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Contents

I *Legislative acts*

DIRECTIVES

- ★ **Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement ⁽¹⁾** 1

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council ⁽¹⁾** 12
- ★ **Commission Implementing Regulation (EU) No 453/2014 of 29 April 2014 concerning the classification of certain goods in the Combined Nomenclature** 27
- ★ **Commission Implementing Regulation (EU) No 454/2014 of 29 April 2014 repealing Implementing Regulation (EU) No 1066/2010 concerning the classification of certain goods in the Combined Nomenclature** 29
- ★ **Commission Implementing Regulation (EU) No 455/2014 of 29 April 2014 concerning the classification of certain goods in the Combined Nomenclature** 31
- ★ **Commission Implementing Regulation (EU) No 456/2014 of 29 April 2014 concerning the classification of certain goods in the Combined Nomenclature** 33
- ★ **Commission Implementing Regulation (EU) No 457/2014 of 29 April 2014 concerning the classification of certain goods in the Combined Nomenclature** 35

⁽¹⁾ Text with EEA relevance

EN

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

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

★ Commission Implementing Regulation (EU) No 458/2014 of 29 April 2014 concerning the classification of certain goods in the Combined Nomenclature	39
★ Commission Implementing Regulation (EU) No 459/2014 of 29 April 2014 amending certain regulations on the classification of goods in the Combined Nomenclature	43
★ Commission Regulation (EU) No 460/2014 of 5 May 2014 amending Regulation (EU) No 823/2012 as regards the expiry date of the approval of the active substance cyfluthrin ⁽¹⁾	51
Commission Implementing Regulation (EU) No 461/2014 of 5 May 2014 establishing the standard import values for determining the entry price of certain fruit and vegetables	53

⁽¹⁾ Text with EEA relevance

I

(Legislative acts)

DIRECTIVES

DIRECTIVE 2014/55/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 16 April 2014****on electronic invoicing in public procurement****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Several global, national, regional and proprietary standards on electronic invoices exist and are currently used in Member States. None of those standards prevails, and most of them are not interoperable with one another.
- (2) In the absence of a common standard, Member States decide, when promoting the use of electronic invoices in public procurement or making their use mandatory, to develop their own technical solutions based on separate national standards. Hence, the number of different standards coexisting across Member States is increasing and is likely to continue increasing in the future.
- (3) The multiplicity of non-interoperable standards results in excessive complexity, legal uncertainty and additional operating costs for economic operators using electronic invoices across Member States. Economic operators wishing to carry out cross-border procurement activities are often required to comply with a new electronic invoicing standard each time they access a new market. Since they discourage economic operators from undertaking cross-border procurement activities, the divergent legal and technical requirements concerning electronic invoices constitute market access barriers in cross-border public procurement, and obstacles to trade. They obstruct the fundamental freedoms and thus have a direct effect on the functioning of the internal market.
- (4) Those obstacles to intra-Union trade are likely to increase in the future as more non-interoperable national and proprietary standards are developed and as the use of electronic invoices in public procurement becomes more widespread or is made mandatory in Member States.

⁽¹⁾ OJ C 79, 6.3.2014, p. 67.

⁽²⁾ Opinion of 28 November 2013 (not yet published in the Official Journal).

⁽³⁾ Position of the European Parliament of 11 March 2014 (not yet published in the Official Journal) and decision of the Council of 14 April 2014.

- (5) The obstacles to cross-border trade deriving from the co-existence of several legal requirements and technical standards on electronic invoicing and from the lack of interoperability should be removed or reduced. In order to achieve that objective, a common European standard for the semantic data model of the core elements of an electronic invoice (the 'European standard on electronic invoicing') should be developed. The standard should set out and describe the core elements which an electronic invoice must always contain, thus facilitating the sending and receipt of electronic invoices between systems based on different technical standards. Provided that they do not conflict with this European standard, existing national technical standards should neither be replaced, nor should their use be restricted, by this standard, and it should remain possible to continue to apply them in parallel with the European standard.
- (6) By ensuring semantic interoperability and improving legal certainty, this Directive will promote the uptake of electronic invoicing in public procurement, thereby allowing Member States, contracting authorities, contracting entities, and economic operators to generate significant benefits in terms of savings, environmental impact, and reduction of administrative burdens.
- (7) The benefits of electronic invoicing are maximised when the generation, sending, transmission, reception and processing of an invoice can be fully automated. For this reason, only machine-readable invoices which can be processed automatically and digitally by the recipient should be considered to be compliant with the European standard on electronic invoicing. A mere image file should not be considered to be an electronic invoice for the purpose of this Directive.
- (8) The goal of interoperability is to allow for the presentation and processing of information in a consistent manner between business systems, regardless of their technology, application or platform. Full interoperability includes the ability to interoperate on three distinct levels: in terms of the content of the invoice (semantics), the format or language used (syntax), and the method of transmission. Semantic interoperability implies that the electronic invoice contains a certain amount of required information, and that the precise meaning of the exchanged information is preserved and understood in an unambiguous manner, independently of the way in which it is physically represented or transmitted. Syntactic interoperability implies that the data elements of an electronic invoice are presented in a format which can be exchanged directly between the sender and recipient and processed automatically. Syntactic interoperability can be ensured in one of two ways, namely through the use of a common syntax or by means of mapping between different syntaxes.
- (9) There are a large number of syntaxes in use. More and more, syntactic interoperability is ensured by means of mapping. This method is effective if the invoice contains all the required data elements at the semantic level and if their meaning is unambiguous. Since that is frequently not the case, action is required to ensure interoperability at semantic level. In order to further simplify the use of electronic invoicing and to reduce costs, one of the long-term objectives should be to limit the number of syntaxes used, preferably by concentrating on those most commonly used.
- (10) The standardisation of electronic invoicing also complements efforts to promote the uptake of electronic procurement as reflected in the relevant provisions of Directive 2014/24/EU of the European Parliament and of the Council ⁽¹⁾ and Directive 2014/25/EU of the European Parliament and of the Council ⁽²⁾.
- (11) The European Council, in its conclusions of 28 and 29 June 2012 and 24 October 2013, stated that priority should be given to measures aimed at further developing cross-border online trade and the modernisation of public administrations, including by facilitating the transition to, and through the swift implementation of, electronic invoicing.
- (12) The European Parliament, in its resolution of 20 April 2012, pointed at market fragmentation resulting from national rules on electronic invoicing, underlined the substantial benefits offered by electronic invoicing and stressed the importance of legal certainty, a clear technical environment and open and interoperable electronic invoicing solutions based on common legal requirements, business processes and technical standards. For these

⁽¹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽²⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

reasons, the European Parliament called for making electronic invoicing in public procurement mandatory by 2016.

- (13) The European Multi-Stakeholder Forum on Electronic Invoicing (e-invoicing), set up by Commission Decision of 2 November 2010 ⁽¹⁾, unanimously adopted a Recommendation on the use of a semantic data model to support interoperability for electronic invoicing in October 2013.
- (14) This Directive should apply to electronic invoices received by contracting authorities and contracting entities and issued as a result of the performance of contracts to which Directive 2009/81/EC of the European Parliament and of the Council ⁽²⁾, Directive 2014/23/EU of the European Parliament and of the Council ⁽³⁾, Directive 2014/24/EU or Directive 2014/25/EU applies. Only electronic invoices issued by the economic operator to whom the public contract or concession contract has been awarded (the main contractor) should be covered by this Directive. However, when Member States provide for direct payment to subcontractors pursuant to Article 71 of Directive 2014/24/EU and Article 88 of Directive 2014/25/EU, the arrangements to be determined in the procurement documents should include provisions concerning whether or not electronic invoicing is to be used in respect of payments to subcontractors. It should be clarified that, when a contract is awarded to a group of economic operators, this Directive applies to electronic invoices issued both by the group and by the individual economic operators.
- (15) This Directive should also apply to concession contracts involving payment which require invoices to be issued by the economic operator to whom the concession contract has been awarded. The term 'concessions' is defined in point 1 of Article 5 of Directive 2014/23/EU. The object of concessions contracts is the procurement of works or services by means of a concession, the consideration of which consists in the right to exploit the works or services or in that right together with payment.
- (16) This Directive is subject to Article 346 of the Treaty on the Functioning of the European Union. This Directive does not apply to electronic invoices issued as a result of the performance of contracts (declared secret or accompanied by special security measures) which are excluded from the scope of Directive 2014/23/EU, Directive 2014/24/EU and Directive 2014/25/EU pursuant to Articles 10(6), 15(3) and 24(3) thereof respectively. Under the same conditions, a specific exclusion should be provided in this Directive for electronic invoices issued as a result of the performance of such contracts (declared secret or accompanied by special security measures), which fall within the scope of Directive 2009/81/EC.
- (17) The definitions used in this Directive should be in line with other Union legislation on public procurement.
- (18) The Commission should apply the relevant provisions of Regulation (EU) No 1025/2012 of the European Parliament and of the Council ⁽⁴⁾ to request that the relevant European standardisation organisation draft a European standard on electronic invoicing. Pursuant to the relevant provisions of Regulation (EU) No 1025/2012, the Commission's decision laying down such a request is subject to the examination procedure referred to in Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁵⁾.
- (19) The European standard on electronic invoicing should be based on existing technical specifications developed within the framework of European standardisation organisations such as CEN (CWA 16356-MUG and CWA 16562-CEN BII), and should take into account other relevant technical specifications developed within the framework of international standardisation organisations, such as UN/CEFACT (CII v. 2.0) and ISO (Financial Invoice

⁽¹⁾ Commission Decision of 2 November 2010 setting up the European Multi-Stakeholder Forum on Electronic Invoicing (e-invoicing) (OJ C 326, 3.12.2010, p. 13).

⁽²⁾ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

⁽³⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁽⁴⁾ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

⁽⁵⁾ 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).

based on the ISO 20022 methodology). In carrying out the standardisation request, the relevant European standardisation organisation should also take into account the results of Large-Scale Pilot Projects implemented within the framework of the Policy Support Programme of the Competitiveness and Innovation Framework Programme (CIP) and other relevant bodies' and organisations' technical specifications on electronic invoicing that are widely used by the business community. The European standard on electronic invoicing should also be compatible with the existing standards for payments in order to allow for the automatic processing of payments.

- (20) In its request to the relevant European standardisation organisation, the Commission should require that the European standard on electronic invoicing be technologically neutral in order to avoid any distortion of competition, that it be compatible with relevant international standards on electronic invoicing in order to prevent suppliers from third countries encountering technical market access barriers and to make it easier for European suppliers to send electronic invoices to buyers in third countries, and that it comply with Council Directive 2006/112/EC ⁽¹⁾. Since electronic invoices may contain personal data, the Commission should also require that the European standard on electronic invoicing takes account of the protection of personal data, in accordance with Directive 95/46/EC of the European Parliament and of the Council ⁽²⁾ and the principles of data protection by design, proportionality and data minimisation. In addition to those minimum requirements, the Commission should determine, in its request to the relevant European standardisation organisation, further requirements as to the content of the European standard on electronic invoicing and a deadline for its adoption.
- (21) In order to ensure that small and medium-sized enterprises can also benefit from electronic invoicing in public procurement, the European standard on electronic invoicing should make it possible to set up user-friendly electronic invoicing systems, namely ones which are easy to understand and easy to use. In this respect, the fact that small and medium-sized enterprises, in particular, as well as smaller contracting authorities and contracting entities have limited staff and financial resources should also be taken into account.
- (22) The European standard on electronic invoicing should also be suitable for use in commercial transactions between enterprises. Therefore, in order to allow private economic operators to use the new standard in their business dealings with one another, the Commission should ensure that the standard is not developed in a way which makes it suitable for use solely in the area of public procurement.
- (23) Invoices issued in different business sectors may require the inclusion of information specific to those sectors. Nevertheless, a limited number of common standard elements should be included in all invoices. The presence of those elements is indispensable for verifying whether the invoice properly reflects the underlying business transaction and ensuring that the invoice is legally valid. A list of such elements required for VAT purposes is provided by Directive 2006/112/EC. The European standard on electronic invoicing should be consistent with this set of elements.
- (24) The European standard on electronic invoicing should define semantic data elements referring, in particular, to complementary seller and buyer data, process identifiers, invoice attributes, invoice item details, delivery information, and payment details and terms. The core elements of an electronic invoice should be included in every electronic invoice. This should ensure the clear and uniform application of electronic invoicing.
- (25) While the sender of an electronic invoice should continue to have the possibility to guarantee the authenticity of the origin and the integrity of the content of the invoice by several methods, including by means of an electronic signature, in order to ensure compliance with Directive 2006/112/EC, the European standard on electronic invoicing should not contain as one of its elements a requirement for an electronic signature.
- (26) In order to avoid excessive costs and burdens for contracting authorities and contracting entities, the relevant European standardisation organisation should be requested to identify a list with a limited number of syntaxes which comply with the European standard on electronic invoicing. That list should not form part of the European standard on electronic invoicing. The identified syntaxes must already be widely and successfully used by

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁽²⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

economic operators and contracting authorities. In order to facilitate and accelerate implementation by Member States, the relevant European standardisation organisation should be requested to provide appropriate syntax bindings from the European standard on electronic invoicing to all syntaxes identified in the list. Syntax bindings are guidelines on how the standard could be represented in the various syntaxes. This standardisation deliverable should complement the European standard on electronic invoicing and the list of syntaxes.

- (27) In order to facilitate the use of the European standard on electronic invoicing, the European standardisation organisation should also be requested to draft guidelines on transmission interoperability. Those guidelines should not form part of the European standard on electronic invoicing or be binding on contracting authorities and contracting entities.
- (28) Prior to the introduction of the European standard on electronic invoicing in the Member States, the practical application of the standard should be sufficiently tested. This assessment should be done during the drawing up of the standard. That assessment should involve end users, and should address, in particular, aspects of practicality and user-friendliness, and should demonstrate that the standard can be implemented in a cost efficient and proportionate manner.
- (29) Where the European standard on electronic invoicing and the list of syntaxes complying with the standard drawn up by the relevant European standardisation organisation satisfy the requirements contained in the Commission's request to the European standardisation organisation, and where the standard has been tested, the references of the European standard on electronic invoicing and the list of syntaxes should be published in the *Official Journal of the European Union*.
- (30) The provisions on the development of the standard and the other standardisation deliverables laid down in this Directive are in line with the relevant provisions of Regulation (EU) No 1025/2012. However, taking into account the specificities of this Directive, it is appropriate to provide that the decisions to publish, not to publish or to publish with restriction the references to the standard and the list of syntaxes be adopted in accordance with the examination procedure. This should however be without prejudice to the application of the relevant provisions of Regulation (EU) No 1025/2012 concerning formal objections to harmonised standards.
- (31) European standardisation organisations regularly review and update standards in order to respond to technological developments. In light of the rapid nature of such developments in the ICT sector, the Commission should also be able to request that the relevant European standardisation organisation revise and update the European standard on electronic invoicing in order to take those developments into account and to ensure continuing interoperability.
- (32) In order to respond to technological developments or market requirements, the Commission should be able to adopt an implementing act to review and update the list of syntaxes. In the case of more complex adjustments, the Commission should also be able to request that the relevant European standardisation organisation revise and update the list of syntaxes.
- (33) Where it considers it necessary to ensure full and ongoing interoperability, to take into account technological developments or to limit the number of syntaxes to be used, the Commission should be able to review a list of syntaxes already published. In so doing, the Commission should take into account the list of syntaxes identified, reviewed and updated by the relevant European standardisation organisation.
- (34) Upon the expiry of the transposition deadlines laid down in this Directive, contracting authorities and contracting entities should be obliged to receive and process electronic invoices which comply with the European standard on electronic invoicing and with any of the syntaxes on the list published by the Commission in the *Official Journal of the European Union*. Contracting authorities and contracting entities should therefore not refuse electronic invoices which meet the above conditions solely on the grounds of non-compliance with requirements (for example national or sector-specific requirements, or additional technical requirements of any kind) other than those specifically provided for in this Directive. However, other compelling grounds for refusal, such as those relating to contractual conditions, should not be affected by this obligation. Before paying the invoice, contracting authorities and contracting entities should in any case remain free to verify whether the content of the electronic invoice correctly reflects the underlying business transaction (for example whether the invoice amount is correct) and whether the invoice has been addressed to the correct recipient. The obligation to not refuse electronic invoices in accordance with this Directive is without prejudice to Directive 2011/7/EU of the European Parliament and of the Council⁽¹⁾.

⁽¹⁾ Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ L 48, 23.2.2011, p. 1).

- (35) This Directive should only require recipients of an invoice, i.e. contracting authorities, central purchasing bodies and contracting entities, to accept and process electronic invoices. This Directive should be without prejudice to the right of the sender of the invoice to choose between submitting the invoice in accordance with the European standard on electronic invoicing, in accordance with national or other technical standards, or in paper format. However, this Directive should not prevent Member States from mandating that only electronic invoices be submitted in the framework of public procurement. Where the sender chooses to submit the invoice using the European standard on electronic invoicing, the recipient's obligation to receive and process should only apply if the invoice is in one of the syntaxes included on the list of syntaxes published by the Commission in the *Official Journal of the European Union*. This should be without prejudice to the sender using the services of a third party to translate between its own syntax and one of those on the list.
- (36) The European Data Protection Supervisor has been consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁾ and issued an opinion on 11 November 2013 ⁽²⁾. In his opinion he published recommendations for ensuring adequate data protection in the application of this Directive. Those recommendations should be borne in mind when drawing up the European standard on electronic invoicing and in the processing of personal data by contracting authorities and contracting entities. In particular, it should be made clear that existing data protection laws also apply in the area of electronic invoicing and that the publication of personal data for transparency and accountability purposes must be in keeping with the protection of privacy.
- (37) Since Directive 2006/112/EC contains rules on invoicing, including on electronic invoicing, its relationship with this Directive should be clarified. This Directive pursues a different objective, has a scope of application different from that of Directive 2006/112/EC and hence, it does not affect the provisions on the use of electronic invoices for VAT purposes contained therein. In particular, Article 232 of Directive 2006/112/EC governs the relations between trading parties and aims to ensure that the use of electronic invoices by the sender cannot be imposed on the recipient. However, this should be without prejudice to the right of Member States to impose on contracting authorities and contracting entities an obligation to receive electronic invoices under certain conditions.
- (38) In order to allow contracting authorities and contracting entities to properly prepare and take the technical measures that, following the establishment of the European standard on electronic invoicing and the approval of the list of syntaxes, are necessary to comply with this Directive, and in view of the necessity for swift implementation of electronic invoicing, a transposition deadline of 18 months following the publication of the reference of the European standard on electronic invoicing and the list of syntaxes in the *Official Journal of the European Union* should be considered justified. By derogation from this general transposition deadline and in order to facilitate the take up of electronic invoicing for certain contracting authorities, such as local and regional contracting authorities and public undertakings, Member States should be allowed to postpone the application of this Directive for sub-central contracting authorities and contracting entities until 30 months following the publication of the reference of the European standard on electronic invoicing and the list of syntaxes in the *Official Journal of the European Union*. This possibility to postpone the application of the requirements of this Directive should not apply to central purchasing bodies.
- (39) In order to facilitate the implementation of the requirements of this Directive for contracting authorities and contracting entities, the Commission should ensure that Member States are kept fully and regularly informed of the progress of work in terms of the development of the standard and the related standardisation deliverables to be undertaken by the relevant European standardisation organisation. This should allow the Member States to undertake the necessary preparatory work with a view to completing implementation within the agreed deadlines.
- (40) Since contracting authorities and contracting entities will be able to accept electronic invoices which comply with standards other than the European standard on electronic invoicing as well as paper invoices unless otherwise provided in national legislation, this Directive does not place any additional costs or burden on enterprises, including micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC ⁽³⁾. Furthermore, the Commission and the Member States should make every effort to minimise the

⁽¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽²⁾ OJ C 38, 8.2.2014, p. 2.

⁽³⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

cost of the European standard on electronic invoicing for its users, in particular for micro, small and medium-sized enterprises, so as to facilitate its uptake across the European Union.

- (41) When implementing this Directive, Member States should take into account the needs of small and medium-sized enterprises and smaller contracting authorities and contracting entities, and offer to all contracting authorities, contracting entities and suppliers the necessary support so that the European standard on electronic invoicing can be used. Moreover, training measures should be provided, in particular for small and medium-sized enterprises.
- (42) In order to facilitate the technical and procedural adaptations which need to be undertaken by all parties involved in public procurement to ensure the successful implementation of this Directive Member States should, where possible, make Structural Fund assistance available to all eligible contracting authorities, contracting entities, and small and medium-sized enterprises.
- (43) In order to ensure uniform conditions for the implementation of this Directive, and for the drawing up, the restriction and the review of the list of syntaxes, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. The examination procedure should be used for the adoption of the implementing acts concerning the list of syntaxes given that they serve to facilitate the application of the European standard on electronic invoicing and ensure interoperability and rapid response to technological developments. The examination procedure should also be used for the adoption of implementing acts with respect to the objections to the European standard on electronic invoicing, given that those acts could have consequences for the obligation to receive and process electronic invoices.
- (44) Since the objectives of this Directive, namely the removal of market barriers and obstacles to trade deriving from the existence of differing national rules and standards and ensuring interoperability, cannot be sufficiently achieved by the Member States but can therefore 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,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

This Directive shall apply to electronic invoices issued as a result of the performance of contracts to which Directive 2009/81/EC, Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU applies.

This Directive shall not apply to electronic invoices issued as a result of the performance of contracts falling within the scope of Directive 2009/81/EC, where the procurement and performance of the contract are declared to be secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in a Member State, and provided that the Member State has determined that the essential interests concerned cannot be guaranteed by less intrusive measures.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) 'electronic invoice' means an invoice that has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing;
- (2) 'core elements of an electronic invoice' means a set of essential information components which an electronic invoice must contain in order to enable cross-border interoperability, including the necessary information to ensure legal compliance;
- (3) 'semantic data model' means a structured and logically interrelated set of terms and their meanings that specify the core elements of an electronic invoice;

- (4) 'syntax' means the machine readable language or dialect used to represent the data elements contained in an electronic invoice;
- (5) 'syntax bindings' means guidelines on how a semantic data model for an electronic invoice could be represented in the various syntaxes;
- (6) 'contracting authorities' means contracting authorities as defined in point 17 of Article 1 of Directive 2009/81/EC, Article 6(1) of Directive 2014/23/EU and point (1) of Article 2(1) of Directive 2014/24/EU;
- (7) 'sub-central contracting authorities' means sub-central contracting authorities as defined in point (3) of Article 2(1) of Directive 2014/24/EU;
- (8) 'central purchasing body' means central purchasing body as defined in point (16) of Article 2(1) of Directive 2014/24/EU;
- (9) 'contracting entities' means contracting entities as defined in point 17 of Article 1 of Directive 2009/81/EC, Article 7(1) and (2) of Directive 2014/23/EU and Article 4(1) of Directive 2014/25/EU;
- (10) 'international standard' means an international standard as defined in point (a) of Article 2(1) of Regulation (EU) No 1025/2012;
- (11) 'European standard' means a European standard as defined in point (b) of Article 2(1) of Regulation (EU) No 1025/2012.

Article 3

Establishment of a European standard

1. The Commission shall request that the relevant European standardisation organisation draft a European standard for the semantic data model of the core elements of an electronic invoice (the 'European standard on electronic invoicing').

The Commission shall require that the European standard on electronic invoicing complies at least with the following criteria:

- it is technologically neutral,
- it is compatible with relevant international standards on electronic invoicing,
- it has regard to the need for personal data protection in accordance with Directive 95/46/EC, to a 'data protection by design' approach and to the principles of proportionality, data minimisation and purpose limitation,
- it is consistent with the relevant provisions of Directive 2006/112/EC,
- it allows for the establishment of practical, user-friendly, flexible and cost-efficient electronic invoicing systems,
- it takes into account the special needs of small and medium-sized enterprises as well as of sub-central contracting authorities and contracting entities,
- it is suitable for use in commercial transactions between enterprises.

The Commission shall request that the relevant European standardisation organisation provide a list with a limited number of syntaxes which comply with the European standard on electronic invoicing, the appropriate syntax bindings and guidelines on transmission interoperability, in order to facilitate the use of such standard.

The requests shall be adopted in accordance with the procedure laid down in Article 10(1) to (5) of Regulation (EU) No 1025/2012.

As part of the work to develop the standard by the relevant European standardisation organisation, and within the timeline identified in paragraph 2, the standard shall be tested as to its practical application for an end user. The Commission shall retain overall responsibility for the testing and shall ensure that, during the performance of the test, special account be taken of the respect for the criteria of practicality, user-friendliness and possible implementation costs in accordance with the second subparagraph of paragraph 1. The Commission shall submit a report on the outcome of the test to the European Parliament and the Council.

2. Where the European standard on electronic invoicing, drawn up in accordance with the request referred to in paragraph 1, satisfies the requirements contained therein and where a test phase in accordance with the fifth subparagraph of paragraph 1 has been completed, the Commission shall publish the reference to the standard in the *Official Journal of the European Union*, together with the list of a limited number of syntaxes drawn up in accordance with the request referred to in paragraph 1. That publication shall be completed by 27 May 2017.

Article 4

Formal objections to the European standard

1. Where a Member State or the European Parliament considers that the European standard on electronic invoicing and the list of syntaxes do not entirely satisfy the requirements set out in Article 3(1), it shall inform the Commission thereof with a detailed explanation, and the Commission shall decide:

- (a) to publish, not to publish, or to publish with restriction the references to the European standard on electronic invoicing and the list of syntaxes concerned in the *Official Journal of the European Union*;
- (b) to maintain, to maintain with restriction or to withdraw the references to the European standard on electronic invoicing and to the list of syntaxes concerned in, or from, the *Official Journal of the European Union*.

2. The Commission shall publish on its website information on the European standard on electronic invoicing and the list of syntaxes that have been subject to the decision referred to in paragraph 1.

3. The Commission shall inform the European standardisation organisation concerned of the decision referred to in paragraph 1 and, if necessary, shall request the revision of the European standard on electronic invoicing or list of syntaxes concerned.

4. The decisions referred to in point (a) and point (b) of paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 10(2).

Article 5

Maintenance and further development of the European standard and the list of syntaxes

1. In order to take into account technological developments and to ensure full and ongoing interoperability in electronic invoicing in public procurement, the Commission may:

- (a) update or revise the European standard on electronic invoicing;
- (b) update or revise the list of syntaxes published by the Commission in the *Official Journal of the European Union*.

2. Where the Commission decides to undertake the action referred to in point (a) of paragraph 1, it shall make a request to the relevant European standardisation organisation. That request shall be made in accordance with the procedure referred to in Article 3(1) without applying the deadlines provided for therein.

3. Article 4 shall apply to any update or revision undertaken in accordance with point (a) of paragraph 1.

4. Where the Commission decides to undertake the action referred to in point (b) of paragraph 1, it shall do so either in accordance with the examination procedure referred to in Article 10(2) or by making a request to the relevant European standardisation organisation. Such request shall be made in accordance with the procedure referred to in Article 3(1) without applying the deadlines provided for therein.

Article 6

Core elements of an electronic invoice

The core elements of an electronic invoice are, inter alia:

- (a) process and invoice identifiers;
- (b) the invoice period;
- (c) seller information;
- (d) buyer information;
- (e) payee information;
- (f) seller's tax representative information;

- (g) contract reference;
- (h) delivery details;
- (i) payment instructions;
- (j) allowance or charge information;
- (k) invoice line item information;
- (l) invoice totals;
- (m) VAT breakdown.

Article 7

Receipt and processing of electronic invoices

Member States shall ensure that contracting authorities and contracting entities receive and process electronic invoices which comply with the European standard on electronic invoicing whose reference has been published pursuant to Article 3(2) and with any of the syntaxes on the list published pursuant to Article 3(2).

Article 8

Data protection

1. This Directive is without prejudice to applicable Union and national law on data protection.
2. Subject to any provisions to the contrary in Union or national law and without prejudice to the exemptions and restrictions set out in Article 13 of Directive 95/46/EC, personal data obtained for the purpose of electronic invoicing may be used only for that purpose or for purposes compatible with it.
3. Without prejudice to the exemptions and restrictions set out in Article 13 of Directive 95/46/EC, Member States shall ensure that arrangements for the publication, for transparency and accounting purposes, of personal data gathered in connection with electronic invoicing are consistent with the purpose of such publication and with the principle of the protection of privacy.

Article 9

Use of electronic invoices for VAT purposes

This Directive is without prejudice to the provisions of Directive 2006/112/EC.

Article 10

Committee procedure

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 11

Transposition

1. Member States shall adopt, publish and apply the laws, regulations and administrative provisions necessary to comply with this Directive at the latest by 27 November 2018. They shall forthwith communicate the text of those measures to the Commission.
2. By way of derogation from paragraph 1, Member States shall, not later than 18 months after the publication of the reference of the European standard on electronic invoicing in the *Official Journal of the European Union*, adopt, publish and apply the provisions necessary to comply with the obligation contained in Article 7 to receive and process electronic invoices.

Member States may postpone the application referred to in the first subparagraph with regard to their sub-central contracting authorities and contracting entities until 30 months after publication of the reference of the European standard on electronic invoicing in the *Official Journal of the European Union* at the latest.

Upon publication of the reference to the European standard on electronic invoicing, the Commission shall publish in the *Official Journal of the European Union* the final date for the bringing into force of the measures referred to in the first subparagraph.

3. 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 12

Review

The Commission shall review the effects of this Directive on the internal market and on the uptake of electronic invoicing in public procurement and shall submit a report thereon to the European Parliament and to the Council within three years of the time limit for the maximum postponement set for sub-central authorities in the second subparagraph of Article 11(2). Where appropriate, the report shall be accompanied by an impact assessment relating to the need for further action.

Article 13

Entry into force

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

Article 14

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 16 April 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 452/2014

of 29 April 2014

laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC ⁽¹⁾, and in particular Article 9(4) thereof,

Whereas:

- (1) According to Regulation (EC) No 216/2008, third country operators involved in commercial air transport operations of aircraft have to comply with the relevant standards of the International Civil Aviation Organisation (ICAO).
- (2) Regulation (EC) No 216/2008 does not apply to third country operators flying over the territory subject to the provisions of the Treaty.
- (3) Regulation (EC) No 216/2008 requires that to the extent that there are no relevant ICAO standards, third country operators have to comply with the relevant essential requirements set out in Annexes I, III, IV and, if applicable, Vb to Regulation (EC) No 216/2008, provided that these requirements are not in conflict with the rights of third countries under international conventions.
- (4) Regulation (EC) No 216/2008 requires that a European Aviation Safety Agency (hereafter referred to as 'the Agency') issues authorisations and continuously monitors authorisations that it has issued. The authorisation is one prerequisite in the process of obtaining an operating permit or equivalent document from the respective EU Member State under existing Air Service Agreements between EU Member States and third countries.
- (5) For the purpose of initial authorisations and continuous monitoring, the Agency is to conduct assessments and is to take any measure to prevent the continuation of an infringement.
- (6) The process of authorisation of third country operators should be simple, proportionate, cost effective, efficient and take account of the results of the ICAO Universal Safety Oversight Audit Programme, ramp inspections and other recognised information on safety aspects with regard to third country operators.

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

- (7) Assessments of third country operators subject to an operating ban pursuant to Regulation (EC) No 2111/2005 of the European Parliament and of the Council ⁽¹⁾ may include an audit on-site the operator's premises. For the purpose of lifting a suspension of an authorisation, the Agency may consider conducting an audit of the third country operator.
- (8) In order to ensure a smooth transition and a high level of civil aviation safety in the European Union, implementing measures should take into consideration the recommended practices and guidance documents agreed under the auspices of ICAO.
- (9) It is necessary to provide sufficient time for the aeronautical industry and the Agency's administration to adapt to the new regulatory framework and to recognise under certain conditions operating permits or equivalent documents issued by a Member State to operate into, within or out of its territory.
- (10) The European Aviation Safety Agency prepared draft implementing rules and submitted them as an opinion to the Commission in accordance with Article 19(1) of Regulation (EC) No 216/2008.
- (11) The measures provided for in this Regulation are compatible with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down detailed rules for third country operators of aircraft referred to in Article 4(1)(d) of Regulation (EC) No 216/2008 engaged in commercial air transport operations into, within or out of the territory subject to the provisions of the Treaty, including conditions for issuing, maintaining, amending, limiting, suspending or revoking their authorisations, the privileges and responsibilities of the holders of authorisations as well as conditions under which operations shall be prohibited, limited or subject to certain conditions in the interest of safety.

Article 2

Definitions

For the purposes of this Regulation:

- (1) 'alternative means of compliance' are those that propose an alternative to an existing Acceptable Means of Compliance (AMC) or those that propose new means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules for which no associated AMC have been adopted by the Agency;
- (2) 'commercial air transport (CAT) operation' means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration;
- (3) 'flight' means a departure from a specified aerodrome towards a specified destination aerodrome;
- (4) 'third country operator' means any operator holding an air operator certificate issued by a third country.

Article 3

Authorisations

Third country operators shall only engage in commercial air transport operations within, into or out of the territory subject to the provisions of the Treaty if they comply with the requirements of Annex 1 and hold an authorisation issued by the Agency in accordance with Annex 2 to this Regulation.

⁽¹⁾ Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15).

*Article 4***Entry into force**

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

It shall apply from the 20th day following that of its publication in the *Official Journal of the European Union*.

2. By way of derogation from the second subparagraph of paragraph 1, Member States that at the date of entry into force of this Regulation are issuing operating permits or equivalent documents to third country operators in accordance with their national law shall continue to do so. The third country operators shall comply with the scope and privileges defined in the permit or equivalent document granted by the Member State until the Agency has taken a decision in accordance with Annex 2 to this Regulation. Member States shall inform the Agency of the issue of such operating permits or equivalent documents.

After the date the Agency has taken a decision for the relevant third country operator, or after a maximum period of 30 months after entry into force of this Regulation, whichever comes sooner, the Member State shall no longer perform a safety assessment of that third country operator in accordance with their national law when issuing operating permits.

3. Third country operators that at the date of entry into force hold an operating permit or equivalent document, shall submit an application for an authorisation to the Agency no later than 6 months after entry into force of this Regulation. The application shall contain information about any operating permits granted by a Member State.

4. Upon receiving an application, the Agency shall assess the third country operator's compliance with the applicable requirements. The assessment shall be completed no later than 30 months after entry into force of this Regulation.

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

Done at Brussels, 29 April 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX 1

PART-TCO

THIRD COUNTRY OPERATORS

SECTION I

General requirements

TCO.100 Scope

This Annex (hereafter referred to as 'Part-TCO') establishes requirements to be followed by a third country operator engaged in commercial air transport operations into, within or out of the territory subject to the provisions of the Treaty.

TCO.105 Means of compliance

- (a) Alternative means of compliance to the AMC adopted by the Agency may be used by a third country operator to establish compliance with Regulation (EC) No 216/2008 ⁽¹⁾ and Part-TCO.
- (b) When a third country operator subject to an authorisation wishes to use an alternative means of compliance to the AMC adopted by the Agency to establish compliance with Regulation (EC) No 216/2008 and Part-TCO, it shall, prior to implementing it, notify it to the Agency with a full description of the alternative means of compliance. The description shall include any revisions to manuals or procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.

The third country operator may implement these alternative means of compliance subject to prior approval by the Agency and upon receipt of the notification as prescribed in ART.105 in Annex 2 (hereafter referred to as 'Part-ART').

TCO.110 Mitigating measures

- (a) When the State of operator or the State of registry have notified differences to ICAO standards that have been identified by the Agency in accordance with ART.200(d) in Part-ART, the third country operator may propose mitigating measures to establish compliance with Part-TCO.
- (b) The third country operator shall demonstrate to the Agency that these measures ensure an equivalent level of safety to that achieved by the standard to which differences have been notified.

TCO.115 Access

- (a) The third country operator shall ensure that any person authorised by the Agency or the Member State in whose territory one of its aircraft has landed will be permitted to board such aircraft, at any time, with or without prior notice to:
 - (1) inspect the documents and manuals to be carried on board and to perform inspections to ensure compliance with Part-TCO; or
 - (2) carry out a ramp inspection as referred to in Annex II to Commission Regulation (EU) No 965/2012 ⁽²⁾.
- (b) The third country operator shall ensure that any person authorised by the Agency is granted access to any of its facilities or documents related to its activities, including any subcontracted activities, to determine compliance with Part-TCO.

⁽¹⁾ Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1). Regulation as last amended by Commission Regulation (EU) No 6/2013 of 8 January 2013 (OJ L 4, 9.1.2013, p. 34).

⁽²⁾ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

SECTION II

Air operations**TCO.200 General requirements**

- (a) The third country operator shall comply with:
- (1) the applicable standards contained in the Annexes to the Convention on International Civil Aviation, in particular Annexes 1 (Personnel licensing), 2 (Rules of the Air), 6 (Operation of Aircraft, Part I (International Commercial Air Transport — Aeroplanes) or Part III (International Operations- Helicopters)), as applicable, 8 (Airworthiness of Aircraft), 18 (Dangerous Goods), and 19 (Safety Management);
 - (2) the mitigating measures accepted by the Agency in accordance with ART.200(d);
 - (3) the relevant requirements of Part-TCO; and
 - (4) the applicable Union rules of the air.
- (b) The third country operator shall ensure that an aircraft operated into, within or out of the territory subject to the provisions of the Treaty is operated in accordance with:
- (1) its air operator certificate (AOC) and associated operations specifications; and
 - (2) the authorisation issued in accordance with this Regulation and the scope and privileges defined in the specifications attached to it.
- (c) The third country operator shall ensure that an aircraft operated into, within or out of the Union has a certificate of airworthiness of the aircraft (CofA) issued or validated by:
- (1) the State of registry; or
 - (2) the State of the operator, provided that the State of the operator and the State of registry have entered into an agreement under Article 83bis of the Convention on International Civil Aviation that transfers the responsibility for the issue of the CofA.
- (d) The third country operator shall, upon request, provide the Agency with any information relevant for verifying compliance with Part-TCO.
- (e) Without prejudice to Regulation (EU) No 996/2010 of the European Parliament and of the Council ⁽¹⁾, the third country operator shall without undue delay report to the Agency any accident as defined in ICAO Annex 13, involving aircraft used under its AOC.

TCO.205 Navigation, communication and surveillance equipment

When undertaking operations within the airspace above the territory to which the Treaty applies the third country operator shall equip its aircraft with and operate such navigation, communication and surveillance equipment as required in that airspace

TCO.210 Documents, manuals and records to be carried

The third country operator shall ensure that all documents, manuals and records that are required to be carried on board are valid and up-to-date.

TCO.215 Production of documentation, manuals and records

Within a reasonable time of being requested to do so by a person authorised by the Agency or the competent authority of the Member State where the aircraft has landed, the pilot-in-command shall produce to that person the documentation, manuals and records required to be carried on board.

⁽¹⁾ Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (OJ L 295, 12.11.2010, p. 35).

SECTION III

Authorisation of third country operators**TCO.300 Application for an authorisation**

- (a) Prior to engaging in commercial air transport operations under Part-TCO the third country operator shall apply for and obtain an authorisation issued by the Agency.
- (b) An application for an authorisation shall be:
 - (1) submitted at least 30 days before the intended starting date of operation; and
 - (2) made in a form and manner established by the Agency.
- (c) Without prejudice to applicable bilateral agreements, the applicant shall provide the Agency with any information needed to assess whether the intended operation will be conducted in accordance with the applicable requirements of TCO.200(a). Such information shall include:
 - (1) the duly completed application;
 - (2) the official name, business name, address, and mailing address of the applicant;
 - (3) a copy of the applicant's AOC and associated operations specifications, or equivalent document, that attests the capability of the holder to conduct the intended operations, issued by the State of the operator;
 - (4) the applicant's current certificate of incorporation or business registration or similar document issued by the Registrar of Companies in the country of the principal place of business;
 - (5) the proposed start date, type and geographic areas of operation.
- (d) When necessary, the Agency may request any other additional relevant documentation, manuals, or specific approvals issued or approved by the State of the operator or State of registry.
- (e) For those aircraft not registered in the State of the operator the Agency may request:
 - (1) details of the lease agreement for each aircraft so operated; and
 - (2) if applicable, a copy of the agreement between the State of the operator and the State of registry pursuant to Article 83bis of the Convention on International Civil Aviation that covers the aircraft.

TCO.305 Non-scheduled Flights — one-off notification

- (a) By way of derogation of TCO.300(a) a third country operator may perform air ambulance flights or a non-scheduled flight or a series of non-scheduled flights to overcome an unforeseen, immediate and urgent operational need without first obtaining an authorisation, provided that the operator:
 - (1) notifies the Agency prior to intended date of the first flight in a form and manner established by the Agency;
 - (2) is not being subject to an operating ban pursuant to Regulation (EC) No 2111/2005 of the European Parliament and of the Council ⁽¹⁾; and
 - (3) applies for an authorisation within 10 working days after the date of notification to the Agency pursuant to TCO.300.
- (b) The flight(s) specified in the notification prescribed in (a)(1) may be performed for a maximum period of six consecutive weeks after the date of notification or until the Agency has taken a decision on the application in accordance with Part-ART, whichever comes sooner.
- (c) A notification may be filed only once every 24 months by an operator.

⁽¹⁾ Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15).

TCO.310 Privileges of an authorisation holder

The privileges of the operator shall be listed in the specifications to the authorisation and not exceed the privileges granted by the State of the operator.

TCO.315 Changes

- (a) Any change, other than those agreed under ART.210(c), affecting the terms of an authorisation or associated specifications shall require prior authorisation by the Agency.
- (b) The application for prior authorisation by the Agency shall be submitted by the third country operator at least 30 days before the date of implementation of the intended change.

The third country operator shall provide the Agency with the information referred to in TCO.300, restricted to the extent of the change.

After submission of an application for a change, the third country operator shall operate under the conditions prescribed by the Agency pursuant to ART.225(b).

- (c) All changes not requiring prior authorisation, as agreed in accordance with ART.210(c), shall be notified to the Agency before the change takes place.

TCO.320 Continued validity

- (a) The authorisation shall remain valid subject to:
 - (1) the third country operator remaining in compliance with the relevant requirements of Part-TCO. The provisions related to the handling of findings, as specified under TCO.325, shall also be taken into account;
 - (2) the validity of the AOC or equivalent document issued by the State of the operator and the related operations specifications, if applicable;
 - (3) the Agency being granted access to the third country operator as specified in TCO.115;
 - (4) the third country operator not being subject to an operating ban pursuant to Regulation (EC) No 2111/2005;
 - (5) the authorisation not being surrendered, suspended or revoked;
 - (6) the third country operator having carried out at least one flight every 24 calendar months, into, within or out of the territory subject to the provisions of the Treaty under the authorisation.
- (b) Upon surrender or revocation, the authorisation shall be returned to the Agency.

TCO.325 Findings

After receipt of a notification of findings pursuant to ART.230 raised by the Agency, the third country operator shall:

- (a) identify the root cause of the non-compliance;
 - (b) establish a corrective action plan to address the root cause of the non-compliance within an acceptable time frame and submit it to the Agency;
 - (c) demonstrate corrective action implementation to the satisfaction of the Agency within the period agreed with the Agency as defined in ART.230(e)(1).
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ANNEX 2

PART-ART**AUTHORITY REQUIREMENTS REGARDING THE AUTHORISATION OF THIRD COUNTRY OPERATORS**

SECTION I

General**ART.100 Scope**

This Annex ('Part-ART') establishes administrative requirements to be followed by Member States and the Agency, specifically regarding:

- (a) the issuance, maintenance, change, limitation, suspension or revocation of authorisations of third country operators engaging in commercial air transport operations; and
- (b) the monitoring of these operators.

ART.105 Alternative means of compliance

The Agency shall evaluate all alternative means of compliance proposed by third country operators in accordance with TCO.105(b) by analysing the documentation provided and, if considered necessary, conducting an inspection of the third country operator.

When the Agency finds that the alternative means of compliance are in accordance with Part-TCO it shall without undue delay notify the applicant that the alternative means of compliance may be implemented and, if applicable, amend the authorisation of the applicant accordingly.

ART.110 Exchange of information

- (a) The Agency shall inform the Commission and the Member States when it:
 - (1) rejects an application for an authorisation;
 - (2) imposes a limitation due to safety concerns, suspends or revokes an authorisation.
- (b) The Agency shall inform the Member States of the notifications it has received in accordance with TCO.305 within one working day after receipt of the notification.
- (c) The Agency shall regularly make available to the Member States an updated list containing the authorisations it has issued, limited, changed, suspended or revoked.
- (d) Member States shall inform the Agency when they intend to take a measure pursuant to Article 6(1) of Regulation (EC) No 2111/2005.

ART.115 Record-keeping

- (a) The Agency shall establish a system of record-keeping providing for adequate storage, accessibility and reliable traceability of:
 - (1) training, qualification and authorisation of its personnel;
 - (2) third country operator authorisations issued or notifications received;
 - (3) authorisation processes and continuing monitoring of authorised third country operators;

- (4) findings, agreed corrective actions and date of action closure;
 - (5) enforcement measures taken, including fines requested by the Agency in accordance with Regulation (EC) No 216/2008;
 - (6) the implementation of corrective actions mandated by the Agency in accordance with Article 22(1) of Regulation (EC) No 216/2008; and
 - (7) the use of flexibility provisions in accordance with Article 18(d) of Regulation (EC) No 216/2008.
- (b) All records shall be kept for a minimum period of 5 years, subject to applicable data protection law.

SECTION II

Authorisation, monitoring and enforcement

ART.200 Initial evaluation procedure — general

- (a) Upon receiving an application for an authorisation in accordance with TCO.300, the Agency shall assess the third country operator's compliance with applicable requirements in Part-TCO.
- (b) The initial assessment shall be completed within 30 days after receipt of the application or 30 days before the intended starting date of operation, whichever is the later.

When the initial assessment requires a further assessment or an audit, the assessment period shall be extended for the duration of the further assessment or the audit, as appropriate.

- (c) The initial assessment shall be based on:
- (1) documentation and data provided by the third country operator;
 - (2) relevant information on the safety performance of the third country operator, including ramp inspection reports, information reported in accordance with ARO.RAMP.145(c), recognised industry standards, accidents records and enforcement measures taken by a third country;
 - (3) relevant information on the oversight capabilities of the State of the operator or State of registry, as applicable, including the outcome of audits carried out under international conventions or State safety assessment programmes; and
 - (4) decisions, investigations pursuant to Regulation (EC) No 2111/2005 or joint consultations pursuant to Regulation (EC) No 473/2006 ⁽¹⁾.
- (d) The Agency shall, in consultation with the Member States, identify those ICAO standards for which it may accept mitigating measures in case the State of the operator or the State of registry has notified a difference to ICAO. The Agency shall accept the mitigating measure when it is satisfied that these measures ensure an equivalent level of safety to that achieved by the standard to which differences have been notified.
- (e) When the Agency cannot establish a sufficient level of confidence in the third country operator and/or the State of the operator during the initial assessment, it shall:
- (1) refuse the application when the outcome of the assessment indicates that further assessment will not result in the issue of an authorisation; or
 - (2) conduct further assessments to the extent necessary to establish that the intended operation will be conducted in compliance with the applicable requirements of Part-TCO.

⁽¹⁾ Commission Regulation (EC) No 473/2006 of 22 March 2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council (OJ L 84, 23.3.2006, p. 8).

ART.205 Initial evaluation procedure — third country operators subject to an operating ban

- (a) Upon receiving an application for an authorisation from an operator subject to an operating ban or an operational restriction pursuant to Regulation (EC) No 2111/2005 the Agency shall apply the relevant assessment procedure as described in ART.200.
- (b) When the operator is subject to an operating ban due to the State of the operator not performing adequate oversight, the Agency shall inform the Commission for further assessment of the operator and the State of Operator under Regulation (EC) No 2111/2005.
- (c) The Agency shall perform an audit when:
 - (1) the third country operator agrees to be audited;
 - (2) the outcome of the assessments referred to in (a) and (b) indicates that there is a possibility that the audit will have a positive result; and
 - (3) the audit can be performed at the third country operator's facilities without the risk of compromising the security of the Agency's personnel.
- (d) The audit of the third country operator may include an assessment of the oversight conducted by the State of the operator when there is evidence of major deficiencies in the oversight of the applicant.
- (e) The Agency shall inform the Commission of the results of the audit.

ART.210 Issue of an authorisation

- (a) The Agency shall issue the authorisation, including the associated specifications, as established in Appendices I and II, when:
 - (1) it is satisfied that the third country operator holds a valid AOC or equivalent document and associated operations specifications issued by the State of the operator;
 - (2) it is satisfied that the third country operator is authorised by the State of the operator to conduct operations into the EU;
 - (3) it is satisfied that the third country operator has established:
 - (i) compliance with the applicable requirements of Part-TCO;
 - (ii) transparent, adequate and timely communication in response to a further assessment and/or an audit of the Agency, if applicable; and
 - (iii) a timely and successful corrective action submitted in response to an identified non-compliance, if any.
 - (4) there is no evidence of major deficiencies in the ability of the State of the operator or the State of registry, as applicable, to certify and oversee the operator and/or aircraft in accordance with the applicable ICAO standards; and
 - (5) the applicant not being subject to an operating ban pursuant to Regulation (EC) No 2111/2005.
- (b) The authorisation shall be issued for an unlimited duration.

The privileges and the scope of the activities that the third country operator is authorised to conduct shall be specified in the specifications attached to the authorisation.

- (c) The Agency shall agree with the third country operator the scope of changes to the third country operator not requiring prior authorisation.

ART.215 Monitoring

- (a) The Agency shall assess:
 - (1) continued compliance of third country operators it has authorised with the applicable requirements of Part-TCO;
 - (2) if applicable, the implementation of corrective actions mandated by the Agency in accordance with Article 22(1) of Regulation (EC) No 216/2008.
- (b) This assessment shall:
 - (1) take into account safety relevant documentation and data provided by the third country operator;
 - (2) take into account relevant information on the safety performance of the third country operator, including ramp inspection reports, information reported in accordance with ARO.RAMP.145(c), recognised industry standards, accidents records and enforcement measures taken by a third country;
 - (3) take into account relevant information on the oversight capabilities of the State of the operator or State of registry, as applicable, including the outcome of audits carried out under international conventions or State safety assessment programmes;
 - (4) take into account decisions and investigations pursuant to Regulation (EC) No 2111/2005 or joint consultations pursuant Regulation (EC) No 473/2006;
 - (5) take into account previous assessments or audits, if carried out; and
 - (6) provide the Agency with the evidence needed in case further action is required, including the measures foreseen by ART.235.
- (c) The scope of monitoring defined in (a) and (b) shall be determined on the basis of the results of past authorisation and/or monitoring activities.
- (d) Where, based on available information, the safety performance of the third country operator and/or the oversight capabilities of the State of the operator are suspected to have decreased below the applicable standards contained in the Annexes to the Convention on International Civil Aviation, the Agency shall conduct further assessments to the extent necessary to establish that the intended operation will be conducted in compliance with the applicable requirements of Part-TCO.
- (e) The Agency shall collect and process any safety information deemed relevant for monitoring.

ART.220 Monitoring programme

- (a) The Agency shall establish and maintain a monitoring programme covering the activities required by ART.215 and, if applicable, by Subpart ARO.RAMP.
- (b) The monitoring programme shall be developed taking into account the results of past authorisation and/or monitoring activities.
- (c) The Agency shall perform a review of third country operators at intervals not exceeding 24 months.

The interval may be reduced if there are indications that the safety performance of the third country operator and/or the oversight capabilities of the State of the operator may have decreased below the applicable standards contained in the Annexes to the Convention on International Civil Aviation.

The Agency may extend the interval to a maximum of 48 months if it has established that, during the previous monitoring period:

- (1) there are no indications that the overseeing authority of the State of the operator fails to perform effective oversight on operators under its oversight responsibility;
- (2) the third country operator has continuously and timely reported changes referred to in TCO.315;

- (3) no level 1 findings, referred to in ART.230(b), have been issued; and
 - (4) all corrective actions have been implemented within the time period accepted or extended by the Agency as defined in ART.230(e)(1).
- (d) The monitoring programme shall include records of the dates of monitoring activities, including meetings.

ART.225 Changes

- (a) Upon receiving an application for a change that requires prior authorisation, the Agency shall apply the relevant procedure as described in ART.200, restricted to the extent of the change.
- (b) The Agency shall prescribe the conditions under which the third country operator may operate within the scope of its authorisation during the change, unless the Agency determines that the authorisation needs to be suspended.
- (c) For changes not requiring prior authorisation, the Agency shall assess the information provided in the notification sent by the third country operator in accordance with TCO.315 to verify compliance with the applicable requirements. In case of any non-compliance, the Agency shall:
 - (1) notify the third country operator about the non-compliance and request a revised proposal to achieve compliance; and
 - (2) in case of level 1 or level 2 findings, act in accordance with ART.230 and ART.235, as appropriate.

ART.230 Findings and corrective actions

- (a) The Agency shall have a system to analyse findings for their safety significance.
- (b) A level 1 finding shall be issued by the Agency when any significant non-compliance is detected with the applicable requirements of Regulation (EC) No 216/2008 and Part-TCO, or with the terms of the authorisation that lowers safety or seriously hazards flight safety.

The level 1 findings shall include, but are not limited to:

- (1) failure to give the Agency access to the third country operator's facilities as defined in TCO.115(b) during normal operating hours and after a written request;
 - (2) implementing changes requiring prior authorisation without having received an authorisation as defined in ART.210;
 - (3) obtaining or maintaining the validity of the authorisation by falsification of documentary evidence;
 - (4) evidence of malpractice or fraudulent use of the authorisation.
- (c) A level 2 finding shall be issued by the Agency when any non-compliance is detected with the applicable requirements of Regulation (EC) No 216/2008 and Part-TCO, or with the terms of the authorisation which could lower safety or hazard flight safety.
 - (d) When a finding is detected during monitoring, the Agency shall, without prejudice to any additional action required by Regulation (EC) No 216/2008 and its Implementing Rules, communicate the finding to the third country operator in writing and request corrective action to eliminate or mitigate the root cause in order to prevent recurrence of the non-compliance(s) identified.

- (e) In the case of level 2 findings, the Agency shall:
- (1) grant the third country operator a corrective action implementation period appropriate to the nature of the finding. At the end of the period, and subject to the nature of the finding, the Agency may extend the period subject to a second satisfactory corrective action plan agreed by the Agency; and
 - (2) assess the corrective action and implementation plan proposed by the third country operator. If the assessment concludes that it contains root cause(s) analysis and course(s) of action to effectively eliminate or mitigate the root cause(s) to prevent recurrence of the non-compliance(s), the corrective action and implementation plan shall be accepted.

Where a third country operator fails to submit an acceptable corrective action plan referred to in ART.230(e)(1), or to perform the corrective action within the time period accepted or extended by the Agency, the finding shall be raised to a level 1 finding and action taken as laid down in ART.235(a).

- (f) The Agency shall record and notify the State of the operator or the State of registry, as applicable, of all findings it has raised.

ART.235 Limitation, suspension and revocation of authorisations

- (a) Without prejudice to any additional enforcement measures, the Agency shall take action to limit or suspend the authorisation in case of:
- (1) a level 1 finding;
 - (2) verifiable evidence that the State of operator or State of registry, as applicable, is not capable to certify and oversee the operator and/or aircraft in accordance with the applicable ICAO standard; or
 - (3) the third country operator being subject to a measure pursuant to paragraphs (1) and (2) of Article 6 of Regulation (EC) No 2111/2005.
- (b) An authorisation shall be suspended for a maximum period of 6 months. At the end of the 6-month period the Agency may extend the suspension period for an additional 3 months.
- (c) The limitation or suspension shall be lifted when the Agency is satisfied that successful corrective action has been taken by the third country operator and/or the State of the operator.
- (d) In considering the lifting of a suspension the Agency shall conduct an audit of the third country operator when the conditions in ART.205(c) are met. In case the suspension is due to major deficiencies in the oversight of the applicant by the State of the operator or State of registry, as applicable, the audit may include an assessment with the aim to verify if these oversight deficiencies have been corrected.
- (e) The Agency shall revoke the authorisation when:
- (1) the period referred to in (b) has expired; or
 - (2) the third country operator becomes subject to an operating ban pursuant to Regulation (EC) No 2111/2005.
- (f) If following a limitation referred to in (a) an operational restriction is imposed on the third country operator in accordance with Regulation (EC) No 2111/2005, the Agency shall maintain such limitation until the operational restriction has been withdrawn.
-

Appendix I

EASA logo

AUTHORISATION

Types of operation: Commercial air transport (CAT)	
Authorisation ⁽¹⁾ :	Operator Name: DbA Trading Name ⁽²⁾ : State of the operator ⁽³⁾ : AOC or equivalent document number:
This authorisation confirms that ⁽⁴⁾ has complied with the requirements of Part TCO and is entitled to apply for individual operating permits or equivalent documents to perform commercial air transport operations into, within or out of the territory subject to the provisions of the Treaty in accordance with the conditions defined in the specifications in their latest version as published electronically.	
This authorisation may be used to apply for individual operating permits ⁽⁵⁾ .	
This authorisation is valid whilst the authorised operator remains in compliance with Part-TCO.	
Subject to compliance with the foregoing condition, this authorisation will remain valid unless the authorisation or the air operator certificate issued by the state of the operator has been surrendered, suspended or revoked.	
Date of issue ⁽⁶⁾ :	Name and Signature ⁽⁷⁾ Title:
⁽¹⁾ Authorisation reference as issued by the Agency. ⁽²⁾ Operator trading name, if different. Insert 'DBA' (for 'doing business as') before the trading name. ⁽³⁾ Insert the name of the State of the Operator. ⁽⁴⁾ Operator's registered name. ⁽⁵⁾ Individual operational permits or equivalent documents related to 'traffic rights' in the framework of agreements between EU Member States and third countries must be obtained from EU Member States in addition to this authorisation prior to the intended starting date of the operation. ⁽⁶⁾ Issue date of the Authorisation (dd-mm-yyyy). ⁽⁷⁾ Title, name and signature of EASA's representative.	

Appendix II

SPECIFICATION associated to TCO Authorisation (subject to the approved conditions in the AOC and associated operations specifications)				
EASA European Aviation Safety Agency				
Authorisation ⁽¹⁾ : Date ⁽²⁾ : Operator name ⁽³⁾ : Specifications: Trading name Signature:				
Aircraft model ⁽⁴⁾ : <i>Note: Authorised registration marks are listed in the Agency's electronic publication.</i>				
Types of operation: Commercial air transportation <input type="checkbox"/> Passengers <input type="checkbox"/> Cargo <input type="checkbox"/> Other ⁽⁵⁾ :				
Special limitations ⁽⁶⁾				
SPECIAL AUTHORISATIONS	YES	NO	SPECIFICATION ⁽⁷⁾	REMARKS
Dangerous goods	<input type="checkbox"/>	<input type="checkbox"/>		
Low visibility operations	<input type="checkbox"/>	<input type="checkbox"/>	RVR ⁽⁸⁾ : m	
Take Off	<input type="checkbox"/>	<input type="checkbox"/>	CAT ⁽⁹⁾ :	
Approach and Landing	<input type="checkbox"/>	<input type="checkbox"/>	DH: ft RVR: m	
RVSM ⁽¹⁰⁾ <input type="checkbox"/> N/A	<input type="checkbox"/>	<input type="checkbox"/>		
ETOPS ⁽¹¹⁾ <input type="checkbox"/> N/A	<input type="checkbox"/>	<input type="checkbox"/>	Maximum diversion Time ⁽¹²⁾ : min	
Navigation specifications for PBN operations	<input type="checkbox"/>	<input type="checkbox"/>		
Other ⁽¹³⁾	<input type="checkbox"/>	<input type="checkbox"/>		
⁽¹⁾ Insertion of associated operator's authorisation number. ⁽²⁾ Issuance date of the operations specifications (dd-mm-yyyy). ⁽³⁾ Operator's registered name and the operator's trading name, if different. ⁽⁴⁾ Insert the Commercial Aviation Safety Team (CAST)/ICAO designation of the aircraft make, model and series, or master series, if a series has been designated (e.g. Boeing-737-3K2 or Boeing-777-232). The CAST/ICAO taxonomy is available at http://www.intlaviationstandards.org/ ⁽⁵⁾ Other type of transportation to be specified (e.g. emergency medical service). ⁽⁶⁾ List the applicable special limitations (e.g. VFR only, day only) ⁽⁷⁾ List in this column the most permissive criteria for each approval or the approval type (with appropriate criteria). ⁽⁸⁾ Insert the approved minimum take-off RVR in metres. One line per approval may be used if different approvals are granted. ⁽⁹⁾ Insert the applicable precision approach category (CAT II, IIIA, IIIB or IIIC). Insert the minimum RVR in metres and decision height in feet. One line is used per listed approach category. ⁽¹⁰⁾ 'Not applicable (N/A)' box may be checked only if the aircraft maximum ceiling is below FL 290. ⁽¹¹⁾ Extended range operations (ETOPS) currently applies only to twin-engined aircraft. Therefore the 'Not applicable (N/A)' box may be checked if the aircraft model has more than 2 engines. ⁽¹²⁾ The threshold distance may also be listed (in NM), as well as the engine type. ⁽¹³⁾ Other authorisations or data can be entered here, using one line (or one multi-line block) per authorisation (e.g. special approach authorisation, MNPS, approved navigation performance).				

COMMISSION IMPLEMENTING REGULATION (EU) No 453/2014
of 29 April 2014
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92 ⁽²⁾. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

Article 3

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

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

Done at Brussels, 29 April 2014.

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

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>An apparatus (so-called 'TV simulator') in a plastic housing with a transparent cover on the front and with dimensions of approximately 8 × 7 × 6 cm.</p> <p>The apparatus is equipped with four LEDs for generating light, a quartz crystal, a dusk sensor, a timer, an operating mode display and control buttons. It is presented with a power supply.</p> <p>The apparatus simulates a television set that is switched on, by generating random flickering light of varying intensity and colour during a pre-programmed period of time. It gives the impression that there are people present in the house with the purpose of deterring burglars.</p>	9405 40 39	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9405, 9405 40 and 9405 40 39.</p> <p>The function of the apparatus is to generate random flickering light solely with the purpose of simulating a television set that is switched on. As the random flickering light does not serve any signalling purpose, classification under heading 8531 as visual signalling apparatus is excluded (see also the Harmonised System Explanatory Notes to heading 8531, first paragraph).</p> <p>As the article has all the objective characteristics of a lighting fitting of heading 9405, it is to be classified under CN code 9405 40 39 as other electric lamps and lighting fittings of plastics.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 454/2014**of 29 April 2014****repealing Implementing Regulation (EU) No 1066/2010 concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Commission Implementing Regulation (EU) No 1066/2010 ⁽²⁾, as amended by Implementing Regulation (EU) No 441/2013 ⁽³⁾, classifies a product consisting of an audio-frequency amplifier and a loudspeaker in a single housing under CN code 8518 40 80 as an audio-frequency electric amplifier.
- (2) The Harmonized System (HS) Committee approved during its 52nd Session in September 2013 a classification opinion classifying an identical product in HS subheading 8518 22 as multiple loudspeakers, mounted in the same enclosure.
- (3) The EU is, by Council Decision 87/369/EEC of 7 April 1987 ⁽⁴⁾, a contracting party of the International Convention on the Harmonized Commodity Description and Coding System (known as the Harmonized System or HS), drawn up by the Customs Cooperation Council (known as the World Customs Organisation or WCO).
- (4) The Court of Justice of the European Union (CJEU) has held that, although the WCO opinions classifying goods in the HS do not have legally binding force, they amount, as regards the classification of those goods in the Combined Nomenclature (CN), to indications which are an important aid to the interpretation of the scope of the various tariff headings of the CN, insofar as they are not contrary to the wording of the respective heading (see, *inter alia*, the rulings of the CJEU in Cases C-206/03 ⁽⁵⁾, C-15/05 ⁽⁶⁾ and C-227/11 ⁽⁷⁾).
- (5) With a view to securing uniformity in the interpretation and application of the Harmonized System on an international level and considering that the decision is in conformity with the wording of HS subheading 8518 22, the EU should apply this classification opinion.
- (6) Regulation (EU) No 1066/2010, as amended by Implementing Regulation (EU) No 441/2013, should therefore be repealed.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 1066/2010 is repealed.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ Commission Regulation (EU) No 1066/2010 of 19 November 2010 concerning the classification of certain goods in the Combined Nomenclature (OJ L 304, 20.11.2010, p. 9).

⁽³⁾ Commission Implementing Regulation (EU) No 441/2013 of 7 May 2013 amending or repealing certain regulations on the classification of goods in the Combined Nomenclature (OJ L 130, 15.5.2013, p. 1).

⁽⁴⁾ Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1).

⁽⁵⁾ OJ C 106, 30.4.2005, p. 10.

⁽⁶⁾ OJ C 143, 17.6.2006, p. 18.

⁽⁷⁾ OJ C 126, 28.4.2012, p. 3.

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, 29 April 2014.

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

COMMISSION IMPLEMENTING REGULATION (EU) No 455/2014
of 29 April 2014
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN codes indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92 ⁽²⁾. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

Article 3

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

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

Done at Brussels, 29 April 2014.

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

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. A floor standing apparatus for dispensing cold water (so-called 'water cooler') with a height of approximately 124 cm and a weight of approximately 100 kg.</p> <p>It comprises a cooling system consisting of a compressor and a condenser.</p> <p>It has a storage capacity of 150 l and a nominal cooling capacity of 150 l/h allowing up to 750 glasses of water to be dispensed per hour. It operates with a voltage of 220 V AC.</p>	8418 69 00	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8418 and 8418 69 00.</p> <p>Cooling water for drinking purposes only is not considered treatment of materials by a process involving a change of temperature. Consequently, classification under heading 8419 is excluded.</p> <p>The apparatus is therefore to be classified under CN code 8418 69 00 as other refrigerating or freezing equipment (see also the Harmonized System Explanatory Notes to heading 8418, group (I), point (2)).</p>
<p>2. A floor standing apparatus for dispensing hot or cold water (so-called 'water dispenser') with a height of approximately 97 cm and a weight of approximately 15 kg.</p> <p>The heating function is performed by an integrated electric heating resistor and the cooling function by a cooling system consisting of a compressor and a condenser.</p> <p>The water is supplied from a bottle which is not included upon presentation.</p> <p>The apparatus has the capacity to dispense hot water at a rate of 5 l/h with a temperature range of 85–92 °C. It has the capacity to dispense cold water at a rate of 2 l/h with a temperature range of 4–8 °C. The apparatus operates with a voltage of 220 V AC and a power of 100/550 W.</p>	8516 10 11	<p>Classification is determined by general rules 1, 3(c) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8516, 8516 10 and 8516 10 11.</p> <p>Within the meaning of note 3 to Section XVI, the apparatus is designed for the purpose of performing two alternative functions (other refrigerating equipment of heading 8418 and an electric instantaneous or storage water heater of heading 8516). It is not possible to determine the apparatus' principal function as each function is equally important for the use of the apparatus.</p> <p>The apparatus is therefore to be classified under CN code 8516 10 11 as electric instantaneous water heaters.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 456/2014
of 29 April 2014
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN codes indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92 ⁽²⁾. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

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Article 2

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⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

Article 3

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

Done at Brussels, 29 April 2014.

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

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A product (so-called 'radio-controlled socket set') in a package containing two remote controlled switches and a remote control.</p> <p>Each remote controlled switch is in an individual housing consisting of a plug, a socket, a learning button, a switch and a radio receiver and is designed for a voltage of 230 V and a maximum current of 10 A.</p> <p>The learning button is used for identification between the switch and the remote control. It can also be used as a manual switch.</p> <p>The remote control works within a transmission frequency range of 433,05 - 434,79 MHz over a distance of approximately 30 m and controls both switches independently of each other.</p> <p>The product is used for switching on and off, by remote control, equipment connected to the sockets.</p>	8536 50 80	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8536, 8536 50 and 8536 50 80.</p> <p>The remote control controls the switches independently of each other. Consequently, the product cannot be considered as a functional unit within the meaning of note 4 to Section XVI as the individual components do not contribute together to a clearly defined function.</p> <p>Given its objective characteristics, the function of the product is switching on and off, by remote control, the equipment connected to the sockets. Classification under heading 8526 as radio remote control apparatus is therefore excluded.</p> <p>As the product is used as remote controlled switches, the plug and the socket are considered inherent components needed for its operation. Consequently, classification under subheading 8536 69 90 as plugs and sockets is excluded.</p> <p>The product is therefore to be classified under CN code 8536 50 80 as other switches for a voltage exceeding 60 V.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 457/2014
of 29 April 2014
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN codes indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92 ⁽²⁾. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

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Article 2

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⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

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Done at Brussels, 29 April 2014.

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

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. A digital electronic apparatus with one High-Definition Multimedia Interface (HDMI) input and eight HDMI outputs (so-called 'active HDMI splitter') in a housing with dimensions of approximately 12 × 6 × 2 cm.</p> <p>It supports the High-bandwidth Digital Content Protection (HDCP) protocol and is supplied with 5 V DC.</p> <p>The apparatus is used for simultaneously splitting, without loss of quality, one HDMI input signal into eight HDMI output signals with the same technical characteristics as the original input signal.</p> <p>It allows a HDMI signal originating from one source (for example, a set-top box) to be simultaneously distributed to several apparatus (for example, television sets).</p>	8543 70 90	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8543, 8543 70 and 8543 70 90.</p> <p>The HDMI splitter is not an apparatus for making connections to or in electrical circuits or a panel for the distribution of electricity as it splits one input signal into eight output signals and simultaneously processes HDCP protocols. Consequently, classification under either heading 8536 as junction boxes or heading 8537 as boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for the distribution of electricity is excluded.</p> <p>As the apparatus has an individual function, which is not covered more specifically by a heading of Chapter 85, it is therefore to be classified under CN code 8543 70 90 as an electrical apparatus, having an individual function, not specified or included elsewhere in Chapter 85.</p>
<p>2. A digital electronic apparatus with four High-Definition Multimedia Interfaces (HDMI) inputs, one HDMI output and a button for selecting the input (so-called 'active HDMI switch').</p> <p>It incorporates an amplifier for regenerating weak signals, 4 LEDs for indicating the selected input and is supplied with 5 V DC.</p> <p>The apparatus supports full 1080p video signals with a data transfer up to 2,5 Gbps and the High-bandwidth Digital Content Protection (HDCP) protocol.</p> <p>The apparatus is used for selecting one HDMI input to be connected to the HDMI output. It allows the selection of HDMI signals originating from different sources (for example, a DVD player, a set-top box) to be connected to one apparatus, for example, a television set.</p>	8543 70 90	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8543, 8543 70 and 8543 70 90.</p> <p>The HDMI switch is not an apparatus for switching electrical circuits or for the distribution of electricity as it switches (selects) one of the HDMI inputs to be connected to the HDMI output and simultaneously amplifies the signal and processes HDCP protocols. Consequently, classification under either heading 8536 as switches or heading 8537 as boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for the distribution of electricity is excluded.</p> <p>As the apparatus has an individual function, which is not covered more specifically by a heading of Chapter 85, it is therefore to be classified under CN code 8543 70 90 as an electrical apparatus, having an individual function, not specified or included elsewhere in Chapter 85.</p>

(1)	(2)	(3)
<p>3. An apparatus with four High-Definition Multimedia Interfaces (HDMI) inputs and one HDMI output (so-called 'passive HDMI switch') in a housing with dimensions of approximately $18 \times 12 \times 3$ cm.</p> <p>It incorporates a so-called 'multi-station push button switch' with four push buttons (one per input) which are rigidly attached to each other. Upon selection of one of the inputs, the others are automatically switched off.</p> <p>The apparatus is used for selecting, by pushing one of the buttons, one HDMI input to be connected to the HDMI output. It allows the selection of HDMI signals originating from different sources (for example, a DVD player, a set-top box) to be connected to one apparatus, for example, a television set.</p>	8536 50 80	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8536, 8536 50 and 8536 50 80.</p> <p>As the apparatus only incorporates one switch for connecting one input at a time to the output, it is not a panel for the distribution of electricity. Consequently, classification under heading 8537 as boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity is excluded.</p> <p>As the apparatus only performs switching which is an individual electrical function identified in a heading of Chapter 85, it is therefore to be classified under CN code 8536 50 80 as other switches.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 458/2014
of 29 April 2014
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN codes indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92 ⁽²⁾. That period should be set at three months.
- (5) The Customs Code Committee has not issued an opinion on item 1 of the Annex of this Regulation within the time limit set by its Chairman, the measures provided for under item 2 of the Annex of this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

Article 3

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

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

Done at Brussels, 29 April 2014.

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

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. A digital apparatus with the design of a traditional video camera recorder for capturing and recording still and video images onto an internal memory or a memory card.</p> <p>The apparatus is equipped with a 0,8 megapixels charge-coupled device (CCD) and a foldable viewfinder of the liquid crystal display (LCD) type with a diagonal measurement of approximately 7 cm (2,7 inches) that can be used when capturing images or as a screen for displaying recorded images.</p> <p>The apparatus has the following interfaces:</p> <ul style="list-style-type: none"> — a slot for memory cards, — composite video out, — audio output, — USB. <p>The maximum resolution of the still images is 1 600 × 1 200 pixels (1,92 megapixels).</p> <p>The apparatus can record video at 50 frames per second with a maximum resolution of 720 × 576 pixels.</p> <p>The apparatus offers an optical zoom function during video recording.</p> <p>Upon presentation files cannot be transferred to the apparatus from an automatic data-processing machine via the USB interface.</p>	8525 80 91	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8525, 8525 80 and 8525 80 91.</p> <p>Given the objective characteristics of the apparatus, such as its design and shape, the presence of a CCD with a low resolution of 0,8 megapixels, the ability to record video in a quality of standard DVD video discs (resolution of 720 × 576 pixels at 50 frames per second) and to record still images of poor quality (maximum resolution of 1,92 megapixels), capturing and recording video images is the principal function of the apparatus within the meaning of note 3 to Section XVI (see also the order of the Court of Justice of the European Union of 9 December 2010 in Case C-193/10, <i>KMB Europe v Hauptzollamt Duisburg</i> (ECR 2010, p. I-12903, points 23 to 25)).</p> <p>The fact that the camera records video with lower resolution than 800 × 600 pixels does not change the apparatus' principal function. Therefore, classification under subheading 8525 80 30 as a digital camera is excluded.</p> <p>The apparatus is only able to record sound and images taken by the television camera and the possibility of transferring files into the camera cannot be activated after presentation by simple modification of the apparatus by a user who does not have special skills.</p> <p>It is therefore to be classified under CN code 8525 80 91 as video camera recorders only able to record sound and images taken by the television camera.</p>

(1)	(2)	(3)
<p>2. A digital apparatus with the design of a traditional video camera recorder for capturing and recording still and video images onto an internal memory or a memory card.</p> <p>The apparatus is equipped with a 0,8 megapixels charge-coupled device (CCD) and a foldable viewfinder of the liquid crystal display (LCD) type with a diagonal measurement of approximately 7 cm (2,7 inches) that can be used when capturing images or as a screen for displaying recorded images.</p> <p>The apparatus has the following interfaces:</p> <ul style="list-style-type: none"> — a slot for memory cards, — composite video out, — audio output, — USB. <p>The maximum resolution of the still images is 1 600 × 1 200 pixels (1,92 megapixels).</p> <p>The apparatus can record video at 50 frames per second with a maximum resolution of 720 × 576 pixels.</p> <p>The apparatus offers an optical zoom function during video recording.</p> <p>Upon presentation files can be transferred to the apparatus from an automatic data-processing machine via the USB interface.</p>	8525 80 99	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8525, 8525 80 and 8525 80 99.</p> <p>Given the objective characteristics of the apparatus, such as its design and shape, the presence of a CCD with a low resolution of 0,8 megapixels, the ability to record video in a quality of standard DVD video discs (resolution of 720 × 576 pixels at 50 frames per second) and to record still images of poor quality (maximum resolution of 1,92 megapixels), capturing and recording video images is the principal function of the apparatus within the meaning of note 3 to Section XVI (see also the order of the Court of Justice of the European Union of 9 December 2010 in Case C-193/10, <i>KMB Europe v Hauptzollamt Duisburg</i> (ECR 2010, p. I-12903, points 23 to 25)).</p> <p>The fact that the camera records video with lower resolution than 800 × 600 pixels does not change the apparatus' principal function. Therefore, classification under subheading 8525 80 30 as a digital camera is excluded.</p> <p>As the apparatus is capable of recording video files from sources other than the incorporated television camera, classification under subheading 8525 80 91 as video camera recorders only able to record sound and images taken by the television camera is excluded.</p> <p>The apparatus is therefore to be classified under CN code 8525 80 99 as other video camera recorders.</p>

COMMISSION IMPLEMENTING REGULATION (EU) No 459/2014**of 29 April 2014****amending certain regulations on the classification of goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Council Regulation (EU) No 953/2013 ⁽²⁾ amended Annex I to Regulation (EEC) No 2658/87 and replaced CN codes 8528 59 10, 8528 59 40 and 8528 59 80 by CN codes 8528 59 20, 8528 59 31, 8528 59 39 and 8528 59 70.
- (2) Certain Commission Regulations concerning the classification of goods, adopted in order to ensure the uniform application of the Combined Nomenclature established by Regulation (EEC) No 2658/87, make reference to CN codes which no longer exist. They should therefore be amended in order to take into account the appropriate CN codes in force.
- (3) The Customs Code Committee has not issued an opinion on the item of Annex III of this Regulation within the time limit set by its Chairman, the measures provided for under Annex I, II and IV of this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Annex to Commission Regulation (EC) No 1156/2008 ⁽³⁾, as amended by Implementing Regulation (EU) No 441/2013 ⁽⁴⁾, is replaced by the text set out in Annex I to this Regulation.
2. Item 1 of the Annex to Commission Regulation (EC) No 1172/2008 ⁽⁵⁾, as amended by Implementing Regulation (EU) No 441/2013, is replaced by the text set out in Annex II to this Regulation.
3. The Annex to Commission Implementing Regulation (EU) No 1196/2011 ⁽⁶⁾ is replaced by the text set out in Annex III to this Regulation.
4. The Annex to Commission Implementing Regulation (EU) No 698/2012 ⁽⁷⁾ is replaced by the text set out in the Annex IV to this Regulation.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ Council Regulation (EU) No 953/2013 of 26 September 2013 amending Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 263, 5.10.2013, p. 4).

⁽³⁾ Commission Regulation (EC) No 1156/2008 of 20 November 2008 concerning the classification of certain goods in the Combined Nomenclature (OJ L 310, 21.11.2008, p. 9).

⁽⁴⁾ Commission Implementing Regulation (EU) No 441/2013 of 7 May 2013 amending or repealing certain regulations on the classification of goods in the Combined Nomenclature (OJ L 130, 15.5.2013, p. 1).

⁽⁵⁾ Commission Regulation (EC) No 1172/2008 of 25 November 2008 concerning the classification of certain goods in the Combined Nomenclature (OJ L 317, 27.11.2008, p. 4).

⁽⁶⁾ Commission Implementing Regulation (EU) No 1196/2011 of 17 November 2011 concerning the classification of certain goods in the Combined Nomenclature (OJ L 303, 22.11.2011, p. 12).

⁽⁷⁾ Commission Implementing Regulation (EU) No 698/2012 of 25 July 2012 concerning the classification of certain goods in the Combined Nomenclature (OJ L 203, 31.7.2012, p. 34).

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, 29 April 2014.

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

ANNEX I

'ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. An apparatus for the recording, reproducing and displaying of still images (so-called "digital photo frame"), with overall dimensions 17 (L) × 12,9 (W) × 12,3 (D) cm, consisting of the following main components in a single housing:</p> <ul style="list-style-type: none"> — a colour display of the liquid crystal device (LCD) type with a diagonal measurement of the screen of 13 cm (5,1 inches) and a resolution of 320 × 240 pixels, — a slot for a Subscriber Identity Module (SIM) card, — an infra-red interface, — an internal memory, — control buttons. <p>The images are transferred to the internal memory of the apparatus from a compatible device (such as a mobile phone, automatic data-processing machine or a digital camera) via an infra-red signal or with a SIM card through the Multimedia Messaging Service (MMS).</p> <p>The images can also be transferred from the apparatus via the infra-red signal to a compatible device.</p> <p>The apparatus supports JPEG and GIF formats with a maximum resolution of 1 024 × 728 pixels.</p> <p>The apparatus can display images in a single-image or slideshow mode.</p> <p>Its internal memory can store up to 50 images.</p>	8528 59 70	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8528, 8528 59 and 8528 59 70.</p> <p>As the apparatus is designed for the purpose of performing three functions within the meaning of note 3 to Section XVI (recording, reproducing and displaying images), it is to be classified as if consisting only of that machine which performs the principal function.</p> <p>Due to its capability of displaying images, the principal function of the apparatus is considered to be that of a monitor, which is an individual function specified in heading 8528.</p> <p>The fact that the signals are not displayed directly from external sources does not exclude classification under heading 8528 since monitors of that heading may be capable of receiving a variety of signals from different sources (see also the Harmonized System Explanatory Notes (HSEN) to heading 8528, third paragraph).</p> <p>The apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.</p>

(1)	(2)	(3)
<p>2. An apparatus for the recording, reproducing and displaying of still and video images, as well as for the recording and reproducing of sound (so-called “digital picture frame”), with overall dimensions 33 (W) × 24,1 (H) × 4,1 (D) cm, consisting of the following main components in a single housing:</p> <ul style="list-style-type: none"> — a colour display of the liquid crystal device (LCD) type, with a diagonal measurement of the screen of 25,4 cm (10 inches) and a resolution of 800 × 480 pixels, — an internal memory with a storage capacity of 128 MB, — memory card slots, — built-in loudspeakers, — two USB interfaces, — control buttons. <p>It supports the following formats:</p> <ul style="list-style-type: none"> — audio: MP3, — still image: JPEG, GIF, — video: MPEG1, MPEG4, MOV, AVI. <p>Different types of solid-state non-volatile storage devices can be inserted into the memory card slots.</p> <p>The images may be displayed in single image, slideshow or thumbnails mode.</p>	8528 59 70	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8528, 8528 59 and 8528 59 70.</p> <p>As the apparatus is designed for the purpose of performing three functions within the meaning of note 3 to Section XVI (recording, reproducing and displaying images), it is to be classified as if consisting only of that machine which performs the principal function.</p> <p>Given the design and the concept of the apparatus, its purpose is to display still and video images. Recording still and video images is to be considered as a secondary function of the apparatus. Therefore its principal function is considered to be that of a monitor, which is an individual function specified in heading 8528.</p> <p>The fact that the signals are not displayed directly from external sources does not exclude classification under heading 8528 since monitors of that heading may be capable of receiving a variety of signals from different sources (see also the HSEN to heading 8528, third paragraph).</p> <p>The apparatus is not able to display signals directly from an automatic data-processing machine as the USB interfaces are only used for the transfer of media files. Consequently, classification under subheadings 8528 51 00 and 8528 59 31 is excluded.</p> <p>The apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.’</p>

ANNEX II

‘ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. A battery-operated apparatus consisting of a laser reading system for video reproducing and a colour monitor for video displaying (so-called “portable DVD player”). Its overall dimensions are 19 (L) × 14,2 (W) × 3,7 (H) cm and the weight is 800 grams.</p> <p>The monitor is of the liquid crystal device (LCD) type with a diagonal measurement of the screen of 21,6 cm (8,5 inches). The apparatus can be folded and its monitor rotated.</p> <p>The apparatus is equipped with built-in loud-speakers.</p> <p>It has the following interfaces:</p> <ul style="list-style-type: none"> — memory card expansion slots, — a USB port, — composite video in and out, — headphone jacks. <p>It can read optical media (for example, CD, DVD) and semiconductor media (for example, USB flash memory) in various audio and video formats.</p>	8528 59 70	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8528, 8528 59 and 8528 59 70.</p> <p>As the apparatus is designed for the purpose of performing two functions within the meaning of note 3 to Section XVI (reproducing and displaying video), it is to be classified as if consisting only of that machine which performs the principal function.</p> <p>Given the design and concept of the apparatus and more particularly the size of the screen which facilitates viewing of video sequences for longer periods, the principal function of the apparatus is that of displaying video.</p> <p>The apparatus is not able to display signals directly from an automatic data-processing machine as the USB port is only used for the transfer of media files. Consequently, classification under subheadings 8528 51 00 and 8528 59 31 is excluded.</p> <p>The apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.’</p>

ANNEX III

'ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A portable, battery-powered electronic eyewear apparatus for displaying images (so-called "video glasses") with dimensions in a folded state of approximately 15 × 3,5 × 2,5 cm.</p> <p>The electronic eyewear apparatus consists of two liquid crystal device (LCD) screens, each with a resolution of 640 × 480 pixels (virtual equivalent of an 80 inch screen viewed 2 meters away) and sound-processing circuits, mounted in a frame similar to a frame for spectacles.</p> <p>The apparatus is equipped with the following interfaces:</p> <ul style="list-style-type: none"> — VGA input, — Audio Video (A/V) input. <p>It can be connected to an automatic data-processing (ADP) machine and to apparatus such as video reproducers, television receivers or game consoles. It displays virtual 3-dimensional (3D) video images for entertainment purposes.</p>	8528 59 31	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8528, 8528 59 and 8528 59 31.</p> <p>As the apparatus does not incorporate a tuner or any similar device enabling the reception of television signals, classification as reception apparatus for television under subheading 8528 72 is excluded.</p> <p>The apparatus uses 2 very small LCD screens (one in front of each eye) for creating a virtual image equivalent of an 80 inch screen viewed 2 meters away. Given these objective characteristics and properties, and in particular its ability to display 3D images, the apparatus is intended for entertainment purposes such as watching films, viewing television or gaming. Consequently, classification under subheading 8528 51 is excluded as the apparatus cannot be considered of a kind solely or principally used in an ADP system of heading 8471.</p> <p>As the monitor is capable of displaying signals from an ADP machine at a level sufficient for practical use with the ADP machine, it is considered to be capable of displaying signals from automatic data-processing machines with an acceptable level of functionality.</p> <p>The monitor is therefore to be classified under CN code 8528 59 31 as flat panel displays able to display signals from automatic data-processing machines with an acceptable level of functionality with a screen of the liquid crystal display (LCD) technology.'</p>

ANNEX IV

'ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. A multifunctional apparatus (so-called "multi-media centre for motor vehicles") of a kind used in motor vehicles, consisting of two main components:</p> <ul style="list-style-type: none"> — a reception apparatus for radio-broadcasting combined with a CD/DVD player, — a detachable colour liquid crystal display (LCD) with a touch screen function with a diagonal measurement of the screen of approximately 17,5 cm (7 inches) and an aspect ratio of 16:9. <p>The apparatus is equipped with connectors enabling the reception of video signals from external sources such as a rear-view camera.</p> <p>The apparatus is presented with a remote control.</p> <p>An additional display can be connected to the apparatus.</p>	8528 59 70	<p>Classification is determined by general rules (GIR) 1, 3(c) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8528, 8528 59 and 8528 59 70.</p> <p>The apparatus is designed for the purpose of performing various functions (sound reproduction, video reproduction, radio-broadcasting, displaying video), none of which, in view of its design and concept, gives the apparatus its essential character.</p> <p>By application of GIR 3(c), the apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.</p>
<p>2. A multifunctional apparatus (so-called "multi-media centre for motor vehicles") of a kind used in motor vehicles measuring approximately 17 × 5 × 16 cm.</p> <p>It combines, in the same housing, a reception apparatus for radio-broadcasting, a sound and a video reproducing apparatus and a colour liquid crystal display (LCD) with a diagonal measurement of the screen of approximately 8 cm (3,5 inches).</p> <p>The apparatus is equipped with connectors enabling the reception of video signals from external sources such as a rear-view camera.</p> <p>The apparatus can also reproduce sound and images from a USB memory stick.</p> <p>The apparatus is presented with a remote control.</p> <p>An additional display can be connected to the apparatus.</p>	8528 59 70	<p>Classification is determined by general rules (GIR) 1, 3(c) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8528, 8528 59 and 8528 59 70.</p> <p>The apparatus is designed for the purpose of performing various functions (sound reproduction, video reproduction, radio-broadcasting, displaying video), none of which, in view of its design and concept, gives the apparatus its essential character.</p> <p>The apparatus is not able to display signals directly from an automatic data-processing machine as the USB interface is only used for reproducing audio or video from a USB memory stick. Consequently, classification under subheadings 8528 51 00 and 8528 59 31 is excluded.</p> <p>By application of GIR 3(c), the apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.</p>

(1)	(2)	(3)
<p>3. A multifunctional apparatus (so-called “multi-media centre for motor vehicles”) of a kind used in motor vehicles.</p> <p>It combines, in the same housing, a reception apparatus for radio-broadcasting, a sound and a video reproducing apparatus, a radio navigational apparatus and a colour liquid crystal display (LCD) with a diagonal measurement of the screen of approximately 18 cm (7 inches) and an aspect ratio of 16:9.</p> <p>The apparatus is equipped with connectors enabling the reception of video signals from external sources such as a rear-view camera or a DVB-T tuner.</p> <p>The apparatus can also reproduce sound and images from a memory card.</p> <p>The apparatus is presented with two remote controls.</p> <p>An additional display can be connected to the apparatus.</p>	8528 59 70	<p>Classification is determined by general rules (GIR) 1, 3(c) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8528, 8528 59 and 8528 59 70.</p> <p>The apparatus is designed for the purpose of performing various functions (sound reproduction, video reproduction, radio navigational aid, radio-broadcasting, displaying video), none of which, in view of its design and concept, gives the apparatus its essential character.</p> <p>By application of GIR 3(c), the apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.’</p>

COMMISSION REGULATION (EU) No 460/2014**of 5 May 2014****amending Regulation (EU) No 823/2012 as regards the expiry date of the approval of the active substance cyfluthrin****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular the second paragraph of Article 17 thereof,

Whereas:

- (1) For the active substance cyfluthrin, Commission Regulation (EU) No 823/2012 ⁽²⁾ postponed the expiry of the approval period, as set out in Commission Implementing Regulation (EU) No 540/2011 ⁽³⁾ to 31 October 2016 in order to enable applicants to give the three years' notice required under Article 15(1) of Regulation (EC) No 1107/2009.
- (2) No application for renewal of the approval of the active substance cyfluthrin was submitted which respect the three years' notice period.
- (3) Since no such application was submitted it is appropriate to set the expiry date at the earliest date possible after the original date of expiry as set before the adoption of Regulation (EU) No 823/2012.
- (4) Regulation (EU) No 823/2012 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1***Amendments to Regulation (EU) No 823/2012**

Article 1 of Regulation (EU) No 823/2012 is amended as follows:

- (1) Point (2) is replaced by the following:

‘(2) 31 October 2016, as regards the active substances: deltamethrin (entry 40), 2,4-DB (entry 47), beta-cyfluthrin (entry 48), iprodione (entry 50), maleic hydrazide (entry 52), flurtamone (entry 64), flufenacet (entry 65), iodosulfuron (entry 66), dimethenamid-P (entry 67), picoxystrobin (entry 68), fosthiazate (entry 69), silthiofam (entry 70) and *Coniothyrium minitans* Strain CON/M/91-08 (DSM 9660) (entry 71);’.

- (2) The following point (5) is added:

‘(5) 30 April 2014, as regards the active substance: cyfluthrin (entry 49).’

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Regulation (EU) No 823/2012 of 14 September 2012 derogating from Implementing Regulation (EU) No 540/2011 as regards the expiry dates of the approval of the active substances 2,4-DB, benzoic acid, beta-cyfluthrin, carfentrazone ethyl, *Coniothyrium minitans* Strain CON/M/91-08 (DSM 9660), cyazofamid, cyfluthrin, deltamethrin, dimethenamid-P, ethofumesate, ethoxysulfuron, fenamidone, flazasulfuron, flufenacet, flurtamone, foramsulfuron, fosthiazate, imazamox, iodosulfuron, iprodione, isoxaflutole, linuron, maleic hydrazide, mecoprop, mecoprop-P, mesosulfuron, mesotrione, oxadiargyl, oxasulfuron, pendimethalin, picoxystrobin, propiconazole, propineb, propoxycarbazone, propyzamide, pyraclostrobin, silthiofam, trifloxystrobin, warfarin and zoxamide (OJ L 250, 15.9.2012, p. 13).

⁽³⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

*Article 2***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, 5 May 2014.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 461/2014**of 5 May 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) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 5 May 2014.

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

Jerzy PLEWA
Director-General for Agriculture and Rural Development

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	35,3
	MK	96,5
	TN	109,1
	TR	97,3
	ZZ	84,6
0707 00 05	MA	35,6
	MK	51,1
	TR	133,0
0709 93 10	ZZ	73,2
	MA	70,8
	TR	113,2
	ZA	31,4
	ZZ	71,8
0805 10 20	EG	54,5
	IL	74,0
	MA	55,5
	TN	68,6
	TR	63,3
0805 50 10	ZZ	63,2
	MA	35,6
	TR	95,1
	ZZ	65,4
0808 10 80	AR	95,2
	BR	89,6
	CL	100,5
	CN	98,6
	MK	30,8
	NZ	137,8
	US	158,7
	ZA	110,2
	ZZ	102,7

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

