhwa Machinery JV; (k) Huichon Ryonha Machinery General Plant; (l) Unsan; (m) Unsan Solid Tools; and (n) Millim Technology Company). Address: (a) Tongan-dong, Central District, Pyongyang, DPRK; (b) Mangungdae-gu, Pyongyang, DPRK; (c) Mangyongdae District, Pyongyang, DPRK. Other information: Email addresses: (a) ryonha@silibank.com; sjc-117@hotmail.com; and (b) millim@silibank.com. Telephone numbers: (a) 850-2-18111; (b) 850-2-18111-8642; and (c) 850-2-18111-381-8642. Facsimile number: 850-2-381-4410. Date of designation: 22.01.2013.'

## ANNEX II

In Annex V to Regulation (EC) No 329/2007, the following entry under the heading 'A. Natural persons referred to in Article 6(2)(a)' is deleted:

	Name (and possible aliases)	Identifying information	Reasons
'1.	Chang Song-taek (alias JANG Song-Taek)	Date of birth: 2.2.1946 or 6.2.1946 or 23.2.1946 (North Hamgyong province)  Passport number (as of 2006): PS 736420617	Member of the National Defence Commission. Director of the Administrative Department of the Korean Workers' Party.'

**COMMISSION IMPLEMENTING REGULATION (EU) No 387/2014****of 14 April 2014****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) <sup>(1)</sup>,

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 <sup>(2)</sup>, 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, 14 April 2014.

*For the Commission,  
On behalf of the President,*

Jerzy PLEWA

*Director-General for Agriculture and Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> 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 <sup>(1)</sup>	Standard import value
0702 00 00	MA	64,0
	TN	117,5
	TR	93,7
	ZZ	91,7
0707 00 05	MK	58,5
	TR	124,3
	ZZ	91,4
0709 93 10	MA	44,0
	TR	96,8
	ZZ	70,4
0805 10 20	EG	47,3
	IL	67,5
	MA	40,7
	TN	46,6
	TR	62,2
	ZZ	52,9
	ZZ	52,9
0805 50 10	MA	35,6
	TR	65,8
	ZZ	50,7
0808 10 80	AR	96,5
	BR	88,0
	CL	101,3
	CN	98,6
	MK	26,7
	NZ	138,0
	US	175,3
	ZA	130,1
	ZZ	106,8
	ZZ	106,8
0808 30 90	AR	98,5
	CL	147,3
	CN	82,0
	ZA	98,5
	ZZ	106,6
	ZZ	106,6

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

# DIRECTIVES

## COUNCIL DIRECTIVE 2014/48/EU

of 24 March 2014

### amending Directive 2003/48/EC on taxation of savings income in the form of interest payments

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 115 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Whereas:

- (1) Council Directive 2003/48/EC <sup>(3)</sup> has been applied in the Member States since 1 July 2005 and proved effective during its first three years of application, within the limits set by its scope. However, it appears from the first Commission report of 15 September 2008 on its application that it does not fully measure up to the ambitions expressed in the conclusions adopted unanimously by the Council in its meeting of 26 and 27 November 2000. In particular, certain financial instruments which are equivalent to interest-bearing securities and certain indirect means of holding interest-bearing securities are not covered.
- (2) In order better to achieve the aim of Directive 2003/48/EC, it is necessary first to improve the quality of information used to establish the identity and residence of beneficial owners. In this regard, the paying agent should use both date and place of birth and, if any, the tax identification numbers or equivalent allocated by Member States. Directive 2003/48/EC does not impose an obligation on Member States to introduce tax identification numbers. In this regard, information with respect to joint accounts and other cases of shared beneficial ownership should also be improved.
- (3) Directive 2003/48/EC applies only to interest payments made for the immediate benefit of individuals resident in the Union. These individuals may thus circumvent Directive 2003/48/EC by using an interposed entity or legal arrangement, especially one established in a jurisdiction where taxation of income paid to this entity or arrangement is not ensured. Having regard also to the anti-money laundering measures laid down in Directive 2005/60/EC of the European Parliament and of the Council <sup>(4)</sup>, it is therefore appropriate to require paying agents to apply a 'look-through approach' to payments made to certain entities or legal arrangements established or having their place of effective management in certain countries or territories where Directive 2003/48/EC or measures to the same or equivalent effect do not apply. Those paying agents should use the information already available to them about the actual beneficial owner(s) of such entities or legal arrangements to ensure that Directive 2003/48/EC is applied when the beneficial owner so identified is an individual resident in a Member State other than the one where the paying agent is established. In order to reduce the administrative burden on paying agents, an indicative list of entities and legal arrangements in the third countries and jurisdictions concerned by this measure should be drawn up.

<sup>(1)</sup> OJ C 184 E, 8.7.2010, p. 488.

<sup>(2)</sup> OJ C 277, 17.11.2009, p. 109.

<sup>(3)</sup> Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments (OJ L 157, 26.6.2003, p. 38).

<sup>(4)</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

- (4) Circumvention of Directive 2003/48/EC through artificial channelling of an interest payment via an economic operator established outside the Union should also be avoided. It is therefore necessary to specify the responsibilities of economic operators when they are aware that an interest payment made to an operator established outside the territorial scope of Directive 2003/48/EC is made for the benefit of an individual, known by them to be a resident of another Member State and who can be considered to be their customer. In such circumstances, those economic operators should be considered to be acting as paying agents. This would also in particular help to prevent a possible misuse of the international network of financial institutions, namely, branches, subsidiaries, associated or holding companies, to circumvent Directive 2003/48/EC.
- (5) Experience has shown that greater clarity is necessary regarding the obligation to act as a paying agent upon receipt of an interest payment. In particular, the intermediate structures which are subject to that obligation should be identified clearly. Entities and legal arrangements which are not subject to effective taxation should apply the provisions of Directive 2003/48/EC upon receipt by them of any interest payment from any upstream economic operator. An indicative list of such entities and legal arrangements in each Member State will facilitate the implementation of the new provisions.
- (6) It appears from the first report on the application of Directive 2003/48/EC that it may be circumvented by the use of financial instruments which, having regard to the level of risk, flexibility and agreed return, are equivalent to debt claims. It is therefore necessary to ensure that it covers not only interest but other substantially equivalent income.
- (7) Similarly, life insurance contracts containing a guarantee of income return or whose performance is at more than 40 % linked to income from debt claims or equivalent income covered by Directive 2003/48/EC should be included in the scope of that Directive.
- (8) As regards investment funds established in the Union, Directive 2003/48/EC at present covers only income obtained through undertakings for collective investment in transferable securities (UCITS) authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council <sup>(1)</sup> which, inter alia, repealed and replaced Council Directive 85/611/EEC <sup>(2)</sup>. Equivalent income from non-UCITS falls within the scope of Directive 2003/48/EC only when non-UCITS are entities without legal personality and therefore act as paying agents on receipt of interest payments. In order to ensure the application of the same rules to all investment funds or schemes independently of their legal form, the reference in Directive 2003/48/EC to Directive 85/611/EEC should be replaced by a reference to their registration in accordance with the law of a Member State or their fund rules or instruments of incorporation being governed by the law of one of the Member States. Furthermore, equal treatment should be ensured taking into account the Treaty on the European Economic Area.
- (9) As regards investment funds not established in a Member State of the European Union or of the European Economic Area, it is necessary to make clear that the Directive encompasses interest and equivalent income from all those funds, irrespective of their legal form and of how they are placed with investors.
- (10) The definition of interest payment should be clarified to ensure that not only direct investments in debt claims but also indirect investments are taken into account in the calculation of the percentage of the assets invested in such instruments. Furthermore, in order to facilitate the application by paying agents of Directive 2003/48/EC to income arising from undertakings for collective investment established in other countries, it should be made clear that the calculation of the composition of the assets for the treatment of certain income of such undertakings is governed by the rules laid down in the Member State of the European Union or of the European Economic Area in which they are established.
- (11) Both the 'certificate' procedure allowing beneficial owners resident for tax purposes in one Member State to avoid the imposition of a withholding tax on interest payments received in a Member State listed in Article 10(1) of Directive 2003/48/EC and the alternative procedure of voluntary disclosure to the State of residence of the beneficial owner have merits. Nevertheless, the procedure of voluntary disclosure is less burdensome for the beneficial owner and it is therefore appropriate to give the choice of procedure to the beneficial owners.

<sup>(1)</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

<sup>(2)</sup> Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 375, 31.12.1985, p. 3).

- (12) Member States should provide relevant statistics on the application of Directive 2003/48/EC in order to improve the quality of information held by the Commission for the preparation of the report, presented to the Council every three years, on the application of that Directive.
- (13) In accordance with point 34 of the Interinstitutional Agreement on better law-making <sup>(1)</sup>, Member States are encouraged to draw up, for themselves and in the interest of the European Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (14) In order to ensure uniform conditions for the implementation of Directive 2003/48/EC, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(2)</sup>.
- (15) Since the objectives of this Directive, namely ensuring effective taxation of savings income in the form of cross-border interest payments which are generally included in all Member States in the taxable income of resident individuals, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (16) Directive 2003/48/EC should be amended,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

Directive 2003/48/EC is amended as follows:

- (1) in Article 1, paragraph 2 is replaced by the following:

‘2. Member States shall take the necessary measures to ensure that the tasks necessary for the implementation of this Directive are carried out by paying agents and other economic operators established or, where relevant, having their place of effective management within their territory, irrespective of the place of establishment of the debtor of the claim producing the interest payment.’;

- (2) the following Article is inserted:

‘Article 1a

#### **Definitions of certain terms**

For the purposes of this Directive:

- (a) “economic operator” means a credit or financial institution, any other legal person, or natural person, which on a regular basis or occasionally makes or secures an interest payment within the meaning of this Directive while acting in the exercise of its professional activity;
- (b) “place of effective management” of an entity, with or without legal personality, means the address where are taken key management decisions that are necessary for the conduct of the entity’s activity as a whole. Where such decisions are taken in more than one country or jurisdiction, the place of effective management shall be considered to be at the address where most of the key management decisions are taken relating to the assets producing interest payments within the meaning of this Directive;

<sup>(1)</sup> OJ C 321, 31.12.2003, p. 1.

<sup>(2)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (c) “place of effective management” of a trust or other legal arrangement means:
- (i) the permanent address of the natural person who has the principal responsibility for the key management decisions relating to the assets of the legal arrangement, or in the case of a trust, the permanent address of the trustee. Where more than one natural person has such principal responsibility, the place of effective management shall be considered to be at the permanent address of the person who has the principal responsibility for most of the key management decisions relating to the assets producing interest payments within the meaning of this Directive; or
  - (ii) the address where the legal person which has the principal responsibility to manage the assets of the legal arrangement, or in the case of a trust, the trustee, takes the key management decisions relating to these assets. Where key management decisions are taken in more than one country or jurisdiction, the place of effective management shall be considered to be at the address where most of the key management decisions are taken relating to the assets producing interest payments within the meaning of this Directive;
- (d) “subject to effective taxation” means that an entity or a legal arrangement is liable to tax on all its income, or on the part of its income attributable to its non-resident participants, including on any interest payment.;

(3) Article 2 is replaced by the following:

*Article 2*

#### **Definition of beneficial owner**

1. For the purposes of this Directive, and without prejudice to paragraphs 2 to 4, “beneficial owner” means any individual who receives an interest payment or any individual for whom such a payment is secured, unless he provides evidence that it was not received or secured for his own benefit, that is to say that:

- (a) he acts as a paying agent within the meaning of Article 4(1);
- (b) he acts on behalf of an entity, with or without legal personality, and discloses to the economic operator making or securing the interest payment the name, the legal form, the address of the place of establishment of the entity, and, if it is in a different country or jurisdiction, the address of the place of effective management of the entity;
- (c) he acts on behalf of a legal arrangement and discloses to the economic operator making or securing the interest payment the name if any, the legal form, the address of the place of effective management of the legal arrangement and the name of the legal or natural person referred to in point (c) of Article 1a; or
- (d) he acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner in accordance with Article 3(2).

2. Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where point (a), (b) or (c) of paragraph 1 does not apply to that individual, it shall take reasonable steps to establish the identity of the beneficial owner in accordance with Article 3(2). If the paying agent is unable to identify the beneficial owner, it shall treat the individual in question as the beneficial owner.

3. Where an economic operator who also comes within the scope of Article 2 of Directive 2005/60/EC of the European Parliament and of the Council (\*), makes an interest payment to, or secures such a payment for, an entity or a legal arrangement, which is not subject to effective taxation and which is established or has its place of effective management in a country or jurisdiction outside the territory referred to in Article 7 of this Directive and outside the territorial scope of agreements and arrangements providing for the same measures as or equivalent measures to those of this Directive, the second to fifth subparagraphs of this paragraph shall apply.

The payment shall be regarded as having been made to, or secured for, the immediate benefit of any individual, who is resident in a Member State other than that of the economic operator and is defined in Article 3(6) of Directive 2005/60/EC as the beneficial owner of the entity or legal arrangement. The identity of that individual shall be established in accordance with the customer due diligence measures provided for in Article 7 and Article 8(1)(b) of that Directive. That individual shall also be regarded as the beneficial owner for the purposes of this Directive.

For the purposes of the first subparagraph, the categories of entities and legal arrangements referred to in the indicative list of Annex I shall be considered to be not subject to effective taxation.

The economic operator referred to in the first subparagraph shall establish the legal form and the place of establishment or, where relevant, the place of effective management of the entity or legal arrangement, by using the information disclosed by any individual acting on behalf of the entity or legal arrangement in particular in accordance with points (b) and (c) of paragraph 1, unless the economic operator has more reliable information available indicating that the received information is incorrect or not complete for the purposes of the application of this paragraph.

Where an entity or a legal arrangement does not fall within the categories referred to in Annex I or where it falls within those categories but claims to be subject to effective taxation, the economic operator referred to in the first subparagraph shall establish whether it is subject to effective taxation on the basis of facts that are generally acknowledged or on the basis of official documents presented by the entity or legal arrangement or available through customer due diligence measures taken in accordance with Directive 2005/60/EC.

4. Where an entity or a legal arrangement is considered to be a paying agent, upon receipt of an interest payment or upon securing of such payment in accordance with Article 4(2), the interest payment shall be deemed to accrue to the following individuals, who shall be regarded as beneficial owners for the purposes of this Directive:

- (a) any individual who is entitled to receive the income arising from the assets producing such payment, or who is entitled to receive other assets representing such payment when the entity or legal arrangement receives the payment or when the payment is secured on its behalf, in proportion to his entitlement to that income;
- (b) for any part of the income arising from the assets producing such payment, or of the other assets representing such payment, to which none of the individuals referred to in point (a) are entitled when the entity or legal arrangement receives the payment or when the payment is secured on its behalf, any individual who has directly or indirectly contributed to the assets of the entity or legal arrangement concerned, regardless of whether such individual is entitled to the assets or income of the entity or legal arrangement;
- (c) if none of the individuals referred to in point (a) or (b) are collectively or severally entitled to all of the income arising from the assets producing such payment, or to all the other assets representing such payment, at the time of receipt or securing of the interest payment, any individual, in proportion to his entitlement to that income, who, at a later date, becomes entitled to all or part of the assets producing the interest payment or to other assets representing such interest payment. The total amount that shall be deemed to accrue to such individual shall not exceed the amount of the interest payment received by or secured for the entity or legal arrangement, after deduction of any part that has been attributed in accordance with this paragraph to an individual referred to in point (a) or (b).

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(\*) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).;

(4) Articles 3 and 4 are replaced by the following:

*‘Article 3*

#### **Identity and residence of beneficial owners**

1. Each Member State shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of Articles 8 to 12.

Such procedures shall comply with the minimum standards established in paragraphs 2 and 3.

2. The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the beneficial owner are entered into, as follows:

- (a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of the name and address, by using the information at its disposal, in particular pursuant to the regulations in force in its State of establishment and to Directive 2005/60/EC;
- (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of the name, address, date and place of birth and, in accordance with the list referred to in paragraph 4, the tax identification number or equivalent allocated by the Member State where the beneficial owner is resident for tax purposes. For contractual relations entered into, or transactions carried out in the absence of contractual relations, before 1 July 2015 information about date and place of birth is only required where no such tax identification number or equivalent is available.

The details referred to in point (b) of the first subparagraph shall be established on the basis of a passport or an official identity card or any other official identity document, where applicable as specified in the list referred to in paragraph 4, presented by the beneficial owner. Any such details which do not appear on these documents shall be established on the basis of any other documentary proof of identity presented by the beneficial owner.

3. Where the beneficial owner voluntarily presents a tax residence certificate issued by the competent authority of a country within the three years before the payment date or a later date when the payment is deemed to accrue to a beneficial owner, his residence shall be considered to be situated in that country. Failing this, his residence shall be considered to be situated in the country where he has his permanent address. The paying agent shall establish the permanent address of the beneficial owner on the basis of the following minimum standards:

- (a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the current permanent address of the beneficial owner by using the best information at its disposal, in particular pursuant to the regulations in force in its State of establishment and to Directive 2005/60/EC;
- (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January 2004, the paying agent shall establish the current permanent address of the beneficial owner on the basis of the address resulting from the identification procedures set out in point (b) of the first subparagraph of paragraph 2 to be updated on the basis of the most recent documentation that is available to the paying agent.

In the situation referred to in point (b) of the first subparagraph, where beneficial owners present a passport or an official identity card or any other official identity document issued by a Member State and declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued within the three years before the payment date or a later date when the payment is deemed to accrue to a beneficial owner by the competent authority of the third country in which the beneficial owner claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport, official identity card or other official identity document shall be considered to be the country of residence. For beneficial owners about whom the paying agent has official documentation at its disposal proving that they have their residence for tax purposes in a country different from that of their permanent address because of the privileges linked to their diplomatic status or to other internationally agreed rules, residence shall be established by means of such official documentation available to the paying agent.

4. Each Member State allocating tax identification numbers or equivalent shall, by 31 December 2014, inform the Commission about the structure and format of these numbers as well as of the official documentation containing information on allocated identification numbers. Each Member State shall also inform the Commission if any changes in this respect occur. The Commission shall publish in the *Official Journal of the European Union* a compiled list of the information received.

#### Article 4

##### **Paying agents**

1. An economic operator established in a Member State who makes an interest payment to, or secures such a payment for, the immediate benefit of the beneficial owner shall be considered to be a paying agent for the purposes of this Directive.

For the purposes of this paragraph, it is irrelevant whether the economic operator concerned is the debtor or issuer of the claim or security which produces the income or the economic operator charged by the debtor or issuer or by the beneficial owner with paying the income or securing the payment of the income.

An economic operator established in a Member State shall also be considered to be a paying agent for the purposes of this Directive where the following conditions are met:

- (a) it makes an interest payment to, or secures such a payment for, another economic operator, including a permanent establishment or a subsidiary of the first economic operator, established outside the territory referred to in Article 7 and outside the territorial scope of agreements and arrangements providing for the same measures as or measures equivalent to those set out in this Directive; and
- (b) the first economic operator has reasons to believe, on the basis of available information, that the second economic operator will pay the income to, or secure such a payment for the immediate benefit of a beneficial owner who is an individual known by the first economic operator to be a resident of another Member State, having regard to Article 3.

Where the conditions referred to in points (a) and (b) of the first subparagraph are met, the payment made or secured by the first economic operator shall be regarded as having been made to, or secured for, the immediate benefit of the beneficial owner referred to in point (b) of that subparagraph.

2. An entity or a legal arrangement which has its place of effective management within a Member State and which is not subject to effective taxation under the general rules for direct taxation applicable either in that Member State, or in the Member State where it is established, or in any country or jurisdiction where it is otherwise resident for tax purposes, shall be considered to be a paying agent upon receipt of an interest payment or upon securing of such payment.

For the purposes of this paragraph, the categories of entities and legal arrangements referred to in the indicative list of Annex II shall be considered to be not subject to effective taxation.

Where an entity or a legal arrangement does not belong to any of the categories referred to in the indicative list of Annex II or where it is covered by that annex but claims to be subject to effective taxation, the economic operator shall establish whether it is subject to effective taxation on the basis of facts that are generally acknowledged or on the basis of official documents presented by the entity or legal arrangement or available through customer due diligence measures taken in accordance with Directive 2005/60/EC.

Any economic operator established in a Member State who makes an interest payment to, or secures such a payment for, an entity or a legal arrangement referred to in this paragraph and which has its place of effective management in a Member State other than the State where the economic operator is established, shall inform the competent authority of its Member State of establishment of the following, using the information indicated in the fourth subparagraph of Article 2(3) or other information available:

- (i) the name, if any, of the entity or legal arrangement;
- (ii) its legal form;
- (iii) its place of effective management;
- (iv) the total amount of the interest payment, specified in accordance with Article 8, made to, or secured for, the entity or legal arrangement;
- (v) the date of the latest interest payment.

The individuals who shall be regarded as the beneficial owners of the interest payment made to or secured for the entities or legal arrangements referred to in the first subparagraph of this paragraph shall be determined in accordance with the rules provided for in Article 2(4). Where point (c) of Article 2(4) applies, the entity or legal arrangement shall, whenever an individual at a later date becomes entitled to the assets producing such interest payment or to other assets representing the interest payment, provide the competent authority of the Member State where it has its place of effective management with the information specified in the second subparagraph of Article 8(1). The entity or legal arrangement shall also inform its competent authority of any change to its place of effective management.

The obligations referred to in the fifth subparagraph shall remain for 10 years from the date of the last interest payment received or secured by the entity or legal arrangement or the last date that an individual became entitled to the assets producing such interest payment or to other assets representing the interest payment, whichever date is the later.

If an entity or a legal arrangement, in a case where point (c) of Article 2(4) applies, has changed its place of effective management to another Member State, the competent authority of the first Member State shall report the following information to the competent authority of the new Member State:

- (i) the amount of interest payment received by or secured for the entity or legal arrangement that is still not covered by past entitlements to the relevant assets;
- (ii) the date of the last interest payment received by or secured for the entity or legal arrangement or the last date that an individual became entitled to all or part of the assets producing such interest payment or to other assets representing the interest payment, whichever date is the later.

This paragraph shall not apply if the entity or legal arrangement provides evidence to the effect that it falls into one of the following cases:

- (a) it is an undertaking for collective investment or other collective investment fund or scheme as defined in point (d)(i) and (iii) or point (e)(i) and (iii) of the first subparagraph of Article 6(1);
- (b) it is an institution providing pension or insurance services or an undertaking mandated by such an institution to manage its assets;
- (c) it is acknowledged under the procedures applicable in the Member State where it is resident for tax purposes or has its place of effective management that it is to be exempt from effective taxation under the general rules for direct taxation because it serves exclusively charitable purposes for the public benefit;
- (d) it constitutes a shared beneficial ownership for which the economic operator making or securing the payment has established the identity and residence of all the beneficial owners in accordance with Article 3 and the economic operator therefore is the paying agent in accordance with paragraph 1 of this Article.

3. An entity referred to in paragraph 2 which is similar to an undertaking for collective investment or collective investment fund or scheme referred to in point (a) of the eighth subparagraph of paragraph 2 shall have the option of being treated for the purposes of this Directive as such an undertaking, investment fund or scheme.

Where an entity exercises the option referred to in the first subparagraph of this paragraph, the Member State in which it has its place of effective management shall issue a certificate to that effect. The entity shall present that certificate to the economic operator making or securing the interest payment. The economic operator shall in that case be exempted from the obligations set in the fourth subparagraph of paragraph 2.

Member States shall lay down the detailed rules concerning the option referred to in the first subparagraph of this paragraph for entities which have their place of effective management in their territory, with a view to ensuring the effective application of this Directive.;

- (5) Article 6 is replaced by the following:

*Article 6*

#### **Definition of interest payment**

1. For the purposes of this Directive, "interest payment" means:

- (a) interest paid or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payments shall not be regarded as interest payments;

- (b) any income paid or realised, or credited to an account, relating to securities of any kind, except where the income is directly considered to be an interest payment in accordance with point (a), (c), (d) or (e), and where:
- (i) the conditions of a return of capital defined at the issuing date include a commitment towards the investor that he receives, at the end of the term, at least 95 % of the capital invested; or
  - (ii) the conditions defined at the issuing date provide for a link of at least 95 % of the income from the security to interest or income of the kinds referred to in point (a), (c), (d) or (e);
- (c) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in point (a) and any income accrued or capitalised at the sale, refund or redemption of the securities referred to in point (b);
- (d) income deriving from payments referred to in point (a), (b) or (c) of this paragraph either directly or indirectly, including via an entity or a legal arrangement referred to in Article 4(2), if distributed by any of the following:
- (i) undertakings for collective investment or other collective investment funds or schemes, that either are registered as such in accordance with the law of any of the Member States or of the countries of the European Economic Area which do not belong to the Union, or have fund rules or instruments of incorporation governed by the law relating to collective investment funds or schemes of one of these States or countries. This applies irrespective of the legal form of such undertakings, funds or schemes and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of their shares or units;
  - (ii) entities having exercised the option under Article 4(3);
  - (iii) any collective investment fund or scheme established outside the territory referred to in Article 7 and outside the European Economic Area. This applies irrespective of the legal form of that fund or scheme and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of its shares or units;
- (e) income realised upon the sale, refund or redemption of shares or units in the following undertakings, entities, investment funds or schemes, if they invest, directly or indirectly via other such undertakings, funds or schemes, or via entities or legal arrangements referred to in Article 4(2), more than 40 % of their assets in debt claims as referred to in point (a) of this paragraph or in securities as referred to in point (b) thereof:
- (i) undertakings for collective investment or other collective investment funds or schemes that either are registered as such in accordance with the law of any of the Member States or of the countries of the European Economic Area which do not belong to the Union, or have fund rules or instruments of incorporation governed by the law relating to collective investment funds or schemes of one of these States or countries. This applies irrespective of the legal form of such undertakings, funds or schemes and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of their shares or units;
  - (ii) entities having exercised the option under Article 4(3);
  - (iii) any collective investment fund or scheme established outside the territory referred to in Article 7 and outside the European Economic Area. This applies irrespective of the legal form of that fund or scheme and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of its shares or units.
- For the purpose of this point, assets which the undertakings or entities or investment funds or schemes are required to hold as collateral under the terms of their agreements, contracts or other legal documentation in order to enable them to meet their investment objectives, and to which the investor is not a party and has no legal rights, are not regarded as debt claims as referred to in point (a) or as securities as referred to in point (b);
- (f) benefits from a life insurance contract, if:
- (i) the contract contains a guarantee of income return; or
  - (ii) the actual performance of the contract is at more than 40 % linked to interest or income referred to in points (a), (b), (c), (d) and (e).

For the purpose of this point the excess of any repayment or partial repayment made by the life insurer before the maturity of the life insurance contract as well as the excess of any amount paid out by the life insurer over the sum of the payments made to the life insurer under the same life insurance contract, shall be considered to be a benefit from a life insurance contract. In the case of assignment, in whole or in part, of a life insurance to a third party, the excess of the value of the contract conferred over the sum of all the payments made to the life insurer shall also be considered to be a benefit from a life insurance contract. A benefit from a life insurance contract which solely provides for a pension, or a fixed annuity, paid for at least five years, shall be considered as such only if it is a repayment or an assignment to a third party that is made before the end of the five-year period. An amount paid out solely in respect of death, disability or illness shall not be considered to be a benefit from a life insurance contract.

However, Member States shall have the option of including income mentioned under point (e) of the first subparagraph in the definition of interest payment, for undertakings for collective investment or other collective investment funds or schemes, that either are registered in accordance with their rules or have fund rules or instruments of incorporation governed by their law, only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of point (a), (b) or (c) of that subparagraph.

As regards point (f)(ii) of the first subparagraph, a Member State shall have the option of including in the definition of interest payment benefits regardless of the composition of performance, if paid by or obtained from a life insurer established within that State.

Where a Member State exercises one or both of the options referred to in the second and third subparagraphs, it shall notify the Commission thereof. The Commission shall publish in the *Official Journal of the European Union* the fact that the option has been exercised and, with effect from the date of such publication, the exercise of the option shall be binding on the other Member States.

2. As regards point (b) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the amount of the income that is paid, realised or credited, the total amount of the payment shall be considered to be an interest payment.

As regards point (c) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the amount of the interest or income that is accrued or capitalised at the sale, refund or redemption, the total amount of the payment shall be considered to be an interest payment.

As regards points (d) and (e) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the proportion of the income which derives from interest payments within the meaning of point (a), (b) or (c) of that subparagraph, the total amount of the income shall be considered to be an interest payment.

As regards point (f) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the amount of the benefit from a life insurance contract, the total amount of the payment shall be considered to be an interest payment.

3. As regards point (e) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the percentage of the assets invested in debt claims or the relevant securities, or in shares or units as defined in that point, that percentage shall be considered to be above 40 %. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

As regards point (f)(ii) of the first subparagraph of paragraph 1, when the paying agent has no information concerning the percentage of performance that is linked to interest payments within the meaning of point (a), (b), (c), (d) or (e) of that subparagraph, that percentage shall be considered to be above 40 %.

4. Where an interest payment as defined in paragraph 1 is made to an entity or a legal arrangement referred to in Article 4(2) or credited to an account held by such entity or legal arrangement, it shall be deemed to accrue to an individual referred to in Article 2(4). In the case of an entity, this applies only if the entity has not exercised the option provided for under Article 4(3).

5. As regards points (c) and (e) of the first subparagraph of paragraph 1, Member States shall have the option of requiring paying agents in their territory to annualise the interest or other relevant income over a period of time which may not exceed one year, and of treating such annualised interest or other relevant income as an interest payment even if no sale, redemption or refund occurs during that period.

6. By way of derogation from points (d) and (e) of the first subparagraph of paragraph 1, Member States shall have the option of excluding from the definition of interest payment any income referred to in those provisions distributed by undertakings or entities or investment funds or schemes having fund rules or instruments of incorporation governed by their law where the direct or indirect investment of such undertakings, entities, funds or schemes in debt claims referred to in point (a) of that subparagraph or in securities referred to in point (b) of that subparagraph has not exceeded 15 % of their assets.

By way of derogation from paragraph 4, Member States shall have the option of excluding from the definition of interest payment in paragraph 1 those interest payments which are made or credited to an account of an entity or a legal arrangement, which is referred to in Article 4(2) and which has its place of effective management within their territory, where the direct or indirect investment of such an entity or a legal arrangement in debt claims referred to in point (a) of the first subparagraph of paragraph 1 or in securities referred to in point (b) of that subparagraph has not exceeded 15 % of its assets. In the case of an entity, this applies only if the entity has not exercised the option provided for under Article 4(3).

Where a Member State exercises one or both of the options referred to in the first and second subparagraphs, it shall notify the Commission thereof. The Commission shall publish in the *Official Journal of the European Union* the fact that the option has been exercised and, with effect from the date of such publication, the exercise of the option shall be binding on the other Member States.

7. The 40 % thresholds referred to in points (e) and (f)(ii) of the first subparagraph of paragraph 1 and in paragraph 3 shall, from 1 January 2016, be 25 %.

8. The percentages referred to in point (e) of the first subparagraph of paragraph 1 and in paragraph 6 shall be determined by reference to the investment policy, or by reference to the investment strategy and objectives, laid down in documentation which governs the operation of the undertakings or entities or investment funds or schemes concerned.

For the purpose of this paragraph, documentation includes:

- (a) the fund rules or instruments of incorporation of the undertakings or entities or investment funds or schemes concerned;
- (b) any agreement, contract or other legal documentation entered into by the undertakings or entities or investment funds or schemes concerned which is made available to an economic operator; and
- (c) any prospectus or similar document issued by or on behalf of the undertakings or entities or investment funds or schemes concerned which is made available to its investors.

Where the documentation does not define an investment policy or investment strategy and objectives, those percentages shall be determined by reference to the actual composition of the assets of the undertakings or entities or investment funds or schemes concerned, as resulting from the average of assets at the beginning, or at the date of their first semi-annual report, and at the end of their last accounting period before the date when the interest payment is made or secured by the paying agent to the beneficial owner. For newly constituted undertakings or entities or investment funds or schemes, such actual composition shall result from the average of assets at the starting date and at the date of the first evaluation of assets as set out in the documentation that governs the operation of the undertakings, entities, funds or schemes concerned.

The composition of the assets shall be measured in accordance with the rules applicable in the Member State or in a country of the European Economic Area which does not belong to the Union, in which an undertaking for collective investment or other collective investment fund or scheme is registered as such or under the law of which its rules or instruments of incorporation are governed. The composition measured as such shall be binding on other Member States.

9. Income referred to in point (b) of the first subparagraph of paragraph 1 shall be considered to be an interest payment only to the extent to which the securities producing that income were first issued on or after 1 July 2014. The securities issued before that date shall not be taken into account for the percentages referred to in point (e) of that subparagraph and in paragraph 6.

10. Benefits from a life insurance contract shall be considered to be an interest payment in accordance with point (f) of the first subparagraph of paragraph 1 only to the extent that the life insurance contract giving rise to such benefits was first subscribed on or after 1 July 2014.

11. Member States shall have the option to consider income referred to in point (e)(i) of the first subparagraph of paragraph 1, realised upon the sale, refund or redemption of shares or units in incorporated undertakings for collective investment which are not UCITS authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council (\*), to be an interest payment only to the extent to which it accrued to those undertakings on or after 1 July 2014.

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(\*) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).;

(6) Article 8 is replaced by the following:

*Article 8*

#### **Information reporting by the paying agent**

1. Where the beneficial owner is resident in a Member State other than that in which the paying agent is established, the minimum amount of information to be reported by the paying agent to the competent authority of its Member State of establishment shall consist of:

- (a) the identity and residence of the beneficial owner established in accordance with Article 3 or, in cases of shared beneficial ownership, the identity and residence of all beneficial owners who fall within the scope of Article 1(1);
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interest payment or of the life insurance contract, security or share or unit giving rise to that payment;
- (d) information concerning the interest payment in accordance with paragraph 2.

Where the beneficial owner is resident in a Member State other than that where the paying agent according to Article 4(2) has its place of effective management, such a paying agent shall provide the competent authority of the Member State where it has its place of effective management, with the information specified in points (a) to (d) of the first subparagraph of this paragraph. In addition, such a paying agent shall report the following:

- (i) the total amount of its interest payments received or secured that is deemed to accrue to its beneficial owners;
- (ii) where an individual becomes a beneficial owner according to point (c) of Article 2(4), the amount that is deemed to accrue to that individual and the date of such deemed accrual.

2. The minimum amount of information concerning interest payment to be reported by the paying agent shall distinguish between the following categories of the interest payment and indicate:

- (a) in the case of an interest payment within the meaning of point (a) of the first subparagraph of Article 6(1): the amount of interest paid or credited;
- (b) in the case of an interest payment within the meaning of point (b) of the first subparagraph of Article 6(1): either the amount of any income paid, realised or credited or the total amount of the payment;

- (c) in the case of an interest payment within the meaning of point (c) or (e) of the first subparagraph of Article 6(1): either the amount of interest or income referred to in those points or the total amount of the proceeds from the sale, redemption or refund;
- (d) in the case of an interest payment within the meaning of point (d) of the first subparagraph of Article 6(1): either the amount of income referred to in that point or the total amount of the distribution;
- (e) in the case of an interest payment within the meaning of Article 6(4): the amount of interest attributable to each of the beneficial owners who fall within the scope of Article 1(1);
- (f) where a Member State exercises the option under Article 6(5): the amount of annualised interest or other relevant income;
- (g) in the case of an interest payment within the meaning of point (f) of the first subparagraph of Article 6(1): either the benefit calculated in accordance with that provision or the total amount of the payment. If, in the case of assignment to a third party, the paying agent has no information about the value conferred: the sum of the payments made to the life insurer under the life insurance contract.

The paying agent shall inform the competent authority of the Member State where it is established or, in the case of a paying agent referred to in Article 4(2), it shall inform the competent authority of the Member State where it has its place of effective management when it reports the total amounts in accordance with points (b), (c), (d) and (g) of the first subparagraph of this paragraph.

3. In the case of shared beneficial ownership, the paying agent shall inform the competent authority of its Member State of establishment or, in the case of a paying agent referred to in Article 4(2), it shall inform the competent authority of the Member State where it has its place of effective management whether the amount reported for each beneficial owner is the full amount attributable to the beneficial owners collectively, the actual share pertaining to the beneficial owner concerned or an equal share.

4. Notwithstanding paragraph 2, Member States may allow paying agents to report only the following:

- (a) in the case of interest payments within the meaning of point (a), (b) or (d) of the first subparagraph of Article 6(1): the total amount of interest or income;
- (b) in the case of interest payments within the meaning of point (c) or (e) of the first subparagraph of Article 6(1): the total amount of the proceeds from the sale, redemption or refund related to such payments;
- (c) in the case of interest payments within the meaning of point (f) of the first subparagraph of Article 6(1): either the benefits about which the competent authority of the Member State of residence of the beneficial owner has not otherwise been informed by the paying agent, either directly or via its fiscal representative or the competent authority of another Member State, pursuant to any legislative provision different from those necessary to implement this Directive, or the total amount paid out under life insurance contracts generating such payments.

The paying agent shall inform whether it reports the total amounts according to points (a), (b) and (c) of the first subparagraph of this paragraph.;

(7) Article 9 is amended as follows:

(a) the following paragraphs are added:

1a. The competent authority of the Member State where the economic operator is established shall communicate the information referred to in the fourth subparagraph of Article 4(2) to the competent authority of another Member State where the entity or legal arrangement has its place of effective management.

1b. Where a paying agent within the meaning of Article 4(2) has changed its place of effective management to another Member State, the competent authority of the first Member State shall communicate the information referred to in the seventh subparagraph of Article 4(2), to the competent authority of the new Member State.;

(b) paragraph 2 is replaced by the following:

'2. The communication of information shall be automatic and shall take place at least once a year, within six months following the end of the tax year of the Member State of the paying agent or economic operator, and shall cover the following events that have taken place during that year:

- (i) all interest payments;
- (ii) all occasions when individuals have become beneficial owners according to Article 2(4);
- (iii) all changes of place of effective management of a paying agent referred to in Article 4(2).';

(8) Article 10 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. During a transitional period starting on the date referred to in Article 17(2) and (3) and subject to Article 13(1), Luxembourg and Austria shall not be required to apply the provisions of Chapter II.

They shall, however, receive information from the other Member States in accordance with Chapter II.

During the transitional period, the aim of this Directive shall be to ensure minimum effective taxation of savings in the form of interest payments made in one Member State to beneficial owners who are individuals resident for tax purposes in another Member State.;

(b) paragraph 3 is replaced by the following:

'3. At the end of the transitional period, Luxembourg and Austria shall be required to apply the provisions of Chapter II and they shall cease to apply the withholding tax and the revenue sharing provided for in Articles 11 and 12. If, during the transitional period, Luxembourg or Austria elects to apply the provisions of Chapter II, it shall no longer apply the withholding tax and the revenue sharing provided for in Articles 11 and 12.;

(9) Article 11 is amended as follows:

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

'1. During the transitional period referred to in Article 10, where the beneficial owner is resident in a Member State other than that in which the paying agent is established, or, in the case of a paying agent referred to in Article 4(2), where such a paying agent has its place of effective management, Luxembourg and Austria shall levy a withholding tax at a rate of 15 % during the first three years of the transitional period, 20 % for the subsequent three years and 35 % thereafter.

2. The paying agent shall levy withholding tax as follows:

- (a) in the case of an interest payment within the meaning of point (a) of the first subparagraph of Article 6(1): on the amount of interest paid or credited;
- (b) in the case of an interest payment within the meaning of point (b) of the first subparagraph of Article 6(1): on the amount of any income paid, realised or credited;
- (c) in the case of an interest payment within the meaning of point (c) or (e) of the first subparagraph of Article 6(1): either on the amount of interest or income referred to in those points or by a levy of equivalent effect to be borne by the beneficial owner on the full amount of the proceeds from the sale, redemption or refund;
- (d) in the case of an interest payment within the meaning of point (d) of the first subparagraph of Article 6(1): on the amount of income referred to in that point;

- (e) in the case of an interest payment within the meaning of Article 6(4): on the amount of interest attributable to each of the beneficial owners who fall within the scope of Article 1(1). The total amount on which tax is levied shall not exceed the amount of the interest payment received or secured by the entity or legal arrangement;
- (f) where a Member State exercises the option under Article 6(5): on the amount of annualised interest or other relevant income;
- (g) in the case of an interest payment within the meaning of point (f) of the first subparagraph of Article 6(1): on the benefit calculated in accordance with that provision. Member States may allow paying agents to levy withholding tax only on the benefits about which the competent authority of the Member State of residence of the beneficial owner has not yet been informed, by the paying agent or its fiscal representatives pursuant to any legislative provision different from those necessary to implement this Directive.

When transferring the revenue of the withholding tax to the competent authority, the paying agent shall inform it of the number of beneficial owners concerned by the levying of the withholding tax classified according to their respective Member States of residence.;

- (b) in paragraph 3, the term 'points (a) and (b) of paragraph 2' becomes 'points (a), (b) and (c) of paragraph 2';
- (c) paragraph 5 is replaced by the following:

'5. During the transitional period, Member States levying withholding tax may provide that an economic operator making an interest payment to, or securing such a payment for, an entity or a legal arrangement referred to in Article 4(2), which has its place of effective management in another Member State, shall be considered to be the paying agent in place of the entity or legal arrangement and shall levy the withholding tax on that interest, unless the entity or legal arrangement has formally agreed to its name if any, its legal form, its place of effective management and the total amount of interest paid to it or secured for it being communicated in accordance with the fourth subparagraph of Article 4(2).';

- (10) Article 13 is replaced by the following:

*'Article 13*

#### **Exceptions to the withholding tax procedure**

1. Member States levying withholding tax in accordance with Article 11 shall provide for the following procedures in order to ensure that a beneficial owner may request that no tax be withheld:

- (a) a procedure which allows the beneficial owner expressly to authorise the paying agent to report information in accordance with Chapter II, such authorisation covering all interest payments attributable to the beneficial owner by that paying agent; in such a case, Article 9 shall apply;
- (b) a procedure which ensures that withholding tax shall not be levied where the beneficial owner presents to his paying agent a certificate drawn up in his name by the competent authority of his Member State of residence for tax purposes in accordance with paragraph 2.

2. At the request of the beneficial owner, the competent authority of his Member State of residence for tax purposes shall issue a certificate indicating:

- (a) the name, address, tax identification number or equivalent, and the date and place of birth of the beneficial owner;
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, the identification of the security.

Such certificate shall be valid for a period not exceeding three years. It shall be issued to any beneficial owner who requests it, within two months following such request.;

(11) Article 14 is amended as follows:

(a) in paragraph 2, the first sentence is replaced by the following:

'If an interest payment attributed to a beneficial owner has been subject to withholding tax in the Member State of the paying agent, the Member State of residence for tax purposes of the beneficial owner shall grant him a tax credit equal to the amount of the tax withheld in accordance with its national law.');

(b) paragraph 3 is replaced by the following:

'3. If, in addition to the withholding tax referred to in Article 11, an interest payment attributed to a beneficial owner has been subject to any other type of withholding tax and the Member State of residence for tax purposes of the beneficial owner grants a tax credit for such withholding tax in accordance with its national law or double taxation conventions, such other withholding tax shall be credited before the procedure set out in paragraph 2 is applied.');

(12) in the second subparagraph of Article 15(1), the term 'the Annex' is replaced by 'Annex III';

(13) the first sentence of Article 18 is replaced by the following:

'The Commission shall report to the Council every three years on the operation of this Directive on the basis of the statistics listed in Annex IV, which shall be provided by each Member State to the Commission.');

(14) the following Articles are inserted:

*Article 18a*

#### **Implementing measures**

1. The Commission may, acting in accordance with the procedure referred to in Article 18b(2), adopt measures for the following purposes:

- (a) specifying the data providers which may be used by paying agents for obtaining the information necessary for the proper treatment, for the purposes of points (b), (d) and (e) of the first subparagraph of Article 6(1);
- (b) establishing common formats and practical arrangements necessary for the electronic exchange of information referred to in Article 9;
- (c) establishing common forms for certificates and other documents that facilitate the application of this Directive, in particular for the documents issued in Member States levying withholding tax, which are used for the purposes of Article 14 by the Member State of residence for tax purposes of the beneficial owner.

2. The Commission shall update the list set out in Annex III at the request of the Member States directly concerned.

*Article 18b*

#### **Committee**

1. The Commission shall be assisted by the Committee on Administrative Cooperation for Taxation ("the Committee").

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.;

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

#### *Article 2*

1. Member States shall adopt and publish, by 1 January 2016, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from the first day of the third calendar year following the calendar year in which this Directive enters into force.

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

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

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 24 March 2014.

*For the Council*  
*The President*  
A. TSAFTARIS

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## ANNEX

The Annex to Directive 2003/48/EC is amended as follows:

- (1) The Annex becomes 'Annex III'.
- (2) The following Annex is inserted as 'Annex I':

'ANNEX I

**Indicative list of categories of entities and legal arrangements which are considered to be not subject to effective taxation, for the purposes of Article 2(3)**

1. Entities and legal arrangements whose place of establishment or place of effective management is in a country or jurisdiction outside the territorial scope of this Directive as defined in Article 7 and which is different from those listed in Article 17(2):

Countries and jurisdictions	Categories of entities and legal arrangements
Antigua and Barbuda	International business company
Anjouan (Comores)	Trust, governed by local or foreign law International business company
The Bahamas	Trust, governed by local or foreign law Foundation International business company
Bahrain	Financial trust, governed by local or foreign law
Barbados	Trust, governed by local or foreign law International business company International Society with Restricted Liability
Belize	Trust, governed by local or foreign law International business company
Bermuda	Trust, governed by local or foreign law Exempt company
Brunei	Trust, governed by local or foreign law International business company International trust International Limited Partnership
Cook Islands	Trust, governed by local or foreign law International trust International company International partnership
Costa Rica	Trust, governed by local or foreign law Company
Djibouti	Exempt company Trust, governed by foreign law

Countries and jurisdictions	Categories of entities and legal arrangements
Dominica	Trust, governed by local or foreign law International business company
Fiji	Trust, governed by local or foreign law
French Polynesia	<i>Société</i> (Company) <i>Société de personnes</i> (Partnership) <i>Société en participation</i> (Joint venture) Trust, governed by foreign law
Grenada	International business company Trust, governed by local or foreign law
Guam	Company Sole proprietorship Partnership Trust, governed by foreign law
Guatemala	Trust, governed by local or foreign law <i>Fundación</i> (Foundation)
Hong Kong	Trust, governed by local or foreign law Private Limited Company
Kiribati	Trust, governed by local or foreign law
Labuan (Malaysia)	Offshore company Malaysian offshore bank, Offshore limited partnership Offshore trust
Lebanon	Companies benefiting from the Offshore company regime Trust, governed by foreign law
Liberia	Non-resident company Trust, governed by local or foreign law
Macao	Trust, governed by local or foreign law <i>Fundação</i> (Foundation)
Maldives	Company Partnership Trust, governed by foreign law
Northern Marianas Islands	Foreign sales corporation Offshore banking corporation Trust, governed by foreign law
Marshall Islands	Trust, governed by local or foreign law International business company
Mauritius	Trust, governed by local or foreign law Global business company categories 1 and 2

Countries and jurisdictions	Categories of entities and legal arrangements
Micronesia	Company Partnership Trust, governed by foreign law
Nauru	Trust/nominee company Company Partnership Sole proprietorship Foreign will Foreign estate Other form of business negotiated with the Government
New Caledonia	<i>Société</i> (Company) <i>Société civile</i> (Civil company) <i>Société de personnes</i> (Partnership) Joint venture Estate of deceased person Trust, governed by foreign law
New Zealand	Trust, governed by foreign law
Niue	Trust, governed by local or foreign law International business company
Panama	<i>Fideicomiso</i> (Trust, governed by local law) and trust governed by foreign law <i>Fundación de interés privado</i> (Foundation) International business company
Palau	Company Partnership Sole proprietorship Representative office Credit union (financial cooperative) Cooperative Trust, governed by foreign law
Philippines	Trust, governed by local or foreign law
Puerto Rico	Estate Trust, governed by local or foreign law International banking entity
Saint Kitts and Nevis	Trust, governed by local or foreign law Foundation Exempt company Exempt Limited Partnership
Saint Lucia	Trust, governed by local or foreign law International business company
Saint Vincent and the Grenadine	Trust, governed by local or foreign law International business company
Sao Tomé e Príncipe	International business company Trust, governed by foreign law

Countries and jurisdictions	Categories of entities and legal arrangements
Samoa	Trust, governed by local or foreign law International trust International company Offshore bank Offshore insurance company International partnership Limited partnership
Seychelles	Trust, governed by local or foreign law International business company
Singapore	Trust, governed by local or foreign law
Solomon Islands	Company Partnership Trust, governed by local or foreign law
South Africa	Trust, governed by local or foreign law
Tonga	Trust, governed by local or foreign law
Tuvalu	Trust, governed by local or foreign law Provident fund
United Arab Emirates	Trust, governed by local or foreign law Offshore company
State of Delaware (USA)	Limited Liability Company
State of Wyoming (USA)	Limited Liability Company
US Virgin Islands	Trust, governed by local or foreign law Exempt company
Uruguay	Trust, governed by local or foreign law <i>Sociedad Anónima Financiera de Inversión</i>
Vanuatu	Trust, governed by local or foreign law Exempt company International company

2. Entities and legal arrangements whose place of establishment or place of effective management is in a country or jurisdiction listed in Article 17(2), to which Article 2(3) applies pending the adoption by the country or jurisdiction concerned of provisions equivalent to those of Article 4(2):

Countries and jurisdictions	Categories of entities and legal arrangements
Andorra	Trust, governed by foreign law
Anguilla	Trust, governed by local or foreign law International business company

Countries and jurisdictions	Categories of entities and legal arrangements
Aruba	Trust, governed by local or foreign law <i>Stichting Particulier Fonds</i>
British Virgin Islands	Trust, governed by local or foreign law Company
Cayman Islands	Trust, governed by local or foreign law Exempt company
Guernsey	Trust, governed by local or foreign law Company Foundation
Isle of Man	Trust, governed by local or foreign law Company
Jersey	Trust, governed by local or foreign law Company Foundation
Liechtenstein	<i>Anstalt</i> (Trust, governed by local law) and trust governed by foreign law <i>Stiftung</i> (Foundation)
Monaco	Trust, governed by foreign law <i>Fondation</i> (Foundation)
Montserrat	Trust, governed by local or foreign law International business company
Netherlands Antilles	Trust, governed by local or foreign law <i>Stichting Particulier Fonds</i>
San Marino	Trust, governed by local or foreign law <i>Fondazione</i> (Foundation)
Switzerland	Trust, governed by foreign law Foundation
Turks and Caicos	Exempted company Limited partnership Trust, governed by local or foreign law.

(3) The following Annex is inserted as 'Annex II':

'ANNEX II

**Indicative list of categories of entities and legal arrangements which are considered to be not subject to effective taxation, for the purposes of Article 4(2)**

Countries	Categories of entities and legal arrangements	Comments
All EU Member States	European Economic Interest Grouping (EEIG)	
Belgium	<ul style="list-style-type: none"> <li>— <i>Société de droit commun/maatschap</i> (Civil law or commercial company without any legal status)</li> <li>— <i>Société momentanée/tijdelijke handelsvennootschap</i> (Company without any legal status whose purpose is to deal with one or several specific commercial operations)</li> <li>— <i>Société interne/stille handelsvennootschap</i> (Company without any legal status through which one or more persons have an interest in operations that one or more other persons manage on their behalf)</li> </ul>	Included only if the upstream economic operator making the interest payment to it, or securing the payment for it, has not established the identity and residence of all its beneficial owners, otherwise it falls within point (d) of Article 4(2). These "companies" (the name of which is given in French and Dutch) do not have legal status, and from the point of view of taxation, a look-through approach is applicable.
	— "Trust" or other similar legal arrangement, governed by foreign law	
Bulgaria	<ul style="list-style-type: none"> <li>— Дружество със специална инвестиционна цел (Special-purpose investment company)</li> <li>— Инвестиционно дружество (Investment company, not covered by Article 6)</li> </ul>	Entity exempt from corporate income tax
	— "Trust" or other similar legal arrangement, governed by foreign law	Unless the trustee can prove that the trust is actually subject to Bulgarian income taxation
Czech Republic	<ul style="list-style-type: none"> <li>— <i>Veřejná obchodní společnost (veř. obch. spol. or v.o. s.)</i> (Partnership)</li> <li>— <i>Sdružení</i> (Association)</li> <li>— <i>Komanditní společnost</i></li> <li>— "Trust" or other similar legal arrangement, governed by foreign law</li> </ul>	
Denmark	<ul style="list-style-type: none"> <li>— <i>Interessentskab</i> (General partnership)</li> <li>— <i>Kommanditselskab</i> (Limited partnership)</li> <li>— <i>Kommanditaktieselskab/Partnerselskab</i></li> <li>— <i>Partrederi</i></li> <li>— "Trust" or other similar legal arrangement, governed by foreign law</li> </ul>	
Germany	<ul style="list-style-type: none"> <li>— <i>Gesellschaft bürgerlichen Rechts</i> (Civil law company)</li> <li>— <i>Kommanditgesellschaft — KG, offene Handelsgesellschaft — OHG</i> (Commercial partnership)</li> <li>— "Trust" or other similar legal arrangement, governed by foreign law</li> </ul>	
Estonia	<ul style="list-style-type: none"> <li>— <i>Seltsing</i> (Partnership)</li> <li>— "Trust" or other similar legal arrangement, governed by foreign law</li> </ul>	

Countries	Categories of entities and legal arrangements	Comments
Ireland	— Partnership and investment club	Irish resident trustee is generally taxable on income arising to the trust. However, where the beneficiary or trustee is a non-Irish resident, only Irish source income arising in such cases is taxable.
Greece	— Ομόρρυθμος εταιρεία (OE) (General partnership) — Ετερόρρυθμος εταιρεία (EE) (Limited partnership)	Partnerships are subject to corporate income tax. However, up to 50 % of the profits of partnerships is taxed in the hands of the individual partners at their personal tax rate.
	— “Trust” or other similar legal arrangement, governed by foreign law	
Spain	— Entities subject to the system for taxing attribution of profits: — <i>Sociedad civil con o sin personalidad jurídica</i> (Civil law partnership with or without legal personality), — <i>Herencias yacentes</i> (Estate of a deceased person), — <i>Comunidad de bienes</i> (Joint ownership). — Other entities without legal personality that constitute a separate economic unit or a separate group of assets (Article 35(4) of the <i>Ley General Tributaria</i> ). — “Trust” or other similar legal arrangement, governed by foreign law	
France	— <i>Société en participation</i> (Joint venture company) — <i>Société ou association de fait</i> (De facto company) — <i>Indivision</i> (Joint ownership) — <i>Fiducie</i> — “Trust” or other similar legal arrangement, governed by foreign law	
Italy	— All Civil law partnerships and assimilated entities	The category of Civil law partnerships includes: “ <i>società in accomandita semplice</i> ”, “ <i>società semplici</i> ”, <i>associazioni</i> (associations) among artists or professional persons for the practice of their art or profession, without legal personality “ <i>società in nome collettivo</i> ”, “ <i>società di fatto</i> ” (irregular or “de facto” partnerships) and “ <i>società di armamento</i> ”
	— Companies with a limited number of shareholders opting for fiscal transparency	The “tax transparency” regime may be adopted by limited liability companies or cooperative societies whose members are individuals (Article 116 of TUIR).
	— “Trust” or other similar legal arrangement, governed by foreign law	Unless the trustee can provide documentation proving that the trust is fiscally resident and subject to effective corporate taxation in Italy.

Countries	Categories of entities and legal arrangements	Comments
Cyprus	— Συνεταιρισμός (Partnership) — Σύνδεσμος or σωματείο (Association)	
	— Συνεργατικές (Cooperative)	Only transactions with members.
	— “Trust” or other similar legal arrangement, governed by local or foreign law	Trusts created under Cypriot jurisdiction are considered transparent entities under national law.
Latvia	— <i>Pilnsabiedrība</i> (General partnership) — <i>Komandītsabiedrība</i> (Limited partnership) — <i>Biedrība un nodibinājums</i> (Association and foundation) — <i>Lauksaimniecības kooperatīvs</i> (Agriculture cooperative) — “Trust” or other similar legal arrangement, governed by foreign law	
Lithuania	— “Trust” or other similar legal arrangement, governed by foreign law	
Luxembourg	— “Trust” or other similar legal arrangement, governed by foreign law	
Hungary	— “Trust” or other similar legal arrangement, governed by foreign law	Hungary recognises trusts as “entities” under national rules
Malta	— <i>Soċjetà In Akkomandita</i> (Partnership “ <i>en commandite</i> ”), the capital of which is not divided into shares — Arrangement in participation (Association “ <i>en participation</i> ”) — <i>Soċjetà Kooperattiva</i> (Cooperative society)	Partnerships “ <i>en commandite</i> ” the capital of which is divided into shares are subject to general CIT.
The Netherlands	— <i>Vennootschap onder firma</i> (General partnership) — <i>Commanditaire vennootschap</i> (Closed limited partnership)	General partnerships, closed partnerships and EEIGs are transparent for tax purposes.
	— <i>Vereniging</i> (Association) — <i>Stichting</i> (Foundation)	<i>Verenigingen</i> (Associations) and <i>stichtingen</i> (foundations) are tax exempt unless they carry on a trade or business.
	— “Trust” or other similar legal arrangement, governed by foreign law	
Austria	— <i>Offene Gesellschaft (OG)</i> (general partnership) — <i>Offene Handelsgesellschaft (OHG)</i> (commercial partnership) — <i>Kommanditgesellschaft (KG)</i> (limited partnership) — <i>Gesellschaft nach bürgerlichem Recht</i> (civil law partnership) — “Trust” or other similar legal arrangement, governed by foreign law	

Countries	Categories of entities and legal arrangements	Comments
Poland	<ul style="list-style-type: none"> <li>— <i>Spółka jawna (Sp. j.)</i> (General partnership)</li> <li>— <i>Spółka komandytowa (Sp. k.)</i> (Limited partnership)</li> <li>— <i>Spółka komandytowo-akcyjna (S.K.A.)</i> (Limited joint-stock partnership)</li> <li>— <i>Spółka partnerska (Sp. p.)</i> (Professional partnership)</li> <li>— <i>Spółka cywilna (s.c.)</i> (civil law company)</li> <li>— “Trust” or other similar legal arrangement, governed by foreign law</li> </ul>	
Portugal	<ul style="list-style-type: none"> <li>— Civil law partnerships not incorporated in a commercial form</li> <li>— Incorporated firms engaged in listed professional activities in which all partners are individuals qualified in the same profession</li> <li>— Companies merely holding assets which are either controlled by a family group or fully owned by no more than five persons;</li> </ul>	
	<ul style="list-style-type: none"> <li>— Companies licensed to operate on the International Business Centre of Madeira eligible for exemption from IRC (Article 33 of the EBF)</li> </ul>	Article 33 of EBF, applicable to companies licensed until 31 December 2000, provides for an exemption from corporate income tax until 31 December 2011.
	<ul style="list-style-type: none"> <li>— Unincorporated associations</li> </ul>	
	<ul style="list-style-type: none"> <li>— “Trust” or other similar legal arrangement, governed by foreign law</li> </ul>	The only trusts admitted under Portuguese law are those set up under foreign law by legal persons in the International Business Centre of Madeira.
Romania	<ul style="list-style-type: none"> <li>— <i>Association</i> (partnership)</li> <li>— <i>Cooperative</i> (Cooperative)</li> <li>— “Trust” or other similar legal arrangement, governed by foreign law</li> </ul>	
Slovenia	<ul style="list-style-type: none"> <li>— “Trust” or other similar legal arrangement, governed by foreign law</li> </ul>	
Slovak Republic	<ul style="list-style-type: none"> <li>— <i>Verejná obchodná spoločnosť</i> (General partnership)</li> <li>— <i>Komanditná spoločnosť</i> (Limited partnership)</li> <li>— <i>Združenie</i> (Association)</li> <li>— “Trust” or other similar legal arrangement, governed by foreign law</li> </ul>	

Countries	Categories of entities and legal arrangements	Comments
Finland	<ul style="list-style-type: none"> <li>— <i>avoin yhtiö/öppet bolag</i> (Partnership)</li> <li>— <i>kommandiittiyhtiö/kommanditbolag</i> (Limited partnership)</li> <li>— “Trust” or other similar legal arrangement, governed by foreign law</li> </ul>	
Sweden	<ul style="list-style-type: none"> <li>— <i>handelsbolag</i> (General partnership)</li> <li>— <i>kommanditbolag</i> (Limited partnership)</li> <li>— <i>enkelt bolag</i> (Simple partnership)</li> <li>— “Trust” or other similar legal arrangement, governed by foreign law</li> </ul>	
United Kingdom	<ul style="list-style-type: none"> <li>— General partnership</li> <li>— Limited partnership</li> <li>— Limited liability partnership</li> </ul>	General partnerships, limited partnerships; limited liability partnerships are transparent for tax purposes.
	<ul style="list-style-type: none"> <li>— Investment club (where members are entitled to a specific share of assets)</li> </ul>	
Gibraltar <sup>(1)</sup>	<ul style="list-style-type: none"> <li>— “Trust” or other similar legal arrangement, governed by local or foreign law</li> </ul>	<p>Trust income is exempt from tax under the Income Tax Rules 1992 if:</p> <p>(a) the trust is created by or on behalf of a non-resident person; and</p> <p>(b) the income,</p> <ul style="list-style-type: none"> <li>— is accrued or derived outside Gibraltar, or</li> <li>— is received by a trust and if it had been received directly by the beneficiary, it would not be liable to tax under the Income Tax Ordinance.</li> </ul> <p>This does not apply if the trust is created before 1 July 1983 and the terms of the trust expressly exclude residents of Gibraltar as beneficiaries.</p>

<sup>(1)</sup> The United Kingdom is the Member State responsible for the external relations of Gibraltar, under the terms of Article 355(3) of the Treaty on the Functioning of the European Union.’

(4) The following Annex is added as ‘Annex IV’:

‘ANNEX IV

**LIST OF ITEMS FOR STATISTICAL PURPOSES TO BE PROVIDED ANNUALLY BY MEMBER STATES TO THE COMMISSION**

**1. Economic items**

**1.1. Withholding tax:**

For Austria and Luxembourg (as long as they apply the transitional provisions set out in Chapter III), the total annual amount of tax revenue shared from the withholding tax, split by Member State of residence of the beneficial owners.

For Austria and Luxembourg (as long as they apply the transitional provisions set out in Chapter III), the total annual amount of tax revenue shared with the other Member States from the withholding tax levied under Article 11(5).

Data on the total amounts collected from the withholding tax, split by Member State of residence of the beneficial owners, should also be sent to the national institution in charge of compiling balance of payments statistics.

#### 1.2. Amount of interest payments/sales proceeds:

For the Member States exchanging information or having opted for the voluntary disclosure provision under Article 13, the amount of interest payments within their territory which is subject to exchange of information under Article 9, split by Member State or Dependant and Associated Territory of residence of the beneficial owners.

For the Member States exchanging information or having opted for the voluntary disclosure provision under Article 13, the amount of sales proceeds within their territory which is subject to exchange of information under Article 9, split by Member State or Dependant and Associated Territory of residence of the beneficial owners.

For Member States exchanging information or having opted for the voluntary disclosure mechanism, the amount of interest payments subject to exchange of information, split by type of interest payments according to the categories set out in Article 8(2).

The data related to the total amounts of interest payments and sales proceeds, split by Member State of residence of the beneficial owners, should be communicated also to the national institution in charge of the compilation of Balance of Payments statistics.

#### 1.3. Beneficial owner:

For all Member States, the number of beneficial owners resident in other Member States and Dependent and Associated Territories, split by Member State or Dependant and Associated Territory of residence.

#### 1.4. Paying agents:

For all Member States, the number of paying agents (per sending Member State) involved in exchange of information or withholding tax for the purposes of this Directive.

#### 1.5. Paying agents upon receipt:

For all Member States, the number of paying agents upon receipt having received interest payments within the meaning of Article 6(4). This concerns both sending Member States, in which interest payments have been made to paying agents upon receipt whose effective place of management is in other Member States, and receiving Member States, who have such entities or legal arrangements on their territory.

### 2. **Technical items**

#### 2.1. Records:

For the Member States exchanging information or having opted for the voluntary disclosure provision of Article 13, the number of records sent and received. One record means one payment for one beneficial owner.

#### 2.2. Processed/corrected records:

Number and percentage of syntactically invalid records that can be processed;

Number and percentage of syntactically invalid records that cannot be processed;

Number and percentage of non-processed records;

Number and percentage of records corrected upon request;

Number and percentage of records corrected spontaneously;

Number and percentage of records processed successfully.

3. **Optional items:**

- 3.1. For the Member States, the amount of interest payments to entities or legal arrangements which is made subject to exchange of information under Article 4(2), split by Member State of the entity's place of effective management.
  - 3.2. For the Member States, the amount of sales proceeds to entities or legal arrangements which is made subject to exchange of information under Article 4(2), split by Member State of establishment of the entity.
  - 3.3. The respective shares of total annual tax collected from resident taxpayers on interest payments made to them by domestic paying agents and by foreign paying agents.'
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# DECISIONS

## COUNCIL DECISION 2014/212/CFSP

of 14 April 2014

### amending Decision 2013/183/CFSP concerning restrictive measures against the Democratic People's Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to Council Decision 2013/183/CFSP of 22 April 2013 concerning restrictive measures against the Democratic People's Republic of Korea <sup>(1)</sup>, and in particular Article 19 thereof,

Whereas:

- (1) On 22 April 2013, the Council adopted Decision 2013/183/CFSP.
- (2) In accordance with Article 22(2) of Decision 2013/183/CFSP, the Council has carried out a review of the list of persons and entities, as set out in Annexes II and III to Decision 2013/183/CFSP, to which points (b) and (c) of Article 13(1) and points (b) and (c) of Article 15(1) of that Decision apply. The Council has concluded that, with the exception of one person listed in Annex II, the persons and entities concerned should continue to be subject to the measures provided for in that Decision.
- (3) In addition, the entry concerning one entity which is listed in Annex I should be removed from Annex II.
- (4) Furthermore, Article 22 should be amended.
- (5) In addition, on 31 December 2013, the Sanctions Committee established pursuant to United Nations Security Council Resolution 1718 (2006) concerning the Democratic People's Republic of Korea, updated the list of individuals and entities subject to restrictive measures.
- (6) The lists of persons and entities set out in Annexes I and II to Decision 2013/183/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Decision 2013/183/CFSP is hereby amended as follows:

- (1) in Article 22, paragraph 2 is replaced by the following:

‘2. The measures referred to in points (b) and (c) of Article 13(1) and points (b) and (c) of 15(1) shall be reviewed at regular intervals and at least every 12 months. They shall cease to apply in respect of the persons and entities concerned if the Council determines, in accordance with the procedure referred to in Article 19(2), that the conditions for their application are no longer met.’

- (2) Annexes I and II to Decision 2013/183/CFSP are amended as set out in the Annex to this Decision.

<sup>(1)</sup> OJ L 111, 23.4.2013, p. 52.

*Article 2*

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

Done at Luxembourg, 14 April 2014.

*For the Council*  
*The President*  
C. ASHTON

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## ANNEX

1. In Annex I to Decision 2013/183/CFSP, the following heading is inserted:

'List of persons referred to in Article 13(1)(a) and of persons and entities referred to in Article 15(1)(a).'

2. In Annex I to Decision 2013/183/CFSP, the subheading 'A. List of persons referred to in Article 13(1)(a)' is replaced by the following subheading:

'A. Persons'.

3. The entries for the following persons set out in Annex I to Decision 2013/183/CFSP are replaced by the entries below:

	Name	Alias	Date of birth	Date of designation	Other information
1.	Chang Myong- Chin	Jang Myong-Jin	D.O.B. 19 February 1968; Alt. D.O.B. 1965 or 1966	22.1.2013	General Manager of the Sohae Satellite Launching Station and head of launch center at which the 13 April and 12 December 2012 launches took place.
2.	Ra Ky'ong-Su	Ra Kyung-Su	D.O.B. 4 June 1954; Passport: 645120196	22.1.2013	Ra Ky'ong-Su is a Tanchon Commercial Bank (TCB) official. In this capacity he has facilitated transactions for TCB. Tanchon was designated by the Sanctions Committee in April 2009 as the main DPRK financial entity responsible for sales of conventional arms, ballistic missiles, and goods related to the assembly and manufacture of such weapons.
3.	Kim Kwang-il		D.O.B. 1 September 1969; Passport: PS381420397	22.1.2013	Kim Kwang-il is a Tanchon Commercial Bank (TCB) official. In this capacity, he has facilitated transactions for TCB and the Korea Mining Development Trading Corporation (KOMID). Tanchon was designated by the Sanctions Committee in April 2009 as the main DPRK financial entity responsible for sales of conventional arms, ballistic missiles, and goods related to the assembly and manufacture of such weapons. KOMID was designated by the Sanctions Committee in April 2009 and is the DPRK's primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons.'

4. In Annex I to Decision 2013/183/CFSP, the subheading 'B. List of entities referred to in Article 15(1)(a)' is replaced by the following subheading:

'B. Entities'.

5. The entries for the following entities set out in Annex I to Decision 2013/183/CFSP are replaced by the entries below:

	Name	Alias	Location	Date of designation	Other information
1.	Korea Ryonha Machinery Joint Venture Corporation	Chosun Yunha Machinery Joint Operation Company; Korea Ryenha Machinery J/V Corporation; Ryonha Machinery Joint Venture Corporation; Ryonha Machinery Corporation; Ryonha Machinery; Ryonha Machine Tool; Ryonha Machine Tool Corporation; Ryonha Machinery Corp; Ryonhwa Machinery Joint Venture Corporation; Ryonhwa Machinery JV; Huichon Ryonha Machinery General Plant; Unsan; Unsan Solid Tools; and Millim Technology Company	Tongan-dong, Central District, Pyongyang, DPRK; Mangungdae-gu, Pyongyang, DPRK; Mangyongdae District, Pyongyang, DPRK.  Email addresses: ryonha@silibank.com; sjc-117@hotmail.com; and millim@silibank.com  Telephone numbers: 850-2-18111; 850-2-18111-8642; and 850 2 18111-3818642  Facsimile number: 850-2-381-4410	22.1.2013	Korea Ryonbong General Corporation is the parent company of Korea Ryonha Machinery Joint Venture Corporation. Korea Ryonbong General Corporation was designated by the Sanctions Committee in April 2009 and is a defence conglomerate specializing in acquisition for DPRK defence industries and support to that country's military-related sales.'

6. The person and entity listed below are deleted from the list set out in Annex II to Decision 2013/183/CFSP:

A. Persons

1. Chang Song-taek

B. Entities

1. Korea Complex Equipment Import Corporation

**COUNCIL DECISION 2014/213/CFSP**  
**of 14 April 2014**  
**amending Decision 2010/638/CFSP concerning restrictive measures against the Republic of Guinea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 25 October 2010, the Council adopted Decision 2010/638/CFSP concerning restrictive measures against the Republic of Guinea <sup>(1)</sup>.
- (2) In view of the developments in the Republic of Guinea, the arms embargo and the embargo on equipment which might be used for internal repression should be lifted.
- (3) Decision 2010/638/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

In Decision 2010/638/CFSP, Articles 1 and 2 are deleted.

*Article 2*

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

Done at Luxembourg, 14 April 2014.

*For the Council*  
*The President*  
C. ASHTON

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<sup>(1)</sup> OJ L 280, 26.10.2010, p. 10.

**COUNCIL DECISION 2014/214/CFSP**  
**of 14 April 2014**  
**amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 29 thereof,

Whereas:

- (1) On 22 April 2013, the Council adopted Decision 2013/184/CFSP <sup>(1)</sup>.
- (2) On the basis of a review of Decision 2013/184/CFSP, the restrictive measures should be renewed until 30 April 2015.
- (3) Decision 2013/184/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2013/184/CFSP is hereby amended as follows:

Article 3 is replaced by the following:

*'Article 3*

This Decision shall apply until 30 April 2015. It shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.'

*Article 2*

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

Done at Luxembourg, 14 April 2014.

*For the Council*

*The President*

C. ASHTON

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<sup>(1)</sup> Council Decision 2013/184/CFSP of 22 April 2013 concerning restrictive measures against Myanmar/Burma and repealing Decision 2010/232/CFSP (OJ L 111, 23.4.2013, p. 75).

**COUNCIL DECISION**  
**of 14 April 2014**  
**providing macro-financial assistance to Ukraine**

(2014/215/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 213 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Relations between the European Union and Ukraine are developing within the framework of the European Neighbourhood Policy (ENP) and the Eastern Partnership. The Partnership and Cooperation Agreement between the Union and Ukraine entered into force on 1 March 1998. Bilateral political dialogue and economic cooperation have been further developed within the framework of the EU-Ukraine Association Agenda adopted on 23 November 2009. An Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part ('the Association Agreement'), including a Deep and Comprehensive Free Trade Area (DCFTA), was negotiated from 2007 to 2011 and was initialled in 2012. On 21 November 2013, the Cabinet of Ministers of Ukraine decided to suspend the signing of the Association Agreement. However, since the resignation of the Ukrainian government in February 2014, the current Ukrainian government has declared its willingness to sign the Association Agreement in the near future. On 6 March 2014, the European Council declared in its Statement on Ukraine its commitment to sign very shortly all political chapters of the Association Agreement, and to unilaterally adopt measures allowing Ukraine to benefit substantially from the DCFTA.

The proposal for a Regulation of the European Parliament and of the Council to that effect was adopted by the Commission on 11 March 2014.

- (2) The current political crisis has very damaging effects on Ukraine's already precarious economic and financial stability. Ukraine is facing a very weak and rapidly worsening balance-of-payments and fiscal situation, with the economy moving into recession again. The de facto interruption of Russia's assistance under its USD 15 billion package, and the announced end to the reduced gas prices previously granted by the company Gazprom from April 2014 will cause the situation to deteriorate even further. In such circumstances, Ukraine faces a serious risk of default in the near future.
- (3) Following the resignation of the previous government, a new interim President and a new government were appointed by the Ukrainian Parliament on 22 and 27 February 2014 respectively. Even though the Ukrainian Constitution of 2004 was reinstated and presidential elections were announced for 25 May 2014, Ukraine could not return to political stability, since its sovereignty and territorial integrity have recently been violated by the Russian Federation.
- (4) In this context, Ukraine requires urgent financial assistance by international creditors and donors. If the decision to provide such financial assistance was to be adopted by the European Parliament and by the Council in accordance with Article 212 of the Treaty on the Functioning of the European Union (TFEU) under the ordinary legislative procedure, the rapid disbursement of the Union's macro-financial assistance to Ukraine ('the Union's macro-financial assistance') in the first half of 2014 would not be possible, and would thus not address the urgent financial needs of Ukraine. It is, therefore, justified to provide the Union's macro-financial assistance on the basis of a Council Decision adopted pursuant to Article 213 TFEU.
- (5) The urgency of the assistance is related to Ukraine's immediate need for funds, in addition to those which will be provided by other international financial institutions and other bilateral donors and to the macro-financial assistance provided for by Council Decision 2002/639/EC <sup>(1)</sup> and Decision No 646/2010/EU of the European Parliament and of the Council <sup>(2)</sup>.

<sup>(1)</sup> Council Decision 2002/639/EC of 12 July 2002 providing supplementary macro-financial assistance to Ukraine (OJ L 209, 6.8.2002, p. 22).

<sup>(2)</sup> Decision No 646/2010/EU of the European Parliament and of the Council of 7 July 2010 providing macrofinancial assistance to Ukraine (OJ L 179, 14.7.2010, p. 1).

- (6) The current crisis in Ukraine justifies the exceptional use of the urgent procedure under Article 213 TFEU. This Decision providing macro-financial assistance to Ukraine is without prejudice to other future macro-financial assistance operations.
- (7) Since the resignation of the Ukrainian government, the Union has, on various occasions, declared its commitment to support the new Ukrainian government in its aims to stabilise the situation and pursue the course of reforms. The Union has also declared its readiness to fully support efforts of the international community and international financial institutions, especially the International Monetary Fund (IMF), with regard to an international assistance package designed to address the urgent needs of Ukraine, conditional on Ukraine's clear commitment to reforms. Financial support from the Union to Ukraine is consistent with the Union's policy as set out in the ENP and in the Eastern Partnership.
- (8) The Union's macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support, which aims at addressing the beneficiary's immediate external financing needs and should underpin the implementation of a policy programme containing strong immediate adjustment and structural reform measures designed to improve the balance-of-payments position in the short term.
- (9) The Ukrainian authorities and the IMF are expected to agree shortly on an economic programme that will be supported by a financing arrangement with the IMF.
- (10) On 5 March 2014, in view of the drastically worsening balance-of-payments situation in Ukraine, the Commission announced a support package, which included the proposed Union's macro-financial assistance. That package was endorsed by the Extraordinary European Council on 6 March 2014. That package includes financial assistance in the amount of EUR 11 billion for the period 2014-2020, including a total amount of up to EUR 1,565 billion in grants for the same period mobilised under the European Neighbourhood Instrument, the Neighbourhood Investment Facility, the Instrument contributing to Stability and Peace and the budget of the Common Foreign and Security Policy.

The disbursement of the macro-financial assistance provided for by Decision 2002/639/EC and Decision No 646/2010/EU can take place as soon as the IMF programme is in place.

- (11) Given that Ukraine is a country covered by the ENP, it is eligible to receive the Union's macro-financial assistance.
- (12) Given that the drastically worsening external financing needs of Ukraine are expected to be well above the resources that will be provided by the IMF and other multilateral institutions, the urgent Union's macro-financial assistance to be provided to Ukraine is, under the current exceptional circumstances, considered to be an appropriate response to Ukraine's request to support financial stabilisation. The Union's macro-financial assistance would support the economic stabilisation and the structural reform agenda of Ukraine, supplementing resources made available under the IMF financial arrangement.
- (13) The Union's macro-financial assistance should aim to support the restoration of a sustainable external financing situation for Ukraine, thereby supporting its economic and social development.
- (14) The amount of the Union's macro-financial assistance is based on a preliminary estimate of Ukraine's residual external financing needs and takes into account its capacity to finance itself with its own resources, in particular the international reserves at its disposal. The Union's macro-financial assistance should complement the programmes and resources provided by the IMF and the World Bank. The determination of the amount of the assistance also takes into account the need to ensure fair burden-sharing between the Union and other donors, as well as the pre-existing deployment of the Union's other external financing instruments in Ukraine and the added value of the overall Union involvement.
- (15) The Commission should ensure that the Union's macro-financial assistance is legally and substantially in line with the key principles, objectives and measures taken in the different areas of external action and other relevant Union policies.
- (16) The Union's macro-financial assistance should support the Union's external policy towards Ukraine. The Commission services and the European External Action Service should work closely together throughout the macro-financial assistance operation in order to coordinate, and to ensure the consistency of, Union external policy.
- (17) The Union's macro-financial assistance should support Ukraine's commitment to values shared with the Union, including democracy, the rule of law, good governance, respect for human rights, sustainable development and poverty reduction, as well as its commitment to the principles of open, rule-based and fair trade.

- (18) A pre-condition for granting the Union's macro-financial assistance should be that Ukraine respects effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and guarantees respect for human rights. In addition, the specific objectives of the Union's macro-financial assistance should strengthen the efficiency, transparency and accountability of the public finance management systems in Ukraine and promote structural reforms aimed at supporting sustainable growth and fiscal consolidation. Both fulfilment of the pre-condition and the achievement of those objectives should be regularly monitored by the Commission.
- (19) In order to ensure that the Union's financial interests linked to the Union's macro-financial assistance are protected efficiently, Ukraine should take appropriate measures relating to the prevention of, and fight against, fraud, corruption and any other irregularities linked to the assistance. In addition, provision should be made for the Commission to carry out checks and for the Court of Auditors to carry out audits.
- (20) Release of the Union's macro-financial assistance is without prejudice to the powers of the European Parliament and of the Council.
- (21) The amounts of the provision required for macro-financial assistance should be consistent with the budgetary appropriations provided for in the multiannual financial framework.
- (22) The Union macro-financial assistance should be managed by the Commission. In order to ensure that the European Parliament and the Council are able to follow the implementation of this Decision, the Commission should regularly inform them of developments relating to the assistance and provide them with relevant documents.
- (23) In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The Union shall make macro-financial assistance available to Ukraine of a maximum amount of EUR 1 billion, with a view to supporting Ukraine's economic stabilisation and reforms ('the Union's macro-financial assistance'). The assistance shall contribute to covering Ukraine's urgent balance-of-payments needs as identified in the government's economic programme supported by the IMF.
2. The full amount of the Union's macro-financial assistance shall be provided to Ukraine in the form of loans. The Commission shall be empowered on behalf of the Union to borrow the necessary funds on the capital markets or from financial institutions and to on-lend them to Ukraine. The loans shall have a maximum maturity of 15 years.
3. The release of the Union's macro-financial assistance shall be managed by the Commission in a manner consistent with the agreements or understandings reached between the IMF and Ukraine, and with the key principles and objectives of economic reforms set out in the EU-Ukraine Association Agenda, agreed under the ENP.
4. The Commission shall regularly inform the European Parliament and the Council of developments regarding the Union's macro-financial assistance, including disbursements thereof, and shall provide those institutions with the relevant documents in due time.
5. The Union's macro-financial assistance shall be made available for a period of one year, starting from the first day after the entry into force of the Memorandum of Understanding referred to in Article 3(1) of this Decision. The availability period may be extended by a decision of the Council on a proposal from the Commission.
6. Where the financing needs of Ukraine decrease fundamentally during the period of the disbursement of the Union's macro-financial assistance compared to the initial projections, the Commission, acting in accordance with the examination procedure referred to in Article 7(2), shall reduce the amount of the assistance or suspend or cancel it.

<sup>(1)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

*Article 2*

A pre-condition for granting the Union's macro-financial assistance shall be that Ukraine respects effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and guarantees respect for human rights.

The Commission shall monitor the fulfilment of this pre-condition throughout the life-cycle of the Union's macro-financial assistance.

This Article shall be applied in accordance with Council Decision 2010/427/EU <sup>(1)</sup>.

*Article 3*

1. The Commission, in accordance with the examination procedure referred to in Article 7(2), shall agree with the Ukrainian authorities on clearly defined economic policy and financial conditions, focusing on structural reforms and sound public finances, to which the Union's macro-financial assistance is to be subject, to be laid down in a Memorandum of Understanding which shall include a timeframe for the fulfilment of those conditions.

The economic policy and financial conditions set out in the Memorandum of Understanding shall be consistent with the agreements or understandings referred to in Article 1(3), including the macro-economic adjustment and structural reform programmes implemented by Ukraine, with the support of the IMF.

2. Those conditions shall aim, in particular, to enhance the efficiency, transparency and accountability of the public finance management systems in Ukraine, including for the use of the Union's macro-financial assistance. Progress in mutual market opening, the development of rules-based and fair trade and other priorities in the context of the Union's external policy shall also be duly taken into account when designing the policy measures. Progress in attaining those objectives shall be regularly monitored by the Commission.

3. The detailed financial terms of the Union's macro-financial assistance shall be laid down in a Loan Agreement to be agreed between the Commission and the Ukrainian authorities.

4. The Commission shall verify at regular intervals that the conditions laid down in Article 4(3) continue to be met, including that the economic policies of Ukraine are in accordance with the objectives of the Union's macro-financial assistance. In so doing, the Commission shall coordinate closely with the IMF and the World Bank, and, where necessary, with the European Parliament and the Council.

*Article 4*

1. Subject to the conditions in paragraph 3, the Union's macro-financial assistance shall be made available by the Commission in two instalments. The size of each instalment shall be laid down in the Memorandum of Understanding. If, exceptionally, circumstances so require, the Union macro-financial assistance may be made available in one single loan instalment.

2. The amounts of the Union's macro-financial assistance shall be provisioned, where required, in accordance with Council Regulation (EC, Euratom) No 480/2009 <sup>(2)</sup>.

3. The Commission shall decide on the release of the loan instalments subject to the fulfilment of all of the following conditions:

- (a) the pre-condition set out in Article 2;
- (b) a continuous satisfactory track record of implementing a policy programme that contains adjustment and structural reform measures supported by a non-precautionary IMF credit arrangement;
- (c) the implementation, within a specific time-frame, of the economic policy and financial conditions agreed in the Memorandum of Understanding.

In case a second instalment is foreseen, it shall not take place earlier than three months after the release of the first instalment.

<sup>(1)</sup> Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

<sup>(2)</sup> Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).

4. Where the conditions in paragraph 3 are not met, the Commission shall temporarily suspend or cancel the disbursement of the Union's macro-financial assistance. In such cases, it shall inform the European Parliament and the Council of the reasons for that suspension or cancellation.
5. The Union's macro-financial assistance shall be disbursed to the National Bank of Ukraine.
6. The disbursement shall start immediately as soon as the IMF programme is in place.

#### Article 5

1. The borrowing and lending related to the Union's macro-financial assistance shall be carried out in euro, using the same value date, and shall not involve the Union in the transformation of maturities, or expose it to any exchange or interest rate risk, or to any other commercial risk.
2. Where the circumstances permit, and if Ukraine so requests, the Commission may take the steps necessary to ensure that an early repayment clause is included in the loan terms and conditions, and that it is matched by a corresponding clause in the terms and conditions of the borrowing operations.
3. Where circumstances permit an improvement of the interest rate of the loan, and if Ukraine so requests, the Commission may decide to refinance all or part of its initial borrowings, or may restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with paragraphs 1 and 4, and shall not have the effect of extending the maturity of the borrowings concerned or of increasing the amount of capital outstanding at the date of the refinancing or restructuring.
4. All costs incurred by the Union which relate to the borrowing and lending under this Decision shall be borne by Ukraine.
5. The Commission shall inform the European Parliament and the Council of developments in the operations referred to in paragraphs 2 and 3.

#### Article 6

1. The Union's macro-financial assistance shall be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(1)</sup> and Commission Delegated Regulation (EU) No 1268/2012 <sup>(2)</sup>.
2. The implementation of the Union's macro-financial assistance shall be under direct management.
3. The Memorandum of Understanding and the Loan Agreement to be agreed with the Ukrainian authorities shall contain provisions:
  - (a) ensuring that Ukraine regularly checks that financing provided from the budget of the Union has been properly used, takes appropriate measures to prevent irregularities and fraud, and, if necessary, takes legal action to recover any funds provided under this Decision that have been misappropriated;
  - (b) ensuring the protection of the Union's financial interests, in particular providing for specific measures in relation to the prevention of, and fight against, fraud, corruption and any other irregularities affecting the Union's macro-financial assistance, in accordance with Council Regulation (EC, Euratom) No 2988/95 <sup>(3)</sup>, Council Regulation (Euratom, EC) No 2185/96 <sup>(4)</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(5)</sup>;

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>(2)</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

<sup>(3)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>(4)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>(5)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

- (c) expressly authorising the Commission, including the European Anti-Fraud Office, or its representatives to carry out checks, including on-the-spot checks and inspections;
  - (d) expressly authorising the Commission and the Court of Auditors to perform audits during and after the availability period of the Union's macro-financial assistance, including document audits and on-the-spot audits, such as operational assessments; and
  - (e) ensuring that the Union is entitled to early repayment of the loan where it has been established that, in relation to the management of the Union's macro-financial assistance, Ukraine has engaged in any act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union.
4. During the implementation of the Union's macro-financial assistance, the Commission shall monitor, by means of operational assessments, the soundness of Ukraine's financial arrangements, the administrative procedures, and the internal and external control mechanisms which are relevant to the assistance.

*Article 7*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 8*

1. By 30 June of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Decision in the preceding year, including an evaluation of that implementation. That report shall:
  - (a) examine the progress made in implementing the Union's macro-financial assistance;
  - (b) assess the economic situation and prospects of Ukraine, as well as progress made in implementing the policy measures referred to in Article 3(1);
  - (c) indicate the connection between the economic policy conditions laid down in the Memorandum of Understanding, Ukraine's ongoing economic and fiscal performance and the Commission's decisions to release the instalments of the Union's macro-financial assistance.
2. Not later than two years after the expiry of the availability period referred to in Article 1(5), the Commission shall submit to the European Parliament and to the Council an ex post evaluation report, assessing the results and efficiency of the completed Union's macro-financial assistance and the extent to which it has contributed to the aims of the assistance.

*Article 9*

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

Done at Luxembourg, 14 April 2014.

*For the Council*  
*The President*  
C. ASHTON

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**COUNCIL IMPLEMENTING DECISION 2014/216/CFSP****of 14 April 2014****implementing Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 31(2) thereof,

Having regard to Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine <sup>(1)</sup>, and in particular Article 2(1) thereof,

Whereas:

- (1) On 5 March 2014, the Council adopted Decision 2014/119/CFSP.
- (2) Additional persons should be included in the list of persons, entities and bodies subject to restrictive measures as set out in the Annex to Decision 2014/119/CFSP.
- (3) In addition, the identifying information for three persons listed in the Annex to Decision 2014/119/CFSP should be amended.
- (4) The Annex to Decision 2014/119/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

The persons listed in Annex I to this Decision shall be added to the list set out in the Annex to Decision 2014/119/CFSP.

*Article 2*

The Annex to Decision 2014/119/CFSP is hereby amended as set out in Annex II to this Decision.

*Article 3*

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

Done at Luxembourg, 14 April 2014.

*For the Council*

*The President*

C. ASHTON

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<sup>(1)</sup> OJ L 66, 6.3.2014, p. 26.

## ANNEX I

## Persons referred to in Article 1

	Name	Identifying information	Statement of reasons	Date of listing
19.	Serhiy Arbuzov	Born on 24 March 1976, former Prime Minister of Ukraine.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014
20.	Yuriy Ivanyushchenko	Born on 21 February 1959, Party of Regions MP.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014
21.	Oleksandr Klymenko	Born on 16 November 1980, former Minister of Revenues and Charges.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014
22.	Edward Stavvytskyi	Born on 4 October 1972, former Minister of Fuel and Energy of Ukraine.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	15.4.2014

## ANNEX II

The entries for the following persons listed in the Annex to Decision 2014/119/CFSP are replaced by the entries below:

	Name	Identifying information	Statement of reasons	Date of listing
9.	Oleksandr Viktorovych Yanukovych	Born on 10 July 1973, son of former President, businessman.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	6.3.2014
12.	Serhii Petrovych Kliuiev	Born on 19 August 1969, brother of Mr Andrii Kliuiev, businessman.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	6.3.2014
14.	Oleksii Mykolayovych Azarov	Born on 13 July 1971, son of former Prime Minister Azarov.	Person subject to investigation in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.	6.3.2014

**COMMISSION IMPLEMENTING DECISION****of 11 April 2014****on a financial contribution from the Union towards emergency measures to combat sheep pox in Bulgaria in 2013 and in Greece in 2013 and 2014***(notified under document C(2014) 2334)***(Only the Bulgarian and Greek texts are authentic)**

(2014/217/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field <sup>(1)</sup>, and in particular Article 3 thereof,

Whereas:

- (1) Sheep pox is an infectious viral disease of sheep and goats with a severe impact on the profitability of ovine farming causing disturbance to trade within the Union and export to third countries.
- (2) In the event of an outbreak of sheep pox, there is a risk that the disease agent spreads to other ovine holdings within that Member State and also to other Member States and to third countries through trade in live ovine or their products.
- (3) Council Directive 92/119/EEC <sup>(2)</sup> sets out measures which in the event of an outbreak have to be immediately implemented by Member States as a matter of urgency to prevent further spread of the virus and to eradicate the disease.
- (4) In accordance with Article 84 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(3)</sup>, the commitment of expenditure from the Union budget shall be preceded by a financing decision setting out the essential elements of the action involving expenditure and adopted by the institution or the authorities to which powers have been delegated by the institution.
- (5) Decision 2009/470/EC lays down the procedures governing the financial contribution from the Union towards specific veterinary measures, including emergency measures. Pursuant to Article 3 of that Decision, Member States shall obtain a financial contribution towards the costs of certain measures to eradicate sheep pox.
- (6) Article 3(6) of Decision 2009/470/EC lays down rules on the percentage of the costs incurred by the Member State that may be covered by the financial contribution from the Union.
- (7) The payment of a financial contribution from the Union towards emergency measures to eradicate sheep pox is subject to the rules laid down in Commission Regulation (EC) No 349/2005 <sup>(4)</sup>.
- (8) Outbreaks of sheep pox occurred in Bulgaria in 2013 and in Greece in 2013 and 2014. Bulgaria and Greece have taken measures in accordance with Directive 92/119/EEC to combat those outbreaks.

<sup>(1)</sup> OJ L 155, 18.6.2009, p. 30.

<sup>(2)</sup> Council Directive 92/119/EEC of 17 December 1992 introducing Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ L 62, 15.3.1993, p. 69).

<sup>(3)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>(4)</sup> Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC (OJ L 55, 1.3.2005, p. 12).

- (9) The authorities of Bulgaria and Greece informed the Commission and the other Member States in the framework of the Standing Committee on the Food Chain and Animal Health of the measures applied in accordance with Union legislation on notification and eradication of the disease and the results thereof.
- (10) The authorities of Bulgaria and Greece have therefore fulfilled their technical and administrative obligations with regard to the measures provided for in Article 3(4) of Decision 2009/470/EC and Article 6 of Regulation (EC) No 349/2005.
- (11) At this stage, the exact amount of the financial contribution from the Union cannot be determined. Based on the last information sent by the concerned Member States, the cost of compensation and on operational expenditure provided are estimated at EUR 79 186,33 and EUR 1 484 304,16 respectively for Bulgaria and Greece.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

**Financial contribution from the Union to Bulgaria and Greece**

1. A financial contribution from the Union up to a maximum EUR of 40 000,00 shall be granted to Bulgaria towards the costs incurred by this Member State in taking measures pursuant to Article 3(2) and (6) of Decision 2009/470/EC to combat sheep pox in 2013.
2. A financial contribution from the Union up to a maximum of EUR 700 000,00 shall be granted to Greece towards the costs incurred by this Member State in taking measures pursuant to Article 3(2) and (6) of Decision 2009/470/EC to combat sheep pox in 2013 and 2014.
3. The final amount of the financial contribution mentioned in paragraphs 1 and 2 shall be fixed in a subsequent decision to be adopted in accordance with the procedure established in Article 40(2) of Decision 2009/470/EC.

*Article 2*

**Payment arrangements**

A first tranche of EUR 310 000,00, to be financed from budget line 17 04 04 of the financial budget of the EU for 2014, shall be paid to Greece as part of the Union financial contribution provided for in Article 1(2).

*Article 3*

**Addressees**

This Decision is addressed to the Republic of Bulgaria and to the Hellenic Republic.

Done at Brussels, 11 April 2014.

*For the Commission*  
Tonio BORG  
*Member of the Commission*

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**CORRIGENDA****Corrigendum to Commission Implementing Regulation (EU) No 368/2014 of 10 April 2014 amending Regulation (EC) No 474/2006 establishing the Community list of air carriers which are subject to an operating ban within the Community**

(Official Journal of the European Union L 108 of 11 April 2014)

On page 33, in the signature:

*for:* 'Joaquín ALMUNIA',

*read:* 'Siim KALLAS'.

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**Corrigendum to the Definitive adoption of the European Union's general budget for the financial year 2014**

(Official Journal of the European Union L 51 of 20 February 2014)

On pages I/171 to I/173:

*for:* 'Differentiated appropriations',

*read:* 'Non-differentiated appropriations';

on page I/267, Chapter 1 2, in the remarks:

*for:* 'A standard abatement of 3,7 % ...',

*read:* 'A standard abatement of 3 % ...';

on pages I/484 to I/493:

*for:* 'Differentiated appropriations',

*read:* 'Non-differentiated appropriations';

on pages I/528 to I/530 with the exception of Items 2 2 3 8 and 2 2 3 9:

*for:* 'Differentiated appropriations',

*read:* 'Non-differentiated appropriations'.

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