

# Official Journal

## of the European Union

ISSN 1725-2555

L 117

Volume 47

22 April 2004

English edition

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## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 22 September 2003

**on the conclusion of bilateral Agreements between the European Community and the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Slovak Republic, and the Republic of Slovenia, respectively, laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services**

(2004/330/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2),

Having regard to the proposal from the Commission,

- (1) Whereas the bilateral Agreements between the European Community and the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Slovak Republic, and the Republic of Slovenia, respectively, laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services have been negotiated and should be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The bilateral Agreements between the European Community and the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta,

the Republic of Poland, the Slovak Republic, and the Republic of Slovenia, respectively, laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services are hereby approved on behalf of the European Community.

The text of the Agreements and the Annexes thereto is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreements in order to bind the Community and to transmit, on behalf of the Community, the note provided for in Article 16 of the Agreements <sup>(1)</sup>.

Done at Brussels, 22 September 2003.

*For the Council*

*The President*

F. FRATTINI

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

## AGREEMENT

### **between the European Community and the Czech Republic laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services**

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

on the one hand, and

THE CZECH REPUBLIC,

on the other hand,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Europe Agreement', and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

HAVING REGARD to the Protocol to the Europe Agreement on conformity assessment and acceptance of industrial products <sup>(3)</sup> and in particular to the aims set out in Article 12 thereof,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to the Czech Republic,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

#### Article 1

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

This Agreement shall not apply to:

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(4)</sup>;

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(5)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 360, 31.12.1994, p. 2.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> OJ L 135, 17.5.2001, p. 3.

<sup>(4)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(5)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner;
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in the Czech Republic or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of the Czech Republic, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or the Czech Republic which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. The Czech Republic shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or the Czech Republic considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify the Czech Republic of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Czech Republic have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, the Czech Republic shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and the Czech Republic shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93 <sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC <sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and the Czech Republic shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of signifi-

cantly altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and the Czech Republic may make comments upon the draft technical regulations communicated. The comments of the Czech Republic shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to the Czech Republic.

2. The Member States and the Czech Republic shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform the Czech Republic thereof.

*Article 9*

The competent authorities of the Member States and the Czech Republic shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and the Czech Republic or voluntary agreements by means of which Member States or the Czech Republic:

- comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as the Czech Republic is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
- fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
- fulfil as far as the Czech Republic is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Czech Republic and the Community,
- make use of safeguard clauses provided for in binding Community acts,
- apply Article 8(1) of Directive 92/59/EEC <sup>(1)</sup>,
- restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
- restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of the Czech Republic prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

#### Article 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and the Czech Republic may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and the Czech Republic in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. The Czech Republic shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of the Czech Republic. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing the Czech Republic being present. In that case, the Czech Republic shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Czech Republic.

#### Article 16

This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of the Czech Republic to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

*Article 18*

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Czech languages, each text being equally authentic.

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## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

**2. Services not provided 'by electronic means'**

Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/fax consultation of a doctor;
- (e) telephone/fax consultation of a lawyer;
- (f) telephone/fax direct marketing.

**3. Services not supplied 'at the individual request of a recipient of services'**

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers ('point to multipoint' transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
  - (b) radio broadcasting services;
  - (c) (televised) teletext.
-

## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings;
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EEC <sup>(1)</sup>;
- (c) operations covered by the insurance and reinsurance activities referred to in:
  - Article 1 of Directive 73/239/EEC <sup>(2)</sup>,
  - the Annex to Directive 79/267/EEC <sup>(3)</sup>,
  - Directive 64/225/EEC <sup>(4)</sup>,
  - Directives 92/49/EEC <sup>(5)</sup> and 92/96/EEC <sup>(6)</sup>.

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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p. 1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

## ANNEX III

Pursuant to Article 11(2) of the Agreement, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;
2. the full text of the draft technical regulation notified;
3. acknowledgement of receipt of the draft text containing, *inter alia*, the relevant expiry date of the standstill period;
4. messages requesting supplementary information;
5. answers to request for supplementary information;
6. comments;
7. requests for ad hoc meetings;
8. answers to requests for ad hoc meetings;
9. requests for final texts;
10. information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11. basic legal texts or regulatory provisions;
12. the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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## AGREEMENT

### **between the European Community and the Republic of Estonia laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services**

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

on the one hand, and

THE REPUBLIC OF ESTONIA, hereinafter referred to as 'Estonia',

on the other hand,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Europe Agreement', and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to Estonia,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

This Agreement shall not apply to:

#### Article 1

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(3)</sup>.

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(4)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 68, 9.3.1998, p. 3.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(4)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined in that point.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner;
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in Estonia or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of Estonia, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or Estonia which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. Estonia shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or Estonia considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify Estonia of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let Estonia have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, Estonia shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and Estonia shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93 <sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC <sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and Estonia shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of significantly

altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and Estonia may make comments upon the draft technical regulations communicated. The comments of Estonia shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to Estonia.

2. The Member States and Estonia shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform Estonia thereof.

*Article 9*

The competent authorities of the Member States and Estonia shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and Estonia or voluntary agreements by means of which Member States or Estonia:

- comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as Estonia is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
- fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
- fulfil as far as Estonia is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in Estonia and the Community,
- make use of safeguard clauses provided for in binding Community acts,
- apply Article 8(1) of Directive 92/59/EEC<sup>(1)</sup>,
- restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
- restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of Estonia prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

#### Article 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and Estonia may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and Estonia in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. Estonia shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of Estonia. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing Estonia being present. In that case, Estonia shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Estonia.

#### Article 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of Estonia to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

## Article 18

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Estonian languages, each text being equally authentic.

Hecho en Bruselas, el dieciocho de diciembre de dos mil tres.

Udfærdiget i Bruxelles den attende december to tusind og tre.

Geschehen zu Brüssel am achtzehnten Dezember zweitausendunddrei.

Έγινε στις Βρυξέλλες, στις δέκα οκτώ Δεκεμβρίου δύο χιλιάδες τρία.

Done at Brussels on the eighteenth day of December in the year two thousand and three.

Fait à Bruxelles, le dix-huit décembre deux mille trois.

Fatto a Bruxelles, addì diciotto dicembre duemilatre.

Gedaan te Brussel, de achttiende december tweeduizenddrie.

Feito em Bruxelas, em dezoito de Dezembro de dois mil e três.

Tehty Brysselissä kahdeksantenatoista päivänä joulukuuta vuonna kaksituhattakolme.

Som skedde i Bryssel den artonde december tjugohundratre.

Alla kirjutatud Brüsselis kaheksateistkümnendal detsembril kahe tuhande kolmandal aastal.

*Por la Comunidad Europea*

*På Det Europæiske Fællesskabs vegne*

*Für die Europäische Gemeinschaft*

*Για την Ευρωπαϊκή Κοινότητα*

*For the European Community*

*Pour la Communauté européenne*

*Per la Comunità europea*

*Voor de Europese Gemeenschap*

*Pela Comunidade Europeia*

*Euroopan yhteisön puolesta*

*På Europeiska gemenskapens vägnar*



*Eesti Vabariigi nimel*



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## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

**2. Services not provided 'by electronic means'**

Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/fax consultation of a doctor;
- (e) telephone/fax consultation of a lawyer;
- (f) telephone/fax direct marketing.

**3. Services not supplied 'at the individual request of a recipient of services'**

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers ('point to multipoint' transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
  - (b) radio broadcasting services;
  - (c) (televised) teletext.
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## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC services of collective investment undertakings;
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EC <sup>(1)</sup>;
- (c) operations covered by the insurance and reinsurance activities referred to in:
  - Article 1 of Directive 73/239/EEC <sup>(2)</sup>,
  - the Annex to Directive 79/267/EEC <sup>(3)</sup>,
  - Directive 64/225/EEC <sup>(4)</sup>,
  - Directives 92/49/EEC <sup>(5)</sup> and 92/96/EEC <sup>(6)</sup>.

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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p. 1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

## ANNEX III

Pursuant to Article 11(2) of the Agreement, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;
2. the full text of the draft technical regulation notified;
3. acknowledgement of receipt of the draft text containing, *inter alia*, the relevant expiry date of the standstill period;
4. messages requesting supplementary information;
5. answers to request for supplementary information;
6. comments;
7. requests for ad hoc meetings;
8. answers to requests for ad hoc meetings;
9. requests for final texts;
10. information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11. basic legal texts or regulatory provisions;
12. the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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## AGREEMENT

### **between the European Community and the Republic of Latvia laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services**

THE EUROPEAN COMMUNITY,

hereinafter referred to as 'the Community'

on the one hand, and

THE REPUBLIC OF LATVIA, hereinafter referred to as 'Latvia'

on the other hand,

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Europe Agreement', and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

HAVING REGARD to the Protocol to the Europe Agreement on conformity assessment and acceptance of industrial products <sup>(3)</sup> and in particular to the aims set out in Article 12 thereof,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to Latvia,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

#### *Article 1*

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

This Agreement shall not apply to:

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(4)</sup>;

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(5)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 26, 2.2.1998, p. 3.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive of 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> OJ L 202, 31.7.2002, p. 3.

<sup>(4)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(5)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (a), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner.
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in Latvia or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of Latvia, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or Latvia which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. Latvia shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or Latvia considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify Latvia of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let Latvia have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, Latvia shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and Latvia shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93 <sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC <sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and Latvia shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of significantly

altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and Latvia may make comments upon the draft technical regulations communicated. The comments of Latvia shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to Latvia.

2. The Member States and Latvia shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform Latvia thereof.

*Article 9*

The competent authorities of the Member States and Latvia shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and Latvia or voluntary agreements by means of which Member States or Latvia:

- comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as Latvia is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
- fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
- fulfil as far as Latvia is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in Latvia and the Community,
- make use of safeguard clauses provided for in binding Community acts,
- apply Article 8(1) of Directive 92/59/EEC<sup>(1)</sup>,
- restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
- restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of Latvia prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

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Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and Latvia may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and Latvia in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. Latvia shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of Latvia. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing Latvia being present. In that case, Latvia shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Latvia.

#### Article 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of Latvia to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

## Article 18

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Latvian languages, each text being equally authentic.

Hecho en Bruselas, el veintisiete de noviembre de dos mil tres.

Udfærdiget i Bruxelles den syvogtyvende november to tusind og tre.

Geschehen zu Brüssel am siebenundzwanzigsten November zweitausendunddrei.

Έγινε στις Βρυξέλλες, στις είκοσι εφτά Νοεμβρίου δύο χιλιάδες τρία.

Done at Brussels on the twenty-seventh day of November in the year two thousand and three.

Fait à Bruxelles, le vingt-sept novembre deux mille trois.

Fatto a Bruxelles, addì ventisette novembre duemilatre.

Gedaan te Brussel, de zevenentwintigste november tweeduizenddrie.

Feito em Bruxelas, em vinte e sete de Novembro de dois mil e três.

Tehty Brysselissä kahdentenakymmenentenäseitsemäntenä päivänä marraskuuta vuonna kaksituhattakolme.

Som skedde i Bryssel den tjugosjunde november tjugohundratre.

Noslēgts Briselē, divi tūkstoši trešā gada divdesmit septītajā novembrī

*Por la Comunidad Europea*

*For Det Europæiske Fællesskab*

*Für die Europäische Gemeinschaft*

*Για την Ευρωπαϊκή Κοινότητα*

*For the European Community*

*Pour la Communauté européenne*

*Per la Comunità europea*

*Voor de Europese Gemeenschap*

*Pela Comunidade Europeia*

*Euroopan yhteisön puolesta*

*På Europeiska gemenskapens vägnar*

*Latvijas Republikas vārdā*

## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

**2. Services not provided 'by electronic means'**

Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/fax consultation of a doctor;
- (e) telephone/fax consultation of a lawyer;
- (f) telephone/fax direct marketing.

**3. Services not supplied 'at the individual request of a recipient of services'**

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers ('point to multipoint' transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
  - (b) radio broadcasting services;
  - (c) (televised) teletext.
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## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings;
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EC <sup>(1)</sup>;
- (c) operations covered by the insurance and reinsurance activities referred to in:
  - Article 1 of Directive 73/239/EEC <sup>(2)</sup>,
  - the Annex to Directive 79/267/EEC <sup>(3)</sup>,
  - Directive 64/225/EEC <sup>(4)</sup>,
  - Directives 92/49/EEC <sup>(5)</sup> and 92/96/EEC <sup>(6)</sup>.

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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 25.6.2000, p. 1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13. 3. 1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

## ANNEX III

Pursuant to Article 11 (2) of the Agreement, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;
2. the full text of the draft technical regulation notified;
3. acknowledgement of receipt of the draft text containing, *inter alia*, the relevant expiry date of the standstill period;
4. messages requesting supplementary information;
5. answers to request for supplementary information;
6. comments;
7. requests for ad hoc meetings;
8. answers to requests for ad hoc meetings;
9. requests for final texts;
10. information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11. basic legal texts or regulatory provisions;
12. the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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## AGREEMENT

### **between the European Community and the Republic of Lithuania laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services**

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

on the one hand, and

THE REPUBLIC OF LITHUANIA, hereinafter referred to as 'Lithuania',

on the other hand,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Europe Agreement', and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

HAVING REGARD to the Protocol to the Europe Agreement on conformity assessment and acceptance of industrial products <sup>(3)</sup> and in particular to the aims set out in Article 12 thereof,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to Lithuania,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

#### *Article 1*

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

This Agreement shall not apply to:

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(4)</sup>;

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(5)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 51, 20.2.1998, p. 3.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> OJ L 202, 31.7.2002, p. 21.

<sup>(4)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(5)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner;
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in Lithuania or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of Lithuania, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or Lithuania which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. Lithuania shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or Lithuania considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify Lithuania of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let Lithuania have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, Lithuania shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and Lithuania shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93<sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC<sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and Lithuania shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of significantly

altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and Lithuania may make comments upon the draft technical regulations communicated. The comments of Lithuania shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to Lithuania.

2. The Member States and Lithuania shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform Lithuania thereof.

*Article 9*

The competent authorities of the Member States and Lithuania shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and Lithuania or voluntary agreements by means of which Member States or Lithuania:
  - comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as Lithuania is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
  - fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
  - fulfil as far as Lithuania is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in Lithuania and the Community,
  - make use of safeguard clauses provided for in binding Community acts,
  - apply Article 8(1) of Directive 92/59/EEC<sup>(1)</sup>,
  - restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
  - restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.
2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of Lithuania prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

#### Article 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and Lithuania may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and Lithuania in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.
2. Lithuania shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of Lithuania. The expert shall not be entitled to vote.
3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.
4. On the initiative of its chairman, the Committee may meet without the expert representing Lithuania being present. In that case, Lithuania shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Lithuania.

#### Article 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of Lithuania to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

## Article 18

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Lithuanian languages, each text being equally authentic.

Hecho en Bruselas, el veintiséis de febrero de dos mil cuatro.

Udfærdiget i Bruxelles den seksogtyvende februar to tusind og fire.

Geschehen zu Brüssel am sechszwanzigsten Februar zweitausendundvier.

Έγινε στις Βρυξέλλες, στις είκοσι έξι Φεβρουαρίου δύο χιλιάδες τέσσερα.

Done at Brussels on the twenty-sixth day of February in the year two thousand and four.

Fait à Bruxelles, le vingt-six février deux mille quatre.

Fatto a Bruxelles, addì ventisei febbraio duemilaquattro.

Gedaan te Brussel, de zesentwintigste februari tweeduizendvier.

Feito em Bruxelas, em vinte e seis de Fevereiro de dois mil e quatro.

Tehty Brysselissä kahdentenäkymmenentenäkuudentena päivänä helmikuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den tjugosjätte februari tjugohundrafyra.

Priimta du tūkstančiai ketvirtųjų metų vasario dvidešimt šeštą dieną Briuselyje.

*Por la Comunidad Europea*

*For Det Europæiske Fællesskab*

*Für die Europäische Gemeinschaft*

*Για την Ευρωπαϊκή Κοινότητα*

*For the European Community*

*Pour la Communauté européenne*

*Per la Comunità europea*

*Voor de Europese Gemeenschap*

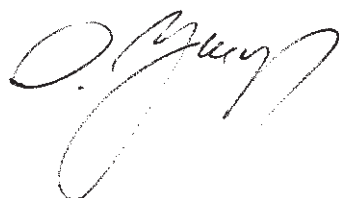
*Pela Comunidade Europeia*

*Euroopan yhteisön puolesta*

*På Europeiska gemenskapens vägnar*



*Lietuvos Respublikos vardu*



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## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

**2. Services not provided 'by electronic means'**

Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/fax consultation of a doctor;
- (e) telephone/fax consultation of a lawyer;
- (f) telephone/fax direct marketing.

**3. Services not supplied 'at the individual request of a recipient of services'**

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers ('point to multipoint' transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
  - (b) radio broadcasting services;
  - (c) (televised) teletext.
-

## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings;
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EC <sup>(1)</sup>;
- (c) operations covered by the insurance and reinsurance activities referred to in:
  - Article 1 of Directive 73/239/EEC <sup>(2)</sup>,
  - the Annex to Directive 79/267/EEC <sup>(3)</sup>,
  - Directive 64/225/EEC <sup>(4)</sup>,
  - Directives 92/49/EEC <sup>(5)</sup> and 92/96/EEC <sup>(6)</sup>.

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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p. 1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

## ANNEX III

Pursuant to Article 11 (2) of the Agreement, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;
2. the full text of the draft technical regulation notified;
3. acknowledgement of receipt of the draft text containing, *inter alia*, the relevant expiry date of the standstill period;
4. messages requesting supplementary information;
5. answers to request for supplementary information;
6. comments;
7. requests for ad hoc meetings;
8. answers to requests for ad hoc meetings;
9. requests for final texts;
10. information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11. basic legal texts or regulatory provisions;
12. the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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## AGREEMENT

### **between the European Community and the Republic of Malta laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services**

THE EUROPEAN COMMUNITY,

hereinafter referred to as 'the Community',

on the one hand, and

THE REPUBLIC OF MALTA, hereinafter referred to as 'Malta',

on the other hand,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Agreement establishing an Association between the European Economic Community, of the one part, and the Republic of Malta, of the other part <sup>(1)</sup> and in particular to the aims set out in Article 2(1) thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to Malta,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

This Agreement shall not apply to:

#### *Article 1*

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(3)</sup>;

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(4)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 61, 14.3.1971, p. 2.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(4)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner;
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in Malta or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of Malta, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or Malta which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. Malta shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or Malta considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify Malta of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let Malta have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, Malta shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and Malta shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93 <sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC <sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and Malta shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of significantly altering

its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and Malta may make comments upon the draft technical regulations communicated. The comments of Malta shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to Malta.

2. The Member States and Malta shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform Malta thereof.

*Article 9*

The competent authorities of the Member States and Malta shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and Malta or voluntary agreements by means of which Member States or Malta:

- comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as Malta is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
- fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
- fulfil as far as Malta is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in Malta and the Community,
- make use of safeguard clauses provided for in binding Community acts,
- apply Article 8(1) of Directive 92/59/EEC<sup>(1)</sup>,
- restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
- restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of Malta prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

#### Article 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and Malta may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and Malta in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. Malta shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of Malta. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing Malta being present. In that case, Malta shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Malta.

#### Article 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of Malta to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

## Article 18

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Maltese languages, each text being equally authentic.

Hecho en Bruselas, el diecinueve de diciembre de dos mil tres.

Udfærdiget i Bruxelles den nittende december to tusind og tre.

Geschehen zu Brüssel am neunzehnten Dezember zweitausendunddrei.

Έγινε στις Βρυξέλλες, στις δέκα εννέα Δεκεμβρίου δύο χιλιάδες τρία.

Done at Brussels on the nineteenth day of December in the year two thousand and three.

Fait à Bruxelles, le dix-neuf décembre deux mille trois.

Fatto a Bruxelles, addì diciannove dicembre duemilatre.

Gedaan te Brussel, de negentiende december tweeduizenddrie.

Feito em Bruxelas, em dezanove de Dezembro de dois mil e três.

Tehty Brysselissä yhdeksäntenätoista päivänä joulukuuta vuonna kaksituhattakolme.

Som skedde i Bryssel den nittonde december tjugohundratre.

Magħmul fi Brussel fid-dsatax-il jum ta' Diċembru tas-sena elfejn u tlieta

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

Per la Comunità europea

Voor de Europese Gemeenschap

Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar

Ghal Malta



## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

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- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

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Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
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## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings,
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EC <sup>(1)</sup>,
- (c) operations covered by the insurance and reinsurance activities referred to in:
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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 25.6.2000, p. 1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

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The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

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The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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## AGREEMENT

### between the European Community and the Republic of Poland laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services

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

on the one hand, and

THE REPUBLIC OF POLAND, hereinafter referred to as 'Poland',

on the other hand,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Europe Agreement', and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to Poland,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

This Agreement shall not apply to:

#### Article 1

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(3)</sup>;

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(4)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 348, 31.12.1993, p. 2.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(4)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner;
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in Poland or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or Poland, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or Poland which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. Poland shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or Poland considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify Poland of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let Poland have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, Poland shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and Poland shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93 <sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC <sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and Poland shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of significantly

altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and Poland may make comments upon the draft technical regulations communicated. The comments of Poland shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to Poland.

2. The Member States and Poland shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform Poland thereof.

*Article 9*

The competent authorities of the Member States and Poland shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and Poland or voluntary agreements by means of which Member States or Poland:

- comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as Poland is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
- fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
- fulfil as far as Poland is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in Poland and the Community,
- make use of safeguard clauses provided for in binding Community acts,
- apply Article 8(1) of Directive 92/59/EEC <sup>(1)</sup>,
- restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
- restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of Poland prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

#### Article 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and Poland may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and Poland in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. Poland shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of Poland. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing Poland being present. In that case, Poland shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Poland.

#### Article 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of Poland to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

*Article 18*

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Polish languages, each text being equally authentic.

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## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

**2. Services not provided 'by electronic means'**

Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/fax consultation of a doctor;
- (e) telephone/fax consultation of a lawyer;
- (f) telephone/fax direct marketing.

**3. Services not supplied 'at the individual request of a recipient of services'**

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers ('point to multipoint' transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
  - (b) radio broadcasting services;
  - (c) (televised) teletext.
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## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings;
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EC <sup>(1)</sup>;
- (c) operations covered by the insurance and reinsurance activities referred to in:
  - Article 1 of Directive 73/239/EEC <sup>(2)</sup>,
  - the Annex to Directive 79/267/EEC <sup>(3)</sup>,
  - Directive 64/225/EEC <sup>(4)</sup>,
  - Directives 92/49/EEC <sup>(5)</sup> and 92/96/EEC <sup>(6)</sup>.

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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p. 1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

## ANNEX III

Pursuant to Article 11 (2) of the Agreement, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;
2. the full text of the draft technical regulation notified;
3. acknowledgement of receipt of the draft text containing, *inter alia*, the relevant expiry date of the standstill period;
4. messages requesting supplementary information;
5. answers to request for supplementary information;
6. comments;
7. requests for ad hoc meetings;
8. answers to requests for ad hoc meetings;
9. requests for final texts;
10. information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11. basic legal texts or regulatory provisions;
12. the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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## AGREEMENT

### between the European Community and the Slovak Republic laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services

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

on the one hand, and

THE SLOVAK REPUBLIC,

on the other hand,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Europe Agreement', and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

HAVING REGARD to the Protocol to the Europe Agreement on conformity assessment and acceptance of industrial products <sup>(3)</sup> and in particular to the aims set out in Article 12 thereof,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to the Slovak Republic,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

#### Article 1

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

This Agreement shall not apply to:

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(4)</sup>;

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(5)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 359, 31.12.1994, p. 2.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> OJ L 120, 15.5.2003, p. 41.

<sup>(4)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(5)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner;
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in the Slovak Republic or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of the Slovak Republic, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or the Slovak Republic which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. The Slovak Republic shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or the Slovak Republic considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify the Slovak Republic of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Slovak Republic have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, the Slovak Republic shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and the Slovak Republic shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93 <sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC <sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and the Slovak Republic shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of signifi-

cantly altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and the Slovak Republic may make comments upon the draft technical regulations communicated. The comments of the Slovak Republic shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to the Slovak Republic.

2. The Member States and the Slovak Republic shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform the Slovak Republic thereof.

*Article 9*

The competent authorities of the Member States and the Slovak Republic shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and the Slovak Republic or voluntary agreements by means of which Member States or the Slovak Republic:

- comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as the Slovak Republic is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
- fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
- fulfil as far as the Slovak Republic is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Slovak Republic and the Community,
- make use of safeguard clauses provided for in binding Community acts,
- apply Article 8(1) of Directive 92/59/EEC <sup>(1)</sup>,
- restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
- restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of the Slovak Republic prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

#### Article 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and the Slovak Republic may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and the Slovak Republic in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. The Slovak Republic shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of the Slovak Republic. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing the Slovak Republic being present. In that case, the Slovak Republic shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Slovak Republic.

#### Article 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of the Slovak Republic to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

## Article 18

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Slovakian languages, each text being equally authentic.

Hecho en Bruselas, el dieciocho de febrero de dos mil cuatro.

Udfærdiget i Bruxelles den attende februar to tusind og fire.

Geschehen zu Brüssel am achtzehnten Februar zweitausendundvier.

Έγινε στις Βρυξέλλες, στις δέκα οκτώ Φεβρουαρίου δύο χιλιάδες τέσσερα.

Done at Brussels on the eighteenth day of February in the year two thousand and four.

Fait à Bruxelles, le dix-huit février deux mille quatre.

Fatto a Bruxelles, addì diciotto febbraio duemilaquattro.

Gedaan te Brussel, de achttiende februari tweeduizendvier.

Feito em Bruxelas, em dezoito de Fevereiro de dois mil e quatro.

Tehty Brysselissä kahdeksantenatoista päivänä helmikuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den artonde februari tjugohundrafyra.

Dané v Bruseli, osemnásteho februára dvetisíc štyri.

*Por la Comunidad Europea*

*For Det Europæiske Fællesskab*

*Für die Europäische Gemeinschaft*

*Για την Ευρωπαϊκή Κοινότητα*

*For the European Community*

*Pour la Communauté européenne*

*Per la Comunità europea*

*Voor de Europese Gemeenschap*

*Pela Comunidade Europeia*

*Euroopan yhteisön puolesta*

*På Europeiska gemenskapens vägnar*



za Slovenskú republiku



## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

**2. Services not provided 'by electronic means'**

Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/fax consultation of a doctor;
- (e) telephone/fax consultation of a lawyer;
- (f) telephone/fax direct marketing.

**3. Services not supplied 'at the individual request of a recipient of services'**

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers ('point to multipoint' transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
  - (b) radio broadcasting services;
  - (c) (televised) teletext.
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## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings;
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EC <sup>(1)</sup>;
- (c) operations covered by the insurance and reinsurance activities referred to in:
  - Article 1 of Directive 73/239/EEC <sup>(2)</sup>,
  - the Annex to Directive 79/267/EEC <sup>(3)</sup>,
  - Directive 64/225/EEC <sup>(4)</sup>,
  - Directives 92/49/EEC <sup>(5)</sup> and 92/96/EEC <sup>(6)</sup>.

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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p. 1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

## ANNEX III

Pursuant to Article 11 (2) of the Agreement, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;
2. the full text of the draft technical regulation notified;
3. acknowledgement of receipt of the draft text containing, *inter alia*, the relevant expiry date of the standstill period;
4. messages requesting supplementary information;
5. answers to request for supplementary information;
6. comments;
7. requests for ad hoc meetings;
8. answers to requests for ad hoc meetings;
9. requests for final texts;
10. information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11. basic legal texts or regulatory provisions;
12. the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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## AGREEMENT

### **between the European Community and the Republic of Slovenia laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services**

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

on the one hand, and

THE REPUBLIC OF SLOVENIA, hereinafter referred to as 'Slovenia'

on the other hand,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Slovenia, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Europe Agreement', and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community <sup>(2)</sup>,

HAVING REGARD to the Protocol to the Europe Agreement on conformity assessment and acceptance of industrial products <sup>(3)</sup> and in particular to the aims set out in Article 12 thereof,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to Slovenia,

HAVE AGREED AS FOLLOWS:

An indicative list of services not covered by this definition is set out in Annex I.

#### Article 1

For the purpose of this Agreement, the following definitions apply:

- (a) 'product': any industrially manufactured product and any agricultural product, including fish products;
- (b) 'service': any information society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- 'at a distance': means that the service is provided without the parties being simultaneously present,
- 'by electronic means': means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,
- 'at the individual request of a recipient of services': means that the service is provided through the transmission of data on individual request.

This Agreement shall not apply to:

- radio broadcasting services,
- television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC <sup>(4)</sup>;

- (c) 'technical specification': a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC <sup>(5)</sup>, as well as production methods and processes relating to other products, where these have an effect on their characteristics;

<sup>(1)</sup> OJ L 51, 26.2.1999, p. 3.

<sup>(2)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on information society services (OJ L 204, 21.7.1998, p. 37); Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

<sup>(3)</sup> OJ L 36, 12.2.2003, p. 17.

<sup>(4)</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23); Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

<sup>(5)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8.2.2003, p. 30).

- (d) 'other requirements': a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;
- (e) 'rule on services': requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC <sup>(1)</sup>.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC <sup>(2)</sup> or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

- a rule shall be considered to be specifically aimed at information society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,
  - a rule shall not be considered to be specifically aimed at information society services if it affects such services only in an implicit or incidental manner;
- (f) 'technical regulation': technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, *de jure* or *de facto*, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as 'Member States', or a major part thereof, or in Slovenia or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of Slovenia, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State or Slovenia which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list <sup>(3)</sup> drawn up by the Commission of the European Communities, hereinafter called 'the Commission', in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. Slovenia shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list;

- (g) 'draft technical regulation': the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

## Article 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or Slovenia considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

<sup>(1)</sup> Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ L 192, 24.7.1990, p. 1); Directive as amended by Directive 97/51/EC (OJ L 295, 29.10.1997, p. 23).

<sup>(2)</sup> Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27); Directive as last amended by Directive 2002/87/EC (OJ L 35, 11.2.2003, p. 1).

<sup>(3)</sup> OJ C 23, 27.1.2000, p. 3.

*Article 3*

1. Subject to Article 12, the Community shall notify Slovenia of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let Slovenia have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, Slovenia shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

*Article 4*

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

*Article 5*

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and Slovenia shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93<sup>(1)</sup> in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC<sup>(2)</sup>, in the case of a new substance.

*Article 6*

The Member States and Slovenia shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of significantly

altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

*Article 7*

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

*Article 8*

1. The Community and Slovenia may make comments upon the draft technical regulations communicated. The comments of Slovenia shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to the Slovenia.

2. The Member States and Slovenia shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform Slovenia thereof.

*Article 9*

The competent authorities of the Member States and Slovenia shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

*Article 10*

The standstill period referred to in Article 9 shall not apply in those cases where:

— for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

<sup>(1)</sup> Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5.4.1993, p. 1).

<sup>(2)</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1); Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

- for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

#### Article 11

1. The final text in the original language of a technical regulation shall also be communicated.
2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III to this Agreement.

#### Article 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and Slovenia or voluntary agreements by means of which Member States or Slovenia:

- comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as Slovenia is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,
- fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,
- fulfil as far as Slovenia is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in Slovenia and the Community,
- make use of safeguard clauses provided for in binding Community acts,
- apply Article 8(1) of Directive 92/59/EEC <sup>(1)</sup>,
- restrict themselves to implementing a judgment of the Court of Justice of the European Communities,
- restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of Slovenia prohibiting manufacture in so far as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

#### Article 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and Slovenia may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

#### Article 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and Slovenia in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. Slovenia shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part 'information society services' and 'technical regulations'. The expert must be a member of the Government services of Slovenia. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing Slovenia being present. In that case, Slovenia shall be informed.

#### Article 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Slovenia.

#### Article 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

#### Article 17

This Agreement shall expire on the date of accession of Slovenia to the European Union.

<sup>(1)</sup> Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11.8.1992, p. 24).

## Article 18

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Slovenian languages, each text being equally authentic.

Hecho en Bruselas, el cuatro de febrero de dos mil cuatro.

Udfærdiget i Bruxelles den fjerde februar to tusind og fire.

Geschehen zu Brüssel am vierten Februar zweitausendundvier.

Έγινε στις Βρυξέλλες, στις τέσσερις Φεβρουαρίου δύο χιλιάδες τέσσερα.

Done at Brussels on the fourth day of February in the year two thousand and four.

Fait à Bruxelles, le quatre février deux mille quatre.

Fatto a Bruxelles, addì quattro febbraio duemilaquattro.

Gedaan te Brussel, de vierde februari tweeduizendvier.

Feito em Bruxelas, em quatro de Fevereiro de dois mil e quatro.

Tehty Brysselissä neljäntenä päivänä helmikuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den fjärde februari tjugohundrafyra.

Sestavljeno v Bruslju, četrtega februarja dvatisočstiri.

*Por la Comunidad Europea*

*For Det Europæiske Fællesskab*

*Für die Europäische Gemeinschaft*

*Για την Ευρωπαϊκή Κοινότητα*

*For the European Community*

*Pour la Communauté européenne*

*Per la Comunità europea*

*Voor de Europese Gemeenschap*

*Pela Comunidade Europeia*

*Euroopan yhteisön puolesta*

*På Europeiska gemenskapens vägnar*



*Za Republiko Slovenijo*



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## ANNEX I

**Indicative list of services not covered by the definition in point (b) of Article 1****1. Services not provided 'at a distance'**

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

- (a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;
- (b) consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present.

**2. Services not provided 'by electronic means'**

Services having material content even though provided via electronic devices:

- (a) automatic cash or ticket dispensing machines (banknotes, rail tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes

Services which are not provided via electronic processing/inventory systems:

- (a) voice telephony services;
- (b) fax/telex services;
- (c) services provided via voice telephony or fax;
- (d) telephone/fax consultation of a doctor;
- (e) telephone/fax consultation of a lawyer;
- (f) telephone/fax direct marketing.

**3. Services not supplied 'at the individual request of a recipient of services'**

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers ('point to multipoint' transmission):

- (a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
  - (b) radio broadcasting services;
  - (c) (televised) teletext.
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## ANNEX II

**Indicative list of the financial services covered by the definition in point (e) of Article 1**

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to pension funds
- Services relating to dealings in futures or options

Such services include in particular:

- (a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings;
- (b) services covered by the activities subject to mutual recognition referred to in Annex I to Directive 2000/12/EC <sup>(1)</sup>;
- (c) operations covered by the insurance and reinsurance activities referred to in:
  - Article 1 of Directive 73/239/EEC <sup>(2)</sup>,
  - the Annex to Directive 79/267/EEC <sup>(3)</sup>,
  - Directive 64/225/EEC <sup>(4)</sup>,
  - Directives 92/49/EEC <sup>(5)</sup> and 92/96/EEC <sup>(6)</sup>.

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<sup>(1)</sup> Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p.1); Directive as amended by Directive 2002/87/EC.

<sup>(2)</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3); Directive as last amended by Directive 2002/87/EC.

<sup>(3)</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(4)</sup> Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4.4.1964, p. 878/64); Directive as amended by the 1973 Act of Accession.

<sup>(5)</sup> Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11.8.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

<sup>(6)</sup> Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9.12.1992, p. 1); Directive as last amended by Directive 2002/87/EC.

## ANNEX III

Pursuant to Article 11 (2) of the Agreement, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;
2. the full text of the draft technical regulation notified;
3. acknowledgement of receipt of the draft text containing, *inter alia*, the relevant expiry date of the standstill period;
4. messages requesting supplementary information;
5. answers to request for supplementary information;
6. comments;
7. requests for ad hoc meetings;
8. answers to requests for ad hoc meetings;
9. requests for final texts;
10. information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11. basic legal texts or regulatory provisions;
12. the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

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